

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2025

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SENATE BILL 438

Short Title: NC Adopt ERA.

(Public)

Sponsors: Senators Mayfield, Murdock, and Bradley (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 25, 2025

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, as exemplified by the state's ratification of
40 the 19th Amendment on May 6, 1971, 51 years after its ratification; and

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

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

46 Whereas, bipartisan support for the Equal Rights Amendment has continued to rise in
47 North Carolina, with a 2023 Meredith Poll showing an increase of more than four percent of
48 voters in support (to 71.5%), and opposition falling by more than three percent (to just 13.5%)
49 compared to a 2019 poll; and

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

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

7 The General Assembly of North Carolina enacts:

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

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

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