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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 197

01/09/2023 Authored by Bahner, Long, Hornstein, Her, Becker-Finn and others
The bill was read for the first time and referred to the Committee on State and Local Government Finance and Policy
03/08/2023 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time

1.1 A resolution
1.2 memorializing Congress to resolve that the requirements have been met to ratify the
1.3 Equal Rights Amendment (ERA) and that it shall now be known as the Twenty-Eighth
1.4 Amendment to the Constitution.
1.5 WHEREAS, the Equal Rights Amendment (ERA) was first passed by Congress in 1972 and
1.6 was sent to the states for ratification; and
1.7 WHEREAS, the ERA guarantees "[e]quality of rights under the law shall not be denied or
1.8 abridged by the United States or by any State on account of sex."; and
1.9 WHEREAS, the adoption of the ERA will help to advance gender justice for women, girls,
1.10 and gender-expansive individuals; and
1.11 WHEREAS, the ERA authorizes Congress to enforce, by appropriate legislation, the provisions
1.12 of the ERA; and
1.13 WHEREAS, the ERA states that the amendment will take effect two years after the last
1.14 constitutionally necessary state ratification occurs; and
1.15 WHEREAS, on January 27, 2020, Virginia became the 38th and final state needed to ratify
1.16 the ERA, which has been ratified by the necessary three-fourths of states; and
1.17 WHEREAS, the Archivist of the United States performs a statutory and ministerial role with
1.18 respect to certifying the ratification of amendments to the United States Constitution; and
1.19 WHEREAS, as of this date, the Archivist has not certified the amendment; and
1.20 WHEREAS, no time limit exists within the text of the proposed amendment that was ratified
1.21 by more than three-fourths of the states; and
1.22 WHEREAS, women, girls, and gender-expansive people across the country are experiencing
1.23 declining access to health, wealth, and opportunity, and increasing incidences of poverty and
1.24 violence; and

2.1 WHEREAS, the ERA was first written by Alice Paul, the head of the National Woman's
2.2 Party, in order to guarantee that the rights affirmed by the United States Constitution are held
2.3 equally by all citizens without regard to sex; and

2.4 WHEREAS, the ERA would provide a fundamental legal remedy against sex discrimination;
2.5 and

2.6 WHEREAS, the ERA would clarify the legal status of sex discrimination for the courts,
2.7 where decisions still deal inconsistently with such claims; and

2.8 WHEREAS, Minnesota ratified the ERA in 1973; and

2.9 WHEREAS, the first, and still the only, right that the United States Constitution specifically
2.10 affirms to be equal for women and men is the right to vote under the 19th Amendment, which was
2.11 ratified by the states in 1920; and

2.12 WHEREAS, the equal protection clause of the 14th Amendment to the Constitution of the
2.13 United States has never been interpreted to protect against sex discrimination in the same way that
2.14 the ERA would; and

2.15 WHEREAS, in September 2010, Supreme Court Justice Antonin Scalia said he did not believe
2.16 that the United States Constitution, specifically the 14th Amendment, protects against sex
2.17 discrimination; and

2.18 WHEREAS, the ERA has not been ratified in 12 states, including Alabama, Arizona, Arkansas,
2.19 Florida, Georgia, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina,
2.20 and Utah; and

2.21 WHEREAS, in 1868, the 14th Amendment was added to the Constitution despite two states
2.22 purporting to rescind their ratification; and

2.23 WHEREAS, the state constitutions of 27 states, including Alaska, California, Colorado,
2.24 Connecticut, Delaware, Florida, Hawaii, Illinois, Indiana, Iowa, Louisiana, Maryland, Massachusetts,
2.25 Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, Oregon, Pennsylvania,
2.26 Rhode Island, Texas, Utah, Virginia, Washington, and Wyoming, provide either inclusive or partial
2.27 guarantees of equal rights on the basis of sex; and

2.28 WHEREAS, without the addition of the ERA to the United States Constitution, legislation
2.29 and case law that has resulted in extraordinary progress for women has the potential to be ignored,
2.30 weakened, or reversed. Congress can amend or repeal legislation advancing equality with a simple
2.31 majority vote, the presidential administration can weakly enforce these laws, and the United States
2.32 Supreme Court can continue to use intermediate scrutiny when reviewing cases concerning gender;
2.33 and

2.34 WHEREAS, it is vital that the constitutional gender equality rights be upheld now that the
2.35 ERA has been ratified as an amendment to the Constitution of the United States; and

3.1 WHEREAS, the Archivist of the United States has a statutory and ministerial duty to certify
3.2 that a proposed amendment to the Constitution is valid and has become part of the Constitution
3.3 once it is ratified by more than three-fourths of the states; and

3.4 WHEREAS, Section 3 of the Equal Rights Amendment states that the amendment shall take
3.5 effect two years after the last constitutionally necessary state ratification occurs, which was January
3.6 27, 2020; NOW, THEREFORE,

3.7 BE IT RESOLVED by the Legislature of the State of Minnesota that it urges the Congress
3.8 of the United States to pass House Resolution 25 and Senate Resolution 4, resolving that the
3.9 requirements have been met to ratify the ERA and that it shall now be known as the Twenty-Eighth
3.10 Amendment to the Constitution.

3.11 BE IT FURTHER RESOLVED that the Secretary of State of the State of Minnesota is directed
3.12 to prepare copies of this memorial and transmit them to the President of the United States, the
3.13 President and the Secretary of the United States Senate, the Speaker and the Clerk of the United
3.14 States House of Representatives, and the Members of the United States Congress.