

MAR 11 2021

SENATE CONCURRENT RESOLUTION

RATIFYING A PROPOSED AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES GIVING THE CONGRESS OF THE UNITED STATES POWER TO LIMIT, REGULATE, AND PROHIBIT THE LABOR OF PERSONS UNDER EIGHTEEN YEARS OF AGE.

1 WHEREAS, unregulated child labor has detrimental effect on
2 the health and welfare of children; and
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4 WHEREAS, the 1900 census revealed that approximately two
5 million children were working in mills, mines, fields,
6 factories, stores, and on city streets across the United States,
7 which helped spark a national movement to end child labor in the
8 United States; and
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10 WHEREAS, in 1916, the Congress of the United States
11 (Congress) passed its first child labor bill, the Keating-Owen
12 Child Labor Act of 1916, which attempted to regulate child labor
13 by prohibiting the interstate shipment of goods produced by any
14 factory, shop, or cannery that employed children under the age
15 of fourteen; any mine that employed children under the age of
16 sixteen; and any facility where children under the age of
17 sixteen worked at night or for more than eight hours during the
18 day; and
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20 WHEREAS, Congress cited to the federal government's ability
21 to regulate interstate commerce as its authority to pass the
22 Keating-Owen Child Labor Act, however, the Supreme Court of the
23 United States in *Hammer v. Dagenhart*, 247 U.S. 251 (1918),
24 delineated between the Congress's power to regulate production
25 and commerce, and ruled that the law was unconstitutional as it
26 overstepped the purpose of the government's powers to regulate
27 interstate commerce; and
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29 WHEREAS, in 1918, Congress passed its second child labor
30 bill as part of the Revenue Act of 1919, also called the Child



S.C.R. NO. 99

1 Labor Tax Law, which took an indirect route to regulate child
2 labor by using the government's power to levy taxes; and
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4 WHEREAS, the Child Labor Tax Law was also found to be
5 unconstitutional by the Supreme Court of the United States in
6 *Bailey v. Drexel Furniture Co.*, 259 U.S. 20 (1922), which
7 reasoned that the power of Congress to regulate interstate
8 commerce does not extend to curbing the power of the states to
9 regulate local trade; and
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11 WHEREAS, despite the nation's apparent desire for federal
12 laws against child labor, the rulings by the Supreme Court of
13 the United States left little room for federal legislation, and
14 therefore, Congress proposed a constitutional amendment through
15 a joint resolution to give itself the power to regulate labor of
16 persons under eighteen years of age; and
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18 WHEREAS, House Joint Resolution 184, approved by the Sixty-
19 Eighth Congress, First Session (House Joint Resolution 184),
20 reads as follows:
21

"JOINT RESOLUTION

22
23
24 Proposing an amendment to the Constitution of the
25 United States.
26

27 Resolved by the Senate and House of Representatives of
28 the United States of America in Congress assembled (two-
29 thirds of each House concurring therein), that the
30 following article is proposed as an amendment to the
31 Constitution of the United States, which, when ratified by
32 the legislature of three-fourths of the several States,
33 shall be valid to all intents and purposes as a part of the
34 Constitution:
35

"ARTICLE

36
37
38 Section 1. The Congress shall have power to limit,
39 regulate, and prohibit the labor of persons under eighteen
40 years of age.
41



S.C.R. NO. 99

1 Section 2. The power of the several States is
2 unimpaired by this article except that the operation of
3 State laws shall be suspended to the extent necessary to
4 give effect to legislation enacted by the Congress."";

5
6 and

7
8 WHEREAS, House Joint Resolution 184 was submitted to the
9 state legislatures for ratification; and

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11 WHEREAS, ratification of House Joint Resolution 184 stalled
12 after 1925, due to an effective campaign to discredit it,
13 including traditional states' rights arguments against increases
14 in the power of the federal government and accusations that the
15 amendment was a communist-inspired plot to subvert the United
16 States Constitution; and

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18 WHEREAS, by 1937, when the most recent state ratified House
19 Joint Resolution 184, only twenty-eight states had ratified it,
20 which fell short of the required three-fourths threshold
21 required for a constitutional amendment; and

22
23 WHEREAS, the proposal for the constitutional amendment is
24 still outstanding since Congress did not set a time limit for
25 its ratification, and ratification by ten more states is
26 required to add the amendment to the United States Constitution;
27 and

28
29 WHEREAS, fifteen states have rejected and refused to
30 subsequently ratify House Joint Resolution 184, and Hawaii is
31 one of the five states that have no record of taking action on
32 the proposed constitutional amendment; and

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34 WHEREAS, federal regulation of child labor in the United
35 States is now provided under the Fair Labor Standards Act of
36 1938, as amended, however, ratification of the constitutional
37 amendment set forth in House Joint Resolution 184 would put
38 Hawaii on the right side of history; now, therefore,

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40 BE IT RESOLVED by the Senate of the Thirty-first
41 Legislature of the State of Hawaii, Regular Session of 2021, the
42 House of Representatives concurring, that the Article proposed



S.C.R. NO. 99

1 as an amendment to the Constitution of the United States as set
2 forth in United States House Joint Resolution 184, dated June 2,
3 1924, be hereby ratified by the Legislature of the State of
4 Hawaii; and

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6 BE IT FURTHER RESOLVED that certified copies of this
7 Concurrent Resolution be transmitted to the Administrator of the
8 United States General Services Administration, President of the
9 United States Senate, Speaker of the United States House of
10 Representatives, and members of Hawaii's congressional
11 delegation.

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OFFERED BY: 

