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# 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 a detrimental effect  
2 on 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 to spark a national movement to end child labor in  
8 the United States; and

9  
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 United States Supreme  
23 Court in *Hammer v. Dagenhart*, 247 U.S. 251 (1918), delineated  
24 between the Congress's power to regulate production and  
25 commerce, and ruled that the law was unconstitutional because it  
26 overstepped the purpose of the government's powers to regulate  
27 interstate commerce; and



1 WHEREAS, in 1918, Congress passed its second child labor  
2 bill as part of the Revenue Act of 1919, also called the Child  
3 Labor Tax Law, which took an indirect route to regulate child  
4 labor by using the government's power to levy taxes; and  
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6 WHEREAS, the Child Labor Tax Law was also found to be  
7 unconstitutional by the United States Supreme Court in *Bailey v.*  
8 *Drexel Furniture Co.*, 259 U.S. 20 (1922), which reasoned that  
9 the power of Congress to regulate interstate commerce does not  
10 extend to curbing the power of the states to regulate local  
11 trade; and  
12

13 WHEREAS, despite the nation's apparent desire for federal  
14 laws against child labor, the rulings by the United States  
15 Supreme Court left little room for federal legislation, and  
16 therefore, Congress proposed a constitutional amendment through  
17 a joint resolution to give itself the power to regulate labor of  
18 persons under eighteen years of age; and  
19

20 WHEREAS, House Joint Resolution 184, approved by the Sixty-  
21 Eighth Congress, First Session (House Joint Resolution 184),  
22 reads as follows:  
23

24 JOINT RESOLUTION  
25

26 Proposing an amendment to the Constitution of the  
27 United States.  
28

29 Resolved by the Senate and House of Representatives of  
30 the United States of America in Congress assembled  
31 (two-thirds of each House concurring therein), That the  
32 following article is proposed as an amendment to the  
33 Constitution of the United States, which, when ratified by  
34 the legislatures of three-fourths of the several States,  
35 shall be valid to all intents and purposes as a part of the  
36 Constitution:  
37

38 "ARTICLE --.  
39

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



1 "Sec. 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

17  
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 seven states that have no record of taking action on  
32 the proposed constitutional amendment; and

33  
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,

39  
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



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, is 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 Archivist of the  
8 United States, Majority Leader of the United States Senate,  
9 Speaker of the United States House of Representatives, members  
10 of Hawaii's congressional delegation, and Director of Labor and  
11 Industrial Relations.

