

MAR 10 2023

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 health and welfare of children; and
3

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 influenced a national movement to end child labor in the
8 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
19

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), distinguished
24 between the Congress's power to regulate commerce and the
25 states' power to regulate production, and ruled that the law was
26 unconstitutional because it overstepped the federal government's
27 powers to regulate interstate commerce; and
28

29 WHEREAS, in 1918, Congress passed a second child labor bill
30 as part of the Revenue Act of 1919, also called Child Labor Tax



1 Law, which took an indirect route to regulate to regulate child
2 labor by using the government's power to levy taxes; and
3

4 WHEREAS, the Child Labor Tax Law was also found to be
5 unconstitutional by the United States Supreme Court in *Bailey v.*
6 *Drexel Furniture Co.*, 259 U.S. 20 (1922), which reasoned that
7 the power of Congress to regulate interstate commerce does not
8 extend to curbing the power of the states to regulate local
9 trade; and
10

11 WHEREAS, despite the nation's apparent desire for federal
12 laws against child labor, the rulings by the United States
13 Supreme Court 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
17

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

22 JOINT RESOLUTION
23

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

27 Resolved by the Senate and House of Representatives
28 of the United States of America in Congress assembled
29 (two-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
32 by the legislatures of three-fourths of the several
33 States, shall be valid to all intents and purposes as a
34 part of the Constitution:
35

36 "ARTICLE --.
37

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



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."; and
5

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

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

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

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

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

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

38 BE IT RESOLVED by the Senate of the Thirty-second
39 Legislature of the State of Hawaii, Regular Session of 2023, the
40 House of Representatives concurring, that the Article proposed
41 as an amendment to the Constitution of the United States as set
42 forth in United States House Joint Resolution 184, dated June 2,



1 1924, is hereby ratified by the Legislature of the State of
2 Hawaii; and
3

4 BE IT FURTHER RESOLVED that certified copies of this
5 Concurrent Resolution be transmitted to the Archivist of the
6 United States, Majority Leader of the United States Senate,
7 Speaker of the United States House of Representatives, members
8 of Hawai'i's congressional delegation, and Director of Labor and
9 Industrial Relations.

10
11
12

Karl Rhoads

OFFERED BY: _____

