

FEB 23 2022

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# SENATE CONCURRENT RESOLUTION

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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  
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 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  
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 Congress's power to regulate commerce and the states'  
25 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 the Child Labor



1 Tax Law, which took an indirect route to regulate child labor by  
2 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  
28 Representatives of the United States of America in  
29 Congress assembled (two-thirds of each House  
30 concurring therein), That the following article is  
31 proposed as an amendment to the Constitution of the  
32 United States, which, when ratified by the  
33 legislatures of three-fourths of the several States,  
34 shall be valid to all intents and purposes as a part  
35 of the Constitution:

36  
37 "ARTICLE --.

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



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

6  
7       and

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

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

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

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

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

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

40  
41          BE IT RESOLVED by the Senate of the Thirty-first  
42          Legislature of the State of Hawaii, Regular Session of 2022, the



# S.C.R. NO. 8

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

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

13  
14  
15 OFFERED BY:

