S.R. NO. 102

MAR 1 0 2023

SENATE 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 on health and welfare of children; and 2 3 WHEREAS, the 1900 census revealed that approximately two 4 million children were working in mills, mines, fields, 5 factories, stores, and on city streets across the United States, 6 which influenced a national movement to end child labor in the 7 United States; and 8 9 10 WHEREAS, in 1916, the Congress of the United States (Congress) passed its first child labor bill, the Keating-Owen 11 Child Labor Act of 1916, which attempted to regulate child labor 12 by prohibiting the interstate shipment of goods produced by any 13 14 factory, shop, or cannery that employed children under the age of fourteen; any mine that employed children under the age of 15 sixteen; and any facility where children under the age of 16 sixteen worked at night or for more than eight hours during the 17 18 day; and 19 WHEREAS, Congress cited to the federal government's ability 20 to regulate interstate commerce as its authority to pass the 21 Keating-Owen Child Labor Act; however, the United States Supreme 22 Court in Hammer v. Dagenhart, 247 U.S. 251 (1918), distinguished 23 between the Congress's power to regulate commerce and the 24 states' power to regulate production, and ruled that the law was 25 unconstitutional because it overstepped the federal government's 26 powers to regulate interstate commerce; and 27 28 WHEREAS, in 1918, Congress passed a second child labor bill 29 as part of the Revenue Act of 1919, also called Child Labor Tax 30 Law, which took an indirect route to regulate to regulate child 31 labor by using the government's power to levy taxes; and 32 33



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WHEREAS, the Child Labor Tax Law was also found to be 1 2 unconstitutional by the United States Supreme Court in Bailey v. Drexel Furniture Co., 259 U.S. 20 (1922), which reasoned that 3 4 the power of Congress to regulate interstate commerce does not 5 extend to curbing the power of the states to regulate local 6 trade; and 7 8 WHEREAS, despite the nation's apparent desire for federal 9 laws against child labor, the rulings by the United States Supreme Court left little room for federal legislation; and 10 11 therefore, Congress proposed a constitutional amendment through a joint resolution to give itself the power to regulate labor of 12 13 persons under eighteen years of age; and 14 15 WHEREAS, House Joint Resolution 184, approved by the Sixty-16 Eighth Congress, First Session (House Joint Resolution 184), reads as follows: 17 18 19 JOINT RESOLUTION 20 21 Proposing an amendment to the Constitution of the 22 United States. 23 24 Resolved by the Senate and House of Representatives 25 of the United States of America in Congress assembled 26 (two-thirds of each House concurring therein), That the 27 following article is proposed as an amendment to the Constitution of the United States, which, when ratified 28 29 by the legislatures of three-fourths of the several States, shall be valid to all intents and purposes as a 30 part of the Constitution: 31 32 33 "ARTICLE --. 34 35 "Section 1. The Congress shall have power to limit, 36 regulate, and prohibit the labor of persons under 37 eighteen years of age. 38 39 "Sec. 2. The power of the several States is 40 unimpaired by this article except that the operation of 41 State laws shall be suspended to the extent necessary to give effect to legislation enacted by the Congress."; and 42

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1 WHEREAS, House Joint Resolution 184 was submitted to the 2 3 state legislatures for ratification; and 4 WHEREAS, ratification of House Joint Resolution 184 stalled 5 after 1925, due to an effective campaign to discredit it, 6 including traditional states' rights arguments against increases 7 8 in the power of the federal government and accusations that the amendment was a communist-inspired plot to subvert the 9 10 Constitution of the United States; and 11 12 WHEREAS, by 1937, when the most recent state ratified House Joint Resolution 184, only twenty-eight states had ratified it, 13 which fell short of the three-fourths threshold required for a 14 constitutional amendment; and 15 16 WHEREAS, the proposal for the constitutional amendment is 17 still outstanding since Congress did not set a time limit for 18 its ratification, and ratification by ten more states is 19 required to add the amendment to the Constitution of the United 20 States; and 21 22 WHEREAS, fifteen states have rejected and refused to 23 subsequently ratify House Joint Resolution 184, and Hawai'i is 24 25 one of the seven states that have no record of taking action on the proposed constitutional amendment; and 26 27 28 WHEREAS, federal regulation of child labor in the United States is now provided under the Fair Labor Standards Act of 29 1938, as amended; however, ratification of the constitutional 30 amendment set forth in House Joint Resolution 184 would put 31 Hawai'i on the right side of history; now, therefore, 32 33 BE IT RESOLVED by the Senate of the Thirty-second 34 Legislature of the State of Hawaii, Regular Session of 2023, 35 that the Article proposed as an amendment to the Constitution of 36 the United States as set forth in United States House Joint 37 Resolution 184, dated June 2, 1924, is hereby ratified by the 38 Legislature of the State of Hawaii; and 39 40 BE IT FURTHER RESOLVED that certified copies of this 41 42 Resolution be transmitted to the Archivist of the United States,



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Majority Leader of the United States Senate, Speaker of the
United States House of Representatives, members of Hawai'i's
congressional delegation, and Director of Labor and Industrial
Relations.

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OFFERED BY:

