MAR 0 8 2024

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.

WHEREAS, unregulated child labor has a detrimental effect on health and welfare of children; and

WHEREAS, the 1900 census revealed that approximately two million children were working in mills, mines, fields, factories, stores, and on city streets across the United States, which influenced a national movement to end child labor in the United States; and

WHEREAS, in 1916, the Congress of the United States (Congress) passed its first child labor bill, the Keating-Owen Child Labor Act of 1916, which attempted to regulate child labor by prohibiting the interstate shipment of goods produced by any factory, shop, or cannery that employed children under the age of fourteen; any mine that employed children under the age of sixteen; and any facility where children under the age of sixteen worked at night or for more than eight hours during the day; and

WHEREAS, Congress cited to the federal government's ability to regulate interstate commerce as its authority to pass the Keating-Owen Child Labor Act; however, the United States Supreme Court in Hammer v. Dagenhart, 247 U.S. 251 (1918), distinguished between the Congress's power to regulate commerce and the states' power to regulate production, and ruled that the law was unconstitutional because it overstepped the federal government's powers to regulate interstate commerce; and

WHEREAS, in 1918, Congress passed a second child labor bill as part of the Revenue Act of 1919, also called Child Labor Tax Law, which took an indirect route to regulate child labor by using the government's power to levy taxes; and

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

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

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

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States.

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

"ARTICLE --.

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

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

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

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

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

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

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

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

BE IT RESOLVED by the Senate of the Thirty-second Legislature of the State of Hawaii, Regular Session of 2024, that the Article proposed as an amendment to the Constitution of the United States as set forth in United States House Joint Resolution 184, dated June 2, 1924, is hereby ratified by the Legislature of the State of Hawaii; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Archivist of the United States,

Majority Leader of the United States Senate, members of Hawai'i's 1 congressional delegation, and Director of Labor and Industrial 2 3 Relations. 4 Kul Phank 5

OFFERED BY: