

State of Misconsin 2007 - 2008 LEGISLATURE

2007 SENATE RESOLUTION 8

June 11, 2007 – Introduced by Senators HANSEN, COGGS, VINEHOUT, SULLIVAN and WIRCH. Referred to Committee on Senate Organization.

Relating to: memorializing Congress to create a system that ensures that trade 1 2 agreements are developed and implemented using a democratic, inclusive 3 mechanism that enshrines the principles of federalism and state sovereignty. 4 Whereas, democratic, accountable governance in the states, generally, and the authority granted by the Wisconsin constitution to the legislative branch, 56 specifically, are being undermined by international commercial and trade rules 7 enforced by the World Trade Organization (WTO) and established by the North 8 American Free Trade Agreement (NAFTA) and are further threatened by similar 9 provisions in an array of pending trade agreements; and

Whereas, today's "trade" agreements have impacts that extend significantly beyond the bounds of traditional trade matters, such as tariffs and quotas, and instead grant foreign investors and service providers certain rights and privileges regarding acquisition of land and facilities and regarding operations within a state's territory, subject state laws to challenge as "nontariff barriers to trade" in the binding

1	dispute resolution bodies that accompany the pacts, and place limits on the future
2	policy options of state legislatures; and
3	Whereas, NAFTA and other U.S. free trade agreements grant foreign firms new
4	rights and privileges for operating within a state that exceed those rights and
5	privileges granted to U.S. businesses under state and federal law; and
6	Whereas, NAFTA already has generated "regulatory takings" cases against
7	state and local land-use decisions, state environmental and public health policies,
8	adverse state court rulings, and state and local contracts that would not have been
9	possible in U.S. courts; and
10	Whereas, when states are bound to comply with government procurement
11	provisions contained in trade agreements, common economic development and
12	environmental policies, such as buy-local laws, prevailing wage laws, and policies
13	to prevent offshoring of state jobs, as well as recycled content laws, could be subject
14	to challenge as violating the obligations in the trade agreements; and
15	Whereas, recent trade agreements curtail state regulatory authority by placing
16	constraints on future policy options; and
17	Whereas, the WTO general agreement on trade in services (GATS) could
18	undermine state efforts to expand health care coverage and rein in health care costs
19	and places constraints on state and local land-use planning and gambling policy;
20	and
21	Whereas, new GATS negotiations could impose additional constraints on state
22	regulation of energy, higher education, professional licensing, and other areas; and
23	Whereas, despite the indisputable fact that international trade agreements
24	have a far-reaching impact on state and local laws, federal government trade
25	negotiators have failed to respect states' rights to prior informed consent before

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binding states to conform state law and authority to trade agreement requirements
 and have refused even to inform state legislatures of key correspondence; and

Whereas, the current encroachment on state regulatory authority by international commercial and trade agreements has occurred in no small part because U.S. trade policy is being formulated and implemented under the Fast Track Trade Authority procedure; and

Whereas, Fast Track eliminates vital checks and balances established in the
U.S. Constitution by broadly delegating to the executive branch Congress's exclusive
constitutional authority to set the terms of trade, such that the executive branch is
empowered to negotiate broad-ranging trade agreements and to sign them prior to
Congress voting on the agreements; and

Whereas, the ability of the executive branch to sign trade agreements prior to Congress's vote of approval means that executive branch negotiators can ignore congressional negotiating objectives or states' demands, and neither Congress nor the states have any means to enforce any decision regarding what provisions must be contained in every U.S. trade agreement or what provisions may not be included in any U.S. trade agreement; and

18 Whereas, federal trade negotiators have ignored and disrespected states'
19 demands regarding whether states agree to be bound to certain nontariff trade
20 agreement provisions; and

Whereas, Fast Track also circumvents normal congressional review and amendment committee procedures, limits debate to 20 hours, and forbids any floor amendments to the implementing legislation that is presented to Congress to conform hundreds of U.S. laws to trade agreement obligations and to incorporate the actual trade agreement itself into U.S. federal law that preempts state law; and

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1	Whereas, Fast Track is not necessary for negotiating trade agreements as
2	demonstrated by the existence of scores of trade agreements, including major pacts,
3	implemented in the past 30 years without use of Fast Track; and
4	Whereas, Fast Track, which was established in 1974 by President Richard
5	Nixon when trade agreements were limited to traditional matters, such as tariffs and
6	quotas, is now woefully outdated and inappropriate given the diverse range of
7	nontrade issues now included in "trade" agreements that broadly affect state and
8	federal nontrade regulatory authority; and
9	Whereas, the current grant of Fast Track expires in June 2007; now, therefore,
10	be it
11	Resolved by the senate, That:
12	(1) The U.S. Congress be urged to create a replacement for the outdated Fast
13	Track system so that U.S. trade agreements are developed and implemented using
14	a more democratic, inclusive mechanism that enshrines the principles of federalism
15	and state sovereignty.
16	(2) This new process for developing and implementing trade agreements
17	include an explicit mechanism for ensuring the prior informed consent of state
18	legislatures before states are bound to the nontariff terms of any trade agreement
19	that affects state regulatory authority to ensure that the United States trade
20	representative respects the decisions made by states.
21	(3) Copies of this resolution be sent to President George W. Bush, Ambassador
22	Susan Schwab, U.S. Trade Representative, the President of the U.S. Senate, the
23	Speaker of the House of Representatives, and the Wisconsin Congressional
24	Delegation.
25	(END)