



2007 SENATE RESOLUTION 8

1 **Relating to:** memorializing Congress to create a system that ensures that trade
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
5 authority granted by the Wisconsin constitution to the legislative branch,
6 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

10 Whereas, today's "trade" agreements have impacts that extend significantly
11 beyond the bounds of traditional trade matters, such as tariffs and quotas, and
12 instead grant foreign investors and service providers certain rights and privileges
13 regarding acquisition of land and facilities and regarding operations within a state's
14 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

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

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

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

12 Whereas, the ability of the executive branch to sign trade agreements prior to
13 Congress's vote of approval means that executive branch negotiators can ignore
14 congressional negotiating objectives or states' demands, and neither Congress nor
15 the states have any means to enforce any decision regarding what provisions must
16 be contained in every U.S. trade agreement or what provisions may not be included
17 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

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

