

**2007 DRAFTING REQUEST**

**Senate Resolution**

Received: **03/06/2007**

Received By: **smiller**

Wanted: **As time permits**

Identical to LRB:

For: **David Hansen (608) 266-5670**

By/Representing: **Eric Genrich**

This file may be shown to any legislator: **NO**

Drafter: **smiller**

May Contact:

Addl. Drafters:

Subject: **Memorials - to Congress**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Hansen@legis.wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Urge congress to respect federalism in promulgating trade agreements

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**Instructions:**

See Attached word doc

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	smiller 03/06/2007			_____			
/1		wjackson 03/07/2007	jfrantze 03/08/2007	_____	sbasford 03/08/2007	sbasford 04/16/2007	

FE Sent For:

<END>

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smiller

1 WJ 3/7

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conversion

*[Signature]*

FE Sent For:

*[Signature]* 3/6  
**SEND**  
3/8

2157/1

**Miller, Steve**

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**From:** Kreye, Joseph  
**Sent:** Tuesday, March 06, 2007 12:00 PM  
**To:** Miller, Steve  
**Subject:** FW: Fast track res.

Steve,

Can you prepare the senate resolution for Sen. Hansen? Thanks.

Joe

**Joseph T. Kreye**  
Senior Legislative Attorney  
Legislative Reference Bureau  
(608) 266-2263

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**From:** Genrich, Eric  
**Sent:** Tuesday, March 06, 2007 11:58 AM  
**To:** Kreye, Joseph  
**Subject:** RE: Fast track res.

A senate resolution would be fine, Joe.

On a side note, however, I think the Assembly might be dropping that rule. I seem to remember seeing a schedule of the Assembly Rules Committee that contained a Schneider resolution, dealing with the issue.

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**From:** Kreye, Joseph  
**Sent:** Tuesday, March 06, 2007 11:09 AM  
**To:** Genrich, Eric  
**Subject:** RE: Fast track res.

Eric,

We can adapt this for Senator Hansen as a senate resolution.

We can also prepare it as a senate joint resolution, but under Assembly Rule 32 (1) (a) the Assembly may not consider any senate joint resolution memorializing Congress or any branch or officer of the federal government (although the assembly may read such a resolution). Please note that Assembly Rule 39 (1) prohibits the assembly from considering any assembly resolution or assembly joint resolution that memorializes Congress or any branch or officer of the federal government.

How would you like us to proceed with this request?

Joe

**Joseph T. Kreye**  
Senior Legislative Attorney  
Legislative Reference Bureau  
(608) 266-2263

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**From:** Genrich, Eric  
**Sent:** Tuesday, March 06, 2007 10:32 AM

**To:** Kreye, Joseph  
**Subject:** FW: Fast track res.

Can you adapt this resolution for our use?

<http://data.opi.mt.gov/bills/2007/billhtml/SJ0017.htm>

Relating to: Memorializing Congress to create a system that ensures that trade agreements are developed and implemented using a democratic, inclusive mechanism that enshrines the principles of federalism and state sovereignty.

WHEREAS, democratic, accountable governance in the states generally, and specifically the authority granted by the Wisconsin constitution to the legislative branch, is being undermined by international commercial and trade rules enforced by the World Trade Organization (WTO) and established by the North American Free Trade Agreement (NAFTA) and is further threatened by similar 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 dispute resolution bodies that accompany the pacts, and place limits on the future policy options of state legislatures; and

WHEREAS, NAFTA and other U.S. free trade agreements grant foreign firms new rights and privileges for operating within a state that exceed those rights and privileges granted to U.S. businesses under state and federal law; and

WHEREAS, NAFTA already has generated "regulatory takings" cases against state and local land-use decisions, state environmental and public health policies, adverse state court rulings, and state and local contracts that would not have been possible in U.S. courts; and

WHEREAS, when states are bound to comply with government procurement provisions contained in trade agreements, common economic development and environmental policies, such as buy-local laws, prevailing wage laws, and policies to prevent offshoring of state jobs, as well as recycled content laws, could be subject to challenge as violating the obligations in the trade agreements; and

WHEREAS, recent trade agreements curtail state regulatory authority by placing constraints on future policy options; and

WHEREAS, the WTO general agreement on trade in services (GATS) could undermine state efforts to expand health care coverage and rein in health care costs and places constraints on state and local land-use planning and gambling policy; and

WHEREAS, new GATS negotiations could impose additional constraints on state regulation of energy, higher education, professional licensing, and other areas; and

WHEREAS, despite the indisputable fact that international trade agreements have a far-reaching impact on state and local laws, federal government trade negotiators have failed to respect states' rights to prior informed consent before 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 Congress's exclusive constitutional authority to set the terms of trade to the Executive Branch, 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 are able to 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 and what provisions may not be included in any U.S. trade agreement; and

WHEREAS, federal trade negotiators have ignored and disrespected states' demands regarding whether or not states agree to be bound to certain nontariff trade 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

WHEREAS, Fast Track is not necessary for negotiating trade agreements as demonstrated by the existence of scores of trade agreements, including major pacts, implemented in the past 30 years without use of Fast Track; and

WHEREAS, Fast Track, which was established in 1974 by President Richard Nixon when trade agreements were limited to traditional matters, such as tariffs and quotas, is now woefully outdated and inappropriate given the diverse range of nontrade issues now included in "trade" agreements that broadly affect state and federal nontrade regulatory authority; and

WHEREAS, the current grant of Fast Track expires in June 2007.

Resolved by the Senate:

(1) That the U.S. Congress be urged to create a replacement for the outdated Fast Track system so that U.S. trade agreements are developed and implemented using a more democratic, inclusive mechanism that enshrines the principles of federalism and state sovereignty.

(2) That this new process for developing and implementing trade agreements include an explicit mechanism for ensuring the prior informed consent of state legislatures before states are bound to the nontariff terms of any trade agreement that affects state regulatory authority so as to ensure that the United States trade representative respects the decisions made by states.

(3) That copies of this resolution be sent to President George W. Bush, Ambassador Susan Schwab, U.S. Trade Representative, the President of the U.S. Senate, the Speaker of the House of Representatives, and the Wisconsin Congressional Delegation.





## 2007 SENATE RESOLUTION

Today  
please

STET  
to ensure

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  
5 specifically the authority granted by the Wisconsin constitution to the legislative  
6 branch, <sup>are</sup> is being undermined by international commercial and trade rules enforced  
7 by the World Trade Organization (WTO) and established by the North American Free  
8 Trade Agreement (NAFTA) and <sup>are</sup> is further threatened by similar provisions in an  
9 array of pending trade agreements; and

10 Whereas, today's <sup>invert</sup> "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 <sup>invert</sup> "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 <sup>invert</sup> "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  
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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 Congress's exclusive constitutional  
9 authority to set the terms of trade to the Executive Branch, such that the Executive  
10 Branch is empowered to negotiate broad-ranging trade agreements and to sign them  
11 prior to 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 <sup>can</sup> ~~are able to~~  
14 ignore congressional negotiating objectives or states' demands, and neither  
15 Congress nor the states have any means to enforce any decision regarding what  
16 provisions must be contained in every U.S. trade agreement <sup>or</sup> ~~and~~ what provisions  
17 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 <sup>or not</sup> ~~or not~~ 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



**Basford, Sarah**

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**From:** Genrich, Eric  
**Sent:** Monday, April 16, 2007 1:54 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 07-2157/1 Topic: Urge congress to respect federalism in promulgating trade agreements

Please Jacket LRB 07-2157/1 for the SENATE.