
HOUSE JOINT MEMORIAL 4019

State of Washington **60th Legislature** **2007 Regular Session**

By Representatives Chase, Hurst, Kenney, Conway, McCoy, B. Sullivan, Hunt, Williams and Eickmeyer

Read first time 02/26/2007. Referred to Committee on Community & Economic Development & Trade.

1 TO THE HONORABLE GEORGE W. BUSH, PRESIDENT OF THE UNITED STATES,
2 AND TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
3 REPRESENTATIVES, AND TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE
4 UNITED STATES, IN CONGRESS ASSEMBLED, AND TO THE UNITED STATES TRADE
5 REPRESENTATIVE, AMBASSADOR SUSAN SCHWAB:

6 We, your Memorialists, the Senate and House of Representatives of
7 the State of Washington, in legislative session assembled, respectfully
8 represent and petition as follows:

9 WHEREAS, Democratic, accountable governance in the states
10 generally, and specifically the authority granted to the legislative
11 branch by Washington's Constitution, is being undermined by
12 international commercial and trade rules enforced by the World Trade
13 Organization (WTO) and established by the North American Free Trade
14 Agreement (NAFTA), and is further threatened by similar provisions in
15 an array of pending trade agreements; and

16 WHEREAS, Today's "trade" agreements have impacts which extend
17 significantly beyond the bounds of traditional trade matters such as
18 tariffs and quotas, and instead grant foreign investors and service
19 providers certain rights and privileges regarding acquisition of land
20 and facilities and regarding operations within a state's territory,

1 subject state laws to challenge as "nontariff barriers to trade" in the
2 binding dispute resolution bodies that accompany the pacts, and place
3 limits on the future policy options of state legislatures; and

4 WHEREAS, NAFTA and other United States Free Trade Agreements grant
5 foreign firms new rights and privileges for operating within a state
6 that exceed those granted to Washington's businesses under state and
7 federal law; and

8 WHEREAS, NAFTA already has generated "regulatory takings" cases
9 against state and local land use decisions, state environmental and
10 public health policies, adverse state court rulings, and state and
11 local contracts that would not have been possible in United States
12 courts; and

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

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

21 WHEREAS, The WTO General Agreement on Trade in Services (GATS)
22 could undermine state efforts to expand health care coverage and rein
23 in health care costs, and places constraints on state and local land
24 use planning and gambling policy; and

25 WHEREAS, New General Agreement on Trade in Services (GATS)
26 negotiations could impose additional constraints on state regulation of
27 energy, higher education, professional licensing, and more; and

28 WHEREAS, Despite the indisputable fact that international trade
29 agreements have a far-reaching impact on state and local laws, federal
30 government trade negotiators have failed to respect states' rights to
31 prior informed consent before binding states to conform state law and
32 authority to trade agreement requirements and have refused even to copy
33 state legislatures on key correspondence; and

34 WHEREAS, The current encroachment on state regulatory authority by
35 international commercial and trade agreements has occurred to no small
36 part because United States trade policy is being formulated and
37 implemented under the Fast Track Trade Authority procedure; and

1 WHEREAS, Fast Track eliminates vital checks and balances
2 established in the United States Constitution by broadly delegating
3 Congress's exclusive Constitutional authority to set the terms of trade
4 over to the Executive Branch such that the Executive Branch is
5 empowered to negotiate broad-ranging trade agreements and to sign them
6 prior to Congress voting on the agreements; and

7 WHEREAS, The ability of the Executive Branch to sign trade
8 agreements prior to Congress' vote of approval means Executive Branch
9 negotiators are able to ignore congressional negotiating objectives or
10 states' demands and neither Congress nor the state have any means to
11 enforce any decision regarding what provisions must be contained in
12 every United States trade agreement and what provisions may not be
13 included in any United States trade agreement; and

14 WHEREAS, Federal trade negotiators have ignored and disrespected
15 states' demands regarding whether or not states agree to be bound to
16 certain nontariff trade agreement provisions; and

17 WHEREAS, Fast Track also circumvents normal congressional review
18 and amendment committee procedures, limits debate to 20 hours total,
19 and forbids any floor amendments to the implementing legislation that
20 is presented to Congress to conform hundreds of United States laws to
21 trade agreement obligations and to incorporate the actual trade
22 agreement itself into United States federal law which preempts state
23 law; and

24 WHEREAS, Fast Track Trade Authority is not necessary for
25 negotiating trade agreements as demonstrated by the existence of scores
26 of trade agreements, including major pacts such as the agreements
27 administered by the WTO, implemented in the past thirty years without
28 use of Fast Track; and

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

35 WHEREAS, The current grant of Fast Track expires in July 2007;

36 NOW, THEREFORE, Your Memorialists respectfully request that the
37 United States Congress create a replacement for the outdated Fast Track

1 system so that United States trade agreements are developed and
2 implemented using a more democratic, inclusive mechanism that enshrines
3 the principles of federalism and state sovereignty.

4 BE IT RESOLVED, That this new process for developing and
5 implementing trade agreements include an explicit mechanism for
6 ensuring the prior informed consent of state legislatures before states
7 are bound to the nontariff terms of any trade agreement that affects
8 state regulatory authority so as to ensure that the United States Trade
9 Representative respects the decisions made by states; and

10 BE IT FURTHER RESOLVED, That this new process for developing and
11 implementing trade agreements include an explicit mechanism for
12 ensuring the prior informed consent of state legislatures before states
13 are bound to the nontariff terms of any trade agreement that affects
14 state regulatory authority so as to ensure that the United States Trade
15 Representative respects the decisions made by states; and

16 BE IT FURTHER RESOLVED, That copies of this Memorial be immediately
17 transmitted to the Honorable George W. Bush, President of the United
18 States, Ambassador Susan Schwab, United States Trade Representative,
19 the President of the United States Senate, the Speaker of the House of
20 Representatives, and each member of Congress from the State of
21 Washington.

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