



2.20 WHEREAS, foreign investors have already used the provisions  
2.21 of NAFTA's investment chapter to challenge core powers of state  
2.22 and local governments including, but not limited to, regulatory  
2.23 power to protect groundwater, the power of civil juries to use  
2.24 punitive damages to deter corporate fraud, the ability of states  
2.25 to invoke sovereign immunity, and decisions by a local  
2.26 government to deny a zoning permit for construction of a  
2.27 hazardous waste dump; and  
2.28 WHEREAS, the FTAA investment chapter creates foreign  
2.29 investor rights that potentially conflict with traditional local  
2.30 land use decision-making ability; and  
2.31 WHEREAS, the FTAA investment chapter affects state and  
2.32 local powers including, but not limited to, zoning, protection  
2.33 of groundwater and other natural resources, corporate and tribal  
2.34 ownership of land and casinos, law enforcement by courts, public  
2.35 services, and sovereign immunity; and  
2.36 WHEREAS, the FTAA investment rules deviate from United  
3.1 States legal precedents on takings law and deference to  
3.2 legislative determinations on protecting the public interest;  
3.3 and  
3.4 WHEREAS, the FTAA investment rules do not safeguard any  
3.5 category of law from foreign investor complaints including, but  
3.6 not limited to, laws passed in the interest of protecting human  
3.7 or animal health, environmental resources, human rights, and  
3.8 labor rights; NOW, THEREFORE,  
3.9 BE IT RESOLVED by the Legislature of the State of Minnesota  
3.10 that it respectfully memorialize the Administration, Congress,  
3.11 and the Governor of Minnesota as follows:  
3.12 (1) that the Administration and Congress should consult  
3.13 with state and local officials prior to negotiating any  
3.14 provisions of the FTAA, to ensure that trade negotiators do not  
3.15 undermine the scope of state and local governmental authority  
3.16 under the Constitution, while assessing the impact of a proposed  
3.17 agreement on state and local laws and future lawmaking  
3.18 authority, and, when necessary, providing general exceptions to  
3.19 safeguard state and local sovereignty and protect effective  
3.20 state and local programs and initiatives;  
3.21 (2) that the Administration and Congress preserve and  
3.22 respect the traditional powers of state and local governments by  
3.23 requiring that United States negotiators of international  
3.24 investment agreements do all of the following:  
3.25 (i) either exempt state and local governments from the  
3.26 scope of future investment agreements or exclude  
3.27 investor-to-state disputes from investment agreements;  
3.28 (ii) ensure that international investment rules do not give  
3.29 greater rights to foreign investors than United States investors  
3.30 enjoy under the United States Constitution;  
3.31 (iii) ensure that international investment rules do not  
3.32 undermine traditional police powers of state and local  
3.33 governments to protect public health, conserve environmental  
3.34 resources, and regulate fair competition;  
3.35 (iv) ensure that all proceedings are open to the public and  
3.36 that all submissions, findings, and decisions are promptly made  
4.1 public, consistent with the need to protect classified  
4.2 information, and that amicus briefs will be accepted and  
4.3 considered by investment tribunals; and  
4.4 (v) provide that an investors' home government must consent  
4.5 to the investors' claim against their host government, if  
4.6 investor-to-state disputes are retained; and  
4.7 (3) that the Governor of Minnesota not consent, opt-in, or  
4.8 otherwise voluntarily relinquish any powers of the state or of  
4.9 local governments of this state, without first consulting with  
4.10 the Minnesota Legislature and with local governments.  
4.11 BE IT FURTHER RESOLVED, that the Secretary of State of the

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4.12 State of Minnesota is directed to prepare and transmit copies of  
4.13 this memorial to the President and Vice President of the United  
4.14 States, the United States Trade Representative, the Speaker and  
4.15 Clerk of the United States House of Representatives, the  
4.16 President and Secretary of the United States Senate, each  
4.17 Senator and Representative from Minnesota in the Congress of the  
4.18 United States, and to the Governor of Minnesota.

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