

1 HR121  
2 89163-1  
3 By Representatives Coleman, Warren, England, Moore (M), Newton  
4 (D), Scott, McCampbell, Buskey, McClammy, Howard and Hall  
5 RFD: Rules  
6 First Read: 15-MAR-07

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8 URGING CONGRESS TO CREATE A SYSTEM THAT ENSURES THAT  
9 TRADE AGREEMENTS ARE DEVELOPED AND IMPLEMENTED USING A  
10 DEMOCRATIC AND INCLUSIVE MECHANISM THAT ENSHRINES THE  
11 PRINCIPLES OF FEDERALISM AND STATE SOVEREIGNTY.

12  
13 WHEREAS, democratic, accountable governance in the  
14 states generally, and specifically the authority granted by  
15 the Constitution of Alabama of 1901, to the Legislative  
16 Branch, is being undermined by international commercial and  
17 trade rules enforced by the World Trade Organization (WTO) and  
18 established by the North American Free Trade Agreement (NAFTA)  
19 and are further threatened by similar provisions in an array  
20 of pending trade agreements; and

21 WHEREAS, today's trade agreements have impacts that  
22 extend significantly beyond the bounds of traditional trade  
23 matters, such as tariffs and quotas, granting foreign  
24 investors and service providers certain rights and privileges  
25 regarding the acquisition of land and facilities and regarding  
26 operations within a state's territory, subjecting state laws  
27 to challenge as "nontariff barriers to trade" in the binding

1 dispute resolution bodies that accompany the pacts, and  
2 placing limits on the future policy options of state  
3 legislatures; and

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

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

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

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

23 WHEREAS, the WTO General Agreement on Trade in  
24 Services (GATS) could undermine state efforts to expand health  
25 care coverage and rein in health care costs and places  
26 constraints on state and local land-use planning; and

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

4           WHEREAS, despite the indisputable fact that  
5 international trade agreements have a far-reaching impact on  
6 state and local laws, federal government trade negotiators  
7 have failed to respect states' rights to prior informed  
8 consent before binding states to conform state law and  
9 authority to trade agreement requirements, and have refused  
10 even to inform state legislatures of key correspondence; and

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

16           WHEREAS, Fast Track eliminates vital checks and  
17 balances established in the U.S. Constitution by broadly  
18 delegating Congress's exclusive constitutional authority to  
19 set the terms of trade to the Executive Branch, to the extent  
20 that the Executive Branch is empowered to negotiate broad  
21 ranging trade agreements and to sign them prior to  
22 congressional voting on the agreements; and

23           WHEREAS, the ability of the Executive Branch to sign  
24 trade agreements prior to Congress's vote of approval means  
25 that Executive Branch negotiators are able to ignore  
26 congressional negotiating objectives or states' demands, and  
27 neither Congress nor the states have any means to enforce any

1 decision regarding which provisions must be or may not be  
2 contained in every U.S. trade agreement; and

3 WHEREAS, federal trade negotiators have ignored and  
4 disrespected states' demands regarding whether or not states  
5 agree to be bound to certain nontariff trade agreement  
6 provisions; and

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

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

18 WHEREAS, Fast Track, which was established in 1974  
19 by President Richard Nixon when trade agreements were limited  
20 to traditional matters, such as tariffs and quotas, and is to  
21 expire June 2007, is now woefully outdated and inappropriate;  
22 now therefore,

23 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF  
24 THE LEGISLATURE OF ALABAMA, That:

25 (1) The U.S. Congress is hereby urged to create a  
26 replacement for the outdated Fast Track system so that U.S.  
27 trade agreements are developed and implemented using a more

1 democratic and inclusive mechanism that enshrines the  
2 principles of federalism and state sovereignty.

3 (2) Any newly adopted process must include an  
4 explicit mechanism for ensuring the prior informed consent of  
5 state legislatures before states are bound to the nontariff  
6 terms of any trade agreement that affects state regulatory  
7 authority so as to ensure that the United States trade  
8 representative respects the decisions made by states.

9 (3) A copy of this resolution be provided to  
10 President George W. Bush; Ambassador Susan Schwab; the U.S.  
11 Trade Representative; the President of the U.S. Senate; the  
12 Speaker of the House of Representatives; and the Alabama  
13 Congressional Delegation.