

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2007

JOINT RESOLUTION

URGING THE CONGRESS OF THE UNITED STATES 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

Introduced By: Senators Moura, Ruggerio, DaPonte, Tassoni, and Gallo

Date Introduced: May 10, 2007

Referred To: Senate Constitutional & Regulatory Issues

1 WHEREAS, Democratic, accountable governance in the states generally, and specifically  
2 the authority granted to the legislative branch by Rhode Island's Constitution, is being  
3 undermined by international commercial and trade rules enforced by the World Trade  
4 Organization (WTO) and established by the North American Free Trade Agreement (NAFTA)  
5 and is further threatened by similar provisions in an array of pending trade agreements; and

6 WHEREAS, Today's "trade" agreements have impacts that extend significantly beyond  
7 the bounds of traditional trade matters, such as tariffs and quotas, and instead grant foreign  
8 investors and service providers certain rights and privileges regarding acquisition of land and  
9 facilities and regarding operations within a State's Territory, subject state laws to challenge as  
10 "non-tariff barriers to trade" in the binding dispute resolution bodies that accompany the pacts,  
11 and place limits on the future policy options of state legislatures; and

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

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

18 WHEREAS, When states are bound to comply with government procurement provisions

1 contained in trade agreements, common economic development and environmental policies, such  
2 as buy-local laws, prevailing wage laws, and policies to prevent offshoring of state jobs, as well  
3 as recycled content laws, could be subject to challenge as violating the obligations in the trade  
4 agreements; and

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

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

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

12 WHEREAS, Despite the indisputable fact that international trade agreements have a far-  
13 reaching impact on state and local laws, federal government trade negotiators have failed to  
14 respect states' rights to prior informed consent before binding states to conform state law and  
15 authority to trade agreement requirements and have refused even to inform state legislatures of  
16 key correspondence; and

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

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

24 WHEREAS, The ability of the Executive Branch to sign trade agreements prior to  
25 Congress' vote of approval means that Executive Branch negotiators are able to ignore  
26 congressional negotiating objectives or states' demands, and neither Congress nor the states have  
27 any means to enforce any decision regarding what provisions must be contained in every U.S.  
28 trade agreement and what provisions may not be included in any U.S. 20 trade agreement; and

29 WHEREAS, Federal trade negotiators have ignored and disrespected states' demands  
30 regarding whether or not states agree to be bound to certain non-tariff trade agreement provisions;  
31 and

32 WHEREAS, Fast Track also circumvents normal congressional review and amendment  
33 committee procedures, limits debate to 20 hours, and forbids any floor amendments to the  
34 implementing legislation that is presented to Congress to conform hundreds of U.S. laws to trade

1 agreement obligations and to incorporate the actual trade agreement itself into U.S. federal law  
2 that preempts state law; and

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

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

10 WHEREAS, The current grant of Fast Track expires in June 2007; now, therefore be it  
11 RESOLVED, That this General Assembly of the State of Rhode Island and Providence  
12 Plantations hereby respectfully requests the United States Congress to create a replacement for  
13 the outdated Fast Track system so that U.S. trade agreements are developed and implemented  
14 using a more democratic, inclusive mechanism that enshrines the principles of federalism and  
15 State sovereignty; and be it further

16 RESOLVED, That this new process for developing and implementing trade agreements  
17 include an explicit mechanism for ensuring the prior informed consent of State legislatures before  
18 states are bound to the non-tariff terms of any trade agreement that affects state regulatory  
19 authority so as to ensure that the United States Trade Representative respects the decisions made  
20 by the states; and be it further

21 RESOLVED, That the Secretary of State be and he hereby is authorized and directed to  
22 transmit duly certified copies of this resolution to the Honorable George W. Bush, President of  
23 the United States, Ambassador Susan Schwab, U.S. Trade Representative, the President of the  
24 U.S. Senate, the Speaker of the U.S. House of Representatives, and the Rhode Island  
25 Congressional Delegation.

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