

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.
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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.