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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. **1543**

March 1, 2007

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The bill was read for the first time and referred to the Committee on Commerce and Labor

March 27, 2007

Committee Recommendation and Adoption of Report:

To Pass

Read Second Time

- 1.1 A resolution
- 1.2 memorializing the President and Congress to replace the Fast Track Trade Authority
- 1.3 system.
- 1.4 WHEREAS, democratic, accountable governance in the states generally, and specifically
- 1.5 the authority granted to the legislative branch by Minnesota's Constitution, is being undermined
- 1.6 by international commercial and trade rules enforced by the World Trade Organization (WTO)
- 1.7 and established by the North American Free Trade Agreement (NAFTA), and is further threatened
- 1.8 by similar provisions in an array of pending trade agreements; and
- 1.9 WHEREAS, today's "trade" agreements have impacts which extend significantly beyond
- 1.10 the bounds of traditional trade matters such as tariffs and quotas; instead, they grant foreign
- 1.11 investors and service providers certain rights and privileges regarding acquisition of land and
- 1.12 facilities and regarding operations within a state's territory, subject state laws to challenge as
- 1.13 "nontariff barriers to trade" in the binding dispute resolution bodies that accompany the pacts, and
- 1.14 place limits on the future policy options of state legislatures; and
- 1.15 WHEREAS, NAFTA and other United States free trade agreements grant foreign firms
- 1.16 new rights and privileges for operating within a state that exceed those granted to United States
- 1.17 businesses under state and federal law; and
- 1.18 WHEREAS, NAFTA already has generated "regulatory takings" cases against state and
- 1.19 local land use decisions, state environmental and public health policies, adverse state court rulings,
- 1.20 and state and local contracts that would not have been possible in United States courts; and
- 1.21 WHEREAS, when states are bound to comply with government procurement provisions
- 1.22 contained in trade agreements, common economic development and environmental policies such

2.1 as buy-local laws, prevailing wage laws, policies to prevent offshoring of state jobs, and recycled  
2.2 content laws could be subject to challenge as violating the obligations in the trade agreements; and

2.3 WHEREAS, recent trade agreements curtail state regulatory authority by placing  
2.4 constraints on future policy options; and

2.5 WHEREAS, the WTO General Agreement on Trade in Services (GATS) could undermine  
2.6 state efforts to expand health care coverage and rein in health care costs, and places constraints  
2.7 on state and local land use planning and gambling policy; and

2.8 WHEREAS, new GATS negotiations could impose additional constraints on state  
2.9 regulation of energy, higher education, professional licensing, and more; and

2.10 WHEREAS, despite the indisputable fact that international trade agreements have a  
2.11 far-reaching impact on state and local laws, federal government trade negotiators have failed to  
2.12 respect states' rights to prior informed consent before binding states to conform state law and  
2.13 authority to trade agreement requirements, and have refused even to copy state legislatures on key  
2.14 correspondence; and

2.15 WHEREAS, the current encroachment on state regulatory authority by international  
2.16 commercial and trade agreements has occurred in no small part because United States trade policy  
2.17 is being formulated and implemented under the Fast Track Trade Authority procedure; and

2.18 WHEREAS, Fast Track eliminates vital checks and balances established in the United States  
2.19 Constitution by broadly delegating to the executive branch exclusive constitutional authority of  
2.20 Congress to set the terms of trade, such that the executive branch is empowered to negotiate  
2.21 broad-ranging trade agreements and to sign them before Congress votes on the agreements; and

2.22 WHEREAS, the ability of the executive branch to sign trade agreements prior to Congress'  
2.23 vote of approval means that executive branch negotiators are able to ignore congressional  
2.24 negotiating objectives or states' demands, and that neither Congress nor the state has any means to  
2.25 enforce any decision regarding what provisions must be contained in every United States trade  
2.26 agreement and what provisions may not be included in any United States trade agreement; and

2.27 WHEREAS, federal trade negotiators have ignored and disrespected states' demands  
2.28 regarding whether or not states agree to be bound to certain nontariff trade agreement provisions;  
2.29 and

2.30 WHEREAS, Fast Track also circumvents normal congressional review and amendment  
2.31 committee procedures, limits debate to 20 hours total, and forbids any floor amendments to the  
2.32 implementing legislation that is presented to Congress to conform hundreds of United States laws

3.1 to trade agreement obligations and to incorporate the actual trade agreement itself into United  
3.2 States federal law which preempts state law; and

3.3 WHEREAS, Fast Track Trade Authority is not necessary for negotiating trade agreements,  
3.4 as demonstrated by the existence of scores of trade agreements, including major pacts such as  
3.5 the agreements administered by the World Trade Organization, implemented in the past 30 years  
3.6 without the use of Fast Track Trade Authority; and

3.7 WHEREAS, Fast Track was established in 1974 by President Richard Nixon when trade  
3.8 agreements were limited to traditional matters such as tariffs and quotas and is now woefully  
3.9 outdated and inappropriate given the diverse range of nontrade issues now included in "trade"  
3.10 agreements that broadly affect federal and state nontrade regulatory authority; and

3.11 WHEREAS, the current grant of Fast Track Trade Authority expires in July 2007; NOW,  
3.12 THEREFORE,

3.13 BE IT RESOLVED by the Legislature of the State of Minnesota that it respectfully requests  
3.14 that the United States Congress create a replacement for the outdated Fast Track Trade Authority  
3.15 system so that United States trade agreements are developed and implemented using a more  
3.16 democratic, inclusive mechanism that enshrines the principles of federalism and state sovereignty.

3.17 BE IT FURTHER RESOLVED that this new process for developing and implementing  
3.18 trade agreements include an explicit mechanism for ensuring the prior informed consent of state  
3.19 legislatures before states are bound to the nontariff terms of any trade agreement that affects  
3.20 state regulatory authority, and to ensure that the United States trade representative respects the  
3.21 decisions made by the states.

3.22 BE IT FURTHER RESOLVED that the Secretary of State of the State of Minnesota is  
3.23 directed to prepare copies of this memorial and transmit them to the President of the United States,  
3.24 the United States trade representative, the President of the United States Senate, the Speaker of  
3.25 the United States House of Representatives, and Minnesota's Senators and Representatives in  
3.26 Congress.