
HOUSE RESOLUTION

RESPECTFULLY REQUESTING THE UNITED STATES CONGRESS TO CREATE A REPLACEMENT FOR THE OUTDATED FAST TRACK TRADE AUTHORITY SYSTEM SO THAT UNITED STATES TRADE AGREEMENTS ARE DEVELOPED AND IMPLEMENTED USING A MORE DEMOCRATIC, INCLUSIVE MECHANISM THAT ENSHRINES THE PRINCIPLES OF FEDERALISM AND STATE SOVEREIGNTY.

1 WHEREAS, in general, democratic accountable governance in
2 the states, and specifically, the authority granted to the
3 legislative branch by the Constitution of the State of Hawaii,
4 is being undermined by international commercial and trade rules
5 enforced by the World Trade Organization and established by the
6 North American Free Trade Agreement, and is further threatened
7 by similar provisions in an array of pending trade agreements;
8 and

9 WHEREAS, today's trade agreements have effects that extend
10 significantly beyond the bounds of traditional trade matters
11 such as tariffs and quotas; and
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13 WHEREAS, the North American Free Trade Agreement and other
14 United States free trade agreements grant foreign firms new
15 rights and privileges regarding acquisition of land and
16 facilities and operating within a state that exceed those
17 granted to American businesses under state and federal laws; and
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19 WHEREAS, the North American Free Trade Agreement already
20 has generated "regulatory takings" cases against state and local
21 land use decisions, state environmental and public health
22 policies, adverse state court rulings, and state and local
23 contracts that would not have been possible in United States
24 courts; and
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26 WHEREAS, when states are bound to comply with government
27 procurement provisions contained in trade agreements, common
28 economic development and environmental policies such as buy-
29 local laws, prevailing wage laws, policies to prevent offshoring
30 of state jobs, as well as recycled content laws could be subject



1 to challenge as violating the obligations in the trade
2 agreements; and
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4 WHEREAS, recent trade agreements curtail state regulatory
5 authority by placing constraints on future policy options; and
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7 WHEREAS, the World Trade Organization General Agreement on
8 Trade in Services could undermine state efforts to expand health
9 care coverage and rein in health care costs and places
10 constraints on state and local land use planning and gambling
11 policy; and
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13 WHEREAS, new General Agreement on Trade in Services
14 negotiations could impose additional constraints on state
15 regulation of energy, higher education, professional licensing,
16 and other issues; and
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18 WHEREAS, despite the indisputable fact that international
19 trade agreements have a far-reaching impact on state and local
20 laws, federal government trade negotiators have failed to
21 respect states' rights to prior informed consent before binding
22 states to conform state law and authority to trade agreement
23 requirements and have refused even to send copies of key
24 correspondence to state legislatures; and
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26 WHEREAS, the current encroachment on state regulatory
27 authority by international commercial and trade agreements has
28 occurred due in no small part to the fact that United States
29 trade policy is being formulated and implemented under the Fast
30 Track Trade Authority procedure; and
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32 WHEREAS, Fast Track Trade Authority eliminates vital checks
33 and balances established in the United States Constitution by
34 broadly delegating Congress' exclusive Constitutional authority
35 to set the terms of trade to the Executive Branch such that the
36 Executive Branch is empowered to negotiate broad-ranging trade
37 agreements and to sign them before Congress votes on the
38 agreements; and
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40 WHEREAS, the ability of the Executive Branch to sign trade
41 agreements prior to Congress' vote of approval means Executive
42 Branch negotiators are able to ignore congressional negotiating
43 objectives or states' demands, and neither Congress nor the
44 states have any means to enforce any decision regarding what



1 provisions must be contained in every United States trade
2 agreement and what provisions may not be included in any United
3 States trade agreement; and
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5 WHEREAS, federal trade negotiators have ignored and
6 disrespected states' demands regarding whether states agree to
7 be bound to certain nontariff trade agreement provisions; and
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9 WHEREAS, Fast Track Trade Authority also circumvents normal
10 Congressional review and amendment committee procedures, limits
11 debate to twenty hours total, and forbids any floor amendments
12 to the implementing legislation that is presented to Congress to
13 conform hundreds of United States laws to trade agreement
14 obligations and to incorporate the actual trade agreement itself
15 into United States federal law, which preempts state law; and
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17 WHEREAS, Fast Track Trade Authority is not necessary for
18 negotiating trade agreements, as demonstrated by the existence
19 of scores of trade agreements, including major pacts such as the
20 agreements administered by the World Trade Organization
21 implemented in the past thirty years without use of Fast Track
22 Trade Authority; and
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24 WHEREAS, Fast Track Trade Authority, which was established
25 in 1974 by President Richard Nixon when trade agreements were
26 limited to traditional matters such as tariffs and quotas, is
27 now woefully outdated and inappropriate given the diverse range
28 of nontrade issues now included in "trade" agreements that
29 broadly affect federal and state nontrade regulatory authority;
30 and
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32 WHEREAS, the current grant of Fast Track Trade Authority
33 expires in July 2007; now, therefore,
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35 BE IT RESOLVED by the House of Representatives of the
36 Twenty-fourth Legislature of the State of Hawaii, Regular
37 Session of 2007, that that the United States Congress is
38 respectfully requested to create a replacement for the outdated
39 Fast Track Trade Authority system so that United States trade
40 agreements are developed and implemented using a more
41 democratic, inclusive mechanism that enshrines the principles of
42 federalism and state sovereignty; and
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1 BE IT FURTHER RESOLVED that the Congress is requested to
 2 include in this new process for developing and implementing
 3 trade agreements an explicit mechanism for ensuring the prior
 4 informed consent of state legislatures before states are bound
 5 to the nontariff terms of any trade agreement that affect state
 6 regulatory authority so as to ensure that the United States
 7 Trade Representative respects the decisions made by states; and
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9 BE IT FURTHER RESOLVED that certified copies of this
 10 Resolution be transmitted to the President of the United States,
 11 Ambassador Susan Schwab, United States Trade Representative, the
 12 President of the United States Senate, the Speaker of the United
 13 States House of Representatives, and the members of Hawaii's
 14 congressional delegation.
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OFFERED BY:

Della A. BelattiJohn M. Nagano
Kirk C. Caldwell[Signature]Sylvia B. Berg[Signature]Markus. Meyer
AND D. S. [Signature]T. StahlNorman [Signature][Signature][Signature][Signature][Signature]Alison. SamMarilyn B. Lee[Signature]

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