

1 **RESOLUTION ADDRESSING INTERNATIONAL**

2 **TRADE ISSUES**

3 2008 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Sheryl L. Allen**

6 Senate Sponsor: Mark B. Madsen

7

8 **LONG TITLE**

9 **General Description:**

10 This joint resolution of the Legislature suggests methods for consideration of issues
11 pertaining to state sovereignty raised by international trade agreements of the United
12 States.

13 **Highlighted Provisions:**

14 This resolution:

- 15 ▶ suggests provisions that should be included in and excluded from international trade
- 16 agreements; and
- 17 ▶ proposes other provisions related to the United States' process for negotiating,
- 18 ratifying, and litigating international trade agreements.

19 **Special Clauses:**

20 None

21

22 *Be it resolved by the Legislature of the state of Utah:*

23 WHEREAS, international trade with Utah represents a growing portion of the state's
24 economy and is beneficial to the state's economy;

25 WHEREAS, the United States, through the United States Trade Representative, is
26 negotiating and otherwise pursuing additional international trade agreements to expand
27 international trade and investment opportunities;

28 WHEREAS, provisions in some international trade agreements undermine Utah's
29 sovereignty by allowing the United States to effectively establish law and policy for Utah;

30 WHEREAS, an inclusive list of commitments that does not clearly identify each
31 commitment included in the international trade agreement may allow unintentional inclusion of
32 certain commitments, such as gambling, in the international trade agreement;

33 WHEREAS, the impact on Utah of a potential international trade agreement is unclear
34 while the international trade agreement is being negotiated;

35 WHEREAS, the North American Free Trade Agreement has been interpreted to provide
36 foreign investors greater procedural rights than United States investors;

37 WHEREAS, state law may be subject to challenge under international trade agreements;

38 WHEREAS, the United States may seek to retaliate, including by withholding federal
39 funds, if a Utah law is successfully challenged under an international trade agreement and Utah
40 refuses to repeal the law;

41 WHEREAS, Utah and other states do not have an effective and thorough method of
42 communication with the United States Trade Representative;

43 WHEREAS, communication with the United States Trade Representative is necessary
44 to inform the United States Trade Representative of state concerns with proposed and existing
45 international trade agreements;

46 WHEREAS, some trade agreements govern state procurement processes in a manner
47 that may not allow local purchasing preferences and other valid policy choices; and

48 WHEREAS, the United States Trade Representative seeks to expand covered services
49 in international trade agreements, including higher education and some professional licensing, in
50 ways that could impact Utah's ability to regulate these services:

51 NOW, THEREFORE, BE IT RESOLVED that:

52 (1) the United States Trade Representative should:

53 (a) ensure that international trade agreements:

54 (i) protect state lawmaking authority;

55 (ii) exclude existing state laws from commitments made in the agreement;

56 (iii) list every commitment to be included in the agreement to ensure that commitments
57 are not inadvertently made;

58 (iv) contain provisions specifically allowing states to adjust commitments to which the
59 state may be held;

60 (v) allow foreign investors no greater rights, either procedural or substantive, than
61 those enjoyed by United States investors;

62 (vi) allow states to use procurement policies to further valid public interests; and

63 (vii) expand the services covered in international trade agreements in a manner that
64 does not impact Utah's ability to regulate domestic industries and protect the public interest;

65 (b) establish an effective consultation mechanism for the states, including the
66 establishment of a formal and permanent body with resources to monitor and develop positions
67 on international trade matters of concern to the states; and

68 (c) provide economic and noneconomic impact projections to states while an
69 international trade agreement is being negotiated.

70 (2) Congress should ensure that:

71 (a) the United States vigorously defends any state law that is subjected to challenge
72 using the provisions of an international trade agreement;

73 (b) a state that participates in the defense of a state law subjected to challenge using the
74 provisions of an international trade agreement is reimbursed by the United States for the cost of
75 defending the law; and

76 (c) the United States not retaliate against a state, including by withholding funds, if a
77 state law violates an international trade agreement and the state elects to continue enforcing the
78 law.