

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 **Committee Note:**

10 The Utah International Trade Commission recommended this bill.

11 Membership: 8 legislators 3 non-legislators

12 Legislative Vote: 6 voting for 0 voting against 2 absent

13 **General Description:**

14 This joint resolution of the Legislature suggests methods for consideration of issues
15 pertaining to state sovereignty raised by international trade agreements of the United
16 States.

17 **Highlighted Provisions:**

18 This resolution:

19 ▶ suggests provisions that should be included in and excluded from international trade
20 agreements; and

21 ▶ proposes other provisions related to the United States' process for negotiating,
22 ratifying, and litigating international trade agreements.

23 **Special Clauses:**

24 None

25

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

27 WHEREAS, international trade with Utah represents a growing portion of the state's



28 economy and is beneficial to the state's economy;

29 WHEREAS, the United States, through the United States Trade Representative is
30 negotiating and otherwise pursuing additional international trade agreements to expand
31 international trade and investment opportunities;

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

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

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

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

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

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

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

48 WHEREAS, communication with the United States Trade Representative is necessary
49 to inform the United States Trade Representative of state concerns with proposed and existing
50 international trade agreements;

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

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

56 NOW, THEREFORE, BE IT RESOLVED that:

57 (1) the United States Trade Representative should:

58 (a) ensure that international trade agreements:

- 59 (i) protect state lawmaking authority;
- 60 (ii) exclude existing state laws from commitments made in the agreement;
- 61 (iii) list every commitment to be included in the agreement to ensure that commitments
62 are not inadvertently made;
- 63 (iv) contain provisions specifically allowing states to adjust commitments to which the
64 state may be held;
- 65 (v) allow foreign investors no greater rights, either procedural or substantive, than
66 those enjoyed by United States investors;
- 67 (vi) allow states to use procurement policies to further valid public interests; and
- 68 (vii) expand the services covered in international trade agreements in a manner that
69 does not impact Utah's ability to regulate domestic industries and protect the public interest;
- 70 (b) establish an effective consultation mechanism for the states, including the
71 establishment of a formal and permanent body with resources to monitor and develop positions
72 on international trade matters of concern to the states; and
- 73 (c) provide economic and noneconomic impact projections to states while an
74 international trade agreement is being negotiated.
- 75 (2) Congress should ensure that:
- 76 (a) the United States vigorously defends any state law that is subjected to challenge
77 using the provisions of an international trade agreement;
- 78 (b) a state that participates in the defense of a state law subjected to challenge using the
79 provisions of an international trade agreement is reimbursed by the United States for the cost of
80 defending the law; and
- 81 (c) the United States not retaliate against a state, including by withholding funds, if a
82 state law violates an international trade agreement and the state elects to continue enforcing the
83 law.

Legislative Review Note
as of 11-16-07 11:21 AM

Office of Legislative Research and General Counsel

H.J.R. 1 - Resolution Addressing International Trade Issues

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
