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COMMERCE, REGULATION & LABOR

HOUSE FILE

2490

BY SHOULTZ

Passed House, Date \_\_\_\_\_

Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

A BILL FOR

1 An Act to create the model jobs, trade, and democracy Act.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2490

1 Section 1. MODEL JOBS, TRADE, AND DEMOCRACY ACT --  
2 LEGISLATIVE FINDINGS. This Act shall be known and may be  
3 cited as the "Model Jobs, Trade, and Democracy Act".

4 The general assembly finds all of the following:

5 1. Democratic, accountable governance in the states  
6 generally, and specifically the authority granted by Article  
7 III of the Constitution of the State of Iowa to the Iowa  
8 general assembly to enact statutes governing the state of  
9 Iowa, is being undermined by international commercial and  
10 trade rules enforced by the world trade organization and  
11 established by the North American free trade agreement, and is  
12 further threatened by similar provisions in an array of  
13 pending trade agreements.

14 2. Trade agreements have impacts which extend  
15 significantly beyond the bounds of traditional trade matters  
16 such as tariffs and quotas and instead grant foreign investors  
17 and service providers certain rights and privileges regarding  
18 operations within the state of Iowa, subject Iowa laws to  
19 challenge as barriers to trade in the binding dispute  
20 resolution bodies that accompany the pacts, and place limits  
21 on the future policy options of state legislatures.

22 3. The North American free trade agreement grants foreign  
23 firms new rights and privileges for operating within Iowa that  
24 exceed those granted to businesses domiciled within the United  
25 States under state and federal law. The North American free  
26 trade agreement has already generated regulatory takings cases  
27 against state and local land use decisions, state  
28 environmental and public health policies, adverse state court  
29 rulings, and state and local contracts that would not have  
30 been possible in state or federal courts.

31 4. When states agree to government procurement provisions  
32 contained in trade agreements, common economic development and  
33 environmental policies, such as buy local laws and policies to  
34 prevent the transfer of state jobs to foreign jurisdictions,  
35 as well as recycled content laws, could be subject to

1 challenge as barriers to trade as they contradict the  
2 obligations in the trade agreements.

3 5. Trade agreements also curtail state regulatory  
4 authority by placing constraints on future policy options.  
5 The world trade organization services agreement could  
6 undermine state efforts to expand health care coverage and  
7 rein in health care costs, and places constraints on state and  
8 local land use planning. New negotiations in the services  
9 area could have additional implications for state regulation  
10 of water, energy, higher education, professional licensing,  
11 and other areas.

12 6. Federal government trade negotiators have failed to  
13 consult in a meaningful way with state legislatures when  
14 seeking the consent of states to comply with trade agreement  
15 provisions.

16 7. A statutory mechanism that requires federal trade  
17 negotiators to seek consent from state legislatures prior to  
18 binding states to conform their laws to the terms of  
19 international commercial agreements is necessary to adhere to  
20 the tenets of federalism and state sovereignty.

21 Sec. 3. LEGISLATIVE DECLARATION OF POLICY.

22 1. STATE LEGISLATIVE POINTS OF CONTACT. Two state  
23 legislative points of contact shall be appointed at the  
24 beginning of each legislative session, one by the president of  
25 the senate and one by the speaker of the house of  
26 representatives. The points of contact shall do all of the  
27 following:

28 a. Serve as the state's official liaisons with the federal  
29 government and the general assembly's liaisons with the  
30 governor on trade-related matters.

31 b. Serve as the designated recipients of federal requests  
32 for consent or consultation regarding investment, procurement,  
33 services, or other provisions of international trade  
34 agreements which may encroach on state law or regulatory  
35 authority reserved to the states.

1 c. Transmit information regarding federal requests for  
2 consent to the office of the governor, the attorney general,  
3 and all appropriate legislative committees.

4 d. Inform all members of the general assembly on a regular  
5 basis about ongoing trade negotiations and dispute settlement  
6 proceedings with implications for the state more generally.

7 e. Communicate the interests and concerns of the general  
8 assembly to the United States trade representative regarding  
9 ongoing and proposed trade negotiations.

10 f. Notify the United States trade representative of any  
11 legislative action that has taken place.

12 2. CONSENT BY JOINT RESOLUTION. Consent by the state of  
13 Iowa to any provision of a trade agreement shall only occur  
14 through a joint resolution by the general assembly, presented  
15 to the governor for signature as provided in this subsection.

16 All of the following actions are required before the state  
17 of Iowa may consent to the terms of a trade agreement:

18 a. A request for consent must contain all of the  
19 following:

20 (1) An explanation as to how the agreement of the state of  
21 Iowa to the specific provisions of the agreement will change  
22 or affect existing law.

23 (2) A statement of any administrative action proposed to  
24 implement the trade agreement provisions in the state of Iowa.

25 (3) A draft of a joint resolution authorizing the state to  
26 consent to the specific listed provisions of the agreement.

27 b. The speaker of the house of representatives and the  
28 president of the senate shall refer the request for consent  
29 and any attached documents to the appropriate standing  
30 committees of the general assembly.

31 c. The standing committee considering a request for  
32 consent shall hold a public hearing before any final action is  
33 taken by the committee.

34 d. A joint resolution is passed by the senate and the  
35 house of representatives and is presented to the governor for

1 signature in the same manner as a bill, authorizing the state  
2 of Iowa to consent to specific listed provisions of an  
3 agreement.

4 Sec. 4. PRIOR CONSENT VOID. Any consent that has been  
5 given for the state of Iowa to be bound by the government  
6 procurement rules of any international trade agreement on or  
7 before the effective date of this Act is declared invalid and  
8 the state of Iowa is not bound by the government procurement  
9 rules of any international trade agreement for which consent  
10 has been given by the state of Iowa to be bound to on or  
11 before the effective date of this Act.

12 Sec. 5. FEDERAL LAW FOR STATE CONSENT. It is the sense of  
13 the general assembly that the Congress of the United States  
14 should pass legislation instructing the United States trade  
15 representative to fully and formally consult individual state  
16 legislatures regarding procurement, services, investment, or  
17 any other trade agreement provisions that impact state laws or  
18 authority before negotiations begin on such an agreement and  
19 as they develop, and to seek consent from state legislatures  
20 prior to binding states to conform their laws to the terms of  
21 international trade agreements. Such legislation is necessary  
22 to ensure the prior informed consent of the state of Iowa with  
23 regard to future international trade and investment  
24 agreements.

25 Sec. 6. NOTICE. The attorney general shall notify the  
26 United States trade representative of the provisions set forth  
27 in section 3 of this Act, in writing no later than July 1,  
28 2006, and shall provide copies of such notice to the president  
29 of the senate, speaker of the house of representatives, the  
30 governor, and Iowa's congressional delegation.

31 EXPLANATION

32 This bill relates to international commercial and trade  
33 rules enforced by the world trade organization and established  
34 by the North American free trade agreement. The bill contains  
35 a series of legislative findings concerning the trade

1 negotiation process.

2 The bill establishes a specific procedure for state consent  
3 for future trade agreements, requiring the enactment of a  
4 joint resolution, presented to the governor for signature, in  
5 the same manner as a bill. All previous consents which did  
6 not follow this process are declared void.

7 The bill calls on the United States Congress to enact  
8 legislation instructing the United States trade representative  
9 to consult individual state legislatures regarding  
10 procurement, services, investment, or any other trade  
11 agreement provisions that impact state laws or authority  
12 before negotiations begin and as they develop, and to seek  
13 consent from state legislatures prior to binding states to  
14 conform their laws to the terms of international trade  
15 agreements.

16 The bill requires the attorney general to notify the United  
17 States trade representative and Iowa's congressional  
18 delegation of the process to give consent to an agreement no  
19 later than July 1, 2006.

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