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State Legislators From 21 States Launch Anti-CAFTA Effort

Legislators Send Letter to Congress Highlighting How CAFTA's Foreign Investor Protections Would Undermine State Authority

WASHINGTON, D.C. - State legislators from Tennessee and California today sent a letter to Congress signed by legislators from 21 states urging opposition to the Central America Free Trade Agreement (CAFTA).

On a telephone press conference, the legislators explained their objections to CAFTA's foreign investor protection provisions. CAFTA, under its Chapter 10 provisions, would expand on similar provisions in the North American Free Trade Agreement (NAFTA) that provide foreign investors operating within the United States property rights that extend beyond U.S. Constitutional dictates and permit foreign investors to sue the U.S. government in international tribunals to obtain compensation for policies that undermine these new rights.

Tennessee state Rep. Mike Kernell of Memphis and California state Sen. Liz Figueroa talked about the dire threat CAFTA would pose to the U.S. system of federalism and said they are currently lobbying their congressional delegation to oppose the deal. CAFTA's Article 104 requires that the federal government force states to adopt the 1,000 pages of CAFTA international law, to which both the U.S. government and states would be bound.

"It is incredible that CAFTA, as proposed by the Bush administration, would enable foreign corporations to sue the U.S. for cash compensation over federal, state and local policies designed to safeguard public health and safety in instances when Americans or U.S. businesses would have no such right," said Kernell, senior member of the Tennessee House Environment and Conservation committee. "As a state legislator, I find this to be an unacceptable threat to our sovereignty and democracy."

"NAFTA's investor rules are already having a chilling effect on our ability to address the concerns of our constituents. In addition to the direct challenges brought by private Canadian corporations against two California laws protecting public health and the environment, last year Gov.

Schwarzenegger vetoed bipartisan legislation for fear of a NAFTA trade dispute," said Sen. Figueroa, referring to a bill that aimed to recycle used tires for paving California roadways. "I fully support trade. However, trade should not be valued above our hard-won and long cherished, self-governing freedoms. Extending the provisions of the NAFTA model through CAFTA has drastic implications for California, its residents and its representative government. I urge Congress to reject this flawed agreement."

NAFTA's investment chapter, or Chapter 11 as it is known, has been widely criticized for undermining basic public interest protections provided by state and local governments

and these governments' ability to conduct day-to-day functions. NAFTA has done this by extending a set of rights to foreign investors operating in the U.S. to attack domestic policies and demand compensation.

In February, Public Citizen released an analysis of the 42 known NAFTA Chapter 11 cases and found that in 11 cases decided, approximately \$35 million in public funds had been paid; in pending cases, claims reach into the billions. U.S. defense of just one pending case has cost more than \$3 million. Corporate investors also have used NAFTA's investor vs.

government enforcement system to challenge domestic court rulings, local and state environmental policies, municipal contracts, tax policy, federal controlled substances regulations, federal and state anti-gambling policies, a federal government's alleged failure to provide water rights, and the provision of public postal services

"An enormous difference between the current debate over CAFTA and the NAFTA debate from 12 years ago is the active objections state lawmakers and officials now have to the NAFTA-style rights given to corporations, which have proven to disable state initiatives that promote public health and environmental policies," said Chris Slevin, deputy director of Public Citizen's Global Trade Watch.

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