

§288g(c), the Senate may direct its counsel to perform other duties: Now therefore, be it

*Resolved*, That the Senate Legal Counsel is authorized to represent all Members of the Senate, the Vice President, the President Pro Tem, the Secretary of the Senate, the Sergeant at Arms, and the Congress, in the case of *Josue Orta Rivera v. Congress of the United States of America, et al.*

SENATE RESOLUTION 227—EX-PRESSING THE PROFOUND SORROW OF THE SENATE FOR THE DEATH OF INDIANA GOVERNOR FRANK O'BANNON AND EXTENDING THOUGHTS, PRAYERS, AND CONDOLENCES TO HIS FAMILY, FRIENDS AND LOVED ONES

Mr. BAYH (for himself and Mr. LUGAR) submitted the following resolution; which was considered and agreed to:

S. RES. 227

Whereas Frank O'Bannon devoted his entire life to public service and to the people of the State of Indiana;

Whereas Frank O'Bannon dedicated his life to defending the Nation's principles of freedom and democracy, serving in the United States Air Force from 1952 until 1954;

Whereas Frank O'Bannon served 18 years in the Indiana State Senate and 8 years as Lieutenant Governor of Indiana;

Whereas, on November 5, 1996, Frank O'Bannon was elected the 47th Governor of the State of Indiana, where he served until his death on September 13, 2003;

Whereas Frank O'Bannon was a true friend to Indiana, and a gentle man of integrity, kindness, and good works; and

Whereas Frank O'Bannon will be remembered as a loving husband to his wife Judy, a devoted father to his 3 children, and a caring grandfather to his 5 grandchildren: Now, therefore, be it

*Resolved*, That the Senate—

(1) has learned with profound sorrow of the death of the Honorable Frank O'Bannon, Governor of Indiana, on September 13, 2003;

(2) extends its condolences to the O'Bannon family, especially to his wife Judy, his children Jonathan, Jennifer, and Polly, and his grandchildren Beau, Chelsea, Asher, Demi, and Elle;

(3) expresses its profound gratitude to Frank O'Bannon for the services that he rendered to the Nation in the United States Air Force and the Indiana State Legislature, and as Governor of Indiana; and

(4) recognizes with respect Frank O'Bannon's integrity, steadfastness, and loyalty to the State of Indiana and to the United States.

SENATE CONCURRENT RESOLUTION 69—PROVIDING THAT ANY AGREEMENT RELATING TO TRADE AND INVESTMENT THAT IS NEGOTIATED BY THE EXECUTIVE BRANCH WITH OTHER COUNTRIES MUST COMPLY WITH CERTAIN MINIMUM STANDARDS

Mr. FEINGOLD submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 69

Whereas there is general consensus among the American public and the global community that, with respect to international trade and investment rules—

(1) global environmental, labor, health, food security, and other public interest standards must be strengthened to prevent a global "race to the bottom";

(2) domestic environmental, labor, health, food security, and other public interest standards and policies must not be undermined, including those based on the use of the precautionary principle, the internationally recognized legal principle which holds that, when there is scientific uncertainty regarding the potential adverse effects of an action or a product or technology, governments should act in a way that minimizes the risk of harm to human health and the environment;

(3) provision and regulation of public services such as education, health care, transportation, energy, water, and other utilities are basic functions of democratic government and must not be undermined;

(4) raising standards in developing countries requires additional assistance and respect for diversity of policies and priorities;

(5) countries must be allowed to design and implement policies to sustain family farms and achieve food security;

(6) healthy national economies are essential to a healthy global economy, and the right of governments to pursue policies to maintain and create jobs must be upheld;

(7) the right of State and local and comparable regional governments of all countries to create and enforce diverse policies must be safeguarded from imposed downward harmonization; and

(8) rules for the global economy must be developed and implemented democratically and with transparency and accountability; and

Whereas many international trade and investment agreements in existence and currently being negotiated do not serve these interests, and have caused substantial harm to the health and well-being of communities in the United States and within countries that are trading partners of the United States: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That any agreement relating to trade and investment that is negotiated by the executive branch with other countries should comply with the following:

(1) REGARDING INVESTOR AND INVESTMENT POLICY.—No such agreement that includes provisions relating to foreign investment may permit foreign investors to challenge or seek compensation because of a measure of a government at the national, State, or local level that protects the public interest, including, but not limited to, public health, safety, and welfare, the environment, and worker protections, unless a foreign investor demonstrates that the measure was enacted or applied primarily for the purpose of discriminating against foreign investors or investments.

(2) REGARDING SERVICES.—Any such agreement, to the extent applicable, shall comply with the following:

(A)(i) The agreement may not discipline government measures relating to—

(I) public services, including public services for which the government is not the sole provider;

(II) services that require extensive regulation;

(III) essential human services; and

(IV) services that have an essentially social component.

(ii) The services described in subclauses (I) through (IV) of clause (i) include, but are not limited to, public benefit programs, health care, health insurance, public health, child care, education and training, the distribution of controlled substances and products, including alcohol and tobacco and firearms, research and development on natural and so-

cial sciences, utilities including energy utilities, water, waste disposal and sanitation, national security, maritime, air, surface, and other transportation services, postal services, energy extraction and related services, and correctional services.

(B) The agreement shall permit countries that have made commitments in areas covered in subparagraph (A) to revise those commitments for the purposes of public interest regulation without financial or other trade-related penalties.

(C) The agreement shall ensure that rules on subsidies and government procurement fully protect the ability of governments to support and purchase services in ways that promote economic development, social justice and equity, public health, environmental quality, and human and workers' rights.

(D) The agreement shall make no new commitments on the temporary entry of workers because such policies should be determined by the Congress, after consideration by the congressional committees with jurisdiction over immigration to avoid an array of inconsistent policies and policies which fail to—

(i) include labor market tests that ensure that the employment of such temporary workers will not adversely affect other similarly employed workers;

(ii) involve labor unions in the labor certification process implemented under the immigration program for temporary workers under section 101(a)(15)(H)(i) of the Immigration and Nationality Act, including the filing by an employer of an application under section 212(n)(1) of that Act; and

(iii) guarantee the same workplace protections for temporary workers that are available to all workers.

(E) The agreement shall guarantee that all governments that are parties to the agreement can regulate foreign investors in services and other service providers in order to protect public health and safety, consumers, the environment, and workers' rights, without requiring the governments to establish their regulations to be the least burdensome option for foreign service providers.

(3) REGARDING POLICIES TO SUPPORT AMERICAN WORKERS AND SMALL, MINORITY, AND WOMEN-OWNED BUSINESSES.—Any such agreement shall preserve the right of Federal, State, and local governments to maintain or establish policies to support American workers and small, minority, or women-owned businesses, including, but not limited to, policies with respect to government procurement, loans, and subsidies.

(4) REGARDING ENVIRONMENTAL, LABOR, AND OTHER PUBLIC INTEREST STANDARDS.—Any such agreement—

(A) may not supersede the rights and obligations of parties under multilateral environmental, labor, and human rights agreements; and

(B) shall, to the extent applicable, include commitments, subject to binding enforcement on the same terms as commercial provisions—

(i) to adhere to specified workers' rights and environmental standards;

(ii) not to diminish or fail to enforce existing domestic labor and environmental provisions; and

(iii) to abide by the core labor standards of the International Labor Organization (ILO).

(5) REGARDING UNITED STATES TRADE LAWS.—No such agreement may—

(A) contain a provision which modifies or amends, or requires a modification of or an amendment to, any law of the United States that provides to United States businesses or workers safeguards from unfair foreign trade practices, including any law providing for—

(i) the imposition of countervailing or antidumping duties;