STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE CONCURRENT
RESOLUTION 71 By: Muegge of the Senate

and

McCarter of the House

AS INTRODUCED

A Concurrent Resolution memorializing the President and Congress that the United States Trade Representative preserve the traditional powers of state and local governments while negotiating international investment agreements; and directing distribution.

WHEREAS, the United States government, through the United States Trade Representative, is negotiating to create or interpret investment agreements under the proposed Free Trade Area of the Americans (FTAA), bilateral agreements such as the United States-Chile agreement, the investment chapter of the North American Free Trade Agreement (NAFTA), and potentially under the World Trade Organization (WTO); and

WHEREAS, investment agreements affect state and local powers, including, but not limited to, zoning, protection of ground water and other natural resources, corporate ownership of land and casinos, law enforcement by courts, public services, and sovereign immunity; and

WHEREAS, investment rules under these agreements deviate from United States legal precedents on takings law and deference to legislative determinations on protecting the public interest; and

WHEREAS, investment rules do not safeguard any category of law from investor complaints including, but not limited to, laws passed

in the interest of protecting human or animal health, environmental resources, human rights, and labor rights; and

WHEREAS, foreign investors have used the provisions of NAFTA's investment chapter to challenge core powers of state and local government including, but not limited to, regulatory power to protect ground water in California; the power of civil juries to use punitive damages to deter corporate fraud in Mississippi; the ability of states to invoke sovereign immunity in Massachusetts; and a decision by local government to deny a zoning permit for construction of a hazardous waste dump in Guadalcazar, Mexico; and

WHEREAS, serious concerns about international investment agreements have been expressed by national government associations, including the National Conference of State Legislatures (NCSL), which urged federal trade negotiators not to commit the United States to further investor-to-state dispute provisions such as those pending under NAFTA; and the National League of Cities, which has expressed concern that expansion of investment rules could undermine the successful effort by state and local governments to defeat legislation to expand compensation for takings in the 104th Congress.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE 2ND SESSION OF THE 48TH OKLAHOMA LEGISLATURE, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

THAT the Oklahoma State Legislature respectfully memorializes the President and Congress of the United States that the United States Trade Representative: preserve the traditional powers of state and local governments by requiring that negotiators of international investment agreements carve out state and local governments from the scope of future investment agreements or exclude investor-to-state disputes from investment agreements; ensure that international investment rules do not give greater rights to foreign investors than United States investors enjoy under

the United States Constitution; ensure that international investment rules do not undermine traditional police powers of state and local governments to protect public health, conserve environmental resources, and regulate fair compensation; ensure that all proceedings are open to the public and that all submissions, findings and decisions are promptly made public, consistent with the need to protect classified information, and that amicus briefs will be accepted and considered by investment tribunals; and provide that an investor's claim against its host government must consent to the investor's claim against its host government, if investor-to-state disputes are retained.

THAT a copy of this resolution be distributed to the President and Vice President of the United States, to the United States Trade Representative, to members of Oklahoma's Congressional Delegation, and to the National Conference of State Legislatures (NCSL).

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