



Since 1894

Date: March 18, 2025

To: Senate Committee on Judiciary
Sen. Kellie Warren, Chair

From: Aaron M. Popelka, V.P. of Legal and Governmental Affairs, Kansas Livestock Association

Re: **H Sub for SB 9 AN ACT concerning property; relating to certain lands and military installations; enacting the Kansas land and military installation protection act; prohibiting foreign principals from countries of concern from acquiring any interest in certain real property in this state; authorizing the fusion center oversight board to adopt rules and regulations to add or remove federally designated foreign terrorist organizations from the definition of country of concern; prohibiting foreign principals from countries of concern from receiving any economic development program benefits; relating to drones and drone technology; prohibiting the acquisition of critical components of drone technology from countries of concern.**

Position: Neutral, In-Person

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing nearly 5,700 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf, and stocker cattle production; cattle feeding; dairy production; swine production; grazing land management; and diversified farming operations.

Thank you, Chair Warren, and members of the Committee, for allowing the Kansas Livestock Association (KLA) the opportunity to share our views on H Sub for SB 9. KLA does not oppose H Sub for SB 9 in its current form due to the grandfather clause, but KLA is concerned that if adjustments are not made to the bill, it could disrupt meat processing capacity in the future.

As a general matter, KLA policy supports free markets with minimal government intrusion. Modern agricultural operations are diverse and often must find unique ways to access capital. Given the global nature of markets, equity and debt financing could come from foreign sources. If these sources are from allies of the United States or companies that are proven to not pose a security threat, such arrangements should not be discouraged.

In KLA's view, the issue of foreign investment is best handled by the federal government, and KLA would prefer that Congress, along with the Trump Administration, address this issue. Significant steps have been taken to this effect. Last year Congress passed P.L. 118-42, which added the U.S. Secretary of Agriculture to the Committee on Foreign Investment in the United States (CFIUS) on a case-by-case basis to review transactions involving agricultural land, agriculture biotechnology, or the agriculture industry (including agricultural transportation,

agricultural storage, and agricultural processing). CFIUS, housed in the U.S. Treasury Department, “is an interagency committee authorized to review certain transactions involving foreign investment in the United States and certain real estate transactions by foreign persons, in order to determine the effect of such transactions on the national security of the United States.” Last November CFIUS published a final rule that enhanced its compliance and enforcement powers.¹ The rule gave CFIUS additional investigative powers in regard to non-notified transactions; more authority to better monitor compliance with past agreements, orders, and conditions; and greater penalty authority. In February, President Donald J. Trump signed a National Security Presidential Memorandum (NSPM) that among other items, “directed CFIUS to restrict Chinese investments in strategic U.S. sectors like technology, critical infrastructure, healthcare, agriculture, energy, raw materials, and others,” as well as “strengthen CFIUS authority over “greenfield” investments, and restrict foreign adversary access to U.S. talent and operations in sensitive technologies.”²

KLA believes regulation of foreign investment is best handled by the federal government because it has greater resources to analyze national security threats, and it can craft solutions that apply equally to all states. Individual state efforts in this space have the potential to establish a patchwork of laws across the U.S. creating confusion and barriers to investment. In addition, state laws restricting foreign ownership of land could be susceptible to constitutional challenges based on the Foreign Commerce Clause or the Supremacy Clause of the U.S. Constitution if not carefully drafted.

While KLA firmly believes this matter should be left to the federal government, we understand that some may want the State of Kansas to take a position in the interest of national and state security. From KLA’s perspective, any state-based bill should limit restrictions to foreign adversaries, focus on actual security threats and avoid targeting only agricultural land, allow limited exceptions for occurrences like inheritance and foreclosures, and not disrupt existing businesses that have been determined not to be a threat to national security. H Sub for SB 9 currently meets most of those requirements, but KLA is concerned the bill could disrupt the meat processing industry in the future if further changes to the bill are not made. In particular, KLA is concerned about Smithfield Foods’ two Kansas plants. Smithfield was reviewed by CFIUS in 2013 and was determined to pose no security risk.

Smithfield Foods operates pork processing plants in Junction City and Wichita, where it employs almost 1,000 Kansans and contributes approximately \$1.6 million in state and local tax revenue. Although Smithfield Foods’ majority investor is the WH Group, Smithfield Foods remains a U.S. company headquartered in Virginia where it was founded in 1936. The WH Group is not a state-owned, company, but a publicly traded company based in Hong Kong with shares listed on the Hong Kong Stock Exchange and investors from around the world, including the United States. On January 28, 2025, Smithfield Foods completed an initial public offering

¹ See Penalty Provisions, Provision of Information, Negotiation of Mitigation Agreements, and Other Procedures Pertaining to Certain Investments in the United States by Foreign Persons and Certain Transactions by Foreign Persons Involving Real Estate in the United States, 89 Fed. Reg. 93179 (Nov. 26, 2024).

² Fact Sheet: President Donald J. Trump Encourages Foreign Investment While Protecting National Security (February 21, 2025), available at <https://www.whitehouse.gov/fact-sheets/2025/02/fact-sheet-president-donald-j-trump-encourages-foreign-investment-while-protecting-national-security/>

and is now listed on the Nasdaq stock exchange under the ticker symbol "SFD," further increasing transparency of the company's operations in the United States.

KLA is concerned that if state or federal regulations pertaining to the environment or food safety change, or the processing needs at a current facility change requiring an expansion, the inflexibility of the current grandfather clause could force a plant to close. Last year, the Kansas Legislature approved an exception that would allow Smithfield Foods to modify facilities or acquire additional property, based on its status with CFIUS. The amendment, which I have attached to this testimony, creates an exception to the prohibition found in section 3, subsection (a) for companies that have undergone CFIUS review and were determined not to be a security threat. KLA believes that with the recent efforts by the federal government to step-up CFIUS review of foreign businesses, this amendment strikes the right balance to protect national security, while allowing future continuity of operations in the meat processing industry. KLA is also open to working with the legislature on alternative approaches within the bill to avoid disruption of meat supply chains.

KLA appreciates the opportunity to submit testimony on H Sub for SB 9. Although not opposed to the bill in its current form, KLA would recommend an amendment in the conference report to avoid future disruption to meat processing plants in Kansas.

KLA Amendment to H Sub for SB 9

On page 4, following line 25, by inserting:

“(r) ‘Covered control transaction’ means the same as defined in 31 C.F.R. § 800.210, as in effect on July 1, 2025.”

“(s) ‘Covered transaction’ means the same as defined in 31 C.F.R. § 800.213, as in effect on July 1, 2025.”

On page 4, line 25, strike “and (e)” and insert “, (e) and (f)”.

On page 5, following line 34, by inserting:

“(e) A foreign principal may own, acquire or hold an interest in real property notwithstanding the provisions of this section if the foreign principal registers such interest in real property in accordance with the provisions of subsection (b), and any action concerning a covered transaction pursuant to 50 U.S.C. § 4565, as in effect on July 1, 2025, has concluded and such foreign principal received a determination that such covered transaction does not pose an unresolved national security concern, provided such foreign principal has not undergone a change in control that would constitute a covered control transaction since such determination was made.”

