



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

KRIS W. KOBACH
ATTORNEY GENERAL

MEMORIAL HALL
120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296
WWW.AG.KS.GOV

**Senate Committee on Agriculture and Natural Resources
Hearing on Senate Bill 283**

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TESTIMONY OF ATTORNEY GENERAL KRIS KOBACH

Chairman Warren and Members of the Committee,

It is an honor to testify in favor of SB 283, which addresses a growing problem in our country—the increasing acquisition of agricultural land by foreign nationals and by corporations controlled by foreign countries. This problem is one that must be addressed this session. I am in favor of SB 283, but I do believe that it should be amended, as explained below.

The problem of foreign land acquisition is an accelerating one. Foreign land ownership has doubled over the ten-year period from 2009 to 2019.

According to USDA records (which have been criticized as understating foreign land ownership), foreign nationals own 35.2 million acres—which is about the size of the state of Iowa. Percentage-wise, that is 2.7% of agricultural land, and growing. And remember, the true numbers are actually larger than this, due to the USDA's inability to effectively track all land purchases.

Canada is by far the country whose nationals own the largest share of U.S. land, but China's much smaller share is rapidly growing. The desire of the CCP to secure its own food supply by gaining greater control of the U.S. food supply has been well documented. Ten years ago, when the Chinese firm Shuanghui (now called WH Group) purchased Smithfield Farms—the nation's largest pork producer—the national security threat rose dramatically. And the recent Chinese acquisition of agricultural land near a North Dakota air base once again reminded us of what has been quietly happening for over a decade.

Eight states already have laws on the books prohibiting foreign nationals from purchasing land in their states. They are Iowa, Nebraska, Missouri, Oklahoma, Minnesota, North Dakota, Mississippi, and Hawaii. Most of those laws have been on the books for decades. However, some are more effective than others. Iowa's is the strongest, prohibiting the nationals of all countries from acquiring land. But I recently learned from the Iowa attorney general that foreign nationals have begun circumventing their law by entering into 99-year leases instead.

The fact that three of our four neighbors have restrictions on foreign land purchases only increases the attention China and other foreign nations focus on Kansas. We are the only state in America's breadbasket where there are no restrictions.

The existence of these laws for many years in other states also serves to disprove the arguments of those who oppose such laws. First, none of these laws have been struck down in court. Second, none of the residents of these states has experienced any retaliation by any foreign nation because of the states' restrictions on land purchases.

There is no significant counterargument to passing this bill that has emerged in any of these states. Something needs to pass out of this committee. The current draft is better than nothing; but I would suggest several amendments.

Suggested Amendments

- (1) Do not limit the bill to "foreign adversaries." I advise striking all of sections 1(b)(1) and 1(b)(2), and replacing the words "foreign adversary" with "foreign national" throughout the bill. This is for several reasons. First, *the bill is virtually unenforceable if it only excludes a small number of countries.* The Office of The Attorney General is able to quickly determine if a buyer of a land is a US citizen or US corporation. The Department of Homeland Security can give us that answer within minutes. But *we have very little ability to determine exactly what the nationality of a foreign citizen or corporation is.* In most cases, we will be unable to make any clear determination. This particularly true with respect to Chinese corporations. The CCP often operates through shell companies in third party countries. For example, if we figure out that a company based in Vietnam has purchased Kansas land, we are unlikely to be able to determine whether the CCP actually control the company, without extraordinary cooperation from the Vietnamese government.

Second, we are having difficulty replacing our aging farmers (average age 57.5) with a younger generation; and the greatest impediment to a younger generation of farmers entering the career, according to surveys, is the inability to purchase enough land. They should not have to compete against foreign corporations along with large domestic corporations. The National Young Farmers Coalition estimates that 2/3 of U.S. farmland will change hands over the next ten years.

- (2) If the foreign adversaries limitation remains, in section 1(b)(2) change “secretary of agriculture” to “attorney general.” The secretary of agriculture is unlikely to have any expertise in this area. In contrast, the attorney general is in charge of the fusion center, has top secret clearance, and is charged with enforcing the bill.

- (3) Delete the loopholes in section 2(a)(2). There is no need for such exceptions.

- (4) Prohibit circumvention via long-term leases. Iowa has experienced foreign buyers using this mechanism to evade their prohibition. Our bill should be amended to address this threat by adding “or any lease interest in such property with a term of more than two years” at the end of section 2(a)(1).

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