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To Members of the Kansas State Senate:

Our firm represents Cnano Technologies USA and writes to express Cnano's concerns regarding the House Substitute for SB 172. Last year, we assisted Cnano with its \$30 million real estate transaction in Johnson County, Kansas. After being recruited to locate their U.S. headquarters in Johnson County, Cnano has worked closely with local officials and the Kansas Department of Commerce to ensure Kansas will become the leading state in the country for the production of carbon nanotubes, an important component of lithium-ion batteries.

Cnano undoubtedly agrees all Kansans should be safe from foreign adversaries, but it has watched with concern as the House Substitute for SB 172, as written, has wound its way through the Kansas Legislature. Bill proponents have relied on several inaccurate arguments to bolster their claims, so it is imperative to put out the real facts about what this bill actually does.

- **This bill is likely unconstitutional on several fronts.** Its retroactive divestment requirement violates due process, improperly impairs existing contractual obligations, runs into federal preemption issues, and could potentially cost Kansas tens of millions of dollars in court costs and damages.
- **The bill assumes all people and companies covered under this bill are guilty, without even a chance to prove innocence absent a long and expensive court battle.** This is not the American way.
- Restaurant owners, grocery store owners, and other small business who have been operating in Kansas for decades but fall under the purview and requirements of this bill will be forced to divest and sell their business under this bill. No exceptions.
- Though proponents claim small business owners, restaurants, and other companies who have been in this state for years can be approved by the CFIUS process and be safe under the bill, this is not true. **There is no recourse for these companies if they have not already gone through the CFIUS process given the arbitrary deadline imposed in the bill.**
- **The Fusion Center Oversight Board does not provide a forum for affected parties to have particular transactions reviewed, adjudicated and/or mitigated (as CFIUS does).** Rather, the Fusion Center Oversight Board simply serves to review the designations of foreign terrorist organizations from the purview of the bill and provide enforcement thereof.
- The bill says companies must have **CFIUS** approval by July 1, 2024 to be exempt. The process takes several months, cost tens of thousands of dollars (at a minimum), and requires legal representation. **Ultimately, the July 1, 2024 deadline does not provide**

adequate time for these businesses to file the paperwork and have CFIUS review the filing. Ironically, at least one other company which the Department of Defense has labeled a “Chinese military company” will not be forced to divest under this bill and will remain in Kansas.

- Most small businesses in the state falling under the bill, such as Cnano, will not be subject to CFIUS’ jurisdiction, because federal law does not focus on those entities as an area of concern to national security. Under the bill, these businesses would therefore all be forced to divest since CFIUS would not even review their application.
- **The 100-mile radius around military bases does not exist anywhere else in the country.** Most states, including Florida and neighboring Missouri, have only a 10-mile radius. While CFIUS does have a 99-mile radius as part of its law, it only applies to approximately 40 specific military installations across the country - none of which are located in Kansas or any bordering state. Claims that this radius applies to all critical infrastructure are patently incorrect.
- CFIUS does have the ability to review certain transactions which are close to specific strategic airports; however, none of the conditions required for CFIUS review are met by Cnano’s location in Johnson County adjacent to New Century AirCenter.
- **To date, Cnano has spent over \$50 million to build out its facility, hiring over 150 local contractors from over two dozen companies. With a forced divestiture under this bill, Cnano would have to stop work, send these workers home, and be forced to sell a partially constructed factory at a significant loss – likely leaving Kansas taxpayers on the hook for the difference.**

Cnano Technologies USA came to Kansas because it is near its customers, centrally located in the country, and the best place to do business in the United States. Quickly passing a bill with forced divestiture, no recourse for companies, an expansive radius unique among states, and with severe myriad legal problems creates large red flags for other companies who want to come to Kansas.

Thank you for your time, and please do not hesitate to reach out if you have any additional questions about this bill.

Sincerely,

A handwritten signature in blue ink, appearing to be 'J. Pieratt', written over a horizontal line.

J. Pieratt
Partner