

2023 SENATE JUDICIARY

SB 2371

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

SB 2371
2/8/2023

A bill relating to the power of counties and municipalities to prohibit local development by a foreign adversary; relating to the prohibition on ownership of real property by a foreign adversary; and to declare an emergency.
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2:34 PM Chairman Patten opened the meeting. Chairman Larson and Senators Myrdal, Luick, Estenson, Sickler, Braunberger and Paulson were present.

Discussion Topics:

- Land sales
- National security
- Vetting land purchases

2:34 PM Senator Paulson introduced the bill.

2:49 PM Hanebutt, North Dakota Farm Bureau, spoke in favor of the bill.

2:50 PM Christopher Holton, Senior Analyst and Director of State Outreach, Center for Security Policy spoke in favor of the bill.

3:00 PM Travis Zabloutney spoke in favor of the bill.

3:12 PM Nichole Egeberg spoke in favor of the bill.

3:13 PM Dustin Richard, Legislative Counsel answered questions.

3:14 PM Keith Lund, President and CEO, Grand Forks Region Economic Development Corporation, testified opposed to the bill as written and provided written testimony #19590.

3:25 PM Mark Schramek Executive Director Cooperative and Government Affairs, SIRRUS Aircraft testified opposed to the bill and provided written testimony #19677.

3:40 PM Dana Hagar, Executive Director, Economic Development Association, spoke opposed to the bill.

3:40 PM Andrea Pfennig spoke opposed to the bill.

3:42 PM Chairman Larson closed the public hearing.

Additional written testimony:

Barry Wilfahrt provided written testimony #19649.

3:43 PM Chairman Larson closed the meeting.
Rick Schuchard, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

SB 2371
2/13/2023

A bill relating to the power of counties and municipalities to prohibit local development by a foreign adversary; relating to the prohibition on ownership of real property by a foreign adversary; and to declare an emergency.

3:16 PM Chairman Larson opened the meeting.

Chairman Larson and Senators Sickler, Braunberger, Estenson, Myrdal, Paulson and Luick are present.

Discussion Topics:

- Committee action

3:17 PM Senator Paulson spoke to amendments 23.1043.01001, #20670, 20671.

3:18 PM Senator Myrdal moves to adopt amendment 23.1043.01001. Motion seconded by Senator Luick.

3:32 PM Dustin Richard, Attorney, Legislative Council, answered questions concerning amendments.

3:39 PM Senator Myrdal and Senator Luick rescind their motion and second on the proposed amendment.

4:00 PM Senator Myrdal moved to adopt amendments to the bill 23.1043.01002. Motion seconded by Senator Estensen.

4:00 PM Roll call vote is taken.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passes 7-0-0.

4:00 pm Senator Myrdal moves to Do Pass the bill as amended. Motion seconded by Senator Luick.

4:01 PM Roll call vote was taken.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passes 7-0-0.

Senator Myrdal will carry the bill.

This bill does affect workforce development.

Additional Written Testimony:

Senator Sickler provided written testimony #21136.

4:01 PM Chairman Larson closed the meeting.

Rick Schuchard, Committee Clerk

February 13, 2023

DR
172
2-13-23

PROPOSED AMENDMENTS TO SENATE BILL NO. 2371

Page 1, after line 9 insert "1."

Page 1, line 13, remove "Any ordinance previously adopted by a county which is contrary to this section is"

Page 1, replace line 14 with "2. This section does not apply to a foreign adversary defined under subsection 1 possessing an interest in real property if the foreign adversary:

- a. Is a duly registered business and has maintained a status of good standing with the secretary of state for seven years or longer before the effective date of this Act;
- b. Has been approved by the committee for foreign direct investment in the United States; and
- c. Maintains an active national security agreement with the federal government."

Page 1, after line 17 insert "1."

Page 1, line 21, remove "Any ordinance previously adopted by a city which is contrary to"

Page 1, replace line 22 with "2. This section does not apply to a foreign adversary as defined in subsection 1 possessing an interest in real property if the foreign adversary:

- a. Is a duly registered business and has maintained a status of good standing with the secretary of state for seven years or longer before the effective date of this Act;
- b. Has been approved by the committee for foreign direct investment in the United States; and
- c. Maintains an active national security agreement with the federal government."

Page 2, line 6, remove "individuals."

Page 2, line 6, remove the third underscored the comma

Page 2, remove line 16

Page 2, line 17, after "3." insert "This section does not apply to an entity possessing an interest in real property under subsection 2 if the entity:

- a. Is a duly registered business and has maintained a status of good standing with the secretary of state for seven years or longer before the effective date of this Act;
- b. Has been approved by the committee for foreign direct investment in the United States; and

- c. Maintains an active national security agreement with the federal government.

4."

Renumber accordingly

DR
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2-13-23

REPORT OF STANDING COMMITTEE

SB 2371: Judiciary Committee (Sen. Larson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2371 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, after line 9 insert "1."

Page 1, line 13, remove "Any ordinance previously adopted by a county which is contrary to this section is"

Page 1, replace line 14 with "2. This section does not apply to a foreign adversary defined under subsection 1 possessing an interest in real property if the foreign adversary:

- a. Is a duly registered business and has maintained a status of good standing with the secretary of state for seven years or longer before the effective date of this Act;
- b. Has been approved by the committee for foreign direct investment in the United States; and
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- b. Has been approved by the committee for foreign direct investment in the United States; and
- c. Maintains an active national security agreement with the federal government."

Page 2, line 6, remove "individuals."

Page 2, line 6, remove the third underscored the comma

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Page 2, line 17, after "3." insert "This section does not apply to an entity possessing an interest in real property under subsection 2 if the entity:

- a. Is a duly registered business and has maintained a status of good standing with the secretary of state for seven years or longer before the effective date of this Act;
- b. Has been approved by the committee for foreign direct investment in the United States; and
- c. Maintains an active national security agreement with the federal government.

4."

Renumber accordingly

2023 HOUSE AGRICULTURE

SB 2371

2023 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Room JW327C, State Capitol

SB 2371
3/16/2023

Relating to the power of counties and municipalities to prohibit local development or ownership of real property by a foreign adversary; and to declare an emergency.

Chairman Thomas called the meeting to order 9:59 AM

Discussion Topics:

- Working group
- Existing easements
- 7 years standing
- Ownership interests

In Favor:

Senator Bob Paulson, District 3, Minot, ND (no written testimony)
Pete Hanebutt, Public Policy Director, ND Farm Bureau, #25469
Travis Zabloutney, District 5, Minot, ND, #25601
Sam Wagner, Ag and Food Field Organizer, Dakota Resource Council, #25479

Opposed:

Lisa Feldner, on behalf of Enel North America, #25518
Nick Hacker, ND Land Title Association and ND Title Team, #25600
Carly McLeod, President of Utility Holders of ND (no written testimony)
Rick Clayburgh, President, ND Bankers Association (no written testimony)
Andrea Pfennig, Greater North Dakota Chamber of Commerce (no written testimony)

Neutral:

Blaine Johnson, Principal of Crowley Fleck PLLP, representing State Bar Association of ND, Real Property Section (no written testimony)

Additional written testimony:

Lilly Funk, Resident Minot, ND, #23819
Todd Leake, Emerado, ND, #25292
Keith Lund, President & CEO, Grand Forks Region Economic Development Corporation, #25289

Chairman Thomas adjourned the meeting 11:04 AM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Room JW327C, State Capitol

SB 2371
3/30/2023

Relating to the power of counties and municipalities to prohibit local development or ownership of real property by a foreign adversary; and to declare an emergency.

Chairman Thomas called the meeting to order 9:03 AM

Members present: Chairman Thomas, Vice Chairman Beltz, Representatives Christy, Finley-DeVile, Fisher, Headland, Henderson, Kiefert, Olson, Prichard, Schreiber-Beck, Tveit, VanWinkle.

Discussion Topics:

- Background check
- Covered person
- State review
- Time element
- Study
- Quantifying steps
- Partnerships
- Equal protection
- Divest
- Citizen
- Alien Land Acts
- Challenges
- Compelling interest
- Narrowing tailored
- State security
- Constitutional question
- Court opinion
- Lawsuit
- National security
- Reasonable process
- Review process

Ross Kennedy, Fortis Analysis, an agribusiness, and national security expert, Taska, MN, (no written testimony)

Lonnie Grabowska, Director of the Bureau of Criminal Investigations, ND Office of the Attorney General (no written testimony)

Claire Ness, Chief Deputy Attorney General, ND Office of the Attorney General (no written testimony)

Chairman Thomas adjourned the meeting 10: 35 AM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Room JW327C, State Capitol

SB 2371
3/30/2023

Relating to the power of counties and municipalities to prohibit local development or ownership of real property by a foreign adversary; and to declare an emergency.

Chairman Thomas called the meeting to order 11:04 AM

Members present: Chairman Thomas, Vice Chairman Beltz, Representatives Christy, Finley-DeVile, Fisher, Headland, Henderson, Kiefert, Olson, Prichard, Schreiber-Beck, Tveit, VanWinkle.

Discussion Topics:

- Effected owners
- Foreclosure process
- Office of Foreign Assets List (OFAC)
- Defined list
- Held property

Rep. Thomas proposed a study amendment, #27094

Nick Hacker, Legislative Chairman, ND Land Title Association and ND Title Team, proposed amendment, #27093

Claire Ness, Chief Deputy Attorney General, ND Office of the Attorney General (no written testimony)

Representative Schreiber-Beck moved to replace the bill with the study amendment, #27094. Representative Kiefert seconded.

Roll call vote:

Representatives	Vote
Representative Paul J. Thomas	N
Representative Mike Beltz	Y
Representative Josh Christy	Y
Representative Lisa Finley-DeVile	Y
Representative Jay Fisher	N
Representative Craig Headland	N
Representative Donna Henderson	N
Representative Dwight Kiefert	Y
Representative SuAnn Olson	N
Representative Brandon Prichard	N
Representative Cynthia Schreiber-Beck	Y
Representative Bill Tveit	N

Representative Lori VanWinkle	N
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Motion failed 5-8-0

Representative Prichard moved to amend by adding the study language to the bill.
Representative Henderson seconded.

Roll call vote:

Representatives	Vote
Representative Paul J. Thomas	Y
Representative Mike Beltz	Y
Representative Josh Christy	Y
Representative Lisa Finley-DeVille	Y
Representative Jay Fisher	Y
Representative Craig Headland	N
Representative Donna Henderson	Y
Representative Dwight Kiefert	Y
Representative SuAnn Olson	Y
Representative Brandon Prichard	Y
Representative Cynthia Schreiber-Beck	N
Representative Bill Tveit	Y
Representative Lori VanWinkle	Y

Motion passed 11-2-0

Representative Beltz moved to further amend by eliminating section 3.
Representative Schreiber-Beck seconded.

Roll call vote:

Representatives	Vote
Representative Paul J. Thomas	Y
Representative Mike Beltz	Y
Representative Josh Christy	Y
Representative Lisa Finley-DeVille	AB
Representative Jay Fisher	Y
Representative Craig Headland	N
Representative Donna Henderson	Y
Representative Dwight Kiefert	Y
Representative SuAnn Olson	N
Representative Brandon Prichard	N
Representative Cynthia Schreiber-Beck	Y
Representative Bill Tveit	N
Representative Lori VanWinkle	N

Motion failed 6-6-1

House Agriculture Committee

SB 2371

03/30/2023

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Chairman Thomas adjourned the meeting 12:09 PM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Room JW327C, State Capitol

SB 2371
3/30/2023

Relating to the power of counties and municipalities to prohibit local development or ownership of real property by a foreign adversary; and to declare an emergency.

Chairman Thomas called the meeting to order 2:50 PM

Members present: Chairman Thomas, Vice Chairman Beltz, Representatives Christy, Finley-DeVille, Fisher, Headland, Henderson, Kiefert, Olson, Prichard, Schreiber-Beck, Tveit, VanWinkle.

Discussion Topics:

- Committee work

Nick Hacker, Legislative Chairman, ND Land Title Association and ND Title Team, proposed amendment, #27130.

Allyson Hicks, Special Attorney General. ND Office of the Attorney General (no written testimony)

Blaine Johnson, Principal of Crowley Fleck PLLP, representing State Bar Association of ND, Real Property Section (no written testimony)

Representative Henderson moved to further amendment by adding Office of Foreign Assets Control (OFAC) Sanctions List to the end of section 3.

Representative VanWinkle seconded.

Roll call vote:

Representatives	Vote
Representative Paul J. Thomas	Y
Representative Mike Beltz	Y
Representative Josh Christy	Y
Representative Lisa Finley-DeVille	AB
Representative Jay Fisher	Y
Representative Craig Headland	Y
Representative Donna Henderson	Y
Representative Dwight Kiefert	Y
Representative SuAnn Olson	Y
Representative Brandon Prichard	Y
Representative Cynthia Schreiber-Beck	N
Representative Bill Tveit	Y

House Agriculture Committee

SB 2371

03/30/2023

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Representative Lori VanWinkle	Y
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Motion passed 10-1-2

Chairman Thomas adjourned the meeting 3:25 PM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Room JW327C, State Capitol

SB 2371
3/31/2023

Relating to the power of counties and municipalities to prohibit local development or ownership of real property by a foreign adversary; and to declare an emergency.

Chairman Thomas called the meeting to order 9:06 AM

Members present: Chairman Thomas, Vice Chairman Beltz, Representatives Christy, Finley-DeVille, Fisher, Headland, Henderson, Kiefert, Olson, Prichard, Schreiber-Beck, Tveit, VanWinkle.

Discussion Topics:

- Divestiture
- Constitutionality
- Penalty
- Independent ownerships

Chairman Thomas presented a compilation of amendment language for discussion, #27173

Senator Bob Paulson, District 3, Minot, ND (no written testimony)

Nick Hacker, Legislative Chairman, ND Land Title Association and ND Title Team (no written testimony)

Allyson Hicks, Special Attorney General. ND Office of the Attorney General (no written testimony)

Chairman Thomas adjourned the meeting 9:36 AM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Room JW327C, State Capitol

SB 2371
4/6/2023

Relating to the power of counties and municipalities to prohibit local development or ownership of real property by a foreign adversary; and to declare an emergency.

Chairman Thomas called the meeting to order 10:37 AM

Members present: Chairman Thomas, Vice Chairman Beltz, Representatives Christy, Finley-DeVille, Fisher, Headland, Henderson, Kiefert, Olson, Prichard, Schreiber-Beck, Tveit, VanWinkle.

Discussion Topics:

- Current businesses
- Amendment

Allyson Hicks, Special Attorney General, ND Office of the Attorney General (no written testimony)

Representative Fisher moved to adopt amendment, #27353, LC #23.1043.02006.
Representative Tveit seconded.

Roll call vote:

Representatives	Vote
Representative Paul J. Thomas	Y
Representative Mike Beltz	Y
Representative Josh Christy	Y
Representative Lisa Finley-DeVille	Y
Representative Jay Fisher	Y
Representative Craig Headland	Y
Representative Donna Henderson	Y
Representative Dwight Kiefert	Y
Representative SuAnn Olson	Y
Representative Brandon Prichard	Y
Representative Cynthia Schreiber-Beck	Y
Representative Bill Tveit	Y
Representative Lori VanWinkle	Y

Motion passed 14-0-0

Representative Schreiber-Beck moved to further amend #27352
Representative Christy seconded.

Representative Schreiber-Beck withdrew her motion to amend.

Representative Schreiber-Beck further amended #27352, Section 2 of the .02006 amendment subdivision C after "adversary," insert "unless the foreign business entity was operating lawfully in the United States as of effective date of this Act."

Representative Christy seconded.

Roll call vote:

Representatives	Vote
Representative Paul J. Thomas	Y
Representative Mike Beltz	Y
Representative Josh Christy	Y
Representative Lisa Finley-DeVille	Y
Representative Jay Fisher	N
Representative Craig Headland	Y
Representative Donna Henderson	N
Representative Dwight Kiefert	Y
Representative SuAnn Olson	N
Representative Brandon Prichard	N
Representative Cynthia Schreiber-Beck	Y
Representative Bill Tveit	N
Representative Lori VanWinkle	N

Motion passed 7-6-0

Representative Christy moved a do pass as amended.
Representative Headland seconded.

Roll call vote:

Representatives	Vote
Representative Paul J. Thomas	Y
Representative Mike Beltz	Y
Representative Josh Christy	Y
Representative Lisa Finley-DeVille	Y
Representative Jay Fisher	Y
Representative Craig Headland	Y
Representative Donna Henderson	Y
Representative Dwight Kiefert	Y
Representative SuAnn Olson	Y
Representative Brandon Prichard	Y
Representative Cynthia Schreiber-Beck	N
Representative Bill Tveit	Y
Representative Lori VanWinkle	Y

Motion passed 12-1-0

House Agriculture Committee
SB 2371
04/06/2023
Page 3

Representative Tveit shall carry the bill.

Chairman Thomas adjourned the meeting 11:27 AM

Diane Lillis, Committee Clerk

April 7, 2023

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123
4-10-23

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2371

Page 1, line 5, replace "; and to declare an emergency" with "; to provide a legislative management study; and to provide an expiration date"

Page 1, line 13, after the underscored closing parenthesis insert "or a person identified on the office of the foreign assets control sanctions list"

Page 1, line 19, replace "for" with "on"

Page 1, line 19, remove "direct"

Page 2, line 5, after the underscored closing parenthesis insert "or a person identified on the office of the foreign assets control sanctions list"

Page 2, line 11, replace "for" with "on"

Page 2, line 11, remove "direct"

Page 2, line 22, remove ", hold,"

Page 2, line 22, after "state" insert "after the effective date of this Act"

Page 2, line 23, remove "government listed as a foreign"

Page 2, line 24, remove "that is:"

Page 2, line 25, replace "(1) Headquartered" with "with a principal executive office located"

Page 2, line 25, after the second "is" insert "identified as"

Page 2, line 25, remove the underscored semicolon

Page 2, remove lines 26 through 29

Page 2, line 30, remove "which is held or controlled by, a company or entity described in paragraph 3"

Page 2, after line 30, insert:

- "c. A foreign business entity in which a foreign adversary owns:
- (1) More than fifty percent of the ownership interests in the foreign business entity as defined under subsection 45 of section 10-19.1-01, unless the foreign business entity was operating lawfully in the United States on the effective date of this Act; or
 - (2) Fifty percent or less of the ownership interests in the foreign business entity as defined under subsection 45 of section 10-19.1-01, if the foreign adversary actually directs the business operations and affairs of the foreign business entity without the requirement of consent of any nonforeign adversary, unless the foreign business entity was operating lawfully in the United States on the effective date of this Act."

Page 3, line 6, replace "for" with "on"

Page 3, line 6, remove "direct"

Page 3, line 9, after "4." insert "A foreign government or foreign business entity subject to and in violation of this section shall divest itself of all real property in this state within thirty-six months after the effective date of this Act."

DR
283
4-10-28

5. If a foreign government or foreign business entity subject to this section fails to divest itself of all real property in this state within the period specified under subsection 4, the the state's attorney of the county in which the majority of the real property is situated may issue subpoenas to compel witnesses to appear to provide testimony or produce records.
6. Upon receiving testimony and records, if the state's attorney concludes a foreign government or foreign business entity, in violation of this section, has failed to divest ownership of real property as required under this section, the state's attorney shall commence an action in the district court of the county in which the majority of the real property is situated. Once the action is commenced, the state's attorney shall file a notice pursuant to section 28-05-07 with the recorder of each county where the real property subject to the action is situated. If the court finds divestment of real property under this section is proper, the district court shall enter an order consistent with its findings. As part of the order, the court shall cancel the notice pursuant to section 28-05-08.
7. Pursuant to an order for divestment, a foreign government or foreign business entity subject to an order shall divest all real property within six months from the date of the final entry of judgment. A foreign government or foreign business entity that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars.
8. Any real property not divested within the period prescribed by law may be sold at a public sale in the manner provided under chapter 32-19 through an action brought by the state's attorney. A title to real property or encumbrance on the real property may not be deemed invalid by an order of divestiture under this section.
9. A person that is not subject to this section may not be required to:
 - a. Determine whether another person is subject to this section; or
 - b. Inquire if another person is subject to this section.

10."

Page 3, line 10, after the underscored closing parenthesis insert "or a person identified on the office of foreign assets control sanctions list"

Page 3, after line 10, insert:

"SECTION 4. LEGISLATIVE MANAGEMENT STUDY - REAL ESTATE OWNERSHIP AND CONDUCT OF BUSINESS BY FOREIGN ADVERSARIES.

1. During the 2023-24 interim, the legislative management shall study the number of persons that own or control any real estate or commercial assets or operate a business within this state which is owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries or

individuals acting on behalf of or in conjunction with foreign adversaries or persons listed on the office of foreign assets control sanctions list.

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4-10-23

2. The study must attempt to ascertain the number of such persons residing in this state which operate a business or a charitable enterprise or have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state.
3. The study must consider which federal foreign adversary list would be best suited for use for the security of this state and the impact of implementing a federally created list.
4. The study must determine how to create and implement a security verification system that would:
 - a. Review business records and perform background checks on any existing entity not considered a foreign adversary;
 - b. Identify optimal methods for state officials to work and collaborate with national intelligence agents at the state and federal level; and
 - c. Outline what constitutes a national security threat and which person or agency has the authority to declare a national security threat.
5. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

SECTION 5. EXPIRATION DATE. This Act is effective through July 31, 2025, and after that date is ineffective."

Page 3, remove line 11

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2371, as engrossed: Agriculture Committee (Rep. Thomas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed SB 2371 was placed on the Sixth order on the calendar.

Page 1, line 5, replace "; and to declare an emergency" with "; to provide a legislative management study; and to provide an expiration date"

Page 1, line 13, after the underscored closing parenthesis insert "or a person identified on the office of the foreign assets control sanctions list"

Page 1, line 19, replace "for" with "on"

Page 1, line 19, remove "direct"

Page 2, line 5, after the underscored closing parenthesis insert "or a person identified on the office of the foreign assets control sanctions list"

Page 2, line 11, replace "for" with "on"

Page 2, line 11, remove "direct"

Page 2, line 22, remove ", hold."

Page 2, line 22, after "state" insert "after the effective date of this Act"

Page 2, line 23, remove "government listed as a foreign"

Page 2, line 24, remove "that is:"

Page 2, line 25, replace "(1) Headquartered" with "with a principal executive office located"

Page 2, line 25, after the second "is" insert "identified as"

Page 2, line 25, remove the underscored semicolon

Page 2, remove lines 26 through 29

Page 2, line 30, remove "which is held or controlled by, a company or entity described in paragraph 3"

Page 2, after line 30, insert:

"c. A foreign business entity in which a foreign adversary owns:

- (1) More than fifty percent of the ownership interests in the foreign business entity as defined under subsection 45 of section 10-19.1-01, unless the foreign business entity was operating lawfully in the United States on the effective date of this Act; or
- (2) Fifty percent or less of the ownership interests in the foreign business entity as defined under subsection 45 of section 10-19.1-01, if the foreign adversary actually directs the business operations and affairs of the foreign business entity without the requirement of consent of any nonforeign adversary, unless the foreign business entity was operating lawfully in the United States on the effective date of this Act."

Page 3, line 6, replace "for" with "on"

Page 3, line 6, remove "direct"

Page 3, line 9, after "4." insert "A foreign government or foreign business entity subject to and in violation of this section shall divest itself of all real property in this state within thirty-six months after the effective date of this Act.

5. If a foreign government or foreign business entity subject to this section fails to divest itself of all real property in this state within the period specified under subsection 4, the the state's attorney of the county in which the majority of the real property is situated may issue subpoenas to compel witnesses to appear to provide testimony or produce records.
6. Upon receiving testimony and records, if the state's attorney concludes a foreign government or foreign business entity, in violation of this section, has failed to divest ownership of real property as required under this section, the state's attorney shall commence an action in the district court of the county in which the majority of the real property is situated. Once the action is commenced, the state's attorney shall file a notice pursuant to section 28-05-07 with the recorder of each county where the real property subject to the action is situated. If the court finds divestment of real property under this section is proper, the district court shall enter an order consistent with its findings. As part of the order, the court shall cancel the notice pursuant to section 28-05-08.
7. Pursuant to an order for divestment, a foreign government or foreign business entity subject to an order shall divest all real property within six months from the date of the final entry of judgment. A foreign government or foreign business entity that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars.
8. Any real property not divested within the period prescribed by law may be sold at a public sale in the manner provided under chapter 32-19 through an action brought by the state's attorney. A title to real property or encumbrance on the real property may not be deemed invalid by an order of divestiture under this section.
9. A person that is not subject to this section may not be required to:
 - a. Determine whether another person is subject to this section; or
 - b. Inquire if another person is subject to this section.

10."

Page 3, line 10, after the underscored closing parenthesis insert "or a person identified on the office of foreign assets control sanctions list"

Page 3, after line 10, insert:

"SECTION 4. LEGISLATIVE MANAGEMENT STUDY - REAL ESTATE OWNERSHIP AND CONDUCT OF BUSINESS BY FOREIGN ADVERSARIES.

1. During the 2023-24 interim, the legislative management shall study the number of persons that own or control any real estate or commercial assets or operate a business within this state which is owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries or individuals acting on behalf of or in conjunction with foreign adversaries or persons listed on the office of foreign assets control sanctions list.

2. The study must attempt to ascertain the number of such persons residing in this state which operate a business or a charitable enterprise or have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state.
3. The study must consider which federal foreign adversary list would be best suited for use for the security of this state and the impact of implementing a federally created list.
4. The study must determine how to create and implement a security verification system that would:
 - a. Review business records and perform background checks on any existing entity not considered a foreign adversary;
 - b. Identify optimal methods for state officials to work and collaborate with national intelligence agents at the state and federal level; and
 - c. Outline what constitutes a national security threat and which person or agency has the authority to declare a national security threat.
5. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

SECTION 5. EXPIRATION DATE. This Act is effective through July 31, 2025, and after that date is ineffective."

Page 3, remove line 11

Renumber accordingly

2023 CONFERENCE COMMITTEE

SB 2371

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

SB 2371
4/21/2023
Conference Committee

A bill relating to the power of counties and municipalities to prohibit local development by a foreign adversary; relating to the prohibition on ownership of real property by a foreign adversary; and to declare an emergency.

6:00 PM Chairman Sickler opened the meeting.

Chairman Sickler and Senators Paulson and Estenson and Representatives Thomas, SuAnn Olson and Schreiber-Beck are present.

Discussion Topics:

- Businesses
- National security interests
- Federal agencies
- Amendments

6:00 PM The committee has discussion on the bill. Representative Thomas offered a memorandum for the committee to consider #27808. Senator Paulson offered amendments for the committee to consider #27809, 27810.

6:32 PM Chairman Sickler closed the meeting.

Rick Schuchard, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

SB 2371
4/22/2023
Conference Committee

A bill relating to the power of counties and municipalities to prohibit local development by a foreign adversary; relating to the prohibition on ownership of real property by a foreign adversary; and to declare an emergency.
--

8:00 AM Chairman Sickler opened the meeting.

Chairman Sickler and Senators Paulson, Estenson, and Representatives Thomas, SuAnn Olson and Schreiber-Beck are present.

Discussion Topics:

- Foreign businesses
- Management contracts
- Emergency clause
- Amendments

8:00 AM The committee has discussion on the bill and amendments that were introduced at the last meeting (#27809, 27810).

8:29 AM Chairman Patten closed the meeting.

Rick Schuchard, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

SB 2371
4/24/2023
Conference Committee

A bill relating to the power of counties and municipalities to prohibit local development by a foreign adversary; relating to the prohibition on ownership of real property by a foreign adversary; and to declare an emergency.
--

11:30 AM Chairman Sickler opened the meeting.

Chairman Sickler and Senators Paulson, Estenson, and Representatives Thomas, SuAnn Olson and Schreiber-Beck are present.

Discussion Topics:

- Amendments

11:31 AM The committee has discussion on the bill.

11:31 AM Senator Paulson presents and reviews an amendment LC 23.1043.02009, #27847, #27848.

11:39 AM Allyson Hicks, Assistant Attorney General, North Dakota Attorney General's Office provided oral testimony.

11:55 AM Lonnie Grabowski, Director, North Dakota Bureau of Criminal Investigation gave oral testimony to the committee.

11:58 AM Chairman Sickler closed the meeting.

Rick Schuchard, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

SB 2371
4/24/2023
Conference Committee

A bill relating to the power of counties and municipalities to prohibit local development by a foreign adversary; relating to the prohibition on ownership of real property by a foreign adversary; and to declare an emergency.
--

4:00 PM Chairman Sickler opened the meeting.

Chairman Sickler and Senators Paulson, Estenson and Representatives Thomas SuAnn Olson and Schreiber-Beck are present.

Discussion Topics:

- Amendments

4:04 PM The committee has discussion on the bill.

4:05 PM Senator Paulson presented an amendment LC 23.1043.02010, #27860 and the committee has further discussion.

4:06 PM Allyson Hicks provided oral testimony.

4:09 PM Senator Paulson moved the House recede from House amendments and amend LC 23.1043.02010, #27859. Motion is seconded by Senator Estenson.

4:10 PM Roll call vote was taken. Motion carries 5-1-0.

Senator Paulson will carry the bill for the Senate.

Representative Thomas will carry the bill for the House.

Chairman Sickler closed the meeting.

Rick Schuchard, Committee Clerk

April 24, 2023

OR
174
4-24-23

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2371

That the House recede from its amendments as printed on pages 1702-1705 of the Senate Journal and pages 1943-1945 of the House Journal and that Engrossed Senate Bill No. 2371 be amended as follows:

Page 1, line 5, replace "and to declare an emergency" with "to provide for a legislative management study; and to provide an expiration date"

Page 1, line 13, after the underscored closing parenthesis insert "or a person identified on the office of foreign assets control sanctions list"

Page 1, line 19, replace "for" with "on"

Page 1, line 19, remove "direct"

Page 2, line 5, after the underscored closing parenthesis insert "or a person identified on the office of foreign assets control sanctions list"

Page 2, line 11, replace "for" with "on"

Page 2, line 11, remove "direct"

Page 2, line 22, remove ", hold,"

Page 2, line 22, after "state" insert "after the effective date of this Act"

Page 2, line 23, remove "government listed as a foreign"

Page 2, line 24, remove "that is:"

Page 2, line 25, replace "(1) Headquartered" with "with a principal executive office located"

Page 2, line 25, after "is" insert "identified as"

Page 2, line 25, remove the underscored semicolon

Page 2, remove lines 26 through 29

Page 2, line 30, remove "which is held or controlled by, a company or entity described in paragraph 3"

Page 2, after line 30, insert:

"c. A foreign business entity in which a foreign adversary owns:

- (1) More than fifty percent of the total controlling interests or total ownership interests, as defined under section 10-19.1-01, in the foreign business entity, unless the foreign business entity was operating lawfully in the United States on the effective date of this Act; or
- (2) Fifty percent or less of the total controlling interests or total ownership interests, as defined under section 10-19.1-01, in the foreign business entity, if the foreign adversary directs the business operations and affairs of the foreign business entity

without the requirement of consent of any nonforeign adversary, unless the foreign business entity was operating lawfully in the United States on the effective date of this Act."

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Page 3, line 1, after "3." insert "When requested by a city council or commission, county commission, or title agent or company, the attorney general shall complete a civil review, to the extent allowable by law, relating to the qualifications of any foreign adversary business entity acquiring real property under subdivision c of subsection 2.

4."

Page 3, line 6, replace "for" with "on"

Page 3, line 6, remove "direct"

Page 3, line 9, replace "4." with:

- "5. A foreign government or foreign business entity subject to and in violation of this section shall divest itself of all real property in this state within thirty-six months after the effective date of this Act.
6. If a foreign government or foreign business entity subject to this section fails to divest itself of all real property in this state within the period specified under subsection 4, the the state's attorney of the county in which the majority of the real property is situated may issue subpoenas to compel witnesses to appear to provide testimony or produce records.
7. Upon receiving testimony and records, if the state's attorney concludes a foreign government or foreign business entity, in violation of this section, has failed to divest ownership of real property as required under this section, the state's attorney shall commence an action in the district court of the county in which the majority of the real property is situated. Once the action is commenced, the state's attorney shall file a notice pursuant to section 28-05-07 with the recorder of each county where the real property subject to the action is situated. If the court finds divestment of real property under this section is proper, the district court shall enter an order consistent with its findings. As part of the order, the court shall cancel the notice pursuant to section 28-05-08.
8. Pursuant to an order for divestment, a foreign government or foreign business entity subject to an order shall divest all real property within six months from the date of the final entry of judgment. A foreign government or foreign business entity that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars.
9. Any real property not divested within the period prescribed by law may be sold at a public sale in the manner provided under chapter 32-19 through an action brought by the state's attorney. A title to real property or encumbrance on the real property may not be deemed invalid by an order of divestiture under this section.
10. A person that is not subject to this section may not be required to:

- a. Determine whether another person is subject to this section; or
- b. Inquire if another person is subject to this section.

11."

Page 3, line 9, replace "subsection" with "section"

Page 3, line 10, after the underscored closing parenthesis insert "or a person identified on the office of foreign assets control sanctions list"

Page 3, replace line 11 with:

"SECTION 4. LEGISLATIVE MANAGEMENT STUDY - REAL PROPERTY AND COMMERCIAL ASSET OWNERSHIP AND OPERATION OF BUSINESS AND CHARITABLE ENTITIES BY FOREIGN ADVERSARIES.

1. During the 2023-24 interim, the legislative management shall study the number of persons that own or control any real estate or commercial assets or operate a business within this state which is owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries or individuals acting on behalf of or in conjunction with foreign adversaries or persons listed on the office of foreign assets control sanctions list.
2. The study must attempt to craft a definition of foreign adversary and ascertain the number of such persons residing in this state which operate a business or a charitable enterprise or have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state.
3. The study must consider which federal foreign adversary list would be best suited for use for the security of this state and the impact of implementing and using a federally created list.
4. The study must determine how to define, create, and implement a security review verification system that monitors and reviews the actions of foreign adversaries that operate a business or a charitable enterprise or have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state.
5. The study must:
 - a. Identify optimal methods for state officials to work and collaborate with national intelligence agents at the state and federal level regarding background checks, national security, and state security;
 - b. Outline what constitutes a national security threat and which person or agency has the authority to declare a national security threat and security threat to this state;
 - c. Identify which state agencies are best equipped to create, implement, and operate a security review verification system that monitors and reviews foreign adversaries operating a business or a charitable enterprise or that have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state;

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- OR
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- d. Identify the proper structure and function of a security review verification system;
 - e. Identify the individuals and persons eligible to operate a business or a charitable enterprise or that have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state, under the security review verification system; and
 - f. Identify other necessary changes to current industry practices relating to ownership of real property or commercial assets and the operation of business or charitable entities by a foreign adversary.
6. The study must include under which circumstances, if any, foreign adversaries are prohibited from owning real property in this state, and under which circumstances, if any, foreign adversaries are permitted to own real property in this state.
 7. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

SECTION 5. EXPIRATION DATE. This Act is effective through July 31, 2025, and after that date is ineffective."

Renumber accordingly

**2023 SENATE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. SB 2371 engrossed.

Senate Judiciary Committee

- Action Taken**
- SENATE accede to House Amendments**
 - SENATE accede to House Amendments and further amend**
 - HOUSE recede from House amendments**
 - HOUSE recede from House amendments and amend as follows**
 - Unable to agree**, recommends that the committee be discharged, and a new committee be appointed.

Motion Made by: Paulson Seconded by: Estenson

Senators	4/24		Yes	No	Representatives	4/24		Yes	No
Sickler	P		X		Thomas	P		X	
Paulson	P		X		SuAnn Olson	P		X	
Estenson	P		X		Schreiber-Beck	P			X
Total Senate Vote			3	0	Total Rep. Vote			2	1

Vote Count Yes: 5 No: 1 Absent: 0

Senate Carrier Paulson House Carrier Thomas

LC Number 23.1043 . 02010 of amendment

LC Number 23.1043 . 04000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Adopt amendment 23.1043.02010

REPORT OF CONFERENCE COMMITTEE

SB 2371, as engrossed: Your conference committee (Sens. Sickler, Paulson, Estenson and Reps. Thomas, S. Olson, Schreiber-Beck) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1702-1705, adopt amendments as follows, and place SB 2371 on the Seventh order:

That the House recede from its amendments as printed on pages 1702-1705 of the Senate Journal and pages 1943-1945 of the House Journal and that Engrossed Senate Bill No. 2371 be amended as follows:

Page 1, line 5, replace "and to declare an emergency" with "to provide for a legislative management study; and to provide an expiration date"

Page 1, line 13, after the underscored closing parenthesis insert "or a person identified on the office of foreign assets control sanctions list"

Page 1, line 19, replace "for" with "on"

Page 1, line 19, remove "direct"

Page 2, line 5, after the underscored closing parenthesis insert "or a person identified on the office of foreign assets control sanctions list"

Page 2, line 11, replace "for" with "on"

Page 2, line 11, remove "direct"

Page 2, line 22, remove ", hold."

Page 2, line 22, after "state" insert "after the effective date of this Act"

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Page 2, line 24, remove "that is:"

Page 2, line 25, replace "(1) Headquartered" with "with a principal executive office located"

Page 2, line 25, after "is" insert "identified as"

Page 2, line 25, remove the underscored semicolon

Page 2, remove lines 26 through 29

Page 2, line 30, remove "which is held or controlled by, a company or entity described in paragraph 3"

Page 2, after line 30, insert:

"c. A foreign business entity in which a foreign adversary owns:

- (1) More than fifty percent of the total controlling interests or total ownership interests, as defined under section 10-19.1-01, in the foreign business entity, unless the foreign business entity was operating lawfully in the United States on the effective date of this Act; or
- (2) Fifty percent or less of the total controlling interests or total ownership interests, as defined under section 10-19.1-01, in

the foreign business entity, if the foreign adversary directs the business operations and affairs of the foreign business entity without the requirement of consent of any nonforeign adversary, unless the foreign business entity was operating lawfully in the United States on the effective date of this Act."

Page 3, line 1, after "3." insert "When requested by a city council or commission, county commission, or title agent or company, the attorney general shall complete a civil review, to the extent allowable by law, relating to the qualifications of any foreign adversary business entity acquiring real property under subdivision c of subsection 2.

4."

Page 3, line 6, replace "for" with "on"

Page 3, line 6, remove "direct"

Page 3, line 9, replace "4." with:

5. A foreign government or foreign business entity subject to and in violation of this section shall divest itself of all real property in this state within thirty-six months after the effective date of this Act.
6. If a foreign government or foreign business entity subject to this section fails to divest itself of all real property in this state within the period specified under subsection 4, the the state's attorney of the county in which the majority of the real property is situated may issue subpoenas to compel witnesses to appear to provide testimony or produce records.
7. Upon receiving testimony and records, if the state's attorney concludes a foreign government or foreign business entity, in violation of this section, has failed to divest ownership of real property as required under this section, the state's attorney shall commence an action in the district court of the county in which the majority of the real property is situated. Once the action is commenced, the state's attorney shall file a notice pursuant to section 28-05-07 with the recorder of each county where the real property subject to the action is situated. If the court finds divestment of real property under this section is proper, the district court shall enter an order consistent with its findings. As part of the order, the court shall cancel the notice pursuant to section 28-05-08.
8. Pursuant to an order for divestment, a foreign government or foreign business entity subject to an order shall divest all real property within six months from the date of the final entry of judgment. A foreign government or foreign business entity that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars.
9. Any real property not divested within the period prescribed by law may be sold at a public sale in the manner provided under chapter 32-19 through an action brought by the state's attorney. A title to real property or encumbrance on the real property may not be deemed invalid by an order of divestiture under this section.
10. A person that is not subject to this section may not be required to:
 - a. Determine whether another person is subject to this section; or

b. Inquire if another person is subject to this section.

11."

Page 3, line 9, replace "subsection" with "section"

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Page 3, replace line 11 with:

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1. During the 2023-24 interim, the legislative management shall study the number of persons that own or control any real estate or commercial assets or operate a business within this state which is owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries or individuals acting on behalf of or in conjunction with foreign adversaries or persons listed on the office of foreign assets control sanctions list.
2. The study must attempt to craft a definition of foreign adversary and ascertain the number of such persons residing in this state which operate a business or a charitable enterprise or have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state.
3. The study must consider which federal foreign adversary list would be best suited for use for the security of this state and the impact of implementing and using a federally created list.
4. The study must determine how to define, create, and implement a security review verification system that monitors and reviews the actions of foreign adversaries that operate a business or a charitable enterprise or have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state.
5. The study must:
 - a. Identify optimal methods for state officials to work and collaborate with national intelligence agents at the state and federal level regarding background checks, national security, and state security;
 - b. Outline what constitutes a national security threat and which person or agency has the authority to declare a national security threat and security threat to this state;
 - c. Identify which state agencies are best equipped to create, implement, and operate a security review verification system that monitors and reviews foreign adversaries operating a business or a charitable enterprise or that have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state;
 - d. Identify the proper structure and function of a security review verification system;

Insert LC: 23.1043.02010
Senate Carrier: Paulson
House Carrier: Thomas

- e. Identify the individuals and persons eligible to operate a business or a charitable enterprise or that have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state, under the security review verification system; and
 - f. Identify other necessary changes to current industry practices relating to ownership of real property or commercial assets and the operation of business or charitable entities by a foreign adversary.
6. The study must include under which circumstances, if any, foreign adversaries are prohibited from owning real property in this state, and under which circumstances, if any, foreign adversaries are permitted to own real property in this state.
 7. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

SECTION 5. EXPIRATION DATE. This Act is effective through July 31, 2025, and after that date is ineffective."

Renumber accordingly

Engrossed SB 2371 was placed on the Seventh order of business on the calendar.

TESTIMONY

SB 2371



**Testimony of Mr. Keith Lund
Grand Forks Region Economic Development Corporation President & CEO**

**Senate Bill 2371
Senate Judiciary Committee
Bismarck, North Dakota – February 8, 2023**

Chairwoman Larson, Vice Chairman Paulson, and members of the Senate Judiciary Committee.

My name is Keith Lund, and I am the President & CEO of the Grand Forks Region Economic Development Corporation. I am providing testimony today in opposition to SB 2371 as proposed.

SB 2371 provides that a county commission or city council or commission may not procure, authorize, or approve a development agreement, building plan, or proposal related to development with an individual or government identified as a foreign advisory under 15 CFR 7.4(a) and further defines a foreign business entity. SB 2371 is far-reaching and does not consider long-established federal procedures put in place to govern foreign business investment and operations.

I am asking the Senate Judiciary Committee to consider Cirrus Aircraft in Grand Forks when debating this proposed legislation. Cirrus opened its initial manufacturing facility in Grand Forks in 1997 and is a model corporate citizen. The company is the global leader in the production and distribution of single-piston aircraft and has developed the world's first single-engine personal jet, the Vision Jet. Every composite and carbon fiber component used in the production of Cirrus aircraft is manufactured in Grand Forks by American workers.

Cirrus was acquired by China Aviation Industry General Aircraft Company (CAIGA) in 2011. Prior to the purchase, CAIGA underwent a review by the Committee on Foreign Investment in the United

States (CFIUS), a federal interagency committee established specifically to review foreign corporate acquisitions of United States companies to determine the effect on the national security.

The members of CFIUS include the heads of the following departments and offices:

- Department of the Treasury (chair)
- Department of Justice
- Department of Homeland Security
- Department of Commerce
- Department of Defense
- Department of State
- Department of Energy
- Office of the U.S. Trade Representative
- Office of Science & Technology Policy

The following White House offices also observe and, as appropriate, participate in CFIUS's activities:

- Office of Management & Budget
- Council of Economic Advisors
- National Security Council
- National Economic Council
- Homeland Security Council

Ex-officio members of CFIUS include:

- Director of National Intelligence
- Secretary of Labor

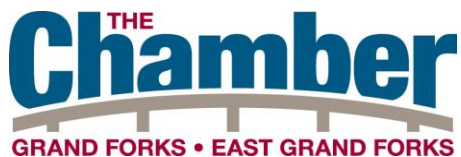
After this extensive review, CFIUS approved the CAIGA purchase of Cirrus, and Cirrus has subsequently invested significantly in its manufacturing facility, its employees, and the community. Cirrus currently employs 430 at its Grand Forks plant, having grown its workforce from 240 over the last three years. The company has aggressive growth goals and anticipates increasing its manufacturing footprint and local employment by 150 in the next five years.

If approved, SB 2371 would prohibit the City of Grand Forks from issuing a building permit to support Cirrus planned expansion, eliminating the possibility of additional property tax and employment

growth. With the knowledge that Cirrus won't be able to grow in North Dakota, the disinvestment process is sure to begin. The livelihoods of 430 friends, neighbors, and their families would be directly impacted. Community jobs will be lost, \$10 million of North Dakota procurement by Cirrus would curtail, and the region's population will be negatively impacted, causing ripple effects throughout the regional economy.

I encourage the committee to consider the impacts of SB 2371 on companies such as Cirrus who have done all that has been asked of them, and much more.

Thank you, Chairwoman Larson, Vice Chairman Paulson, and members of the Senate Judiciary for your service to North Dakota and for the opportunity to provide testimony today.



202 North 3rd Street
Grand Forks, ND 58203-3719
701-772-7271

2-7-2023

The Chamber Grand Forks / East Grand Forks opposes SB2371.

Cirrus Aircraft has operated manufacturing facilities in Grand Forks, North Dakota, since 1997, under Dakota Aircraft Corporation, and today is one of the top 10 employers in Grand Forks.

In just the past three-years, Cirrus has grown from 240 to over 430 employees. They are making plans to expand the facilities and add further automation, and in so doing increase their highly skilled workforce by an additional 150+ new employees over the next five-years. This makes Cirrus the second largest manufacturing company in our community.

Cirrus is a strong community partner. It supports and participates in many community based initiatives aimed helping improve the lives of their employees and community. Their leadership team and employees are part of the fabric of our community.

If approved, SB 2371 would prohibit the City of Grand Forks from issuing a building permit to support Cirrus planned expansion, eliminating the possibility of additional property tax and employment growth. With the knowledge that Cirrus won't be able to grow in North Dakota, and would almost certainly result in divestment from North Dakota resulting in the loss of over 430 well-paying manufacturing jobs.

Please oppose SB2371

Barry Wilfahrt
President & CEO
The Chamber Grand Forks / East Grand Forks



**Statement of
Mark A. Schramek
Executive Director, Corporate and Government Affairs
Cirrus Aircraft Corporation**

**Senate Committee on Judiciary
Legislative Hearing on
Senate Bill 2371**

Chairwoman Larson, and Members of the Judiciary Committee, thank you for the opportunity to provide testimony in opposition to Senate Bill 2371. My name is Mark Schramek, I am the Executive Director, Corporate and Government Affairs for Cirrus Aircraft.

Aircraft is an American-made general aviation industry leader. Revolutionizing the aviation industry with innovations like the Cirrus Aircraft Parachute System (CAPS), which has saved over 240 lives to date. Every Cirrus aircraft we have ever manufactured since its inception has been developed in the states by my fellow Americans. They have been designed and engineered by Americans and supported by American suppliers. Over 400 suppliers from 34 States provide 96% of the components and parts for every Cirrus Aircraft built.

What started as a dream of two brothers in Baraboo, Wisconsin, has grown to be a leader in the general aviation industry. For over 38 years, Cirrus Aircraft has been driving aviation innovation and design.

In 1997, Cirrus Aircraft, through a partnership with the Bank of North Dakota, established the Dakota Aircraft Corporation in Grand Forks. Today, the Dakota Aircraft Corporation is one of the top 10 employers in Grand Forks and second largest manufacturer. Throughout our 24-year history in the State of North Dakota, we have maintained strong partnerships with our State and local community and supported economic development and job growth.

Due to lingering impacts of the economic downturns in 2008, Cirrus Aircraft sold to an Israeli holding company. In 2011, the China Aviation Industry General Aircraft Company (CAIGA) acquired Cirrus, a Chinese aircraft manufacturer headquartered in Zhuhai, Guangdong, a subordinate company to the Chinese government owned company, Aviation Industry Corporation of China (AVIC).

Prior to the purchase of Cirrus Aircraft by CAIGA being completed, Cirrus Aircraft underwent a comprehensive review by the U.S. Department of Commerce Committee on Foreign Investment in the United States, or commonly referred to as CFIUS. As part of the CFIUS approval, a formal National Security Agreement was put in-place between the U.S. Government and Cirrus, which requires Cirrus to report on any activities with



foreign nationals. For this reason, it is unfortunate that we are here today testifying before the Committee. Cirrus Aircraft has been approved under CFIUS and is in full compliance with the National Security Agreement put in-place 12-years ago by the United States Government, which regulates foreign policy. Due to national security concerns with FuFeng's attempted development adjacent to Grand Forks Air Force Base, we have artificially been lumped into the same category, due to our parent company, which happens to be Chinese.

Cirrus Aircraft has grown to be recognized as the global leader in personal aviation and maker of the best-selling SR Series piston aircraft. Since CAIGA's ownership, we have engineered, certified, and now produce the Vision Jet, the world's first single-engine Personal Jet. The Vision Jet is a two-time recipient of the prestigious Robert J. Collier Trophy for revolutionary aviation innovations like the Cirrus Airframe Parachute System®, which is the first FAA-certified whole-airframe parachute safety system and is standard equipment on every SR Series and Vision Jet and for including Safe Return Emergency Autoland powered by Garmin in every Vision Jet.

The components for these aircraft are all built at the Cirrus Aircraft facility in Grand Forks. In 2022, the Grand Forks team produced over 125,000 pieces of composite components to support the production of 629 aircraft last year.

In 2022, we invested over \$7.3 million in equipment and building renovations to our North Dakota facility. Over the coming year, we anticipate further expansion of our existing 186,000-square foot North Dakota facility by adding up to an additional 35,000 square feet and implementing automation to the assembly line process. Additionally, over the past three-years, we have almost doubled our workforce from 240 to over 430 employees and we anticipate through expansion of the facilities and automation, we will increase our workforce by an additional 150+ new employees over the next five-years. Maintaining our status as the second largest manufacturer and amongst the top 10 employers in Grand Forks. In addition, University of North Dakota graduates currently rank as the second largest alumni group within Cirrus's employees.

In 2022, the Dakota Aircraft Corporation's annual payroll was \$23.1 million. The company will report for 2022 a total annual sales revenue of \$62.6 million for the Dakota Aircraft Corporation.

If Senate Bill 2371 is passed, under the terms of the current legislation, it would reverse any ordinance previously approved, which could include build, occupancy, or health department permits, and prohibit future development on land already owned by Cirrus Aircraft. Under these conditions, we would be forced to halt all expansion plans, including the growth of our workforce with 150 additional jobs, and potentially close our operations in North Dakota resulting in the loss of over 430 well-paying manufacturing jobs.



By contrast, while North Dakota considers banning foreign direct investment, Cirrus Aircraft, through partnerships with the City of Duluth and Minnesota Department of Employment and Economic Development (DEED), in 2022, expanded our paint facilities and acquired an additional 185,000 square foot hangar to stand-up a new Innovation and Engineering Center.

As an employer and manufacturer in good standing in the community and State, I would request you oppose Senate Bill 2371 that artificially categorizes all foreign-owned entities as enemies of the State. However, if the Committee opts to pass Senate Bill 2371, we would request the Committee include language that exempts registered businesses in good standing with the State for seven years or longer, or an entity which has been approved by the Committee for Foreign Direct Investment in the United States (CFIUS) and maintains an active National Security Agreement with the United States Government. This would enable you to address other concerns you may have without excluding those longtime partners with the state who have been good citizens and continue to comply with needed measures to affirm our commitment to being valuable partners to the community.

Our goal at Cirrus Aircraft is to grow our business, while promoting the growth of general aviation. This can only be accomplished through partnerships with State and local community leaders who support a free and open economic system.

Thank you for the opportunity to appear before you today to discuss the impacts Senate Bill 2371 would have on Cirrus Aircraft's continued operations in the State of North Dakota. This concludes my written statement. I am happy to answer any questions.

23.1043.01001
Title.

Prepared by the Legislative Council staff for
Senator Paulson
February 10, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2371

Page 1, line 13, remove "Any ordinance previously adopted by a county which is contrary to this section is"

Page 1, remove line 14

Page 1, line 21, remove "Any ordinance previously adopted by a city which is contrary to"

Page 1, remove line 22

Page 2, line 16, after "adversary" insert ", unless that individual is a permanent resident of the United States"

Page 2, line 17, after "3." insert "This section does not apply to an entity possessing an interest in real property under subsection 2 if the entity:

- a. Is a duly registered business and has maintained a status of good standing with the secretary of state for seven years or longer before the effective date of this Act;
- b. Has been approved by the committee for foreign direct investment in the United States to conduct business in this state; and
- c. Maintains an active national security agreement with the federal government.

4."

Renumber accordingly

23.1043.01001

Sixty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2371

Introduced by

Senators Paulson, Larsen, Wobbema

Representatives Fisher, Hoverson, Louser

1 A BILL for an Act to create and enact a new section to chapter 11-11 and a new section to
2 chapter 40-05 of the North Dakota Century Code, relating to the power of counties and
3 municipalities to prohibit local development by a foreign adversary; to amend and reenact
4 section 47-01-09 of the North Dakota Century Code, relating to the prohibition on ownership of
5 real property by a foreign adversary; and to declare an emergency.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1.** A new section to chapter 11-11 of the North Dakota Century Code is created
8 and enacted as follows:

9 **Development by a foreign adversary - Prohibition.**

10 A board of county commissioners, including a board in a home rule county, may not
11 procure, authorize, or approve a development agreement, building plan, or proposal relating to
12 county development with an individual or government identified as a foreign adversary under
13 15 CFR 7.4(a). ~~Any ordinance previously adopted by a county which is contrary to this section is~~
14 void.

15 **SECTION 2.** A new section to chapter 40-05 of the North Dakota Century Code is created
16 and enacted as follows:

17 **Development by a foreign adversary - Prohibition.**

18 A board of city commissioners or city council, including a board or council in a home rule
19 city, may not procure, authorize, or approve a development agreement, building plan, or
20 proposal relating to city development with an individual or government identified as a foreign
21 adversary under 15 CFR 7.4(a). ~~Any ordinance previously adopted by a city which is contrary to~~
22 this section is void.

23 **SECTION 3. AMENDMENT.** Section 47-01-09 of the North Dakota Century Code is
24 amended and reenacted as follows:

1 **47-01-09. Public or private ownership - All property subject to - Foreign ownership**
2 **prohibited.**

3 1. All property in this state has an owner, whether that owner is the United States or the
4 state, and the property public, or the owner an individual, and the property private. The
5 state also may hold property as a private proprietor.

6 2. Notwithstanding any other provision of law, the following individuals, governments, or
7 entities may not purchase, hold, or otherwise acquire title to real property in this state:

8 a. A foreign government listed as a foreign adversary.

9 b. A foreign business entity that is:

10 (1) Headquartered in a country that is a foreign adversary;

11 (2) Directly or indirectly held or controlled by a foreign adversary;

12 (3) Owned by the majority of stock or other ownership interests of which is held
13 or controlled by individuals who are citizens of a foreign adversary; or

14 (4) A company owned by, or the majority of stock or other ownership interest of
15 which is held or controlled by, a company or entity described in paragraph 3.

16 c. An individual who is a citizen of a country that is a foreign adversary, **unless that**
17 **individual is a permanent resident of the United States.**

18 3. This section does not apply to an entity possessing an interest in real property under
19 subsection 2 if the entity:

20 a. Is a duly registered business and has maintained a status of good standing with
21 the secretary of state for seven years or longer before the effective date of this
22 Act;

23 b. Has been approved by the committee for foreign direct investment in the United
24 States to conduct business in this state; and

25 c. Maintains an active national security agreement with the federal government.

26 4. For purposes of this subsection, "foreign adversary" means an individual or a
27 government identified as a foreign adversary in 15 CFR 7.4(a).

28 **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.

23.1043.01003
Title.02000

Adopted by the Senate Judiciary Committee

February 13, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2371

Page 1, after line 9 insert "1."

Page 1, line 13, remove "Any ordinance previously adopted by a county which is contrary to this section is"

Page 1, replace line 14 with "2. This section does not apply to a foreign adversary defined under subsection 1 possessing an interest in real property if the foreign adversary:

- a. Is a duly registered business and has maintained a status of good standing with the secretary of state for seven years or longer before the effective date of this Act;
- b. Has been approved by the committee for foreign direct investment in the United States; and
- c. Maintains an active national security agreement with the federal government."

Page 1, after line 17 insert "1."

Page 1, line 21, remove "Any ordinance previously adopted by a city which is contrary to"

Page 1, replace line 22 with "2. This section does not apply to a foreign adversary as defined in subsection 1 possessing an interest in real property if the foreign adversary:

- a. Is a duly registered business and has maintained a status of good standing with the secretary of state for seven years or longer before the effective date of this Act;
- b. Has been approved by the committee for foreign direct investment in the United States; and
- c. Maintains an active national security agreement with the federal government."

Page 2, line 6, remove "individuals."

Page 2, line 6, remove the third underscored the comma

Page 2, remove line 16

Page 2, line 17, after "3." insert "This section does not apply to an entity possessing an interest in real property under subsection 2 if the entity:

- a. Is a duly registered business and has maintained a status of good standing with the secretary of state for seven years or longer before the effective date of this Act;
- b. Has been approved by the committee for foreign direct investment in the United States; and

- c. Maintains an active national security agreement with the federal government.

4."

Renumber accordingly

Dear Honorable Members of the North Dakota senate,

My name is Lilly Funk, and I live in Minot, North Dakota. I am a federal employee at Head Start (as an assistant teacher). The purpose of this written testimony is to persuade members of the North Dakota senate to support SB 2371.

This bill must be passed because it protects North Dakota from being threatened by foreign entities. Land located in North Dakota should be first given to native citizens. In fact, foreign entities must be completely stopped from purchasing land in North Dakota. Foreign entities buying land in North Dakota undoubtedly presents a security threat. The operations of the U.S. air force will be put at risk if other countries are permitted to buy land in North Dakota. To prevent this risk, this bill must be passed.

Thank you for considering making the morally right decision and passing SB 2371 to protect North Dakota from the military forces of other countries.



**Testimony of Mr. Keith Lund
Grand Forks Region Economic Development Corporation President & CEO**

**Senate Bill 2371
House Agriculture Committee
Bismarck, North Dakota – February 8, 2023**

Chairman Thomas, Vice Chairman Beltz, and members of the House Agriculture Committee. My name is Keith Lund, and I am the President & CEO of the Grand Forks Region Economic Development Corporation. I am providing testimony today regarding SB 2371.

SB 2371 provides that a county commission or city council or commission may not procure, authorize, or approve a development agreement, building plan, or proposal related to development with an individual or government identified as a foreign advisory under 15 CFR 7.4(a) and prohibits real property ownership of such entities. The Grand Forks Region Economic Development Corporation previously opposed SB 2371 as originally introduced because of the negative impact it would have had on companies such as Cirrus Aircraft.

Cirrus Aircraft opened its initial manufacturing facility in Grand Forks in 1997 and is a model corporate citizen. The company is the global leader in the production and distribution of single-piston aircraft and has developed the world's first single-engine personal jet, the Vision Jet. Every composite and carbon fiber component used in the production of Cirrus aircrafts is manufactured in Grand Forks by American workers.

Cirrus was acquired by China Aviation Industry General Aircraft Company (CAIGA) in 2011. Prior to the purchase, CAIGA underwent a review by the Committee on Foreign Investment in the United States (CFIUS), a federal interagency committee established specifically to review foreign corporate acquisitions of United States companies to determine the effect on national security. After this extensive review, CFIUS approved the CAIGA purchase of Cirrus, and Cirrus has subsequently invested

significantly in its manufacturing facility, its employees, and the community.

Cirrus currently employs 430 at its Grand Forks plant, having grown its workforce from 240 over the last three years. The company has aggressive growth goals and anticipates increasing its manufacturing footprint and local employment by 150 in the next five years.

SB 2371, as originally proposed, would have impacted the livelihoods of 430 friends, neighbors, and their families. Community jobs would have been lost, \$10 million of North Dakota procurement by Cirrus would have been eliminated and the region's population would have been negatively impacted, causing ripple effects throughout the economy.

Due to amendments that now provide an exclusion to companies that have been in good standing in North Dakota for seven years, have completed a review by the Committee on Foreign Investment in the United States, and have an active National Security Agreement, Cirrus will be able to maintain and grow their manufacturing presence in Grand Forks. Thank you for the committee's conscientious deliberation on similar legislation HB 1503, which was amended and approved by the House with the same exclusion. As a result of these changes, the Grand Forks Region EDC no longer opposes SB 2371 as approved by the Senate.

Thank you, Chairman Thomas, Vice Chairman Beltz, and members of the House Agriculture Committee for your service to North Dakota and for the opportunity to provide testimony today.

Testimony submitted to the ND House Agriculture Committee Re: 2371

March 16, 2023

Todd Leake, 2371 10th ave NE

Emerado, ND 58228

Mr. Chairman, Committee Members and Staff:

I firmly support Bill 2371 and suggest that ND Townships should be added to the bill in the same manner as Counties and Municipalities. I have heard that should modifications be made to North Dakota's Corporate farming law, WH Group, the PRC Chinese parent company of Smithfield Foods, is likely to be invited into the State. Richland County is likely to be the focus of that Hog Confined Animal Feeding Operation (Cafo) Development, in facilities that could measure up to 800,000 hogs. Richland County has not enacted county zoning authority, and cities and townships are the sole zoning authorities in Richland County. If townships do not have the ability to deny building and conditional use permits, based on a company that is based in an adversary country, and/or being in continuous compliance with the CFR rules of the Committee on Foreign Investment in the US, then 2371 has a large loophole for these types of companies to sneak through. On May 29, 2013, [WH Group](#), then known as Shuanghui Group and sometimes also Shineway Group, the largest meat producer in China, announced the purchase of Smithfield Foods for \$4.72 billion. There are 16 other American subsidiaries including: Eckrich, Farmland Foods, John Morrell, Armour, Premium Standard Farms, Sunnyland, Gwaltney, Farmer John, Cook's ham, Curley's, Margherita, Healthy Ones, Carando, Kretchmar plus 17 European brands. Some Familiar logos are below. The Adversary status of the People's Republic of China (PCR) puts into question whether plans to court this company's production into The Great State of North Dakota is timely. WH Group owns 1/3 of all US Hogs. This has been an incursion into not only the US hog industry but also an incursion into the food Sovereignty of the United States. Local Control will be necessary. Respectfully submitted, Todd Leake

WH group owns Smithfield Foods, it's Familiar subsidiary brands are:

- Smithfield
- [Eckrich](#);
- [Farmland Foods](#) of Kansas City;
- John Morrell;
- Murphy Family Farms of North Carolina;
- Circle Four Farms of Utah; and
- [Premium Standard Farms](#).
- Armour



House Agriculture – SB 2371

Pete Hanebutt, NDFB Public Policy Director

Meghan Estenson, NDFB Legislative Counsel

March 16, 2023

Chairman Thomas and members of the House Agriculture Committee,

North Dakota Farm Bureau supports SB 2371.

NDFB does not have any specific state policy addressing this topic, but we have a Legislative Task Force that meets to decide on Farm Bureau policy matters. NDFB's Legislative Task Force is comprised of a Farm Bureau member representative from each of the NDFB districts. The Legislative Task Force looked at the bills this session that addressed foreign ownership and decided to support this bill.

The North Dakota Farm Bureau is in support of legislation that protects land from being purchased by nations that have been identified as foreign adversaries.

NDFB respectfully requests a "Do Pass" recommendation on SB 2371.

Fargo

1101 1st Ave. N. | PO Box 2064, Fargo, ND 58107-2064

Phone: 701-298-2200 | 1-800-367-9668

Bismarck

4900 Ottawa St. | PO Box 2793, Bismarck, ND 58502-2793

Phone: 701-224-0330 | 1-800-932-8869

Testimony SB2371

Sam Wagner
Ag and Food Field Organizer
Dakota Resource Council
1720 Burnt Boat Dr. Ste 104
Bismarck ND 58503
Testimony in Support for HB2371

To the Honorable Chairman and the members of the committee, we submit these remarks on behalf of DRC.

Mr. Chairman,

DRC supports keeping foreign ownership out of agriculture in North Dakota. County and City officials do not have the tools to make informed decisions because they do not have the resources that the state and federal governments have when making these decisions. This bill does not give up local control, and it gives the City and County governments the time they need to check their work by entities that do have the resources and access to intelligence that can help them out.

This bill is ultimately about our state officials being able to do their due diligence to make sure North Dakota does business with trustworthy companies. We noticed a few discrepancies in the bill though, townships with zoning authority can still bypass this law the way it is written, to clear this up we would offer the following amendment:

1. A board of county commissioners, including a board in a home rule county, or township board of supervisors of a township that has availed itself of zoning authority under NDCC 58-03-11, may not procure, authorize, or approve a development agreement, building plan, or proposal relating to county development with an individual or government identified as a foreign adversary under 15 CFR 7.4(a)

Also in Sections 1 and 2 it currently reads as "Committee for Foreign Direct Investment" and we are wondering if you mean the Committee of Foreign Investment in the United States. Which was the agency in charge of investigating the Fufeng deal in Grand Forks.

We recommend a DO PASS as long as it is passed with HB1135 and 1503. Thank you for your time and consideration.



**House Agriculture Committee
Testimony in Opposition to SB 2371
March 16, 2023**

Chairman Thomas & Members of the House Agriculture Committee,

My name is Lisa Feldner. I'm testifying in opposition to SB 2371 on behalf of Enel North America. Enel North America is an energy company based in Andover, Massachusetts with an Italian minority interest. The company operates in 14 states and has had a presence in North Dakota since 2017. It has 2 operating wind farms near Tioga and 2 projects under development.

Section 3 of the bill is problematic because it states that foreign ownership of real property is prohibited unless the entity

- A. is a duly registered business and has maintained a status of good standing with the secretary of state for seven years or longer.
- B. has been approved by the committee for foreign direct investment in the United States, and
- C. maintains an active national security agreement with the federal government.

Companies generally register **projects** (not the corporate holding entity) with the secretary of state. If this provision were adopted, and Enel created a new project in ND, we would register the project with the SOS; but, that project, by definition, would not

have seven years of history as being in good standing in ND. This would discriminate against new projects. Also, Enel as a company would not meet the 7-year registration history even if this were specific to the Company and not the project.

Enel has not been approved by the Committee for Foreign Direct Investment in the US (CFDIUS) for any of its investments in the U.S. As a standard of practice, CFDIUS investigates terrible actors. Having an investigation would trigger concern, not confidence, in the investor and the company.

We are trying to understand what a “national security agreement” is with the federal government. This is not something that we are familiar with, and it is unlikely to be common or understood by other developers and businesses in North Dakota as well.

Our suggested amendments to Section 3:

Letter a), remove “seven years or longer”, and replace with “Is a duly registered business and has maintained a status of good standing with the secretary of state”.

Remove points b) and c), and confirm that this bill is forward-looking and NOT retroactive.

We ask for a Do Not Pass recommendation on SB 2371.

Thank you.

Lisa Feldner

lisa@olsoneffertz.com

701-214-3709

Proposed Amendments to SB 2371
North Dakota Land Title Association
Nick Hacker, Legislative Chair
(701) 751-4984 or nick@thetitleteam.com

Section 3 Add a new subsection 5:

- a. An entity that violates this section shall divest itself of the real property within thirty-six months. If the entity fails to divest itself of the real property within the required time, the attorney general shall take action under subsection b.
- b. The attorney general shall commence an action in the district court of the county in which the substantial portion of the land owned in violation of this section is situated if the attorney general has reason to believe a covered person is violating this section. The attorney general shall file for record with the recorder of each county in which any portion of the land is located a notice of the pendency of the action. If the court finds that the land in question is being held in violation of this section, the court shall enter an order so declaring. The attorney general shall file any such order for record with the recorder of each county in which any portion of the land is located. Thereafter, the covered person shall, within the time set by the court not to exceed [6 months] from the date of the courts final order, divest itself of any land owned in violation of this section. Any covered person that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars.
- c. Any land not divested within the divestment period prescribed must be sold at a public sale in the manner prescribed by law for the foreclosure of real estate mortgage by action brought by the attorney general [as prescribed in chapter 32-19]; provided, however, that proceeds shall be disbursed as follows: first, for authorized costs, including costs borne by the attorney general in an amount approved by the court; second, to lien holders in their order of priority; and all remaining proceeds to the covered person. In addition, any prospective or threatened violation may be enjoined by an action brought by the attorney general in the manner provided by law, including from completing performance on the remainder of any leasehold which is in violation of this section. No title to land or encumbrance thereon shall be invalid or subject to forfeiture by reason of the alienage of any former owner or person having a former interest therein.
- d. No individual, person, or entity not subject to this section shall be required to:
 - a. determine whether another individual, person, or entity is a covered person under this section; or
 - b. inquire into the status of another individual, person, or entity as a covered person under this section

2371 Specific Requests for Amendment from T.Zablotney

From: quadtrac@min.midco.net

To: Thomas, Paul J. paulthomas@ndlegis.gov, Fisher, Jay jayfisher@ndlegis.gov, Beltz, Mike mbeltz@ndlegis.gov, Christy, Josh jchristy@ndlegis.gov, Finley-DeVille, Lisa lfinleydeville@ndlegis.gov, Headland, Craig A. cheadland@ndlegis.gov, Henderson, Donna dhenderson@ndlegis.gov, Kiefert, Dwight H. dhkiefert@ndlegis.gov, Olson, SuAnn solson@ndlegis.gov, Prichard, Brandon bprichard@ndlegis.gov, Tveit, Bill btveit@ndlegis.gov, VanWinkle, Lori lvanwinkle@ndlegis.gov, cshreiberbeck@ndlegis.gov, Patten, Dale dpatten@ndlegis.gov, Paulson, Bob L. bpaulson@ndlegis.gov, jhoverson@ndlegis.gov

Date: Wed, Mar 15, 2023, 11:48 PM

Chairman Paul Thomas and House Ag Committee Members:

Many stakeholders have come to a consensus concerning two of the bills (HB1503 and SB2371) dealing with Real Property Ownership in North Dakota by Foreign Adversaries. As we expect one bill to emerge in the end, we are suggesting that one bill be created at this point. Keep in mind SB2371 passed unanimously in the Senate 47-0 and 1503 passed unanimously in the House 93-0. In order accomplish a bill merge, the following suggestions are made by many of the stakeholders interested in seeing a final passage of the bills. The current language in 1503 should serve as the foundation of the merged bills with the following adoptions, additions and changes. This single bill should serve to accomplish numerous essentials to prevent foreign adversaries from controlling our precious real property assets in North Dakota and threatening our National Security.

1. Adopt the language from 2371 Section 1 Lines 9 thru 21 page 1 and Section 2 Lines 22-23 page 1 and lines 1-13 page 2 and move it to the current version of 1503. The language in both sections addresses the prohibition of development by a foreign adversary. Section 1 restricts a board of county commissioners and Section 2 restricts city commissioners or a city council. FYI, there has been written testimony on this bill requesting that this language extends down to the township level.

2. Adopt the language from 2371 Section 4. Emergency

3. I also understand that there has been a request to Chairman Thomas to remove the time from of seven years or longer in Section 1.2.a. line 17, page 1 and Section

2.2.a line 9 page 2 from language in 2371. This is not really concerning as the review process in 1503 should cover the foreign ownership concerns. However, I understand that this request is coming from an entity that is not likely a covered person anyway.

The remaining amendments below are to the current version of 1503 and are as follows:

1. MODIFICATION TO HB1503 SECTION 1.2.1.A Lines 22 and 23 page 1
Capitalize Committee on Foreign Investment in the United States (CFIUS).

2. MODIFICATION TO HB1503 SECTION 1.2.1.B

"Foreign adversary" shall mean:

- a. An individual or a government identified as a foreign adversary in 15 CFR 7.4(a); or,
- b. An individual or entity (or subsidiaries, affiliates, or agents thereof) specifically named in any of the following United States Government-maintained lists or databases:
 - a. International Trade Administration Consolidated Screening List
 - b. Section 1260H of the National Defense Authorization Act
 - c. UFLPA Entity List

3. Change the following language in HB1503 Section 2.4.b line 4 page 3 from "thirty-six" to "twenty-four" - effectively reducing the amount of time to divest illegally owned real property.

4. Add the following language to HB1503 immediately after Section 2.4.b line 5 page 3 and then renumber below.

The following divestiture language was derived from existing language under Agricultural Land Ownership by Aliens Section 47-10.1 in ND Century Code. This is the language suggested by Nick Hacker from the Title Team and was developed to address concerns stemming from the banking community, the real estate community, entities holding easements and other property encumbrances and from others.

1. If the covered person fails to divest itself of the real property within the required time, the attorney general shall take action under subsection d.

2. The attorney general shall commence an action in the district court of the county in which the substantial portion of the land owned in violation of this section is situated if the attorney general has reason to believe a covered person is violating this section. The attorney general shall file for record with the recorder of each county in which any portion of the land is located a notice of the pendency of the action. If the court finds that the land in question is being held in violation of this section, the court shall enter an order so declaring. The attorney general shall file any such order for record with the recorder of each county in which any portion of the land is located. Thereafter, the covered person shall, within the time set by the court not to exceed [6 months] from the date of the courts final order, divest itself of any land owned in violation of this section. Any covered person that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars.

3. Any land not divested within the divestment period prescribed must be sold at a public sale in the manner prescribed by law for the foreclosure of real estate mortgage by action brought by the attorney general [as prescribed in chapter 32-19]; provided, however, that proceeds shall be disbursed as follows: first, for authorized costs, including costs borne by the attorney general in an amount approved by the court; second, to lien holders in their order of priority; and all remaining proceeds to the covered person. In addition, any prospective or threatened violation may be enjoined by an action brought by the attorney general in the manner provided by law, including from completing performance on the remainder of any leasehold which is in violation of this section. No title to land shall be invalid or subject to forfeiture by reason of the alienage of any former owner or person having a former interest therein.

4. No individual, person, or entity not subject to this section shall be required to:

a. determine whether another individual, person, or entity is a covered person under this section; or

b. inquire into the status of another individual, person, or entity as a covered person under this section.

ADDITIONAL CONSIDERATIONS:

1. It has been suggested that language is created and amended into this bill that would provide subpoena and investigative power to the Attorney General in order to effectively review, conclude and/or prosecute a case of illegal real property ownership

by covered persons.

2.Consider and so amend if water and mineral rights are not considered as or covered under real property. We want to make sure these important real property components are covered and are restricted from ownership by covered persons in this bill.

Travis Zabloutney
701-509-8271

Proposed Amendments to SB 2371
North Dakota Land Title Association
Nick Hacker, Legislative Chair
(701) 751-4984 or nick@thetitleteam.com

Section 3 Add a new subsection 5:

- a. An entity that violates this section shall divest itself of the real property within thirty-six months. If the entity fails to divest itself of the real property within the required time, the attorney general shall take action under subsection b.
- b. The attorney general shall commence an action in the district court of the county in which the substantial portion of the land owned in violation of this section is situated if the attorney general has reason to believe a covered person is violating this section. The attorney general shall file for record with the recorder of each county in which any portion of the land is located a notice of the pendency of the action. If the court finds that the land in question is being held in violation of this section, the court shall enter an order so declaring. The attorney general shall file any such order for record with the recorder of each county in which any portion of the land is located. Thereafter, the covered person shall, within the time set by the court not to exceed [6 months] from the date of the courts final order, divest itself of any land owned in violation of this section. Any covered person that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars.
- c. Any land not divested within the divestment period prescribed must be sold at a public sale in the manner prescribed by law for the foreclosure of real estate mortgage by action brought by the attorney general [as prescribed in chapter 32-19]; provided, however, that proceeds shall be disbursed as follows: first, for authorized costs, including costs borne by the attorney general in an amount approved by the court; second, to lien holders in their order of priority; and all remaining proceeds to the covered person. In addition, any prospective or threatened violation may be enjoined by an action brought by the attorney general in the manner provided by law, including from completing performance on the remainder of any leasehold which is in violation of this section. No title to land shall be invalid or subject to forfeiture by reason of the alienage of any former owner or person having a former interest therein.
- d. No individual, person, or entity not subject to this section shall be required to:
 - a. determine whether another individual, person, or entity is a covered person under this section; or
 - b. inquire into the status of another individual, person, or entity as a covered person under this section.

LEGISLATIVE MANAGEMENT STUDY - REAL ESTATE OWNERSHIP AND CONDUCT OF BUSINESS BY FOREIGN ADVERSARIES.

1. During the 2023-24 interim, the legislative management shall study the number of persons that own or control any real estate or commercial assets or operate a business within this state which is owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries or individuals acting on behalf of or in conjunction with foreign adversaries or persons listed on the office of foreign assets control sanctions list.
2. The study must attempt to ascertain the number of such persons residing in this state which operate a business or a charitable enterprise or have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state.
3. The study must consider which federal foreign adversary list would be best suited for use for the security of this state and the impact of implementing a federally created list.
4. The study must determine how to create and implement a security verification system that would:
 - a. Review business records and perform background checks on any existing entity not considered a foreign adversary;
 - b. Identify optimal methods for state officials to work and collaborate with national intelligence agents at the state and federal level; and
 - c. Outline what constitutes a national security threat and which person or agency has the authority to declare a national security threat.
5. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

Proposed Amendments to SB 2371
North Dakota Land Title Association
Nick Hacker, Legislative Chair
(701) 751-4984 or nick@thetitleteam.com

Section 3 Add a new subsection:

- a. Any foreign government or foreign business entity that violates this section shall divest itself of the real property within thirty-six months.
- b. If the foreign government or foreign business entity fails to divest itself of the real property within the required time of the attorney general reasonably believes the foreign government or foreign business entity failed to divest ownership of all real property under this sections, the attorney general may issue subpoenas to compel witnesses to appear or subpoena duces tecum to compel witnesses to appear and produce relevant books, records, documents, data, or other objects.
- c. Upon receiving testimony and records, if the attorney general concludes the foreign government or foreign business entity failed to divest ownership or real property under this section, the attorney general shall commence an action in the district court of the county in which the majority of the real property is situated. Once the action is commenced, the attorney general shall file a lis pendens, pursuant to section 28-05-07, with the county recorder in each county where the real property subject to the action is situated. If the court finds divestment of the real property under this section is proper, the district court shall order judgement consistent with its findings. As part of the order, the court shall cancel the lis pendens pursuant to section 28-05-08.
- d. Pursuant to an order for divestment, the foreign government or foreign business entity shall divest of all real property within six months from the date of the final entry of judgement, if no appeal has been taken from the judgement within the time provided by law. A foreign government or foreign business entity that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars.
- e. Any real property not divested within the divestment period prescribed must be sold at a public sale in the manner prescribed by chapter 32-19 through an action brought by the attorney general. No title to real property or encumbrance thereon shall be invalid by any person having an interest, therein, at any time under this section.
- f. Other than the Attorney General, no individual, person, or entity not subject to this section shall be required to:
 - a. determine whether another individual, person, or entity is subject to this section; or
 - b. inquire if another individual, person, or entity is subject this section.

Page 3, after line 10, insert

4. Any foreign government or foreign business entity that violates this section shall divest itself of the real property within thirty-six months.
5. If the foreign government or foreign business entity fails to divest itself of the real property within the required time determined by the attorney general, the attorney general may:
 - a. issue subpoenas to compel witnesses to appear; or
 - b. subpoena for production of evidence to compel witnesses to appear and produce relevant books, records, documents, data, or other objects.
6. Upon receiving testimony and records, if the attorney general concludes the foreign government or foreign business entity failed to divest ownership or real property under this section, the attorney general shall commence an action in the district court of the county in which the majority of the real property is situated. Once the action is commenced, the attorney general shall file a notice pursuant to section 28-05-07. If the court finds divestment of the real property under this section is proper, the district court shall order judgement consistent with its findings. As part of the order, the court shall cancel the notice pursuant to section 28-05-08.
7. Pursuant to an order for divestment, if an appeal has not been taken within the time prescribed by law, the foreign government or foreign business entity shall divest of all real property within six months from the date of the final entry of judgement.
 - a. A foreign government or foreign business entity that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars.
8. Any real property not divested within the period prescribed must be sold at a public sale in the manner pursuant by chapter 32-19, through an action brought by the attorney general. No title to real property or encumbrance on the real property shall be deemed invalid by any order of divestiture at any time under this section.
9. Other than the attorney general, no individual, person, or entity not subject to this section shall be required to:
 - a. determine whether another individual, person, or entity is subject to this section; or
 - b. inquire if another individual, person, or entity is subject this section.
10. For purposes of this subsection, "foreign adversary" means an individual or a government identified as a foreign adversary in 15 CFR 7.4(a) or the office of foreign assets control sanctions list.

SECTION 4. LEGISLATIVE MANAGEMENT STUDY – REAL ESTATE OWNERSHIP AND CONDUCT OF BUSINESS BY FOREIGN ADVERSARIES.

1. During the 2023-24 interim, the legislative management shall study the number of persons that own or control any real estate or commercial assets or operate a business within this state which is owned by, controlled by, or subject to the jurisdiction of or direction of foreign adversaries or individuals acting on behalf of or in conjunction with foreign adversaries or persons listed on the office of foreign assets control sanctions list.

2. The study must attempt to ascertain the number of such persons residing in this state which operate a business or a charitable enterprise or have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state.
3. The study must consider which federal foreign adversary list would be best suited for use for the security of this state and the impact of implementing a federally created list.
4. The study must determine how to create and implement a federally created list that would:
 - a. Review business records and perform background checks on any existing entity not considered a foreign adversary;
 - b. Identify optimal methods for state officials to work and collaborate with national intelligence agents at the state and federal level; and
 - c. Outline what constitutes a national security threat and which person or agency has the authority to declare a national security threat.
5. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations to the sixty-ninth legislative assembly.

SECTION THREE 47-01-09

1. No change
2. Notwithstanding any other provision of law, the following may not acquire ownership of real property in this state after August 1, 2023:
 - a. A foreign adversary;
 - b. A foreign business entity whose principal executive office is located in a country that is identified as a foreign adversary;
 - c. A foreign business entity in which a foreign adversary owns more than fifty percent of the ownership interests as defined by N.D.C.C. 10-19.1-01(45) or a lesser percentage if the foreign adversary actually directs the business and affairs of the entity without the requirement or consent of any non-foreign adversary.

~~Delete Prior Section 4. Emergency. Replace with:~~

~~5. Expiration Date. Sections 1 through 4 of this Act are effective though July 31, 2025, and after that date are ineffective.~~

23.1043.02006

FIRST ENGROSSMENT

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2371

Introduced by

Senators Paulson, Larsen, Wobbema

Representatives Fisher, Hoverson, Louser

1 A BILL for an Act to create and enact a new section to chapter 11-11 and a new section to
2 chapter 40-05 of the North Dakota Century Code, relating to the power of counties and
3 municipalities to prohibit local development by a foreign adversary; to amend and reenact
4 section 47-01-09 of the North Dakota Century Code, relating to the prohibition on ownership of
5 real property by a foreign adversary; and to provide a legislative management study; to provide
6 an expiration date; and to declare an emergency.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1.** A new section to chapter 11-11 of the North Dakota Century Code is created
9 and enacted as follows:

10 **Development by a foreign adversary - Prohibition.**

- 11 1. A board of county commissioners, including a board in a home rule county, may not
12 procure, authorize, or approve a development agreement, building plan, or proposal
13 relating to county development with an individual or government identified as a foreign
14 adversary under 15 CFR 7.4(a) or a person identified on the office of the foreign
15 assets control sanctions list.
- 16 2. This section does not apply to a foreign adversary defined under subsection 1
17 possessing an interest in real property if the foreign adversary:
 - 18 a. Is a duly registered business and has maintained a status of good standing with
19 the secretary of state for seven years or longer before the effective date of this
20 Act;
 - 21 b. Has been approved by the committee for foreign direct investment in the United
22 States; and
 - 23 c. Maintains an active national security agreement with the federal government.

1 **SECTION 2.** A new section to chapter 40-05 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Development by a foreign adversary - Prohibition.**

- 4 1. A board of city commissioners or city council, including a board or council in a home
5 rule city, may not procure, authorize, or approve a development agreement, building
6 plan, or proposal relating to city development with an individual or government
7 identified as a foreign adversary under 15 CFR 7.4(a) or a person identified on the
8 office of the foreign assets control sanctions list.
- 9 2. This section does not apply to a foreign adversary as defined in subsection 1
10 possessing an interest in real property if the foreign adversary:
- 11 a. Is a duly registered business and has maintained a status of good standing with
12 the secretary of state for seven years or longer before the effective date of this
13 Act;
- 14 b. Has been approved by the committee for foreign direct investment in the United
15 States; and
- 16 c. Maintains an active national security agreement with the federal government.

17 **SECTION 3. AMENDMENT.** Section 47-01-09 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **47-01-09. Public or private ownership - All property subject to - Foreign ownership**
20 **prohibited.**

- 21 1. All property in this state has an owner, whether that owner is the United States or the
22 state, and the property public, or the owner an individual, and the property private. The
23 state also may hold property as a private proprietor.
- 24 2. Notwithstanding any other provision of law, the following governments or entities may
25 not purchase, ~~hold,~~ or otherwise acquire title to real property in this state ~~after the~~
26 effective date of this Act:
- 27 a. A foreign government listed as a foreign adversary.
- 28 b. A foreign business entity that ~~is:~~
- 29 (1) ~~Headquartered~~ Maintains its principal place of business in a country that is a
30 foreign adversary;
- 31 (2) Directly or indirectly ~~is~~ held or controlled by a foreign adversary;

- 1 (3) ~~Owned by the~~The majority of ~~stock or other ownership interests of which is~~
2 ~~held or controlled by individuals who are citizens of a foreign~~
3 ~~adversary~~owned by individuals who are not lawful residents of the United
4 States and are citizens of a foreign adversary, unless the foreign business
5 entity was operating lawfully in the United States as of the effective date of
6 this Act; or
- 7 (4) ~~A company owned by, or the~~The majority of ~~stock or other ownership~~
8 ~~interest of which is held or controlled by, a company or entity~~owned by an
9 entity described in paragraph 3, unless the foreign business entity was
10 operating lawfully in the United States as of the effective date of this Act.
- 11 3. This section does not apply to an entity possessing an interest in real property under
12 subsection 2 if the entity:
- 13 a. Is a duly registered business and has maintained a status of good standing with
14 the secretary of state for seven years or longer before the effective date of this
15 Act;
- 16 b. Has been approved by the committee for foreign direct investment in the United
17 States; and
- 18 c. Maintains an active national security agreement with the federal government.
- 19 4. A foreign government or foreign business entity subject to and in violation of this
20 section shall divest itself of all real property in this state within thirty-six months after
21 the effective date of this Act.
- 22 5. If a foreign government or foreign business entity subject to this section fails to divest
23 itself of all real property in this state within the period specified under subsection 4, the
24 the state's attorney of the county in which the majority of the real property is situated
25 may issue subpoenas to compel witnesses to appear to provide testimony or produce
26 records.
- 27 6. Upon receiving testimony and records, if the state's attorney concludes a foreign
28 government or foreign business entity, in violation of this section, has failed to divest
29 ownership of real property as required under this section, the state's attorney shall
30 commence an action in the district court of the county in which the majority of the real
31 property is situated. Once the action is commenced, the state's attorney shall file a

1 notice pursuant to section 28-05-07 with the recorder of each county where the real
2 property subject to the action is situated. If the court finds divestment of real property
3 under this section is proper, the district court shall enter an order consistent with its
4 findings. As part of the order, the court shall cancel the notice pursuant to section
5 28-05-08.

6 7. Pursuant to an order for divestment, a foreign government or foreign business entity
7 subject to an order shall divest all real property within six months from the date of the
8 final entry of judgment. A foreign government or foreign business entity that fails to
9 comply with the court's order is subject to a civil penalty not to exceed twenty-five
10 thousand dollars.

11 8. Any real property not divested within the period prescribed by law may be sold at a
12 public sale in the manner provided under chapter 32-19 through an action brought by
13 the state's attorney. A title to real property or encumbrance on the real property may
14 not be deemed invalid by an order of divestiture under this section.

15 9. A person that is not subject to this section may not be required to:

16 a. Determine whether another person is subject to this section; or

17 b. Inquire if another person is subject to this section.

18 10. For purposes of this subsection, "foreign adversary" means an individual or a
19 government identified as a foreign adversary in 15 CFR 7.4(a) or a person identified
20 on the office of foreign assets control sanctions list.

21 **SECTION 4. LEGISLATIVE MANAGEMENT STUDY - REAL ESTATE OWNERSHIP AND**
22 **CONDUCT OF BUSINESS BY FOREIGN ADVERSARIES.**

23 1. During the 2023-24 interim, the legislative management shall study the number of
24 persons that own or control any real estate or commercial assets or operate a
25 business within this state which is owned by, controlled by, or subject to the jurisdiction
26 or direction of foreign adversaries or individuals acting on behalf of or in conjunction
27 with foreign adversaries or persons listed on the office of foreign assets control
28 sanctions list.

29 2. The study must attempt to ascertain the number of such persons residing in this state
30 which operate a business or a charitable enterprise or have obtained a beneficial

- 1 interest in real estate, commercial assets, or a business or charitable organization in
2 this state.
- 3 3. The study must consider which federal foreign adversary list would be best suited for
4 use for the security of this state and the impact of implementing a federally created list.
- 5 4. The study must determine how to create and implement a security verification system
6 that would:
- 7 a. Review business records and perform background checks on any existing entity
8 not considered a foreign adversary;
- 9 b. Identify optimal methods for state officials to work and collaborate with national
10 intelligence agents at the state and federal level; and
- 11 c. Outline what constitutes a national security threat and which person or agency
12 has the authority to declare a national security threat.
- 13 5. The legislative management shall report its findings and recommendations, together
14 with any legislation required to implement the recommendations, to the sixty-ninth
15 legislative assembly.

16 **SECTION 5. EXPIRATION DATE.** This Act is effective through July 31, 2025, and after that
17 date is ineffective.

18 **SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.



RESEARCH MEMORANDUM

To: Rep. Paul Thomas, North Dakota

From: Center of Innovation, The Council of State Governments
Ben Reynolds, Senior Research Analyst
breynolds@csg.org
Grace Harrison, O'Connor Scholar

Re: Your request of April 1 for an analysis of state legislation and proposals regarding limits to business ownership and operation regarding a foreign adversary.

Date: April 7, 2023

Please note The Council of State Governments (CSG) is a nonpartisan organization and therefore takes no position on state legislation or laws mentioned in linked material, nor does CSG endorse any third-party publications; resources are cited for information purposes only. CSG provides unbiased research that is based on evidence-informed and objective analysis.

Executive Summary

The United States has no shortage of global agreements and business ties. However, as political tensions rise between the US and certain foreign adversaries, there has been a growing prioritization of national security interests when foreign companies are considering doing business in the US. In September of last year, President Biden signed an [executive order](#) related to the "evolving national security landscape" and the assessments that the [Committee on Foreign Investment in the United States](#), state governments, businesses, and individuals should make regarding foreign investments and business transactions. In addition to federal laws, such as the 1978 Agricultural Foreign Investment Disclosure Act (AFIDA), states have implemented and proposed whole or partial restrictions on foreign ownership of agricultural land as [foreign holdings](#) have increased to around 40 million acres as of 2021. State investments, such as pension asset funds, have been reviewed for potentially risky investments in nations deemed foreign adversaries. Additionally, several states have registration and reporting requirements for foreign corporations that wish to conduct business within the state.

Despite an extensive search for information regarding state legislation and proposals that specifically target limiting foreign ownership and operation of businesses by foreign adversaries, no concrete information was found. While there are instances of states implementing restrictions on foreign ownership of agricultural land, these measures tend



to apply more broadly to all foreign investors rather than focusing exclusively on foreign adversaries.

Findings and Analysis

State policies on foreign ownership focus almost exclusively on agricultural land ownership. The rise in foreign ownership of U.S. farmland, with an average increase of 2.2 million acres per year since 2015, has led to the implementation of restrictions in several Midwestern states. South Dakota and other states like Iowa, Kansas, and Wisconsin have enacted strict prohibitions on foreign ownership of agricultural land, but foreign investors can still use trusts or partnerships with U.S. businesses to bypass these restrictions. In response to growing concerns about food and national security, Indiana passed legislation in 2022 partially banning foreign purchases of agricultural land used for crop or timber production, with exemptions for livestock, poultry, and research facilities.

Alabama

The proposed [Senate Bill 14](#) (2021), which ultimately failed, would have restricted the purchase and ownership of agricultural land to United States citizens and resident aliens. Nonresident aliens, foreign businesses and foreign governments or agents of foreign governments may not purchase or hold agricultural land (after the effective date of the bill). Acquiring agricultural land by devise or descent or due to a security interest of the land are provided as exceptions, given that the land is sold or disposed of within two years of their acquisition.

[Section 10A-1-7](#) of the Code of Alabama requires foreign entities to register with the Secretary of State in order to conduct business within the state.

Alaska

Proposed [House Bill 94](#) aims to ban the use of Alaskan ports for ships owned by or carrying cargo from a foreign-owned entity from countries such as Syria, Iran, Russia, China etc.

Alaska Statutes [10.06.811](#) requires domestic and foreign corporations to file biennial reports on the business conducted, directors and officers, shares issued and alien affiliates (a noncitizen or nonresident of the United States or an entity organized under or controlled by another country). [10.06.813](#) requires reports to be amended if there is a change in alien affiliates of the corporations.

Arizona

Proposed [Senate Bill 1115](#) would prevent the sale of state lands to “foreign entit[ies]” defined as foreign governments or state-controlled enterprises of foreign governments.

Similarly, proposed [House Bill 2376](#) would amend Arizona Revised Statutes to prevent the sale of state lands to foreign entities as defined above and additionally defined as



any company or similar entity headquartered or associated with countries such as China, Cuba, Iran, Russia etc.

Arkansas

Senate Bill 312, with language drawn from Missouri law, originally intended to restrict ownership of agricultural land by foreign entities. The version of the bill codified into law, however, only requires “foreign persons” to report their interest in ownership of agricultural lands to the Secretary of the Arkansas Department of Agriculture.

Arkansas Code § 4-27-1501 requires foreign corporations to obtain a certificate of authority from the Secretary of State in order to conduct business within the state.

California

Senate Bill 1084, eventually vetoed by Governor Newsom, intended to prohibit foreign governments from “purchasing, acquiring, or holding an interest in agricultural land” within California, with land held prior to January 1, 2023 being exempt. It also would have required an annual report from the Department of Food and Agriculture detailing the quantity and purpose of existing land holdings by foreign owners.

Illinois

Illinois Compiled Statutes Chapter 765.50, known as the “Agricultural Foreign Investment Disclosure Act” requires any foreign person (defined as a non US citizen without permanent residence, foreign corporation, foreign government or agent of a foreign government) to disclose ownership of agricultural land to the Director of Agriculture within a time period of 90 days.

Indiana

Senate Bill 388, enacted in 2022, stated that after June 30 of that year, no foreign business entity could acquire agricultural land for the purposes of crop farming or timber production by any means including by grant, devise, descent or purchase. Exceptions apply to land used for research and development, are of a limited size (320 acres for crop farming and 10 acres for timber production), are used for a “confined feeding operation” or for the production of poultry or eggs. Foreign business entities who do acquire land must report it to the Secretary of State and Attorney General for review.

Additionally, any corporation, partnership or other business entity organized or controlled by citizens of the Russian Federation who are not legal United States residents may not acquire or purchase property within Indiana.

Iowa

Iowa Code §91.3 states that nonresident aliens, foreign businesses, foreign governments or agents of foreign governments may not purchase or acquire agricultural land, except as acquired through devise or descent, a collection of debts or for the purpose of security or research or if it was acquired prior to 1980.



Kansas

Kansas Statutes [§17-7505](#) puts forth requirements for reporting business and agricultural holdings to the Secretary of State. Foreign corporations doing business in Kansas or owning capital in Kansas are subject to this law, by reporting on business interests and holdings. Agricultural land ownership reports are to describe land acreage, value and ownership.

[Proposed Senate Bill 291](#) would direct the Board of Trustees of the Kansas Public Employees Retirement System to “divest from any indirect holdings in actively or passively managed investment funds or private equity funds containing publicly traded securities of any foreign adversary or person owned by, controlled by or subject to the jurisdiction or direction of a foreign adversary.”

Kentucky

[House Bill 500](#) aims to prohibit nonresident aliens, foreign businesses and agents associated with foreign governments from purchasing, leasing or acquiring any interest in public or private land within Kentucky, exempting those with land holdings prior to the effective date of the bill.

Louisiana

Louisiana Revised Statutes [§3422](#) states that in order for a foreign partnership to have the same operating rights and privileges of a domestic partnership, they must register with the Secretary of State with information regarding locations and addresses of operations and partners as well as taxpayer identification information.

Maine

Main Statutes [Title 7 §33](#) requires foreign corporations or partnerships to submit an annual report to the Commissioner of Agriculture, Conservation and Forestry if they hold, acquire or transfer agricultural land. Federal AFIDA reports may be submitted, but otherwise information such as the nature of the corporation’s interest in the land, the land value and acreage is to be provided.

Maryland

Maryland Corporations and Associations Code [§ 7-202](#) requires foreign corporations to register with the Department of Labor and provide an address and resident agent in the state, in addition to proof of “good standing in the jurisdiction where it currently is organized.”

Massachusetts

Massachusetts General Laws [Title 22 § 156D.15.03](#) states that corporations shall file a certificate with the Secretary of State no more than 10 days after a business transaction in the state. The certificate is to include information such as activities that the corporation will conduct, address information and director and officer information.

Minnesota



Minnesota [§ 500.221](#) states that aliens that are not permanent residents of the United States as well as non-American corporations are prohibited from owning agricultural land or interests unless at least 80% of each class of stock is owned by US citizens or residents. Land acquired through debt repayment or devise must be disposed of within 3 years of ownership.

Mississippi

[House Bill 280](#) approved the creation of a committee to study the purchase, leasing and holding of agricultural land by foreign governments. Some points of interest in the study will be how much land is held by a foreign government, the purpose and usage of the holdings and any changes in this ownership over time.

Missouri

Missouri code [§442.560](#) through [442.591](#) discusses real estate ownership by citizens and non-citizens/foreign corporations. In particular, [§442.571](#) prevents alien or foreign businesses from acquiring or purchasing agricultural land if the "total aggregate alien and foreign ownership of agricultural land in this state exceeds one percent of the total aggregate acreage."

Nebraska

Nebraska Revised Statutes [§ 76-406](#) prohibits domestic and foreign corporations from appointing a majority of nonresident aliens to their board of directors or trustees, electing nonresident aliens as executive officers or managers or allowing nonresident aliens to hold a majority of capital stock.

New Jersey

Proposed [Senate Bill 3735](#) would establish a review of state investments (such as pension and annuity fund assets) in foreign companies with equity ties to foreign adversaries.

Ohio

Ohio Revised Code [§ 5301.254](#) requires corporations or businesses organized under a foreign nation in which "any number of nonresident aliens acquire at least 40% of the shares of stock or other interests" and has an interest in property with a market value over \$100,000 must submit information to the Secretary of state within 30 days of acquiring interest in the property. Information must include business addresses, intended use of the property, the percentage of stock owned by nonresident aliens and other administrative details.

Pennsylvania

Pennsylvania Statutes [Title 68 §41 through 47](#) details restrictions and provisions on aliens and foreign corporations. [§41](#) states that nonresident aliens and foreign governments may not hold an interest in more than 100 acres of land unless that right is secured by treaty or devise and descent. [§45](#) states that the Department of Agriculture monitors compliance and biannual reports of the AFIDA Law.



Vermont Statutes [Title 11A § 15.01](#) requires foreign corporations to obtain a certificate of Authority from the Secretary of State before transacting business.

Virginia

[House Bill 1438](#), expected to be signed into law, would prevent any foreign adversary from acquiring an interest in agricultural land beginning July 1, 2023. Foreign adversary is defined as “any foreign government or nongovernment person determined by the U.S. Secretary of Commerce to have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States.” Interest in agricultural land is defined as “any right, title, or interest, direct or indirect, in and to (i) agricultural land or (ii) any entity or other organization that holds any right, title, or interest, direct or indirect, in and to agricultural land.”

The Code of Virginia [§ 13.1-919](#) requires foreign corporations to obtain a certificate of authority from the State Corporation Commission before transacting business.

Washington

Washington Revised Code [Title 23 § 95.05](#) requires foreign entities to register with the Secretary of State before doing business.

Wisconsin

Wisconsin Statutes [§ 710.02](#) allows foreign corporations and corporations with more than 20% of their stock owned by foreign companies to hold up to 640 acres of land.

Other Resources

Statement on Bipartisan Foreign Adversary Risk Management (FARM) Act

- Addresses increase in agricultural land ownership by foreign countries as a food security and national security risk.
- [Senate Bill 2931](#)

2021 Executive Order: Protecting Americans' Data from Foreign Adversaries

2019 Executive Order: Securing Information and Communications Technology

- Final interim rules [explanation](#)

US Department of Agriculture: Agricultural Foreign Investment Disclosure Act (AFIDA)

The Council of State Governments (Midwest) Brief on Foreign Ownership of Farmland

- Addresses legislators concerns and actions

23.1043.02008
Title.

Prepared by the Legislative Council staff for
Senator Paulson
April 18, 2023

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2371

That the House recede from its amendments as printed on pages 1702-1705 of the Senate Journal and pages 1943-1945 of the House Journal and that Engrossed Senate Bill No. 2371 be amended as follows:

Page 1, line 5, replace "and" with "to provide for a legislative management study; to provide an expiration date; and"

Page 1, line 13, after the underscored closing parenthesis insert "or a person identified on the office of the foreign assets control sanctions list"

Page 2, line 5, after the underscored closing parenthesis insert "or a person identified on the office of the foreign assets control sanctions list"

Page 2, line 22, remove ", hold,"

Page 2, line 22, after "state" insert "after the effective date of this Act"

Page 2, line 24, remove "is"

Page 2, line 25, replace "Headquartered" with "Maintains its principal place of business"

Page 2, line 26, after "indirectly" insert "is"

Page 3, line 9, after "4." insert "A foreign government or foreign business entity subject to and in violation of this section shall divest itself of all real property in this state within thirty-six months after the effective date of this Act."

5. If a foreign government or foreign business entity subject to this section fails to divest itself of all real property in this state within the period specified under subsection 4, the the state's attorney of the county in which the majority of the real property is situated may issue subpoenas to compel witnesses to appear to provide testimony or produce records.
6. Upon receiving testimony and records, if the state's attorney concludes a foreign government or foreign business entity, in violation of this section, has failed to divest ownership of real property as required under this section, the state's attorney shall commence an action in the district court of the county in which the majority of the real property is situated. Once the action is commenced, the state's attorney shall file a notice pursuant to section 28-05-07 with the recorder of each county where the real property subject to the action is situated. If the court finds divestment of real property under this section is proper, the district court shall enter an order consistent with its findings. As part of the order, the court shall cancel the notice pursuant to section 28-05-08.
7. Pursuant to an order for divestment, a foreign government or foreign business entity subject to an order shall divest all real property within six months from the date of the final entry of judgment. A foreign government or foreign business entity that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars.

8. Any real property not divested within the period prescribed by law may be sold at a public sale in the manner provided under chapter 32-19 through an action brought by the state's attorney. A title to real property or encumbrance on the real property may not be deemed invalid by an order of divestiture under this section.
9. A person that is not subject to this section may not be required to:
 - a. Determine whether another person is subject to this section; or
 - b. Inquire if another person is subject to this section.
- 10."

Page 3, line 10, after the underscored closing parenthesis insert "or a person identified on the office of foreign assets control sanctions list"

Page 3, after line 10, insert:

"SECTION 4. LEGISLATIVE MANAGEMENT STUDY - REAL PROPERTY AND COMMERCIAL ASSET OWNERSHIP AND OPERATION OF BUSINESS AND CHARITABLE ENTITIES BY FOREIGN ADVERSARIES.

1. During the 2023-24 interim, the legislative management shall study the number of persons that own or control any real estate or commercial assets or operate a business within this state which is owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries or individuals acting on behalf of or in conjunction with foreign adversaries or persons listed on the office of foreign assets control sanctions list.
2. The study must attempt to craft a definition of foreign adversary and ascertain the number of such persons residing in this state which operate a business or a charitable enterprise or have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state.
3. The study must consider which federal foreign adversary list would be best suited for use for the security of this state and the impact of implementing and using a federally created list.
4. The study must determine how to define, create, and implement a security review verification system that monitors and reviews the actions of foreign adversaries that operate a business or a charitable enterprise or have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state.
5. The study must:
 - a. Identify optimal methods for state officials to work and collaborate with national intelligence agents at the state and federal level regarding background checks, national security, and state security;
 - b. Outline what constitutes a national security threat and which person or agency has the authority to declare a national security threat and security threat to this state;

- c. Identify which state agencies are best equipped to create, implement, and operate a security review verification system that monitors and reviews foreign adversaries operating a business or a charitable enterprise or that have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state;
 - d. Identify the proper structure and function of a security review verification system;
 - e. Identify the individuals and persons eligible to operate a business or a charitable enterprise or that have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state, under the security review verification system; and
 - f. Identify other necessary changes to current industry practices relating to ownership of real property or commercial assets and the operation of business or charitable entities by a foreign adversary.
5. The study must include under which circumstances, if any, foreign adversaries are prohibited from owning real property in this state, and under which circumstances, if any, foreign adversaries are permitted to own real property in this state.
6. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

SECTION 5. EXPIRATION DATE. Sections 1 through 3 of this Act are effective through July 31, 2025, and after that date are ineffective."

Renumber accordingly

23.1043.02008

FIRST ENGROSSMENT

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2371

Introduced by

Senators Paulson, Larsen, Wobbema

Representatives Fisher, Hoverson, Louser

1 A BILL for an Act to create and enact a new section to chapter 11-11 and a new section to
 2 chapter 40-05 of the North Dakota Century Code, relating to the power of counties and
 3 municipalities to prohibit local development by a foreign adversary; to amend and reenact
 4 section 47-01-09 of the North Dakota Century Code, relating to the prohibition on ownership of
 5 real property by a foreign adversary; and to provide for a legislative management study; to
 6 provide an expiration date; and to declare an emergency.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1.** A new section to chapter 11-11 of the North Dakota Century Code is created
 9 and enacted as follows:

10 **Development by a foreign adversary - Prohibition.**

- 11 1. A board of county commissioners, including a board in a home rule county, may not
 12 procure, authorize, or approve a development agreement, building plan, or proposal
 13 relating to county development with an individual or government identified as a foreign
 14 adversary under 15 CFR 7.4(a) or a person identified on the office of the foreign
 15 assets control sanctions list.
- 16 2. This section does not apply to a foreign adversary defined under subsection 1
 17 possessing an interest in real property if the foreign adversary:
- 18 a. Is a duly registered business and has maintained a status of good standing with
 19 the secretary of state for seven years or longer before the effective date of this
 20 Act;
- 21 b. Has been approved by the committee for foreign direct investment in the United
 22 States; and
- 23 c. Maintains an active national security agreement with the federal government.

1 **SECTION 2.** A new section to chapter 40-05 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Development by a foreign adversary - Prohibition.**

- 4 1. A board of city commissioners or city council, including a board or council in a home
5 rule city, may not procure, authorize, or approve a development agreement, building
6 plan, or proposal relating to city development with an individual or government
7 identified as a foreign adversary under 15 CFR 7.4(a) or a person identified on the
8 office of the foreign assets control sanctions list.
- 9 2. This section does not apply to a foreign adversary as defined in subsection 1
10 possessing an interest in real property if the foreign adversary:
- 11 a. Is a duly registered business and has maintained a status of good standing with
12 the secretary of state for seven years or longer before the effective date of this
13 Act;
- 14 b. Has been approved by the committee for foreign direct investment in the United
15 States; and
- 16 c. Maintains an active national security agreement with the federal government.

17 **SECTION 3. AMENDMENT.** Section 47-01-09 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **47-01-09. Public or private ownership - All property subject to - Foreign ownership**
20 **prohibited.**

- 21 1. All property in this state has an owner, whether that owner is the United States or the
22 state, and the property public, or the owner an individual, and the property private. The
23 state also may hold property as a private proprietor.
- 24 2. Notwithstanding any other provision of law, the following governments or entities may
25 not purchase, ~~hold,~~ or otherwise acquire title to real property in this state **after the**
26 **effective date of this Act:**
- 27 a. A foreign government listed as a foreign adversary.
- 28 b. A foreign business entity that ~~is:~~
- 29 (1) ~~Headquartered~~ **Maintains its principal place of business** in a country that is a
30 foreign adversary;
- 31 (2) Directly or indirectly **is** held or controlled by a foreign adversary;

- 1 (3) Owned by the majority of stock or other ownership interests of which is held
2 or controlled by individuals who are citizens of a foreign adversary; or
3 (4) A company owned by, or the majority of stock or other ownership interest of
4 which is held or controlled by, a company or entity described in paragraph 3.
- 5 3. This section does not apply to an entity possessing an interest in real property under
6 subsection 2 if the entity:
- 7 a. Is a duly registered business and has maintained a status of good standing with
8 the secretary of state for seven years or longer before the effective date of this
9 Act;
- 10 b. Has been approved by the committee for foreign direct investment in the United
11 States; and
- 12 c. Maintains an active national security agreement with the federal government.
- 13 4. A foreign government or foreign business entity subject to and in violation of this
14 section shall divest itself of all real property in this state within thirty-six months after
15 the effective date of this Act.
- 16 5. If a foreign government or foreign business entity subject to this section fails to divest
17 itself of all real property in this state within the period specified under subsection 4, the
18 the state's attorney of the county in which the majority of the real property is situated
19 may issue subpoenas to compel witnesses to appear to provide testimony or produce
20 records.
- 21 6. Upon receiving testimony and records, if the state's attorney concludes a foreign
22 government or foreign business entity, in violation of this section, has failed to divest
23 ownership of real property as required under this section, the state's attorney shall
24 commence an action in the district court of the county in which the majority of the real
25 property is situated. Once the action is commenced, the state's attorney shall file a
26 notice pursuant to section 28-05-07 with the recorder of each county where the real
27 property subject to the action is situated. If the court finds divestment of real property
28 under this section is proper, the district court shall enter an order consistent with its
29 findings. As part of the order, the court shall cancel the notice pursuant to section
30 28-05-08.

1 7. Pursuant to an order for divestment, a foreign government or foreign business entity
2 subject to an order shall divest all real property within six months from the date of the
3 final entry of judgment. A foreign government or foreign business entity that fails to
4 comply with the court's order is subject to a civil penalty not to exceed twenty-five
5 thousand dollars.

6 8. Any real property not divested within the period prescribed by law may be sold at a
7 public sale in the manner provided under chapter 32-19 through an action brought by
8 the state's attorney. A title to real property or encumbrance on the real property may
9 not be deemed invalid by an order of divestiture under this section.

10 9. A person that is not subject to this section may not be required to:

11 a. Determine whether another person is subject to this section; or

12 b. Inquire if another person is subject to this section.

13 10. For purposes of this subsection, "foreign adversary" means an individual or a
14 government identified as a foreign adversary in 15 CFR 7.4(a) or a person identified
15 on the office of foreign assets control sanctions list.

16 **SECTION 4. LEGISLATIVE MANAGEMENT STUDY - REAL PROPERTY AND**
17 **COMMERCIAL ASSET OWNERSHIP AND OPERATION OF BUSINESS AND CHARITABLE**
18 **ENTITIES BY FOREIGN ADVERSARIES.**

19 1. During the 2023-24 interim, the legislative management shall study the number of
20 persons that own or control any real estate or commercial assets or operate a
21 business within this state which is owned by, controlled by, or subject to the jurisdiction
22 or direction of foreign adversaries or individuals acting on behalf of or in conjunction
23 with foreign adversaries or persons listed on the office of foreign assets control
24 sanctions list.

25 2. The study must attempt to craft a definition of foreign adversary and ascertain the
26 number of such persons residing in this state which operate a business or a charitable
27 enterprise or have obtained a beneficial interest in real estate, commercial assets, or a
28 business or charitable organization in this state.

29 3. The study must consider which federal foreign adversary list would be best suited for
30 use for the security of this state and the impact of implementing and using a federally
31 created list.

- 1 4. The study must determine how to define, create, and implement a security review
2 verification system that monitors and reviews the actions of foreign adversaries that
3 operate a business or a charitable enterprise or have obtained a beneficial interest in
4 real estate, commercial assets, or a business or charitable organization in this state.
- 5 5. The study must:
 - 6 a. Identify optimal methods for state officials to work and collaborate with national
7 intelligence agents at the state and federal level regarding background checks,
8 national security, and state security;
 - 9 b. Outline what constitutes a national security threat and which person or agency
10 has the authority to declare a national security threat and security threat to this
11 state;
 - 12 c. Identify which state agencies are best equipped to create, implement, and
13 operate a security review verification system that monitors and reviews foreign
14 adversaries operating a business or a charitable enterprise or that have obtained
15 a beneficial interest in real estate, commercial assets, or a business or charitable
16 organization in this state;
 - 17 d. Identify the proper structure and function of a security review verification system;
 - 18 e. Identify the individuals and persons eligible to operate a business or a charitable
19 enterprise or that have obtained a beneficial interest in real estate, commercial
20 assets, or a business or charitable organization in this state, under the security
21 review verification system; and
 - 22 f. Identify other necessary changes to current industry practices relating to
23 ownership of real property or commercial assets and the operation of business or
24 charitable entities by a foreign adversary.
- 25 5. The study must include under which circumstances, if any, foreign adversaries are
26 prohibited from owning real property in this state, and under which circumstances, if
27 any, foreign adversaries are permitted to own real property in this state.
- 28 6. The legislative management shall report its findings and recommendations, together
29 with any legislation required to implement the recommendations, to the sixty-ninth
30 legislative assembly.

1 **SECTION 5. EXPIRATION DATE.** Sections 1 through 3 of this Act are effective through
2 July 31, 2025, and after that date are ineffective.

3 **SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.

23.1043.02009
Title.

Prepared by Legislative Council Staff for
Senator Paulson
April 22, 2023

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2371

That the House recede from its amendments as printed on pages 1702-1705 of the Senate Journal and pages 1943-1945 of the House Journal and that Engrossed Senate Bill No. 2371 be amended as follows:

Page 1, line 5, replace "and to declare an emergency" with "to provide for a legislative management study; and to provide an expiration date"

Page 1, line 13, after the underscored closing parenthesis insert "or a person identified on the office of the foreign assets control sanctions list"

Page 1, line 19, replace "for" with "on"

Page 1, line 19, remove "direct"

Page 2, line 5, after the underscored closing parenthesis insert "or a person identified on the office of the foreign assets control sanctions list"

Page 2, line 11, replace "for" with "on"

Page 2, line 11, remove "direct"

Page 2, line 22, remove ", hold,"

Page 2, line 22, after "state" insert "after the effective date of this Act"

Page 2, line 23, remove "government listed as a foreign"

Page 2, line 24, remove "that is:"

Page 2, line 25, replace "(1) Headquartered" with "with a principal executive office located"

Page 2, line 25, after "is" insert "identified as"

Page 2, line 25, remove the underscored semicolon

Page 2, remove lines 26 through 29

Page 2, line 30, remove "which is held or controlled by, a company or entity described in paragraph 3"

Page 2, after line 30, insert:

"c. A foreign business entity in which a foreign adversary owns:

- (1) More than fifty percent of the total controlling interests or total ownership interests, as defined under section 10-19.1-01, in the foreign business entity, unless the foreign business entity was operating lawfully in the United States on the effective date of this Act; or
- (2) Fifty percent or less of the total controlling interests or total ownership interests, as defined under section 10-19.1-01, in the foreign business entity, if the foreign adversary directs the business operations and affairs of the foreign business entity

without the requirement of consent of any nonforeign adversary, unless the foreign business entity was operating lawfully in the United States on the effective date of this Act."

Page 3, line 1, after "3." insert "The attorney general shall complete a review of security concerns relating to any foreign business entity acquiring real property under subdivision c of subsection 2.

4."

Page 3, line 6, replace "for" with "on"

Page 3, line 6, remove "direct"

Page 3, line 9, replace "4." with:

- "5. A foreign government or foreign business entity subject to and in violation of this section shall divest itself of all real property in this state within thirty-six months after the effective date of this Act.
6. If a foreign government or foreign business entity subject to this section fails to divest itself of all real property in this state within the period specified under subsection 4, the the state's attorney of the county in which the majority of the real property is situated may issue subpoenas to compel witnesses to appear to provide testimony or produce records.
7. Upon receiving testimony and records, if the state's attorney concludes a foreign government or foreign business entity, in violation of this section, has failed to divest ownership of real property as required under this section, the state's attorney shall commence an action in the district court of the county in which the majority of the real property is situated. Once the action is commenced, the state's attorney shall file a notice pursuant to section 28-05-07 with the recorder of each county where the real property subject to the action is situated. If the court finds divestment of real property under this section is proper, the district court shall enter an order consistent with its findings. As part of the order, the court shall cancel the notice pursuant to section 28-05-08.
8. Pursuant to an order for divestment, a foreign government or foreign business entity subject to an order shall divest all real property within six months from the date of the final entry of judgment. A foreign government or foreign business entity that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars.
9. Any real property not divested within the period prescribed by law may be sold at a public sale in the manner provided under chapter 32-19 through an action brought by the state's attorney. A title to real property or encumbrance on the real property may not be deemed invalid by an order of divestiture under this section.
10. A person that is not subject to this section may not be required to:
 - a. Determine whether another person is subject to this section; or
 - b. Inquire if another person is subject to this section.

11."

Page 3, line 9, replace "subsection" with "section"

Page 3, line 10, after the underscored closing parenthesis insert "or a person identified on the office of foreign assets control sanctions list"

Page 3, replace line 11 with:

"SECTION 4. LEGISLATIVE MANAGEMENT STUDY - REAL PROPERTY AND COMMERCIAL ASSET OWNERSHIP AND OPERATION OF BUSINESS AND CHARITABLE ENTITIES BY FOREIGN ADVERSARIES.

1. During the 2023-24 interim, the legislative management shall study the number of persons that own or control any real estate or commercial assets or operate a business within this state which is owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries or individuals acting on behalf of or in conjunction with foreign adversaries or persons listed on the office of foreign assets control sanctions list.
2. The study must attempt to craft a definition of foreign adversary and ascertain the number of such persons residing in this state which operate a business or a charitable enterprise or have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state.
3. The study must consider which federal foreign adversary list would be best suited for use for the security of this state and the impact of implementing and using a federally created list.
4. The study must determine how to define, create, and implement a security review verification system that monitors and reviews the actions of foreign adversaries that operate a business or a charitable enterprise or have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state.
5. The study must:
 - a. Identify optimal methods for state officials to work and collaborate with national intelligence agents at the state and federal level regarding background checks, national security, and state security;
 - b. Outline what constitutes a national security threat and which person or agency has the authority to declare a national security threat and security threat to this state;
 - c. Identify which state agencies are best equipped to create, implement, and operate a security review verification system that monitors and reviews foreign adversaries operating a business or a charitable enterprise or that have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state;
 - d. Identify the proper structure and function of a security review verification system;

- e. Identify the individuals and persons eligible to operate a business or a charitable enterprise or that have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state, under the security review verification system; and
 - f. Identify other necessary changes to current industry practices relating to ownership of real property or commercial assets and the operation of business or charitable entities by a foreign adversary.
- 5. The study must include under which circumstances, if any, foreign adversaries are prohibited from owning real property in this state, and under which circumstances, if any, foreign adversaries are permitted to own real property in this state.
 - 6. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

SECTION 5. EXPIRATION DATE. This Act is effective through July 31, 2025, and after that date is ineffective."

Renumber accordingly

23.1043.02009

FIRST ENGROSSMENT

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2371

Introduced by

Senators Paulson, Larsen, Wobbema

Representatives Fisher, Hoverson, Louser

1 A BILL for an Act to create and enact a new section to chapter 11-11 and a new section to
 2 chapter 40-05 of the North Dakota Century Code, relating to the power of counties and
 3 municipalities to prohibit local development by a foreign adversary; to amend and reenact
 4 section 47-01-09 of the North Dakota Century Code, relating to the prohibition on ownership of
 5 real property by a foreign adversary; ~~and to declare an emergency~~ to provide for a legislative
 6 management study; and to provide an expiration date.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1.** A new section to chapter 11-11 of the North Dakota Century Code is created
 9 and enacted as follows:

10 **Development by a foreign adversary - Prohibition.**

- 11 1. A board of county commissioners, including a board in a home rule county, may not
 12 procure, authorize, or approve a development agreement, building plan, or proposal
 13 relating to county development with an individual or government identified as a foreign
 14 adversary under 15 CFR 7.4(a) or a person identified on the office of the foreign
 15 assets control sanctions list.
- 16 2. This section does not apply to a foreign adversary defined under subsection 1
 17 possessing an interest in real property if the foreign adversary:
 - 18 a. Is a duly registered business and has maintained a status of good standing with
 19 the secretary of state for seven years or longer before the effective date of this
 20 Act;
 - 21 b. Has been approved by the committee for on foreign direct investment in the
 22 United States; and
 - 23 c. Maintains an active national security agreement with the federal government.

1 **SECTION 2.** A new section to chapter 40-05 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Development by a foreign adversary - Prohibition.**

4 1. A board of city commissioners or city council, including a board or council in a home
5 rule city, may not procure, authorize, or approve a development agreement, building
6 plan, or proposal relating to city development with an individual or government
7 identified as a foreign adversary under 15 CFR 7.4(a) or a person identified on the
8 office of the foreign assets control sanctions list.

9 2. This section does not apply to a foreign adversary as defined in subsection 1
10 possessing an interest in real property if the foreign adversary:

11 a. Is a duly registered business and has maintained a status of good standing with
12 the secretary of state for seven years or longer before the effective date of this
13 Act;

14 b. Has been approved by the committee foron foreign direct investment in the
15 United States; and

16 c. Maintains an active national security agreement with the federal government.

17 **SECTION 3. AMENDMENT.** Section 47-01-09 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **47-01-09. Public or private ownership - All property subject to - Foreign ownership**
20 **prohibited.**

21 1. All property in this state has an owner, whether that owner is the United States or the
22 state, and the property public, or the owner an individual, and the property private. The
23 state also may hold property as a private proprietor.

24 2. Notwithstanding any other provision of law, the following governments or entities may
25 not purchase, ~~hold,~~ or otherwise acquire title to real property in this state after the
26 effective date of this Act:

27 a. A foreign ~~government listed as a foreign~~ adversary.

28 b. A foreign business entity ~~that is:~~

29 ~~———— (1) ————~~ Headquartered with a principal executive office located in a country that is
30 identified as a foreign adversary;

31 ~~———— (2) ————~~ Directly or indirectly held or controlled by a foreign adversary;

1 ~~_____ (3) Owned by the majority of stock or other ownership interests of which is held~~
2 ~~_____ or controlled by individuals who are citizens of a foreign adversary; or~~

3 ~~_____ (4) A company owned by, or the majority of stock or other ownership interest of~~
4 ~~_____ which is held or controlled by, a company or entity described in paragraph 3.~~

5 c. A foreign business entity in which a foreign adversary owns:

6 (1) More than fifty percent of the total controlling interests or total ownership
7 interests, as defined under section 10-19.1-01, in the foreign business
8 entity, unless the foreign business entity was operating lawfully in the United
9 States on the effective date of this Act; or

10 (2) Fifty percent or less of the total controlling interests or total ownership
11 interests, as defined under section 10-19.1-01, in the foreign business
12 entity, if the foreign adversary directs the business operations and affairs of
13 the foreign business entity without the requirement of consent of any
14 nonforeign adversary, unless the foreign business entity was operating
15 lawfully in the United States on the effective date of this Act.

16 3. The attorney general shall complete a review of security concerns relating to any-
17 foreign business entity acquiring real property under subdivision c of subsection 2.

18 4. This section does not apply to an entity possessing an interest in real property under
19 subsection 2 if the entity:

20 a. Is a duly registered business and has maintained a status of good standing with
21 the secretary of state for seven years or longer before the effective date of this
22 Act;

23 b. Has been approved by the committee ~~for~~on foreign ~~direct~~ investment in the
24 United States; and

25 c. Maintains an active national security agreement with the federal government.

26 4.5. A foreign government or foreign business entity subject to and in violation of this
27 section shall divest itself of all real property in this state within thirty-six months after
28 the effective date of this Act.

29 6. If a foreign government or foreign business entity subject to this section fails to divest
30 itself of all real property in this state within the period specified under subsection 4, the
31 the state's attorney of the county in which the majority of the real property is situated

1 may issue subpoenas to compel witnesses to appear to provide testimony or produce
2 records.

3 7. Upon receiving testimony and records, if the state's attorney concludes a foreign
4 government or foreign business entity, in violation of this section, has failed to divest
5 ownership of real property as required under this section, the state's attorney shall
6 commence an action in the district court of the county in which the majority of the real
7 property is situated. Once the action is commenced, the state's attorney shall file a
8 notice pursuant to section 28-05-07 with the recorder of each county where the real
9 property subject to the action is situated. If the court finds divestment of real property
10 under this section is proper, the district court shall enter an order consistent with its
11 findings. As part of the order, the court shall cancel the notice pursuant to section
12 28-05-08.

13 8. Pursuant to an order for divestment, a foreign government or foreign business entity
14 subject to an order shall divest all real property within six months from the date of the
15 final entry of judgment. A foreign government or foreign business entity that fails to
16 comply with the court's order is subject to a civil penalty not to exceed twenty-five
17 thousand dollars.

18 9. Any real property not divested within the period prescribed by law may be sold at a
19 public sale in the manner provided under chapter 32-19 through an action brought by
20 the state's attorney. A title to real property or encumbrance on the real property may
21 not be deemed invalid by an order of divestiture under this section.

22 10. A person that is not subject to this section may not be required to:

23 a. Determine whether another person is subject to this section; or

24 b. Inquire if another person is subject to this section.

25 11. For purposes of this ~~subsection~~section, "foreign adversary" means an individual or a
26 government identified as a foreign adversary in 15 CFR 7.4(a) or a person identified
27 on the office of foreign assets control sanctions list.

28 ~~SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.~~

29 **SECTION 4. LEGISLATIVE MANAGEMENT STUDY - REAL PROPERTY AND**
30 **COMMERCIAL ASSET OWNERSHIP AND OPERATION OF BUSINESS AND CHARITABLE**
31 **ENTITIES BY FOREIGN ADVERSARIES.**

- 1 1. During the 2023-24 interim, the legislative management shall study the number of
2 persons that own or control any real estate or commercial assets or operate a
3 business within this state which is owned by, controlled by, or subject to the jurisdiction
4 or direction of foreign adversaries or individuals acting on behalf of or in conjunction
5 with foreign adversaries or persons listed on the office of foreign assets control
6 sanctions list.
- 7 2. The study must attempt to craft a definition of foreign adversary and ascertain the
8 number of such persons residing in this state which operate a business or a charitable
9 enterprise or have obtained a beneficial interest in real estate, commercial assets, or a
10 business or charitable organization in this state.
- 11 3. The study must consider which federal foreign adversary list would be best suited for
12 use for the security of this state and the impact of implementing and using a federally
13 created list.
- 14 4. The study must determine how to define, create, and implement a security review
15 verification system that monitors and reviews the actions of foreign adversaries that
16 operate a business or a charitable enterprise or have obtained a beneficial interest in
17 real estate, commercial assets, or a business or charitable organization in this state.
- 18 5. The study must:
 - 19 a. Identify optimal methods for state officials to work and collaborate with national
20 intelligence agents at the state and federal level regarding background checks,
21 national security, and state security;
 - 22 b. Outline what constitutes a national security threat and which person or agency
23 has the authority to declare a national security threat and security threat to this
24 state;
 - 25 c. Identify which state agencies are best equipped to create, implement, and
26 operate a security review verification system that monitors and reviews foreign
27 adversaries operating a business or a charitable enterprise or that have obtained
28 a beneficial interest in real estate, commercial assets, or a business or charitable
29 organization in this state;
 - 30 d. Identify the proper structure and function of a security review verification system;

- 1 e. Identify the individuals and persons eligible to operate a business or a charitable
2 enterprise or that have obtained a beneficial interest in real estate, commercial
3 assets, or a business or charitable organization in this state, under the security
4 review verification system; and
- 5 f. Identify other necessary changes to current industry practices relating to
6 ownership of real property or commercial assets and the operation of business or
7 charitable entities by a foreign adversary.
- 8 5. The study must include under which circumstances, if any, foreign adversaries are
9 prohibited from owning real property in this state, and under which circumstances, if
10 any, foreign adversaries are permitted to own real property in this state.
- 11 6. The legislative management shall report its findings and recommendations, together
12 with any legislation required to implement the recommendations, to the sixty-ninth
13 legislative assembly.

14 **SECTION 5. EXPIRATION DATE.** This Act is effective through July 31, 2025, and after that
15 date is ineffective.

23.1043.02010
Title.

Prepared by Legislative Council Staff for
Senator Paulson
April 24, 2023

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2371

That the House recede from its amendments as printed on pages 1702-1705 of the Senate Journal and pages 1943-1945 of the House Journal and that Engrossed Senate Bill No. 2371 be amended as follows:

Page 1, line 5, replace "and to declare an emergency" with "to provide for a legislative management study; and to provide an expiration date"

Page 1, line 13, after the underscored closing parenthesis insert "or a person identified on the office of the foreign assets control sanctions list"

Page 1, line 19, replace "for" with "on"

Page 1, line 19, remove "direct"

Page 2, line 5, after the underscored closing parenthesis insert "or a person identified on the office of the foreign assets control sanctions list"

Page 2, line 11, replace "for" with "on"

Page 2, line 11, remove "direct"

Page 2, line 22, remove ", hold,"

Page 2, line 22, after "state" insert "after the effective date of this Act"

Page 2, line 23, remove "government listed as a foreign"

Page 2, line 24, remove "that is:"

Page 2, line 25, replace "(1) Headquartered" with "with a principal executive office located"

Page 2, line 25, after "is" insert "identified as"

Page 2, line 25, remove the underscored semicolon

Page 2, remove lines 26 through 29

Page 2, line 30, remove "which is held or controlled by, a company or entity described in paragraph 3"

Page 2, after line 30, insert:

"c. A foreign business entity in which a foreign adversary owns:

- (1) More than fifty percent of the total controlling interests or total ownership interests, as defined under section 10-19.1-01, in the foreign business entity, unless the foreign business entity was operating lawfully in the United States on the effective date of this Act; or
- (2) Fifty percent or less of the total controlling interests or total ownership interests, as defined under section 10-19.1-01, in the foreign business entity, if the foreign adversary directs the business operations and affairs of the foreign business entity

without the requirement of consent of any nonforeign adversary, unless the foreign business entity was operating lawfully in the United States on the effective date of this Act."

Page 3, line 1, after "3." insert "When requested by a city council or commission, county commission, or title agent or company, the attorney general shall complete a civil review, to the extent allowable by law, relating to the qualifications of any foreign adversary business entity acquiring real property under subdivision c of subsection 2.

4."

Page 3, line 6, replace "for" with "on"

Page 3, line 6, remove "direct"

Page 3, line 9, replace "4." with:

- "5. A foreign government or foreign business entity subject to and in violation of this section shall divest itself of all real property in this state within thirty-six months after the effective date of this Act.
6. If a foreign government or foreign business entity subject to this section fails to divest itself of all real property in this state within the period specified under subsection 4, the the state's attorney of the county in which the majority of the real property is situated may issue subpoenas to compel witnesses to appear to provide testimony or produce records.
7. Upon receiving testimony and records, if the state's attorney concludes a foreign government or foreign business entity, in violation of this section, has failed to divest ownership of real property as required under this section, the state's attorney shall commence an action in the district court of the county in which the majority of the real property is situated. Once the action is commenced, the state's attorney shall file a notice pursuant to section 28-05-07 with the recorder of each county where the real property subject to the action is situated. If the court finds divestment of real property under this section is proper, the district court shall enter an order consistent with its findings. As part of the order, the court shall cancel the notice pursuant to section 28-05-08.
8. Pursuant to an order for divestment, a foreign government or foreign business entity subject to an order shall divest all real property within six months from the date of the final entry of judgment. A foreign government or foreign business entity that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars.
9. Any real property not divested within the period prescribed by law may be sold at a public sale in the manner provided under chapter 32-19 through an action brought by the state's attorney. A title to real property or encumbrance on the real property may not be deemed invalid by an order of divestiture under this section.
10. A person that is not subject to this section may not be required to:
 - a. Determine whether another person is subject to this section; or

b. Inquire if another person is subject to this section.

11."

Page 3, line 9, replace "subsection" with "section"

Page 3, line 10, after the underscored closing parenthesis insert "or a person identified on the office of foreign assets control sanctions list"

Page 3, replace line 11 with:

"SECTION 4. LEGISLATIVE MANAGEMENT STUDY - REAL PROPERTY AND COMMERCIAL ASSET OWNERSHIP AND OPERATION OF BUSINESS AND CHARITABLE ENTITIES BY FOREIGN ADVERSARIES.

1. During the 2023-24 interim, the legislative management shall study the number of persons that own or control any real estate or commercial assets or operate a business within this state which is owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries or individuals acting on behalf of or in conjunction with foreign adversaries or persons listed on the office of foreign assets control sanctions list.
2. The study must attempt to craft a definition of foreign adversary and ascertain the number of such persons residing in this state which operate a business or a charitable enterprise or have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state.
3. The study must consider which federal foreign adversary list would be best suited for use for the security of this state and the impact of implementing and using a federally created list.
4. The study must determine how to define, create, and implement a security review verification system that monitors and reviews the actions of foreign adversaries that operate a business or a charitable enterprise or have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state.
5. The study must:
 - a. Identify optimal methods for state officials to work and collaborate with national intelligence agents at the state and federal level regarding background checks, national security, and state security;
 - b. Outline what constitutes a national security threat and which person or agency has the authority to declare a national security threat and security threat to this state;
 - c. Identify which state agencies are best equipped to create, implement, and operate a security review verification system that monitors and reviews foreign adversaries operating a business or a charitable enterprise or that have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state;

- d. Identify the proper structure and function of a security review verification system;
 - e. Identify the individuals and persons eligible to operate a business or a charitable enterprise or that have obtained a beneficial interest in real estate, commercial assets, or a business or charitable organization in this state, under the security review verification system; and
 - f. Identify other necessary changes to current industry practices relating to ownership of real property or commercial assets and the operation of business or charitable entities by a foreign adversary.
6. The study must include under which circumstances, if any, foreign adversaries are prohibited from owning real property in this state, and under which circumstances, if any, foreign adversaries are permitted to own real property in this state.
 7. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

SECTION 5. EXPIRATION DATE. This Act is effective through July 31, 2025, and after that date is ineffective."

Renumber accordingly

23.1043.02010

FIRST ENGROSSMENT

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2371

Introduced by

Senators Paulson, Larsen, Wobbema

Representatives Fisher, Hoverson, Louser

1 | A BILL for an Act to create and enact a new section to chapter 11-11 and a new section to
2 | chapter 40-05 of the North Dakota Century Code, relating to the power of counties and
3 | municipalities to prohibit local development by a foreign adversary; to amend and reenact
4 | section 47-01-09 of the North Dakota Century Code, relating to the prohibition on ownership of
5 | real property by a foreign adversary; ~~and to declare an emergency~~ to provide for a legislative
6 | management study; and to provide an expiration date.

7 | **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 | **SECTION 1.** A new section to chapter 11-11 of the North Dakota Century Code is created
9 | and enacted as follows:

10 | **Development by a foreign adversary - Prohibition.**

- 11 | 1. A board of county commissioners, including a board in a home rule county, may not
12 | procure, authorize, or approve a development agreement, building plan, or proposal
13 | relating to county development with an individual or government identified as a foreign
14 | adversary under 15 CFR 7.4(a) or a person identified on the office of the foreign
15 | assets control sanctions list.
- 16 | 2. This section does not apply to a foreign adversary defined under subsection 1
17 | possessing an interest in real property if the foreign adversary:
 - 18 | a. Is a duly registered business and has maintained a status of good standing with
19 | the secretary of state for seven years or longer before the effective date of this
20 | Act;
 - 21 | b. Has been approved by the committee for on foreign direct investment in the
22 | United States; and
 - 23 | c. Maintains an active national security agreement with the federal government.

1 **SECTION 2.** A new section to chapter 40-05 of the North Dakota Century Code is created
2 and enacted as follows:

3 **Development by a foreign adversary - Prohibition.**

4 1. A board of city commissioners or city council, including a board or council in a home
5 rule city, may not procure, authorize, or approve a development agreement, building
6 plan, or proposal relating to city development with an individual or government
7 identified as a foreign adversary under 15 CFR 7.4(a) or a person identified on the
8 office of the foreign assets control sanctions list.

9 2. This section does not apply to a foreign adversary as defined in subsection 1
10 possessing an interest in real property if the foreign adversary:

11 a. Is a duly registered business and has maintained a status of good standing with
12 the secretary of state for seven years or longer before the effective date of this
13 Act;

14 b. Has been approved by the committee for on foreign direct investment in the
15 United States; and

16 c. Maintains an active national security agreement with the federal government.

17 **SECTION 3. AMENDMENT.** Section 47-01-09 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **47-01-09. Public or private ownership - All property subject to - Foreign ownership**
20 **prohibited.**

21 1. All property in this state has an owner, whether that owner is the United States or the
22 state, and the property public, or the owner an individual, and the property private. The
23 state also may hold property as a private proprietor.

24 2. Notwithstanding any other provision of law, the following governments or entities may
25 not purchase, ~~hold,~~ or otherwise acquire title to real property in this state after the
26 effective date of this Act:

27 a. A foreign ~~government listed as a foreign~~ adversary.

28 b. A foreign business entity ~~that is:~~

29 ~~———— (1) ————~~ Headquartered with a principal executive office located in a country that is
30 identified as a foreign adversary;

31 ~~———— (2) ————~~ Directly or indirectly held or controlled by a foreign adversary;

1 ~~(3) Owned by the majority of stock or other ownership interests of which is held~~
2 ~~or controlled by individuals who are citizens of a foreign adversary; or~~

3 ~~(4) A company owned by, or the majority of stock or other ownership interest of~~
4 ~~which is held or controlled by, a company or entity described in paragraph 3.~~

5 c. A foreign business entity in which a foreign adversary owns:

6 (1) More than fifty percent of the total controlling interests or total ownership
7 interests, as defined under section 10-19.1-01, in the foreign business
8 entity, unless the foreign business entity was operating lawfully in the United
9 States on the effective date of this Act; or

10 (2) Fifty percent or less of the total controlling interests or total ownership
11 interests, as defined under section 10-19.1-01, in the foreign business
12 entity, if the foreign adversary directs the business operations and affairs of
13 the foreign business entity without the requirement of consent of any
14 nonforeign adversary, unless the foreign business entity was operating
15 lawfully in the United States on the effective date of this Act.

16 3. When requested by a city council or commission, county commission, or title agent or
17 company, the attorney general shall complete a civil review, to the extent allowable by
18 law, relating to the qualifications of any foreign adversary business entity acquiring
19 real property under subdivision c of subsection 2.

20 4. This section does not apply to an entity possessing an interest in real property under
21 subsection 2 if the entity:

22 a. Is a duly registered business and has maintained a status of good standing with
23 the secretary of state for seven years or longer before the effective date of this
24 Act;

25 b. Has been approved by the committee ~~for~~on foreign ~~direct~~ investment in the
26 United States; and

27 c. Maintains an active national security agreement with the federal government.

28 4.5. A foreign government or foreign business entity subject to and in violation of this
29 section shall divest itself of all real property in this state within thirty-six months after
30 the effective date of this Act.

1 6. If a foreign government or foreign business entity subject to this section fails to divest
2 itself of all real property in this state within the period specified under subsection 4, the
3 the state's attorney of the county in which the majority of the real property is situated
4 may issue subpoenas to compel witnesses to appear to provide testimony or produce
5 records.

6 7. Upon receiving testimony and records, if the state's attorney concludes a foreign
7 government or foreign business entity, in violation of this section, has failed to divest
8 ownership of real property as required under this section, the state's attorney shall
9 commence an action in the district court of the county in which the majority of the real
10 property is situated. Once the action is commenced, the state's attorney shall file a
11 notice pursuant to section 28-05-07 with the recorder of each county where the real
12 property subject to the action is situated. If the court finds divestment of real property
13 under this section is proper, the district court shall enter an order consistent with its
14 findings. As part of the order, the court shall cancel the notice pursuant to section
15 28-05-08.

16 8. Pursuant to an order for divestment, a foreign government or foreign business entity
17 subject to an order shall divest all real property within six months from the date of the
18 final entry of judgment. A foreign government or foreign business entity that fails to
19 comply with the court's order is subject to a civil penalty not to exceed twenty-five
20 thousand dollars.

21 9. Any real property not divested within the period prescribed by law may be sold at a
22 public sale in the manner provided under chapter 32-19 through an action brought by
23 the state's attorney. A title to real property or encumbrance on the real property may
24 not be deemed invalid by an order of divestiture under this section.

25 10. A person that is not subject to this section may not be required to:

26 a. Determine whether another person is subject to this section; or

27 b. Inquire if another person is subject to this section.

28 11. For purposes of this ~~subsection~~section, "foreign adversary" means an individual or a
29 government identified as a foreign adversary in 15 CFR 7.4(a) or a person identified
30 on the office of foreign assets control sanctions list.

31 ~~SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.~~

**SECTION 4. LEGISLATIVE MANAGEMENT STUDY - REAL PROPERTY AND
COMMERCIAL ASSET OWNERSHIP AND OPERATION OF BUSINESS AND CHARITABLE
ENTITIES BY FOREIGN ADVERSARIES.**

1. During the 2023-24 interim, the legislative management shall study the number of persons that own or control any real estate or commercial assets or operate a business within this state which is owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries or individuals acting on behalf of or in conjunction with foreign adversaries or persons listed on the office of foreign assets control sanctions list.
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5. The study must:
 - a. Identify optimal methods for state officials to work and collaborate with national intelligence agents at the state and federal level regarding background checks, national security, and state security;
 - b. Outline what constitutes a national security threat and which person or agency has the authority to declare a national security threat and security threat to this state;
 - c. Identify which state agencies are best equipped to create, implement, and operate a security review verification system that monitors and reviews foreign adversaries operating a business or a charitable enterprise or that have obtained

- 1 a beneficial interest in real estate, commercial assets, or a business or charitable
- 2 organization in this state;
- 3 d. Identify the proper structure and function of a security review verification system;
- 4 e. Identify the individuals and persons eligible to operate a business or a charitable
- 5 enterprise or that have obtained a beneficial interest in real estate, commercial
- 6 assets, or a business or charitable organization in this state, under the security
- 7 review verification system; and
- 8 f. Identify other necessary changes to current industry practices relating to
- 9 ownership of real property or commercial assets and the operation of business or
- 10 charitable entities by a foreign adversary.
- 11 6. The study must include under which circumstances, if any, foreign adversaries are
- 12 prohibited from owning real property in this state, and under which circumstances, if
- 13 any, foreign adversaries are permitted to own real property in this state.
- 14 7. The legislative management shall report its findings and recommendations, together
- 15 with any legislation required to implement the recommendations, to the sixty-ninth
- 16 legislative assembly.

17 **SECTION 5. EXPIRATION DATE.** This Act is effective through July 31, 2025, and after that
18 date is ineffective.