



# North Dakota Legislative Council

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Natural Resources Committee  
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## **BUSINESS OPERATION AND PROPERTY AND ASSET OWNERSHIP BY FOREIGN ADVERSARIES IN NORTH DAKOTA STUDY - BACKGROUND MEMORANDUM**

Section 4 of Senate Bill No. 2371 (2023) ([appendix](#)) directs the Legislative Management to study the number of persons that own or control any real estate or commercial assets or operate a business within North Dakota 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 (OFAC) sanctions list. The study must attempt to craft a definition of "foreign adversary" and ascertain the number of such persons residing in this state 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.

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. 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.

The study must 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; 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; 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; identify the proper structure and function of a security review verification system; 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 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.

The study also 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.

### **BACKGROUND**

Senate Bill No. 2371 created North Dakota Century Code Sections 11-11-70 and 40-05-26, relating to the powers of counties and municipalities in regard to foreign adversaries. Section 11-11-70 applies to a board of county commissioners, including the board in a home rule county, and Section 40-05-26 applies to a board of city commissioners or city council, including a board or council in a home rule city. These sections prohibit the respective county and city entities from approving a development agreement or building plan with an individual or government identified as a foreign adversary under 15 CFR 7.4(a) or a person identified on the OFAC sanctions list. This prohibition does not apply to a foreign adversary that possesses an interest in real property if the foreign adversary is a duly registered business that has been in good standing with the Secretary of State for at least 7 years, has been approved by the Committee on Foreign Investment in the United States (CFIUS), and maintains an active national security agreement with the federal government.

Senate Bill No. 2371 also amended Section 47-01-09 to prohibit a foreign adversary government, a foreign business entity with its principal office located in a country identified as a foreign adversary, or a foreign business entity in which a foreign adversary owns at least 51 percent of the business or directs the operations and affairs of the business, from purchasing or acquiring title to real property in this state. This section exempts from the prohibition a duly registered business that has maintained a status of good standing with the Secretary of State for

at least 7 years, has been approved by the CFIUS, and maintains an active security agreement with the federal government. A business or entity in violation of the law must divest its interests in real property within 36 months of August 1, 2023. The state's attorney in the county where the majority of the real property is situated has the authority to commence a civil action if the entity fails to divest itself of all real property within the required period.

## **FEDERAL LAWS AND REGULATIONS**

### **Information and Communications Technology and Services**

#### **Federal Regulations and Review Process**

Sections 11-11-70 and 40-05-26 both incorporate 15 CFR 7.4(a) as the controlling list identifying foreign adversaries in North Dakota. The federal regulation characterizes the People's Republic of China, the Republic of Cuba, the Islamic Republic of Iran, the Democratic People's Republic of North Korea, the Russian Federation, and the Nicolas Maduro Regime in Venezuela as foreign adversaries that have engaged in a long-term pattern or severe instances of conduct significantly adverse to the national security of the United States or security and safety of United States persons. The United States Department of Commerce is required to review this list periodically. Sources the United States Department of Commerce considered when creating the specific list of foreign adversaries in 15 CFR 7.4(a) included the United States National Security Strategy, the United States Intelligence Community's Worldwide Threat Assessment, the 2018 United States Cyber Strategy, and other reports and assessments from federal agencies.

The United States Department of Commerce promulgated this regulation, among others, to effectuate the provisions of Executive Order 13873, entitled "Executive Order on Securing the Information and Communications Technology and Services Supply Chain." This executive order was implemented pursuant to the powers afforded to the President under the United States Constitution and the United States Code, including the International Emergency Economic Powers Act (IEEPA),<sup>1</sup> the National Emergencies Act (NEA),<sup>2</sup> and 3 U.S.C. 301. This executive order created the ICTS review process.

According to the United States Department of Commerce,

These regulations create the processes and procedures that the Secretary of Commerce will use to identify, assess, and address certain transactions, including classes of transactions, between U.S. persons and foreign persons that involve information and communications technology or services designed, developed, manufactured, or supplied, by persons owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary; and pose an undue or unacceptable risk.<sup>3</sup>

Under 15 CFR 7.2, Information and Communications Technology and Services (ICTS) means any "hardware, software, or other product or service ... primarily intended to fulfill or enable the function of information or data processing, storage, retrieval, or communication by electronic means." The term includes a multitude of various technologies, including internet systems, wireless networks, cellular phones, computers, satellite systems, artificial intelligence, quantum computing, and cloud computing services. In June 2023, at the request of President Joseph R. Biden, the United States Department of Commerce added connected software applications to the definition of ICTS.

Whether a transaction is subject to an ICTS review process is determined by 15 CFR 7.3. To be subject to the ICTS review process, a transaction must involve ICTS designed, developed, manufactured, or supplied by persons or entities owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary. When analyzing whether a foreign adversary is involved, the United States Department of Commerce may consider:

- Whether the party to the transaction or its suppliers have headquarters or other facilities in a foreign country controlled by a foreign adversary;
- Personal and professional ties between the party and a foreign adversary;
- Laws and regulations of the foreign adversary in which a party is headquartered or conducts operations; and
- Other factors the Secretary of Commerce deems appropriate.<sup>4</sup>

<sup>1</sup> Pub.L. 95-223; 91 Stat. 1626; 50 U.S.C. §1701, et seq.

<sup>2</sup> Pub.L. 94-412; 90 Stat. 1255; 50 U.S.C. 1601, et seq.,

<sup>3</sup> *Securing the Information and Communications Technology and Services Supply Chain, Interim Final Rule*, U.S. Department of Commerce, March 22, 2021. (<https://www.federalregister.gov/documents/2021/01/19/2021-01234/securing-the-information-and-communications-technology-and-services-supply-chain#:~:text=These%20regulations%20create%20the%20processes,technology%20or%20services%20designed%2C%20developed%2C>).

<sup>4</sup> *The Information and Communications Technology and Services (ICTS) Rule and Review Process*, Congressional Research Service, June 22, 2023. (<https://crsreports.congress.gov/product/pdf/IF/IF11760>).

If the foreign adversary requirement is met, the transaction must meet several criteria to be subject to an ICTS review. The transaction must involve property under the jurisdiction of the United States or activity conducted by an individual or entity subject to United States jurisdiction. The transaction must include property in which a foreign country or foreign national has an interest.<sup>5</sup> The transaction must be initiated, pending, or completed after January 19, 2021. Lastly, as stated in 15 CFR 7.3, the transaction also must involve one of the following six categories of technology:

- ICTS that will be used in 1 of 16 critical infrastructure sectors designated in Presidential Policy Directive 21;
- ICTS integral to wireless local area networks, mobile networks, satellite payloads, satellite operations and control, cable access points, wireline access points, core networking systems, or long- and short-haul systems;
- ICTS integral to data hosting or computing services that process sensitive personal data on more than 1 million United States persons;
- Monitoring devices, home networking devices, and drones or other unmanned aerial systems when more than 1 million units have been sold to United States persons;
- Software designed primarily for internet connections and communications in use by more than 1 million United States persons; or
- ICTS integral to artificial intelligence and machine learning, quantum key distribution, quantum computing, drones, autonomous systems, or advanced robotics.

The review process for an ICTS transaction is multifaceted and must be completed in 180 days unless the Secretary of Commerce states, in writing, that additional time is needed. Under 15 CFR 7.103, the first step is the referral process. A referral may come to the Secretary of Commerce in one of three ways. The United States Department of Commerce may receive certain information that warrants a review, the head of a federal agency may request a transaction be reviewed, or the Secretary of Commerce may self-refer a transaction to the ICTS review process. Once a referral is made, the United States Department of Commerce may accept the referral, request additional information, or reject the referral.<sup>6</sup>

If the United States Department of Commerce accepts a referral, the department will conduct an initial review to determine whether the transaction poses an undue or unacceptable risk, as described in Executive Order 13787. Criteria used to make this determination, as stated in 15 CFR 7.103, include the type of technology or service at issue, the nature of the threat, and the severity of potential harm. If the United States Department of Commerce finds the transaction poses an undue or unacceptable risk, the department must conduct an interagency consultation under 15 CFR 7.104, after which time the department must make an initial determination. The initial determination may conclude that an ICTS transaction is prohibited, permitted, or modified. If approval of the transaction is not received outright upon the issuance of the initial determination, the parties subject to the review have 30 days to respond to the determination to propose mitigation efforts under 15 CFR 7.107. If the parties timely respond, the United States Department of Commerce must hold a second interagency consultation under 15 CFR 7.108. The United States Department of Commerce may order a final determination without a second interagency consultation if the parties do not respond to the initial determination. After reviewing the proposed mitigation efforts at the second interagency consultation, the United States Department of Commerce must issue a final determination under 15 CFR 7.109. The Secretary of Commerce must determine whether the ICTS transaction is prohibited, permitted, or permitted under the adoption of negotiated mitigation measures. If a party violates a final determination, the party may be subject to civil or criminal penalties under 15 CFR 7.200.

### Office of Foreign Assets Control Sanctions List

Sections 11-11-70 and 40-05-26 both reference the OFAC sanctions list. One of the tools afforded to the United States Department of Treasury in reviewing commercial transactions is the OFAC. Through the use of the OFAC, the United States Department of Treasury administers various individual, country-based, and issue-specific sanctions programs.<sup>7</sup> Congress has granted the President the power to enforce sanctions under the OFAC through legislation, including the IEEPA and the NEA. The federal regulations governing the OFAC are located in 31 CFR Chapter V.

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *National Security Review Bodes (Part I): Legal Context and Comparison*, Congressional Research Service, September 6, 2023. (<https://crsreports.congress.gov/product/pdf/LSB/LSB11034>).

When enforcing sanctions, the OFAC maintains a public list of "persons" subject to sanctions on its Specially Designated Nationals and Blocked Persons List (SDN List). The list includes individuals and companies owned or controlled by, or acting for, or on behalf of, targeted countries, and individuals, groups, and entities, such as terrorists and narcotics traffickers designated under programs that are not country specific.<sup>8</sup>

Being placed on the SDN List can prohibit the designated person from accessing the United States financial system. Placement on the list also can deny a designee access to any of the designee's assets under United States jurisdiction. However, OFAC sanctions programs tend to focus on the national risk posed by the parties involved in transactions instead of determining whether broader types of transactions raise national security risks and should be reviewed regardless of the parties to the transaction.<sup>9</sup>

If the OFAC suspects a person of violating economic sanctions, it has the option to initiate enforcement proceedings.<sup>10</sup> Pursuant to the evidence considered in an OFAC investigation, the OFAC may issue a finding of no violation, a request for additional information, a warning letter, a finding of a violation, a finding of a violation with a civil penalty, or a criminal referral. If the OFAC believes the violation may occur again, it also may issue a cease and desist order to the offending parties.<sup>11</sup>

If the OFAC imposes a penalty, the OFAC will formulate a "base amount" by considering whether the violation was "egregious" and whether the offending party voluntarily disclosed the violation.<sup>12</sup> The egregious or nonegregious determination is based on several factors, including the violator's willfulness, harm to the sanctions program's objectives, and individual characteristics. When calculating the final penalty, the OFAC must consider aggravating and mitigating factors, including whether the violator took remedial action or cooperated with the OFAC's investigation.<sup>13</sup> If the OFAC believes a case rises to the level of criminal activity, it may refer the case to the United States Department of Justice for further consideration.

### Committee on Foreign Investment in the United States

Sections 11-11-70, 40-05-26, and 47-01-09 all incorporate by reference the CFIUS. The interagency committee known as the CFIUS is chaired by the Secretary of the Treasury.<sup>14</sup> The members of the CFIUS include the heads of the following departments and offices: the Department of Justice, Department of Homeland Security, Department of Commerce, Department of Defense, Department of State, Department of Energy; Office of the United States Trade Representative; and Office of Science and Technology Policy. The following White House offices also observe and, as appropriate, participate in the CFIUS's activities: Office of Management and Budget, Council of Economic Advisors, National Security Council, National Economic Council, and Homeland Security Council. The Director of National Intelligence and the Secretary of Labor are nonvoting, ex officio CFIUS members with roles defined by statute and regulation.<sup>15</sup>

According to the Congressional Research Service, the CFIUS advises the President to survey the national security risks of foreign direct investment in the United States economy. The CFIUS has the authority to review mergers and acquisitions that could result in foreign control of a United States business. The CFIUS also reviews certain nonpassive, noncontrolling investments in United States businesses involved in critical technologies, critical infrastructure, sensitive personal data, and certain real estate transactions. Ultimately, the President decides to prohibit or suspend a covered transaction if the President finds sufficient evidence that the transaction would purport to hinder national security. The President only may make this determination if the President does not believe other statutes would provide adequate authority to protect the United States.<sup>16</sup>

The CFIUS's statutory authority originates from Section 721 of the Defense Production Act<sup>17</sup> The implementing regulations are located in 31 CFR Chapter VIII. In 2007, Congress passed the Foreign Investment and National

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Economic Sanctions Enforcement Guidelines*, Foreign Assets Control Office, November 9, 2009.

(<https://www.federalregister.gov/documents/2009/11/09/E9-26754/economic-sanctions-enforcement-guidelines>).

<sup>13</sup> *Id.*

<sup>14</sup> *National Security Review Bodes (Part I): Legal Context and Comparison*, Congressional Research Service, September 6, 2023. (<https://crsreports.congress.gov/product/pdf/LSB/LSB11034>).

<sup>15</sup> *CFIUS Overview*, United States Department of the Treasury, September 2023. (<https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius/cfius-overview>).

<sup>16</sup> *National Security Review Bodes (Part I): Legal Context and Comparison*, Congressional Research Service, September 6, 2023. (<https://crsreports.congress.gov/product/pdf/LSB/LSB11034>).

<sup>17</sup> Pub.L. 110-367; 122 Stat. 4026; 50 U.S.C. § 4501, et seq.

Security Act<sup>18</sup> formally giving the CFIUS statutory authority. In 2018, Congress passed the Foreign Investment Risk Review Modernization Act<sup>19</sup> (FIRRMA), which broadened the CFIUS's jurisdiction and review process.<sup>20</sup> The Foreign Investment Risk Review Modernization Act was intended to strengthen and modernize the CFIUS and enhance the committee's ability to address concerns involving noncontrolling investments in businesses that develop critical technologies or maintain sensitive personal data of United States citizens and real estate transactions located near military installations, maritime ports, or airports.<sup>21</sup>

An official CFIUS review commences when the parties to the transaction file a declaration with the committee. Declarations provide for an abbreviated or light filing process that could result in a 30-day review period instead of a 45-day review period. In some circumstances, filing a declaration for a transaction is mandatory. In particular, under 31 CFR 800.401, the regulations implement FIRRMA's mandatory declarations for covered transactions where a foreign government is acquiring a substantial interest in certain United States businesses and certain covered transactions that involve critical technologies. Once a declaration is filed with the CFIUS, the national security review period begins under 31 CFR 800.503.

During this review period, the United States Department of Treasury and another agency conduct a 45-day review to determine the effects of the transaction relating to national security. As stated in 31 CFR 800.102, the CFIUS's "risk-based analysis" considers the threats, vulnerabilities, and consequences to national security related to the transaction. In its assessment, the CFIUS will consider several national security factors including:

- The domestic production needed for projected national defense requirements;
- The control of domestic industries and commercial activity by foreign citizens;
- The effects on potential sales of military goods, equipment, or technology to a country that supports terrorism or proliferates missile technology or chemical and biological weapons;
- United States' technological leadership in areas affecting national security; and
- The effects on United States critical infrastructure, including major energy assets and critical technologies;
- The effects on the resilience of critical supply chains;
- Cybersecurity risks; and
- Risks to a United States person's sensitive data.

Upon completing the review under 31 CFR 800.503, an additional investigation under 31 CFR 800.505, referred to as the National Security Investigation, may be warranted. A National Security Investigation is warranted when a voting member of the committee believes the transaction threatens to impair the national security of the United States and that the threat has not been mitigated, or the lead agency conducting the review recommends, and the committee concurs, that the investigation be undertaken. The committee also must investigate a transaction under 31 CFR 800.503 when a foreign government controls the transaction, or the transaction would result in control by a foreign person of critical infrastructure of or within the United States if the committee determines the transaction could impair national security and such impairment has not been mitigated. The investigation under 31 CFR 800.505 must be completed within 45 days. Pursuant to 31 CFR 800.508, if the CFIUS determines the transaction poses unresolved concerns, the CFIUS may recommend to the President that the transaction be suspended or prohibited unless the parties choose to abandon the transaction. The President has 15 days to act.

According to the Department of Treasury "Under 31 CFR 800.406 and 800.509, and 802.404 and 802.509, CFIUS may also reject voluntary notices or declarations in certain circumstances, such as when the voluntary notice is not complete, when the parties do not respond to follow-up information requests within the required time frame, when there is a material change in the transaction, or when material information comes to light that contradicts information provided in the notice by the parties."<sup>22</sup>

If no unresolved national security risks are present, as determined by the CFIUS, then the CFIUS will notify the parties in writing that all actions under Section 721 of the Defense Production Act are complete. If the CFIUS

<sup>18</sup> Pub.L. 110-49; 121 Stat. 246; 50 U.S.C. § 4501, et seq.

<sup>19</sup> Title XVII, P.L. 115-232; 132 Stat. 2174; 50 U.S.C. § 4501, et seq.

<sup>20</sup> *National Security Review Bodes (Part I): Legal Context and Comparison*, Congressional Research Service, September 6, 2023. (<https://crsreports.congress.gov/product/pdf/LSB/LSB11034>).

<sup>21</sup> *Id.*

<sup>22</sup> *CFIUS Overview*, United States Department of the Treasury, September 2023. (<https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius/cfius-overview>).



determines that a covered transaction presents national security risks, the CFIUS may enter a risk mitigation agreement with the parties to the transaction or refer the transaction to the President. All transactions are subject to a risk-based analysis under 31 CFR 800.102 and 802.102.

### Senate Bill 168

Senate Bill 168, also known as the Promoting Agriculture Safeguards and Security Act of 2023, was introduced on January 31, 2023, by Senator Mike Rounds of South Dakota. According to the Congressional Research Service:

This bill establishes requirements to address the national security risk to the agricultural sector of the United States. Specifically, the bill prohibits persons acting on behalf of China, Russia, Iran, or North Korea from purchasing or investing in U.S. agricultural land and companies. The President may waive this prohibition on a case-by-case basis if the President determines that the waiver is vital to U.S. national security interests. The bill also places the Secretary of Agriculture on the Committee on Foreign Investment in the United States (CFIUS) and requires CFIUS to review certain transactions involving investments by foreign persons in the U.S. agricultural sector. Additionally, the Department of Agriculture must report on the risks that foreign purchases of U.S. businesses engaged in agriculture pose to the agricultural sector of the United States.<sup>23</sup>

On February 28, 2023, the Committee on Banking, Housing, and Urban Affairs held a hearing on the bill. The bill is awaiting further action.

## APPROACHES BY OTHER STATES

### Montana

Montana recently passed legislation, Senate Bill 203 (2023), which created Montana Code Annotated Title 35, which prohibits a foreign adversary from buying, leasing, or renting critical infrastructure, land used for agricultural production, real property, or a residence with a direct line of sight to any military installation. The bill also prohibits a person from executing a contract that results in the foreign adversary's control of agricultural production land or critical infrastructure in Montana. A foreign adversary found in violation of the law must divest from its interest in critical infrastructure or land used for agricultural production within 1 year. If divestment does not occur in a timely manner, the property may be sold at a public auction by the county sheriff of any county where the critical infrastructure or land used for agricultural production is located. The bill defines a "foreign adversary" as:

[A]ny foreign government or foreign nongovernment person determined by the 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 or the security and safety of the people of the United States for the purposes of sections (3)(a) and (3)(b) of Executive Order No. 13873 of May 15, 2019, or a corporation, however constituted, domiciled or headquartered in a nation determined to be a foreign adversary, or a corporation over which a foreign adversary has a controlling interest.

### South Dakota

During the 2023 legislative session, the South Dakota Legislative Assembly enacted two bills relating to the foreign ownership of land and business holdings in South Dakota. Senate Bill 189 prohibits purchasing agencies from contracting with companies owned or controlled by the People's Republic of China, the Republic of Cuba, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Russian Federation, or the Bolivarian Republic of Venezuela. House Bill 1189 requires certain entities owning agricultural land to report foreign beneficial ownership interests. Under the bill, a "foreign beneficial owner" is a foreign government, a natural person who is not a United States citizen, an entity registered outside the United States or its territories, or an entity owned by a foreign government or a natural person who is not a United States citizen. Senate Bill 185, as introduced, would have created a state CFIUS board to review certain transactions affecting the security of South Dakota. The bill failed to pass the Senate on February 21, 2023.

### Minnesota

Minnesota did not enact legislation relating to foreign adversaries during the 2023 legislative session. However, Minnesota Statutes Section 500.221 prohibits most farmland ownership by individuals who are not United States citizens or permanent residents.

<sup>23</sup> S.168 - PASS Act of 2023, United States Senate, January 31, 2023. (<https://www.congress.gov/bill/118th-congress/senate-bill/168?s=1&r=1&q=%7B%22search%22%3A%5B%22Promoting+Agriculture+Safeguards+and+Security+%28PASS%29+Act%22%5D%7D>).

## Texas

The Texas Legislature introduced Senate Bill No. 147 during the 2023 legislative session. The bill would have prohibited sales or acquisitions of property by any government, entity, or citizen of China, Russia, Iran, or North Korea. The bill passed the Senate but failed in the House State Affairs Committee.

## RECENT LEGISLATION

In addition to Senate Bill No. 2371 (2023), the North Dakota Legislative Assembly introduced three other bills relating to the ownership of assets by foreign adversaries which included:

- House Bill No. 1135, which prohibits a foreign government from purchasing, acquiring, or holding any foreign governmental interest in agricultural land in North Dakota. The bill does not prohibit an interest held in agricultural land by a foreign government before July 1, 2023. The bill allows a state-controlled enterprise to acquire agricultural land or maintain an interest in agricultural land, provided the state-controlled enterprise uses the land for agricultural research and development or experimental purposes and the agricultural land has an area of 160 acres or less. The bill defines "controlling interest," "foreign government," "foreign governmental interest in agricultural land," and "state-controlled enterprise."
- House Bill No. 1356, which would have created the State Agricultural Foreign Investment Review Board. The bill would have required the board to establish policies to determine if a proposed acquisition of an interest in agricultural lands is appropriate, and in the state's best interest, regarding state security and the agriculture industry in North Dakota. The bill failed in the House.
- House Bill No. 1503, which would have prohibited a government of a foreign country or a foreign business entity, permanent resident, or alien from directly or indirectly acquiring an ownership interest in real property in North Dakota unless the individual was an alien entitled to enter the United States under a treaty between the United States and a foreign state of which the individual is a national, solely to develop and direct the operations of an enterprise in which the individual has invested or to direct the operations of an enterprise in which the individual is actively in the process of investing a substantial amount of capital. The bill was later amended and ultimately failed in the House.

## SUGGESTED STUDY APPROACH

In conducting this study, the committee may wish to receive testimony from representatives associated with:

- North Dakota's federal congressional delegation;
- The United States Department of Commerce;
- The United States Department of Treasury;
- The United States Department of Defense;
- The United States Department of State;
- The Attorney General's office;
- The Secretary of State's office;
- The Department of Commerce;
- The Department of Agriculture;
- Governments of the several counties in North Dakota;
- Governments of the several cities in North Dakota; and
- Any organization representing North Dakota cities and counties.

ATTACH:1