



AGRICULTURE AND NATURAL RESOURCES COMMITTEE

Tuesday, February 13, 2024
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Paul J. Thomas, Chairman, called the meeting to order at 10:01 a.m.

Members present: Representatives Paul J. Thomas, Mike Beltz, Mike Brandenburg, Hamida Dakane, Dori Hauck, Jeff A. Hoverson, Dwight Kiefert, David Monson, SuAnn Olson, JoAnne Rademacher, Bill Tveit; Senators Cole Conley, Randy D. Lemm, Larry Luick, Janne Myrdal, Terry M. Wanzek*, Mark F. Weber, Kent Weston*

Members absent: Representatives Scott Dyk, Mitch Ostlie; Senator Greg Kessel

Others present: Senator Kathy Hogan, Fargo, member of the Legislative Management United States Senator Kevin Cramer, North Dakota; Micah Brown, National Agricultural Law Center; Doug Goehring, Department of Agriculture; Ryan Henning, Apex Clean Energy; Carlee McLeod, Minnkota Power Cooperative; John Godfread, Insurance Department; Aaron Carranza, Department of Water Resources; Travis Zablutney, Minot

See [Appendix A](#) for additional persons present.

**Attended remotely*

It was moved by Senator Myrdal, seconded by Senator Luick, and carried on a voice vote that the minutes of the November 28, 2023, meeting be approved as distributed.

Chairman Thomas welcomed Representative Rademacher to the committee and the Legislative Assembly following her appointment to fill the vacancy left by former Representative Larry Bellew.

OWNERSHIP OF PROPERTY AND ASSETS BY FOREIGN ADVERSARIES IN NORTH DAKOTA STUDY

Senator Kevin Cramer, North Dakota, provided testimony ([Appendix B](#)) regarding the role of the federal government in regulating foreign adversaries in the United States. In response to questions from committee members, he noted:

- He introduced the Committee on Foreign Investment in the United States (CFIUS) State's Right to Know Act of 2024, which would allow a Governor to ask CFIUS whether a specific transaction falls under the jurisdiction of CFIUS.
- The Director of National Intelligence is an observer of the CFIUS process but not a voting member of CFIUS.
- The federal government and defense entities tend to overclassify information.
- Intelligence secrets should be protected; however, state governments should have access to information required to monitor and prohibit bad actors.
- CFIUS lacks a mechanism to share sensitive information with states.
- National and food security are among the highest priorities in the United States.
- State lawmakers should be proactive in finding solutions to address foreign adversaries rather than relying on the federal government.

Mr. Micah Brown, Staff Attorney, National Agricultural Law Center, provided testimony ([Appendix C](#)) regarding introduced and enacted state legislation relating to foreign ownership of agricultural land. In response to questions from committee members, he noted:

- The laws of each country dictate whether a United States citizen or entity may purchase land in a foreign country.
- The laws of many foreign countries are not as well publicized as the laws in the United States, which makes it difficult to locate restrictions on acquiring agricultural land.
- Generally, other nations are hesitant to allow foreign investment and acquisition of agricultural and rural land unless the acquisition or investment is for an industrial or manufacturing purpose.
- Some states have restrictions on foreign investment in water and mineral rights, in addition to restrictions on foreign investment in agricultural land.
- Some states are seeking to restrict acquisition of agricultural land by domestic entities that are owned wholly or in part by foreign nationals or entities.
- The Attorney General has enforcement and investigative powers under most foreign ownership laws. However, the Department of Agriculture and Secretary of State often have the authority to collect and forward information to the appropriate enforcement agency.

REPORTS

Mr. Doug Goehring, Agriculture Commissioner, provided testimony ([Appendix D](#)) regarding past, current, and prospective disbursements from the environmental impact mitigation fund and a progress report of the Model Zoning Ordinance Task Force. In response to questions from committee members, he noted:

- The Department of Agriculture is assisting energy providers in becoming more comfortable with environmental mitigation practices.
- The department is formulating alternative mitigation approaches to supplement the predominant practice of remitting mitigation payments.
- Some counties likely will not seek the designation of a "livestock-friendly county" under North Dakota Century Code Section 4.1-01-23.
- The creation of the agriculture infrastructure grant program has allowed the department to identify infrastructure issues in townships and counties seeking to add value-added agriculture processing facilities. Due to legislation passed during recent legislative sessions aiming to expand animal agriculture in this state, the department is seeking to add value to beef, dairy, and swine industries.

Representative Hauck provided testimony ([Appendix E](#)) regarding a proposed Securities and Exchange Commission rule allowing Natural Asset Companies to be listed on the New York Stock Exchange.

MITIGATION PLANS RELATING TO THE OPERATION OF ENERGY CONVERSION OR TRANSMISSION FACILITIES STUDY

Mr. Ryan Henning, Vice President of Environmental, Apex Clean Energy, provided testimony ([Appendix F](#)) regarding the wind energy industry's role in mitigation plans for the siting and operation of energy conversion or transmission facilities. In response to questions from committee members, he noted:

- Apex Clean Energy is working with the Agriculture Commissioner and landowners to determine the feasibility of certain projects.
- A project's success depends on the transparency of the discussion and information provided.

Mr. Dustin Jones, Senior Manager, Central Region Lead, Environmental Services, NextEra Energy Resources, provided testimony ([Appendix G](#)) regarding the wind energy industry's role in mitigation plans for the siting and operation of energy conversion or transmission facilities. In response to questions from committee members, he noted:

- Generally, NextEra Energy Resources (NextEra) does not purchase the land on which project infrastructure is located. Rather, NextEra will make payments to a landowner under a written lease for the life of the project.
- The typical lifespan of a project is 30 years, which can be extended if the project's infrastructure is upgraded during the project's operating period.

- Wind turbine manufacturers are required to ensure turbine parts comply with applicable laws.
- The industry strives to recycle outdated turbine parts.
- The implementation and operation of wind turbine projects have had minimal impacts on domestic animals.

Ms. Carlee McLeod, Government Relations and External Affairs, Minnkota Power Cooperative, provided testimony regarding the electric power cooperative's role in mitigation plans for the siting and operation of energy conversion or transmission facilities. She noted:

- Project managers receive opinions from industry experts to study the environment of a proposed project route or site at the beginning of each project.
- Project managers strive to balance industry needs and landowner rights.
- The practice of compensatory mitigation is used to offset mitigation costs, but often fails to solve all underlying mitigation issues.
- Each siting project is unique to the various energy industries in this state.
- Energy providers need latitude to direct their own mitigation programs.
- A program requiring all mitigation payments to be submitted to the Department of Agriculture would delay project implementation.
- Any future government mitigation programs should remain voluntary, have specific guidelines and rules, and be transparent to industry participants.

TOWNSHIP PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM STUDY

Mr. Jon Godfread, Insurance Commissioner, provided testimony ([Appendix H](#)) relating to the creation of a land use tracking tool for National Flood Insurance Program (NFIP) purposes. He noted:

- A database used for tracking participating communities in the NFIP should be created and managed by the Department of Water Resources.
- Several townships have executed memorandums of understanding with the county in which they are situated to allow the county to undertake floodplain management under the NFIP.
- To more effectively track participating communities in the NFIP, the Legislative Assembly could statutorily transfer township floodplain management authority to counties.

Mr. Aaron Carranza, Director, Regulatory Division, Department of Water Resources, provided testimony relating to the creation of a land use tracking tool for NFIP purposes. He noted:

- The Community Assistance Program - State Support Services Element is a cost-share program that helps fund wages, benefits, grants, workshops, and engineering programs for state floodplain management.
- Floodplain management is a power derived from a jurisdiction's zoning authority.
- The Legislative Assembly has not separated zoning authority from the authority to administer a floodplain.
- Any database used to track communities participating in NFIP must be consistently updated to maintain accuracy.

COMMITTEE WORK

Representative Olson presented bill drafts [\[25.0061.01000\]](#), [\[25.0062.01000\]](#), and [\[25.0063.01000\]](#) to committee members relating to the ownership of property and assets by foreign adversaries study.

PUBLIC COMMENT

Mr. Travis Zabloutney, Minot, provided testimony regarding the ownership of property and assets by foreign adversaries study. He noted to effectively monitor foreign adversaries, lawmakers need to craft a definition of foreign adversary and determine which foreign transactions should be restricted.

No further business appearing, Chairman Thomas adjourned the meeting at 3:57 p.m.

Dustin A. Richard
Counsel

ATTACH:8