

Testimony on HB 1371

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Thank you for the opportunity to testify against the enactment of HB 1371.

I have written extensively about HB 1371. See, my essay, ***“Is House Bill 1371 a Trojan Horse? Yes! And A Trojan Cow, Trojan Pig, Trojan Chicken ...”*** It can be found at sarahmvoegel.com, under “essays”.

This is a very abbreviated summary of the reasons why I think HB 1371 should be rejected, as laid out in greater detail in the essay referenced above.

- 1) Chapter 10-06.1 is not archaic. It has been amended over the years to adapt to modern business structures. It has repeatedly been upheld by the North Dakota Supreme Court and federal courts, up to and including the US Supreme Court.
- 2) The law is very popular with North Dakota voters; only six years ago it received overwhelming support by North Dakota voters.
- 3) While there are limitations on corporate ownership of farm and ranch land, and corporate operation of farms and ranches in North Dakota, it is not the case that “freedom applies to everyone and every industry, except our farmers and ranchers.” What this law does is impose restrictions on foreign governments, billionaires, and certain corporations; it does not restrict family farmers and ranchers who have multiple avenues to grow and expand.
- 4) Cherry-picked statistics used by Governor Burgum in his State of the State message and Fargo Forum article are unpersuasive and misleading.
- 5) If the legislature believes that North Dakota’s farmers and ranchers need additional capitol or resources, the legislature should improve the Bank of North Dakota’s loan and investment programs. In recent years, hundreds of millions of profits of the BND have gone to balance the state budget. If even 25% of the profits from a typical biennium were diverted from balancing the budget and instead used to support livestock farmers and ranchers and the industries that they need (e.g., meat packing plants), there would be no plausible excuse to amend or repeal Chapter 10-06.1.
- 6) The state of North Dakota supports other industries with lavish grants and loan funds, even though they are not as central to North Dakota as its farmers and ranchers. A prime example is the Clean Sustainable Energy Authority, which has given \$44 million in grants and \$250 million in loans in its very short existence. Farmers and ranchers, in comparison, get a pittance and often have to pay high rates of interest and meet stiff repayment terms plus pay real estate taxes that support the infrastructure of North Dakota.
- 7) It is very difficult for North Dakota officials or citizens to force a corporate owner of farm and ranch land to divest itself of farm and ranch land, even if it was acquired in violation of the law or through deceptive means. The record of the Attorney General’s enforcement of this law is miserably bad! Weakening the law is a terrible idea. It needs to be strengthened instead. It is notable too, that the Attorney General’s budget does not indicate any desire to increase the rigor of its almost nonexistent enforcement of this law.
- 8) HB 1371 will benefit corporations and investment funds more than North Dakota family farmers and ranchers, who will be pushed out of access to affordable land. This competition will fall especially hard on North Dakota’s most threatened “species” — young and beginning farmers and ranchers. How can they afford to compete with huge corporations and billionaires?

- 9) HB 1371 will not only have a terrible effect on beginning farmers and ranchers, it also creates competition for midsized and larger farmers and ranchers who would like to expand. They cannot compete with corporations such as Smithfield who are fronts for the Chinese Communist Party, or billionaires like Bill Gates and the many shell corporations where he invests his personal wealth.
- 10) The Bank of North Dakota has many programs which could help, support and foster growth of the livestock sector in North Dakota, and that would keep North Dakota farmers and ranchers on the land and profitable. However, all of these programs need updating, lower interest rates, better terms, and more funding. The attention of the legislature should be on improving the services of the Bank of North Dakota for farmers and ranchers. These agriculture loans would also support local lenders throughout the state. Corporate agribusinesses (like Bill Gates' Cascade and Cottonwood) won't affiliate themselves with local lenders or have checking accounts in local banks.)
- 11) The oft-mentioned "limit" or "cap" of 160 acres in HB 1371 is a cruel joke. Repeated references by the Governor to a 160-acre cap in his "cheerleading" for passage of this law is an outright deception. Any assertion that HB 1371 does limit acquisitions to 160 acres is propaganda, falsehood and deliberate double-speak. The plain language of HB 1371 shows it opens the door to every conceivable type of corporation, as well as governments, foreign or domestic corporations, business trusts, enterprises, estates, limited liability companies, limited liability partnerships, and any other legal or commercial entity. Any corporate lawyer who sees this language will laugh at the "barrier" of having only one "person" per 160 acres. It will be as easy for a corporate law department to form one thousand 160-acre livestock operations, as it is to form just one. Bill Gates, corporations owned or controlled by foreign governments, and US corporations looking for investments that are countercyclical to the stock market have the resources to hire lawyers to get this done, so that they can buy this land. These 160 acre units don't have to have fences between these parcels; the owners won't put homesteads on them, and the managers (who will likely be absentee) of these units won't be providing the types of volunteer activities that human beings typically provide (PTA's, FFA advisors, donations to country churches).
- 12) Nonprofits and conservation organizations — that now face rigorous review before they can acquire North Dakota farm and ranch land — will have free sailing to buy farm and ranch land in 160 acre units, if HB 1371 is adopted. Farm Bureau's long-fought battle to keep nonprofits and environmental organizations from buying farmland and ranch land in North Dakota will be over. Lawyers for these nonprofits can form 160 acre entities as easily as Bill Gates' lawyers at Cascade and Cottonwood Ag. These nonprofits can buy some cattle to put on the land (at least for a while) and voila, they are exempt.
- 13) Rather than a resurgence of the livestock sector under North Dakota farmers and ranchers, it is a more likely scenario that North Dakotans will become tenant farmers and hired hands, while the appreciated value of the land will go to corporations, government investors and billionaires. Farmland values are countercyclical to Wall Street returns, thus it makes sense for wealthy churches such as the Mormon Church (which is buying farm land at a massive scale), billionaires, investment firms and foreign governments to "park" their money in North Dakota farmland.
- 14) Will the livestock sector of North Dakota be improved by this law? There is no guarantee and no way to enforce the "expectation" that livestock will be placed on these 160 acre parcels or an expectation that resident North Dakota farmers will benefit from this law. The law appears to be a façade for the purchase of valuable farmland by entities that cannot now (for sound public

policy reasons) do so. Will there be cattle or pigs or chickens on that land in 2 years, in 5 years, in 10 years? Who will be monitoring that?

- 15) Who will force those corporations to divest themselves of that land if they don't incorporate livestock into the "farm"? Will the AG's office enforce the law? I doubt it because the now allow pipeline executives and Bill Gates' corporate officers to be the "owners" of farmland and ranch land. Whatever tatters of Chapter 10-06.1 will be left will be so weakened, that the remainder of the law will be almost nullified. A strong clue to expectation that no enforcement will occur is HB 1371's exemption for reporting to the Attorney General for any new entity that presents itself as a new entrant to livestock agriculture.

In summary, HB 1371 is a "Trojan Horse" that can cause untold harm to our state, our citizens, the farmers and ranchers of North Dakota. Instead of adopting HB 1371, the legislature should explore other ways to help and support North Dakota's farmers and ranchers and North Dakota's livestock sector. There is no need to dismantle protections that have well-served North Dakota for many decades.

Thank you for the opportunity to submit this written testimony. I would have testified in person or virtually, but for a prior commitment to present a keynote speech at the annual meeting of the Northern Plains Sustainable Agriculture Society in Fargo, at the same time and on the same day that this bill is being heard.

I would be happy to visit with any members of this committee or answer follow up questions. My email address is sarahvogellaw@gmail.com.

I urge committee members to recommend "***do not pass***" as to HB 1371.

Sarah Vogel