

Testimony Nicole Donaghy Regarding HB 1371  
Executive Director, North Dakota Native Vote  
House Agriculture Committee  
January 27, 2023

### The Impact of HB 1371 as it Relates to the Farming citizenry North Dakota

North Dakota Native Vote opposes the passage of HB 1371. As an enrolled member of Standing Rock Sioux Tribe, I question if North Dakota's legislature is willing to relinquish control of state's fee patent lands to foreign or domestic corporations for purchase. In doing so, it will also relinquish an irreplaceable asset that will destroy the livelihoods of thousands of North Dakotans impacted by these corporate purchases whose lands have been protected for over a century.

In 2016, a statewide vote rejected a weakening of the corporate farm law with 76% of the vote. That change would have exempted dairies and hog feeding operations. This attempt to again circumvent the will of voters is a direct action aimed at harming the citizens of North Dakota.

As others have testified, the 160 acre per person rule is simply a dishonest attempt to hide the lack of regulatory rules that will allow corporations to operate multiple 160 acre plots through creating simply an infinite number corporations to obtain fee patents that will circumvent any protections that at this time are unenforceable in regard to the dishonest spirit of the governor's one person, 160 acre only assurances.

Should this law take effect, it will undoubtedly impact the diversity of local producers that are reported in the USDA's 2017 North Dakota agricultural census. Corporations who have the ability to aggregate and analyze data for their benefit will first target small farms and the small diverse group of local producers that make up North Dakota's collective group of producers. This will create an irreversible loss of local land producers.

In addition, the revenue base that will be handed over to corporate interests will also have any irreversible impact<sup>S</sup> on the economy of North Dakota in agriculture. <sup>ML</sup>

I've consulted data scientist, Dr. Joseph Robertson on the potential impacts of HB 1371. Below is the summary of his research and the potential impact of possible corporate takeover of farms in North Dakota, based on the most recent agricultural census.



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I appreciate the opportunity to weigh in on House Bill 1371 regards your testimony on January 27, 2023. I have assessed some potential impacts of the proposed bill as it relates to the lack of oversight and the 160 acre per person rule. In reviewing some of the previous testimony already submitted to the North Dakota legislature, it is apparent that the impact of this bill provides no possible recourse exemptions are made to the anti-corporate laws that are in place in North Dakota.

Let us look at the numbers in a hypothetical scenario in the event that HB 1371 is passed in the possible average farm, farm size, producer numbers, and the diversity portfolio of those producers.

## Exhibit B: Census of Agriculture: North Dakota Page 2

North Dakota, 2017 Page 2		2017 CENSUS OF AGRICULTURE <i>State Profile</i>		
<b>Market Value of Agricultural Products Sold</b>				
	Sales (\$1,000)	Rank In U.S. <sup>b</sup>	States Producing Item	
<b>Total</b>	<b>8,234,102</b>	<b>17</b>	<b>50</b>	
<b>Crops</b>				
Grains, oilseeds, dry beans, dry peas	6,680,614	9	50	
Tobacco	6,075,358	6	50	
Cotton and cottonseed	-	-	18	
Vegetables, melons, potatoes, sweet potatoes	240,415	15	50	
Fruits, tree nuts, berries	363	49	50	
Nursery, greenhouse, floriculture, sod	8,443	50	50	
Cultivated Christmas trees, short rotation woody crops	16	47	50	
Other crops and hay	356,019	14	50	
<b>Livestock, poultry, and products</b>				
Poultry and eggs	1,553,488	34	50	
Cattle and calves	17,568	40	50	
Milk from cows	1,295,654	14	50	
Hogs and pigs	66,161	35	50	
Sheep, goats, wool, mohair, milk	79,242	22	50	
Horses, ponies, mules, burros, donkeys	10,449	27	50	
Aquaculture	8,042	38	50	
Other animals and animal products	942	47	50	
	75,430	5	50	
<b>2 Percent of U.S. agriculture sales</b>				
<b>Share of Sales by Type (%)</b>				
Crops	81			
Livestock, poultry, and products	19			
<b>Land in Farms by Use (acres)</b>				
Cropland	27,951,676			
Pastureland	9,871,762			
Woodland	202,789			
Other	1,315,364			
<b>Top Counties: Land in Farms (acres)</b>				
Stutsman	1,315,703			
Morton	1,225,934			
Ward	1,153,475			
Cass	1,126,085			
Mckenzie	1,119,275			
<b>Total Producers<sup>c</sup> 41,904</b>				
<b>Sex</b>				
Male	29,588	<b>Have internet access 79</b>	<b>Top Crops in Acres<sup>d</sup></b>	
Female	12,316			
<b>Age</b>				
<35	4,644	<b>Farm organically (Z)</b>	Soybeans for beans	7,085,740
35 - 64	24,849		Wheat for grain, all	6,385,595
65 and older	12,411		Corn for grain	3,276,548
<b>Race</b>				
American Indian/Alaska Native	315	<b>Sell directly to consumers 1</b>	Forage (hay/haylage), all	2,580,672
Asian	21		Canoia	1,583,502
Black or African American	8	<b>Hire farm labor 31</b>	<b>Livestock Inventory (Dec 31, 2017)</b>	
Native Hawaiian/Pacific Islander	7		Broilers and other meal-type chickens	6,439
White	41,389	<b>Are family farms 96</b>	Cattle and calves	1,835,682
More than one race	164		Goats	6,631
<b>Other characteristics</b>				
Hispanic, Latino, Spanish origin	225		Hogs and pigs	148,231
With military service	3,835		Horses and ponies	29,423
New and beginning farmers	8,771		Layers	81,364
			Pullets (D)	70,182
			Sheep and lambs	575,322
			Turkeys	

See 2017 Census of Agriculture, U.S. Summary and State Data, for complete footnotes, explanations, definitions, commodity descriptions, and methodology.  
<sup>a</sup>May not add to 100% due to rounding. <sup>b</sup>Among states whose rank can be displayed. <sup>c</sup>Data collected for a maximum of four producers per farm.  
<sup>d</sup>Crop commodity names may be shortened; see full names at [www.nass.usda.gov/cropnames.pdf](http://www.nass.usda.gov/cropnames.pdf). \* Position below the line does not indicate rank.  
(D) Withheld to avoid disclosing data for individual operations. (NA) Not available. (Z) Less than half of the unit shown. (-) Represents zero.

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As you can see on page two of the 2017 Census of Agriculture: North Dakota provides some important statistics for lawmakers to study and understand the long-term impact of HB 1371 based on these numbers.

Some other important trends to understand:

- As you can see from the market value of agricultural products sold, the ratio of crop sales versus livestock poultry and products is nearly 4:1. A net increase in investing in acreages in feedlots and other activities contained in HB 1371 will most likely never be able to match the profitability of the current land in farms by use.
- In examining the share of sales by type, there is no way that a 4:1 ratio of sales of crop versus livestock could ever replace the profitability of the current land use in North Dakota. This then becomes an issue of corporate takeover of landholdings for their future benefit and not for the citizens of North Dakota.

In addition, in examining the diversity portfolio of North Dakota producers, it is apparent that Native American, Asian, Black or African-American, and other underrepresented minorities will undoubtedly become targets of corporate takeover and thus divesting in the diversity of North Dakota producers.

It is imperative that lawmakers take stock in all of the unforeseen consequences of providing unlimited corporate fee patents on single 160 acre plots that will undoubtedly destroy thousands of livelihoods in North Dakota, Native and Non-Native.

For instance, if corporate interests were to use the lack of regulation and loopholes in HB 1371 and acquire 10% of the farms that are currently up to 160 acres, this would amount to approximately 2,600 farms under separate fee patents that could be used to gain a competitive advantage according to the per farm average shown in the table to the right.

Simply taking into account the amount of government payments for each of those plots we can see that approximately 416,000 acres could fall into corporate control and according to the numbers:

Total and Per Farm Overview, 2017 and change since 2012		
	2017	% change since 2012
Number of farms	26,364	-15
Land in farms (acres)	39,341,591	(Z)
Average size of farm (acres)	1,492	+18
<b>Total</b>	<b>(\$)</b>	
Market value of products sold	8,234,102,000	-25
Government payments	467,034,000	+22
Farm-related income	710,664,000	+37
Total farm production expenses	7,062,175,000	-3
Net cash farm income	2,349,624,000	-48
<b>Per farm average</b>	<b>(\$)</b>	
Market value of products sold	312,324	-12
Government payments (average per farm receiving)	22,770	+48
Farm-related income	38,140	+50
Total farm production expenses	267,872	+14
Net cash farm income	89,122	-39

1. Each of those farms would receive government payments of \$22,770 and collectively represent \$59,202,000 of lost revenue to corporate greed.
2. If the net cash farm income were sustained than the corporate landholders of the 2,600 farms would benefit \$89,122 and collectively \$231,717,200 would be lost revenue to the citizens of North Dakota.
3. Thus, even with corporations taking over approximately 1% of the 39,300,000 acres of North Dakota lands would result in the transference of hundreds of millions of dollars to corporate interests over the interests of the citizens of North Dakota.

In conclusion, HB 1371 is a bill that will collectively harm the producers in North Dakota by transferring wealth to long-term corporate interests and family land ownership will be lost; therefore opposition to this bill is paramount.