

**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 many irreversible impacts on the economy of North Dakota in agriculture.

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.

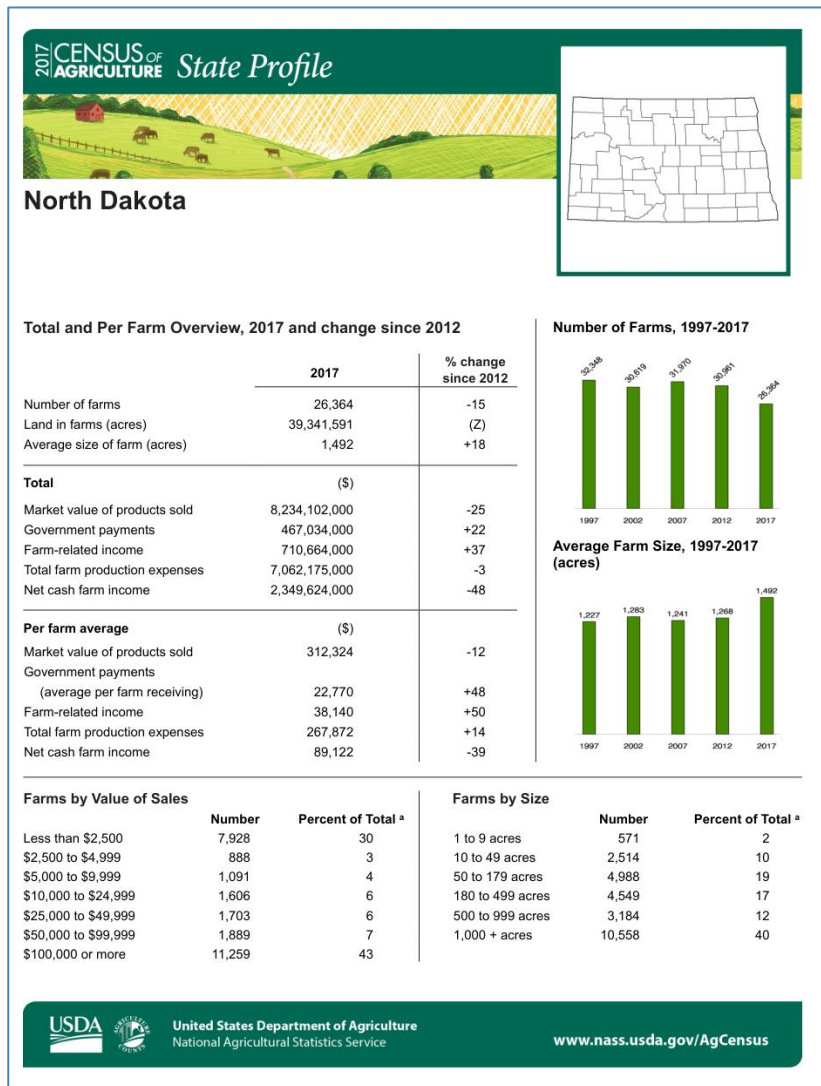


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I appreciate the opportunity to weigh in on House Bill 1371 regards your testimony on January 27, 2023. I have assessed some potential impacts of the proposed bill as it relates to the lack of oversight and the 160 acre per person rule. In reviewing 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 A: Census of Agriculture: North Dakota Page 1



As you can see on page one 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 important trends to understand:

- The number of farms has been on a steady decline since 1997 and the average size of farms per acre and been increasing.
- Although government payments in farm related income have been on the increase, it's clear that the market value of products sold and the net cash farm income had been on a steady decline since 2012.
- The number of farms by value sales represents a major gap between the smallest and biggest value sales that could create targeted attacks on small producers.
- Under the 160 acre rule, there are slightly over 8,000 farms that could be taken over totally and conglomerated for corporate takeover.

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

North Dakota, 2017  
Page 2

**2017 CENSUS OF AGRICULTURE State Profile**

**Market Value of Agricultural Products Sold**

|                                                        | 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>                                           | <b>6,680,614</b> | <b>9</b>                  | <b>50</b>             |
| Grains, oilseeds, dry beans, dry peas                  | 6,075,358        | 6                         | 50                    |
| Tobacco                                                | -                | -                         | 18                    |
| Cotton and cottonseed                                  | -                | -                         | 17                    |
| 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>                | <b>1,553,488</b> | <b>34</b>                 | <b>50</b>             |
| Poultry and eggs                                       | 17,568           | 40                        | 50                    |
| Cattle and calves                                      | 1,295,654        | 14                        | 50                    |
| Milk from cows                                         | 66,161           | 35                        | 50                    |
| Hogs and pigs                                          | 79,242           | 22                        | 50                    |
| Sheep, goats, wool, mohair, milk                       | 10,449           | 27                        | 50                    |
| Horses, ponies, mules, burros, donkeys                 | 8,042            | 38                        | 50                    |
| Aquaculture                                            | 942              | 47                        | 50                    |
| Other animals and animal products                      | 75,430           | 5                         | 50                    |

**2** Percent of U.S. agriculture sales

**Share of Sales by Type (%)**

|                                  |    |
|----------------------------------|----|
| Crops                            | 81 |
| Livestock, poultry, and products | 19 |

**Land in Farms by Use (acres)**

|             |            |
|-------------|------------|
| Cropland    | 27,951,676 |
| Pastureland | 9,871,762  |
| Woodland    | 202,789    |
| Other       | 1,315,364  |

**Top Counties: Land in Farms (acres)**

|          |           |
|----------|-----------|
| Stutsman | 1,315,703 |
| Morton   | 1,225,934 |
| Ward     | 1,153,475 |
| Cass     | 1,126,085 |
| Mckenzie | 1,119,275 |

**Total Producers <sup>c</sup> 41,904**

**Sex**

|        |        |
|--------|--------|
| Male   | 29,588 |
| Female | 12,316 |

**Age**

|              |        |
|--------------|--------|
| <35          | 4,644  |
| 35 – 64      | 24,849 |
| 65 and older | 12,411 |

**Race**

|                                  |        |
|----------------------------------|--------|
| American Indian/Alaska Native    | 315    |
| Asian                            | 21     |
| Black or African American        | 8      |
| Native Hawaiian/Pacific Islander | 7      |
| White                            | 41,389 |
| More than one race               | 164    |

**Other characteristics**

|                                  |       |
|----------------------------------|-------|
| Hispanic, Latino, Spanish origin | 225   |
| With military service            | 3,835 |
| New and beginning farmers        | 8,771 |

**Percent of farms that:**

|                            |           |
|----------------------------|-----------|
| Have internet access       | <b>79</b> |
| Farm organically           | (Z)       |
| Sell directly to consumers | <b>1</b>  |
| Hire farm labor            | <b>31</b> |
| Are family farms           | <b>96</b> |

**Top Crops in Acres <sup>d</sup>**

|                           |           |
|---------------------------|-----------|
| Soybeans for beans        | 7,085,740 |
| Wheat for grain, all      | 6,385,595 |
| Corn for grain            | 3,276,548 |
| Forage (hay/haylage), all | 2,580,672 |
| Canola                    | 1,583,502 |

**Livestock Inventory (Dec 31, 2017)**

|                                       |           |
|---------------------------------------|-----------|
| Broilers and other meat-type chickens | 6,439     |
| Cattle and calves                     | 1,835,682 |
| Goats                                 | 6,631     |
| Hogs and pigs                         | 148,231   |
| Horses and ponies                     | 29,423    |
| Layers                                | 81,364    |
| Pullets                               | (D)       |
| Sheep and lambs                       | 70,182    |
| Turkeys                               | 575,322   |

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/go/cropnames.pdf](http://www.nass.usda.gov/go/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.

In addition to the 2017 agricultural census, the US Department of Agriculture blog: North Dakota agriculture one word: diverse, outlined why HB 1371 in its current form will provide corporate opportunities to destroy the diversity that currently exists in the agricultural sector in North Dakota (<https://www.usda.gov/media/blog/2019/08/23/north-dakota-agriculture-one-word-diverse>).

| North Dakota Market Value of Ag Products Sold, 2017 |       |                  |                        |
|-----------------------------------------------------|-------|------------------|------------------------|
| Item                                                | Farms | Sales (Billions) | Percent of Total Sales |
| Soybeans                                            | 8,395 | \$ 2,113,612,000 | 25.7                   |
| Com                                                 | 6,103 | \$ 1,409,445,000 | 17.1                   |
| Wheat                                               | 8,197 | \$ 1,348,366,000 | 16.4                   |
| Cattle and Calves                                   | 8,335 | \$ 1,295,654,000 | 15.7                   |
| Other Crops and Hay                                 | 6,218 | \$ 356,019,000   | 4.3                    |
| Vegetables, Melons, and Potatoes                    | 255   | \$ 240,415,000   | 2.9                    |
| Barley                                              | 1,468 | \$ 124,484,000   | 1.5                    |
| Hogs and Pigs                                       | 182   | \$ 79,242,000    | 1.0                    |

Soybeans had the highest market value of agricultural products sold with nearly 26 percent of the total sales in 2017. All crops combined accounted for 81 percent of the total.

As described above, the ratio of crop and livestock sales even in the event of corporate takeover of multiple 160 acre plots to promote livestock use at the expense of crop land use will undoubtedly be tied to the environmental impacts of destroying crop lands for feedlots that will have a direct impact on decreasing not increasing percent totals of sales. This also does not take into account of the divestiture of ownership that will result in billions of dollars in land value loss that will be forever in corporation’s control.

**An examination by the numbers of the 2017 Census report**

In the event that even a small amount of corporate takeover under the current rules will produce hundreds of millions of lost dollars that will into corporate bank accounts. In the event that the governor’s creed of one person per 160 acres is circumvented by lack of enforceable mechanisms in the current bill, here is a small snapshot of what could possibly happen through this divestiture of land and money to corporate takeover.

| 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<br>(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                 |

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:

| <b>Total and Per Farm Overview, 2017 and change since 2012</b> |               |                            |
|----------------------------------------------------------------|---------------|----------------------------|
|                                                                | <b>2017</b>   | <b>% change since 2012</b> |
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| 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.