

Date: 01/28/2025

Subject: Opposition to House Bill 1038

Chairman Barta and members of the Industry and Business committee:

Thank you for the opportunity to provide testimony in opposition to HB1038. My name is Russell Gust and I have been a commercial UAV pilot for 7 years and I own and operate one of the world's largest YouTube channels that educate people about UAV rules and regulations. I would like to express my opposition to HB1038 as written. Although I support the continued efforts to make North Dakota the leader in UAV integration, I also believe that this bill should be amended for 2 reasons.

First of all, the primary justification for the need to spend \$15 million of taxpayer money is that 85% of all state agency owned drones may not be secure. The entire premise of the Country of Origin drone restriction is based entirely on speculation, and it often dismisses the multiple independent security audits that these companies have endured and fully passed. I am primarily referring to the company DJI. This company has gone through at least 8 independent security audits, the most recent in September of 2024 by FTI, which demonstrated that users have the ability to fully prevent data transmission if they so choose. Local Data Mode can be enabled on DJI Enterprise and consumer drones, which eliminates all outbound traffic. Even when FTI allowed data to be transmitted, it was found that it went no further than servers hosted in the U.S. Our very own Department of Defense conducted a security audit in 2021 on two Government Edition DJI drones and found no evidence of data sharing, and they actually recommended them to be used by U.S. government entities.

Many proponents of a ban on DJI drones often claim that China may have the ability to disable their drones with the push of a button. There's that word again, "may." Again, through multiple studies, the use of DJI drones has not produced a single kilobyte of evidence of compromised data transmission.

A number of testimonies in support of this bill have claimed that it would be in line with the passage of the National Defense Authorization Act of 2025, in which the Countering CCP Drones Act was included. But, that is not entirely accurate. The Countering CCP Drones Act was NOT included in the NDAA of 2025. The facts are that act was amended and resulted in Section 1709, which calls upon a yet to be named agency to conduct vigorous testing on DJI and Autel drones to determine if there are any national security issues with them. The fact that Section 1709 calls for an unnamed agency to conduct the testing, and if it does not, DJI is automatically added to the FCC list, demonstrates that they have no intention to scrutinize. If they do conduct testing, they risk the result of not finding any security risks, and this would dismantle the entire effort to encourage or should I say force innovation by American drone manufacturers.

It is widely accepted in the UAV community that development of American options must be forced and subsidized, because for some reason, no company has been able to produce a product with the same capabilities at an affordable price. The battle cry of potential security implications make it more convenient to pass legislation, yet there are no receipts, only speculation. My prediction is that in the next 11 months, no agency will be directed to conduct these tests, thereby automatically enacting the Section 1709 directive, adding DJI and Autel to the FCC list. This means that all future DJI and Autel models would be prohibited from being used in the United States. This would effectively close tens of thousands of small businesses across the country and ground 95% of first responder fleets. I don't anticipate it would apply to drones that have already gained FCC certification, because that would be apocalyptic, but it's a reality.

This is the second reason that I believe HB1038 should not pass. If DJI and Autel are added to the FCC list in 2026, that means there is the possibility of federal funding for a drone replacement program. There would be no other way some entities in other states would survive without it. If that does happen, then the State of North Dakota will have spent \$15 million of taxpayer money that we didn't have to. Would it not be prudent to wait and see if the federal government actually does assign an agency to complete the testing and if they, A. find no security problems, keep using the very capable, affordable and readily available drones that we have and save the money, or B. they find security issues, ban them nationwide and we apply for Federal funding to replace them?

I want to be very clear on one thing - I am quite aware that China poses a national security threat, and I also understand that we need to reduce our reliance on products from adversarial countries, not only for security reasons, but also to foster American manufacturing and innovation. I truly would love to see an American drone company come out of nowhere and surprise us with capable and affordable solutions to support what we are doing in North Dakota.

The Northern Plains Test Site and the people there are pioneering the way for what will be a revolution in UAV technology across this country. Supporting the Vantis network will continue to help our state be recognized as the silicon valley of drones. However, building a superhighway for the nation, but then not allowing the world's most utilized and capable brand on that highway seems counterproductive and unnecessarily costly at this time. As our nation inevitably transitions to domestic drones over time, it is my feeling that it should not be at the expense of the taxpayer. I believe it should be up to manufacturers to find ways to help companies and agencies utilize their products. One example is that of Seattle-based BRINC, which just announced the "BRINC Beyond" program, which helps first responder agencies transition to purpose-built equipment while at the same time continuing use of their current fleet. American drone maker Skydio also has a program in place to incentivize the transition to their products.

This is a step in the right direction, as it lessens the burden on the taxpayer. In closing, Senators, I respectfully request that HB1038 be amended to strike Section 1, the Drone Replacement Program and support Section 2, the funding of the State Radar Pathfinder Program.

Respectfully,
Russell Gust