

2025 SENATE STATE AND LOCAL GOVERNMENT

SB 2026

2025 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee Room JW216, State Capitol

SB 2026
1/10/2025

Relating to certification of a foreign grantee's right to own property and the filing of foreign ownership information statements with the Secretary of State.

9:38 a.m. Chair Roers called the meeting to order.

Members Present: Chair Roers; Vice Chair Castaneda; Senators: Barta, Braunberger, Lee and Walen.

Discussion Topics:

- Business with foreign adversaries
- National security
- North Dakota property ownership
- Financial impact

9:38 a.m. Senator Thomas introduced the bill and testified in favor.

9:48 a.m. Attorney Dustin Richards, Legislative Council, clarified parts of Senator Thomas' testimony.

9:50 a.m. Representative SuAnn Olson, testified in favor and submitted testimony #30722.

10:05 a.m. Representative Jeff Hoverson, testified in favor.

10:14 a.m. Mike Monroe, Business Service Director of the Office of the Secretary of State, testified neutral and submitted testimony #28357.

10:18 a.m. Lonnie Grabowska, Director of ND Bureau of Criminal Investigation, testified neutral and submitted testimony #28757.

10:29 a.m. Carrie Krause, Wells County Recorder, testified neutral and submitted testimony #28359.

10:33 a.m. Deb Moeller, Cass County Recorder, testified neutral and submitted testimony #28332.

10:39 a.m. Nick Hacker, President of the Title Team Co. and with Land Title Association, testified in opposition and submitted testimony #28337.

10:45 a.m. Andrea Pfennig, Vice President of Greater ND Chamber, testified in opposition and submitted testimony #28363.

10:49 a.m. Blaine Johnson, Chairman of ND State Bar Association Real Property Section, testified in opposition.

11:06 a.m. Cale Dunwoody Vice President of Public Policy for Fargo, Moorhead, West Fargo Chamber of Commerce testified online in opposition and submitted testimony #28362.

11:08 a.m. Chair Roers closed the hearing.

Susan Helbling, Committee Clerk

Testimony Prepared for the
Senate State and Local Government Committee
January 10, 2025
By: Deborah A. Moeller, Cass County Recorder

RE: SB2026 Certification of
foreign grantee's right to
own property

Good morning, Chairwoman Roers and Committee Members.

My name is Deb Moeller and I am the Cass County Recorder. Thank you for the opportunity to appear before you to speak neutrally on SB 2026.

My office is responsible for recording an average of 29,000 documents per year of which 6,000 of those documents are deeds. SB 2026 will have significant implications for the Cass County Recorders Office as well as those who submit deeds to our county for recording. The statement of compliance proposed in SB 2026 appears to be required on all deeds except those exempted in Subsection 6 of N.D.C.C. 11-18-02.2. Effectively, the statement of compliance will apply to comparatively few foreign grantees.

Some of the administrative concerns I have in complying with SB 2026 are:

1. the staff hours needed to reject non-compliant deeds and educate submitters on the statement of compliance requirement;
2. how will submitters correct the already executed non-compliant deed;
3. how do we determine if a grantee is falsifying a statement of compliance;
4. are submitters using exemptions under Subsection 6 of N.D.C.C. 11-18-02.2 to avoid the statement of compliance requirement; and,
5. is the statement of compliance required on transfer on death deeds since they aren't exempted under Subsection 6 of N.D.C.C. 11-18-02.2.

While I understand the purpose of SB 2026, I ask that you consider the implications for all North Dakota Recorders and document submitters in relation to the objective of the proposed statement of compliance requirement.

Thank you for your time and consideration.

I remain ready to answer any questions you may have for me.

Senate State and Local Government Committee**Hearing on SB 2026**

Testimony from North Land Title Association

Nick Hacker – Legislative Chair

nick@thetitleteam.com: (240) 688-2210

Chairwoman Roers and Members of the Committee, my name is Nick Hacker with the North Dakota Land Title Association as well as President of The Title Team Co.

Our industry provides abstracting, title insurance and real estate closing services in every county of the state. Our job is to provide for the safe and efficient transfer of real estate between buyers and sellers.

Senate Bill 2026 creates a cumbersome and ambiguous process that must be undertaken on all real estate transactions and will add confusion for regular North Dakota citizens who will now have to understand and become knowledgeable of NDCC 47-01-09 before purchasing a home. This is generally an exciting experience when homebuyers are thinking about the physical attributes of the home they are purchasing and at the very end of the process will now need to understand the law.

As real estate closing companies, we present deeds for recording on behalf of our clients and to satisfy title insurance requirements on all transactions. This action could be interpreted under section 2 as becoming the grantee's authorized agent whether explicitly agreed to or not. We frequently serve in this capacity and meet the requirement NDCC 11-18-02.2 in which a statement must be included in the deed because we have the requisite knowledge about the real estate transfer to attest to this section of the law. Due to the ambiguous nature of SB 2026 and not having the requisite information we would not explicitly agree to serve as the authorized agent which this bill possibly create such a burden.

Real estate transactions are dynamic. Sometimes the seller signs before the buyer and sometimes the buyer signs before the seller. Other than in rare circumstances such as a VA loan document, this is the only document that will be required to be signed by both parties to the transaction at the time of closing. This will unduly delay closings and cause hardships to parties who are not present for the closing such as deployed military, nursing home residents or someone out of state during the winter.

Additionally, the bill is asking a prohibited party to attest that they are prohibited from owning the property, common sense would imply that the prohibited party would not be truthful.

SB 2026 creates a cumbersome process, is ambiguous and will burden North Dakotans at a time when they should be celebrating and enjoying their new home.

Please give this bill a do not pass recommendation.

Thank you.

SENATE STATE & LOCAL GOVERNMENT COMMITTEE
SENATOR KRISTEN ROERS, CHAIR

TESTIMONY PRESENTED BY

MICHAEL MONROE, BUSINESS SERVICES DIRECTOR

Chairman Roers and members of the committee, I'm Mike Monroe, Business Services Director for the Office of the Secretary of State. I'm here to provide neutral testimony and request a slight wording change and provide information regarding Section 6 that could impact our ability to administer this section as proposed.

Before I begin my testimony, I want to again provide some clarity with regards to the terms "Domestic" and "Foreign" entities as they are referred to in business statutes. Current statute refers to domestic entities as any entity formed within the state of North Dakota, and foreign entities as those formed outside of North Dakota's borders that may operate in another state, such as South Dakota, Minnesota, or even Delaware. Due to this, you will notice that the bill makes reference to "country of concern" or "foreign organization of concern" which is acceptable language for us to differentiate it from the meaning of "foreign" in our statutes.

We have one requested change in the proposed language in Section 6, subsection 2, found on page 7. The first line of subsection 2 on line 15 reads, "The secretary shall review each filing upon receipt," and then continues to provide language requiring us to forward any falsified information to the attorney general. Upon receipt of the initial filing, it would be almost impossible for us to know if any type of falsification of information had happened. Due to this we are requesting the first sentence be struck from the proposed language. If an individual comes forward to report a suspected falsification to us at any time, we could easily forward the filing information we've received to the attorney general for investigation as required by the remaining language in this section.

Please note that Section 6 may also be impacted by court cases that are currently in process challenging the beneficial ownership portion of the Corporate Transparency Act. If these requirements were to change or be removed, it would nullify or require changes to this section. This case is currently in the litigation process.

I ask that you consider our suggested language strikes for better administration and would be happy to stand for any questions.

Senate State and Local Government Committee

January 10, 2025

By: Carrie K. Krause, Wells County Recorder

RE: SB2026 Certification of
foreign grantee's right to
own property

Good Morning Chairwoman Roers and Committee Members.

For the record I am Carrie Krause, Wells County Recorder. Thank you for allowing me to stand before you today to speak neutrally on SB 2026

SB 2026 requires all "deeds" as defined in 11-18-02.2 to have a Statement of Compliance whether the grantee is allowed to own property under 47-01-09 or not. I have a concern on how the County Recorders will enforce this statute by knowing that the grantee or an agent for the grantee is falsifying the statement if they state they are allowed to own property.

What guidelines would be made available for us to know if someone is falsifying the statement. Could a Recorder be accused of "discrimination" of a grantee based upon their name?

Certain deeds for example a Transfer on Death Deed is not considered a deed in 11-18-02.2 as no transfer takes place until the grantor of the Transfer on Death Deed passes away and a Death Certificate is filed.

These are a few of the concerns and questions as a County Recorder, I have with this bill.

Thank you again for your time and consideration.

With that I will stand for any questions.



Letter of Opposition – SB 2026

Friday, January 10th, 2025

Chairwoman Roers and Members of the Senate State and Local Government Committee,

For the record, my name is Cale Dunwoody, and I have the distinct pleasure of serving as the Vice President of Public Policy for the Fargo Moorhead West Fargo Chamber of Commerce (FMWF Chamber). On behalf of our more than 1,700 members, I respectfully offer testimony in opposition to Senate Bill 2026.

At the FMWF Chamber, our mission is to protect and promote business, inspire individuals, cultivate communities, and influence action. While we deeply respect and support efforts to safeguard national security, we believe this bill, as currently written, would hinder North Dakota's business climate, economic growth, and international partnerships. Specifically, our concerns center on the inadvertent financial and regulatory burdens this bill may place on businesses operating in good faith, as well as the possibility of deterring valuable economic development across the state.

As the committee considers this legislation, we encourage a judicious analysis of its impacts and urge pragmatic modifications that protects national security interests and minimizes the negative effects on the business community, thereby safeguarding legitimate economic development opportunities.

Thank you for your attention to this matter and your commitment to North Dakota's business environment.

Sincerely,

Cale Dunwoody
Vice President of Public Policy
Fargo Moorhead West Fargo Chamber of Commerce



GREATER NORTH DAKOTA CHAMBER
SB 2026

Senate State & Local Government Committee
Chair Kristin Roers
January 10, 2025

Chair Roers and members of the Committee, my name is Andrea Pfennig, and I am the Vice President of Government Affairs for the Greater North Dakota Chamber. GNDC is North Dakota's largest statewide business advocacy organization, with membership represented by small and large businesses, local chambers, and trade and industry associations across the state. We stand in **opposition** of Senate Bill 2026.

Our members recognize that North Dakota businesses are competing in a global economy. Because of this, it is important that we have a policy framework that helps the state attract capital investment. By removing the threshold of 50% of total controlling interests or total ownership interests, it is unclear how current and future publicly traded corporations would be affected by this bill.

Section 6 of the bill indicates that any organization required to file a beneficial ownership information statement with the Financial Crimes Enforcement Network must also file a statement with the Secretary of State. However, there are several cases across the country challenging the federal law making the enforcement of the reporting requirement messy and unclear. In early December 2024, a federal court halted the implementation of the Corporate Transparency Act's Beneficial Ownership Information (BOI) reporting requirements indicating that the Act was likely unconstitutional. On Dec. 23, 2024, the injunction was lifted, and the report went back into effect. A few days later, a different panel of judges reversed that order, and the reporting requirements were again halted.

Treasury's Financial Crimes Enforcement Network (FinCEN), which administers the CTA, estimates that BOI reporting regulations (if enforced) apply to 32.6 million entities with 5 million to be added each year through 2034. As you can see, this report alone has the potential for significant impact on American businesses.

On the surface, requiring North Dakota businesses to file a report that is already required at the federal level is duplicative and burdensome. Digging deeper, requiring businesses to file a report of which the validity is being challenged on the federal level from multiple fronts adds significant confusion for North Dakota business owners.

We hope that you will consider the potential consequences this bill could have. In light of the questions being raised at the federal level regarding the BOI reports, it may be beneficial to postpone taking action at this time. Thank you for your consideration.

SENATE STATE AND LOCAL GOVERNMENT COMMITTEE
JANUARY 10, 2025

TESTIMONY OF LONNIE GRABOWSKA
OFFICE OF ATTORNEY GENERAL
SENATE BILL 2026

Chairwoman Roers and Members of the Senate State and Local Government Committee:

My name is Lonnie Grabowska, and I am the Director of the North Dakota Bureau of Criminal Investigation (NDBCI). I am here to outline the operational impact of SB 2026 on the North Dakota Office of Attorney General (NDOAG) and the NDBCI.

Investigations into foreign ownership and compliance with state and federal restrictions are inherently complex and multi-layered, requiring coordination across various domains and jurisdictions. These efforts must navigate sensitive national security concerns, involving classified intelligence that may not always be accessible to state officials and decision makers, adding significant hurdles to transparency and actionable insights.

Analyzing large datasets from public records, sanctions lists, and business databases requires advanced tools and skilled personnel, both of which require significant investment. The complex corporate structures and ownership schemes used by foreign entities complicate efforts to trace true ownership and assess compliance. This highlights the need for a robust, well-funded, and coordinated investigative framework for effective enforcement.

Since the previous legislative and interim sessions, NDBCI has been researching how to acquire the capability for conducting foreign adversary investigations. Throughout this period, we have held numerous meetings with law enforcement and intelligence partners, as well as with private industry representatives.

These are the capabilities we **currently possess** for conducting investigations into foreign countries of concern or foreign organizations:

1. Utilize federal and state law enforcement expertise and resources.

2. Federal Partners:

- a. Collaborate with Federal Bureau of Investigation (FBI), the Department of Homeland Security (DHS), and other federal agencies for classified intelligence.
- b. Request sensitive information to assess risks related to national security or economic espionage.
- c. Coordinate with the Committee on Foreign Investment in the United States (CFIUS) for cases involving national security agreements.

3. State and Local Law Enforcement:

- a. Partner with state and county agencies for intelligence-sharing and enforcement.
- b. Train local law enforcement on identifying suspicious transactions involving foreign ownership.

4. Intelligence Sharing:

- a. Request access to relevant interagency databases.

However, significant **challenges** remain:

1. **Information Access:** Security restrictions and redacted intelligence.
2. **Coordination Hurdles:** Differing priorities and timelines.

Section 4 of SB 2026 requires the NDOAG to assist city council or commissions, county commissions, title agents or companies, and the North Dakota Secretary of State by conducting civil reviews and making determinations whether persons are foreign organizations of concern and ineligible to own real property. This type of a determination requires an extensive investigation by NDBCI.

Similarly, Section 6 of SB 2026 requires the NDOAG to determine whether an organization has falsified a certification to the Secretary of State about whether the organization is a foreign organization of concern in violation of the provisions in this bill and, if so, to prosecute the organization. Again, this type of a determination requires significant investigative time and resources from NDBCI.

These are the capabilities we **require** to conduct investigations into foreign countries of concern or foreign organizations:

1. Personnel (2 NDBCI Criminal Investigators)

- a. NDBCI will oversee the complex investigations outlined earlier related to the civil and criminal components of the filings by foreign countries of concern or foreign organizations. The field investigations will be instrumental for the State's Attorney's Offices and the NDOAG Assistant Attorney Generals to make determinations on civil penalties and criminal charges. These agents will be

tasked with applying for the authority of the Federal Bureau of Investigation (FBI) as Task Force Officers (TFO) working with the FBI's Joint Terrorism Task Force (JTTF). The NDBCI agents will have direct communication and basic access to the Department of Justice (DOJ). Even though the NDBCI agents will be FBI TFO's these agents will be restricted from full DOJ database access, and any applicable sensitive information will be granted by the FBI on a need-to-know basis. Any information supplied to the FBI TFO agents may be classified which would limit NDBCI's ability to disseminate the data to non-qualified persons, potentially including prosecutors.

- b. The (2) NDBCI Criminal Investigators will consist of one Special Agent being assigned in western (Dickinson or Williston) North Dakota and the second Special Agent being assigned in eastern (Fargo or Grand Forks) North Dakota. These assignments will meet the geographical needs to effectively respond to civil and criminal investigations across the state.

Financial Cost (2 NDBCI Criminal Investigators)

\$250,210 per agent, per biennium, salary and benefits

\$53,235 per agent, per biennium, ongoing operating

\$19,785 per agent, one-time operating/small equipment

\$64,100 per agent, one-time capitol assets (car, radios)

Total cost for one agent: \$387,330 for the 2025-2027 biennium

Total cost of request (2 agents): \$774,660 for the 2025-2027 biennium

2. Advanced analytical tool

a. An advanced analytical tool assists in the collection, management, and analysis of intelligence data, significantly improving investigative processes. Advanced analytics and Artificial Intelligence (AI) driven tools assist in the processing and visualization of information, enabling investigators to delve into complex networks across diverse data sources and variable timeframes.

- i. **Data Collection and Integration:** These tools collect data from various sources, such as databases, spreadsheets, web services, surveillance systems, and social media. They integrate this data into a single platform for easy access and analysis.
- ii. **Data Preparation:** The tools clean and pre-process the data to ensure accuracy and consistency.
- iii. **Data Analysis:** Using advanced analytics and machine learning algorithms, these tools analyze the data to identify patterns, trends, and connections. This helps in detecting criminal activities and potential threats.
- iv. **Data Visualization:** These tools provide interactive visualization capabilities, allowing investigators and analysts to create maps, timelines, and network diagrams to better understand the information.
- v. **Collaboration:** These tools offer collaborative workspaces where investigators can share information and work together on cases.
- vi. **Real-Time Insights:** With real-time data access, investigators can make informed decisions in real time.

- vii. **Documentation:** These tools provide investigators a means to document their findings and create comprehensive reports. They also generate reports and actionable insights that help investigators or policymakers make data informed decisions.

Financial Cost for Analytical Tool

\$2 – 3 million (approximate initial cost)

\$170,000 (approximate annual maintenance)

NDOAG also would require an **additional Assistant Attorney General** in the Criminal Law Division to carry out prosecutions under Section 6 of this bill. Our Criminal Law Division is severely understaffed and would not be able to accept the additional cases from this bill without negatively impacting their existing responsibilities to the state.

In summary, to effectively analyze large datasets from public records, sanctions lists, and business databases, advanced tools and skilled personnel are necessary, requiring significant investment. The complex corporate structures and ownership schemes used by foreign entities further complicate tracing true ownership and compliance. Thus, a robust, well-funded, and coordinated investigative framework is essential for effective enforcement but cannot guarantee access to the complex and often classified or offshore information regarding foreign ownership.

SB 2026 Regarding Foreign Ownership
Testimony presented by Rep. SuAnn Olson
Senate State and Local Government Committee
1.10.25

Testimony in support of SB 2026 as introduced by Legislative Management on behalf of the Agriculture and Natural Resources Committee and in support of Proposed Amendments to SB 2026.

Chairwoman Roers and members of the committee, I urge you to support the diligent work that was done by the large Agriculture and Natural Resources Committee during the interim and support SB 2026. It is a good bill and substantially improves the first attempt that was made in the 2023 session to control activities by foreign adversaries, now called foreign country of concern or foreign organization of concern by the CFR (Code of Federal Regulations).

There are 195 countries in the entire world. This bill restricts citizens of 5 countries, China, Cuba, Iran, North Korea, and Russia as well as the Venezuelan Maduro regime, from owning property in ND and has no impact whatsoever on the remaining 189 countries. Surely, we can find investors among our own citizens and the other 189 countries to develop good business ideas and create new endeavors.

We as North Dakotans should not be apologetic for our state, for our weather, for our rural-ness, for our apparent lack of sophistication. I am here to tell you that we are not the vision of North Dakota as a Buffalo Commons that the Poppers described in 1987. We are an Agriculture, Energy and Military powerhouse and we need to act that way. We as legislators need to protect and defend these important industries and activities in order to protect our own citizens and indeed the entire country. Our ag, energy and military are important to our national security. Critically important. We need to act like it and take steps to protect all three. Controlling who owns property or businesses in our state is an important step. Are we serious about protecting this state and country or not?

I am presenting an amendment to SB 2026 which does the following:

1. In Sections 1, 3 and 4 of the bill, the same paragraph is added in each that states that an organization which is exempt under this bill loses that exemption if it becomes owned/partially owned by a foreign country or organization of concern. This closes a back door to foreign ownership by coming in through an established business.
2. In Section 4, leasehold interests are also added to acquiring title to property by a foreign country or organization of concern. This is important because the ability to lease a property would, in fact, be easier to accomplish by a foreign entity than purchasing a property.

As I campaigned this last year for re-election, I got into conversations with District 8 voters about what they thought about foreign adversaries owning property or businesses in ND. Not one of them said they thought this was a good idea. I don't think it's a stretch to believe that most North Dakotans feel the same way.

During the interim committee meetings, we heard from several presenters, several of which had significant experience at the federal level with foreign activities and who still held high level security clearances. They are aware of the dangers adversaries present. We heard from Sen. Cramer who told the committee that we couldn't wait for the federal government to act.

Chairwoman Roers and the committee, I urge you to support this bill with a DO PASS recommendation.

Thank you.

2025 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee Room JW216, State Capitol

SB 2026
1/16/2025

Relating to certification of a foreign grantee's right to own property and the filing of foreign ownership information statements with the Secretary of State

11:09 a.m. Chair Roers called the meeting to order.

Members Present: Chair Roers; Vice Chair Castaneda; Senators: Barta, Braunberger, Lee and Walen.

Discussion Topics:

- Business with foreign adversaries
- National security
- Control activities in North Dakota
- Financial impact

11:09 AM Committee action.

11:11 a.m. Senator Lee moved to Do Not Pass.

11:11 a.m. Senator Walen seconded the motion.

Senators	Vote
Senator Kristin Roers	Y
Senator Jose L. Castaneda	Y
Senator Jeff Barta	Y
Senator Ryan Braunberger	Y
Senator Judy Lee	Y
Senator Chuck Walen	Y

Motion Passed 6-0-0

Senator Barta will carry the bill.

11:16 a.m. Chair Roers adjourned the meeting.

Susan Helbling, Committee Clerk

REPORT OF STANDING COMMITTEE
SB 2026 ([25.0414.01000](#))

State and Local Government Committee (Sen. Roers, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2026 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.