



Nebraska Foreign Land Ownership Restrictions: 2024 Update

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overview

- topic: changes to Nebraska statutes regarding alien land ownership
- federal programs regarding foreign land ownership & foreign investment restrictions in the US
- LB1301: revises general alien ownership statutes & provides new prohibitions & limitations on foreign adversaries.
- LB1120: requires sworn statement that buyer of land near military installations is not affiliated with foreign adversaries.
- beneficial ownership registry: is a corporation a front for foreign adversaries or a legitimate business corporation?



current foreign agland ownership

- according to latest USDA Agricultural Foreign Investment Disclosure Act report, approximately 3% of US agricultural land is foreign owned, and approximately 1.73% (795,839 acres) of all Nebraska agland (45,994,286 acres) is foreign owned
- In Nebraska, 19 acres are owned by Chinese (Syngenta Seeds, US subsidiary of ChemChina) – 0.000004% of all Neb agland & 0.0024% of all foreign owned agland in Neb
- 77 acres owned by Hong Kongians – 0.01% foreign owned
- 125 acres owned by Iranians – 0.016% foreign owned
- about 75% foreign owned agland is owned by Canadians
- some foreign nationals may purchase land in the US (and Nebraska) if authorized by treaty, notwithstanding state foreign ownership statutes

Figure 1

Proportion of Foreign Held Agricultural Land to All Privately Held Agricultural Land in the U.S. as of December 31, 2022

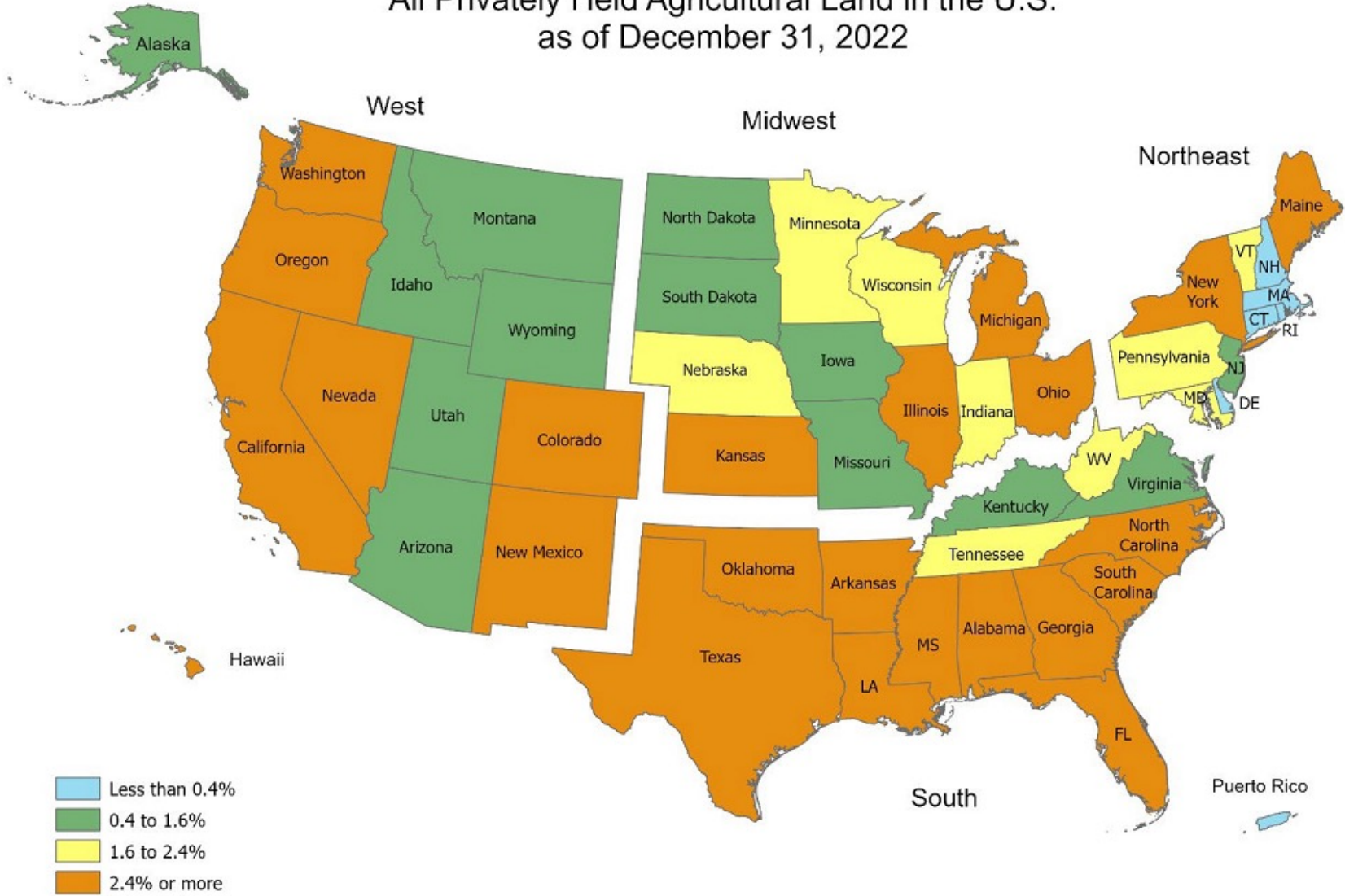
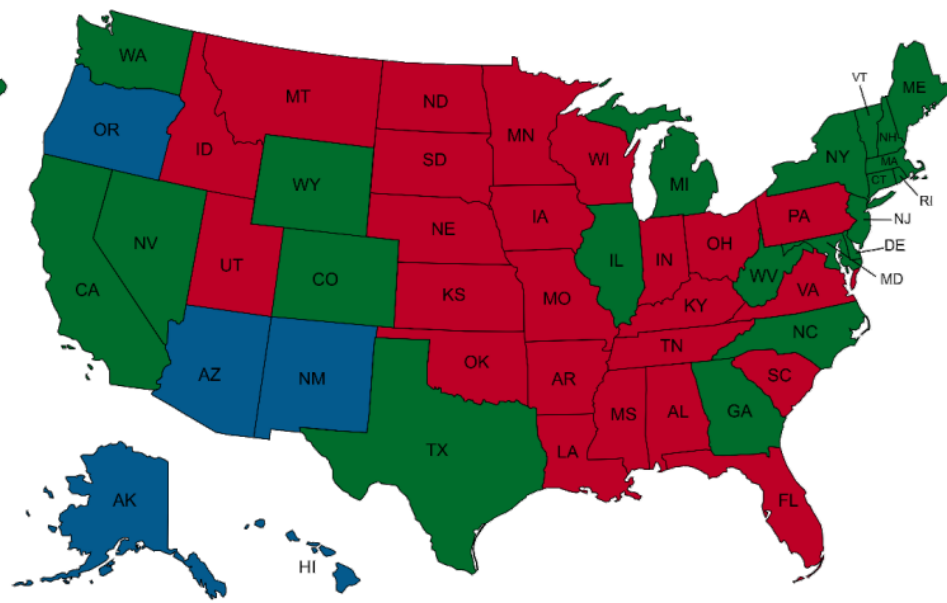
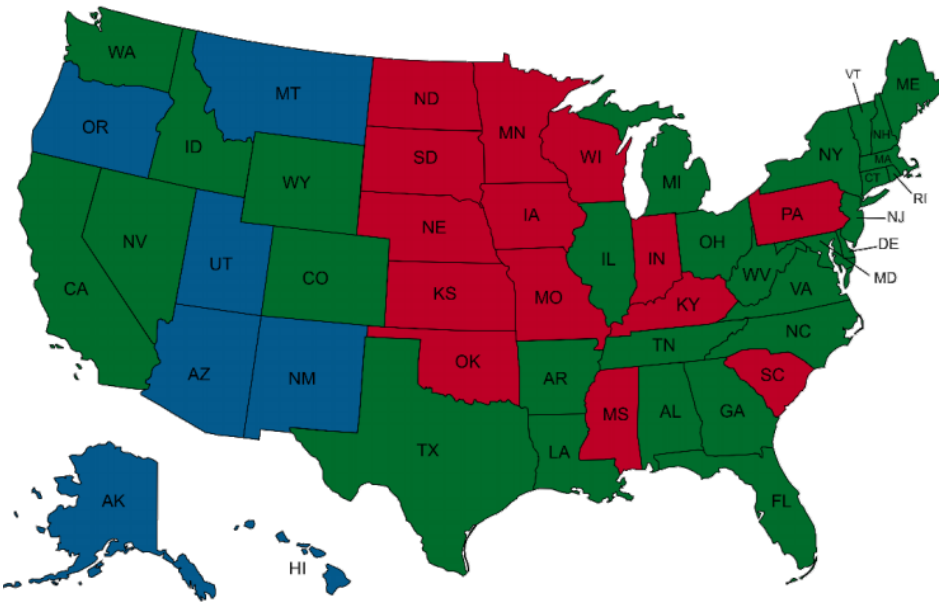


Figure 2

2022 vs. 2023 Foreign Ownership Laws

2022

2023





Agricultural Foreign Investment Disclosure Act of 1978 (AFIDA)

- AFIDA requires foreign persons who acquire, transfer, or hold interests in agricultural land to report the transactions and holdings to USDA within 90 days
- reporting is on form FSA-153, filed with FSA office where land is located
- USDA prepares annual reports summarizing state & national data on foreign interests in US agland
- 2022 Congressional update: USDA must develop digital submission capability & online website required by 2026
- we don't know if all foreign investors are in fact filing disclosure statements



Committee on Foreign Investment in the United States (CFIUS) Reviews

- federal interagency committee reviews national security implications of foreign investments in US companies or operations
 - computer tech, defense tech, critical infrastructure, real estate.
 - Treasury (chair), Defense, State, Commerce, Homeland Security, Director of National Intelligence + 10 agencies (not USDA yet).
- foreign investors must voluntarily notify CFIUS, which can also review transactions not voluntarily submitted
- more recently, CFIUS reviews foreign land acquisitions near ports, airports, critical infrastructure & military bases
- CFIUS can recommend President prohibit, require divestment etc.
- we don't know if all foreign investors are in fact notifying CFIUS



potential Congressional action

- Senate has adopted amendment to 2024 Defense Appropriation bill prohibiting “big 4” (China, Russia, North Korea, Iran) from purchasing US land (amending CIFUS)
- HR ag committee USDA appropriation rider directs USDA to block farmland purchases by “big 4”
- many other Congressional proposals
- likely to be part of 2024/25 Farm Bill proposal and/or riders to 2024 defense or USDA or other appropriation bills



current (unamended) Nebraska foreign land ownership restrictions & prohibitions

- aliens (i.e. most non-US citizens) & “foreign corporations” prohibited from owning or leasing land Nebraska NRS 76-402
 - up to 5-year lease okay
- so basic Neb law is (and has been for over 100 years) an absolute prohibition on most aliens from purchasing or leasing land in Nebraska.
 - both enemy aliens & non-enemy aliens
 - includes land near to (and far away from) military installations
- monitoring & enforcement provisions are pretty weak though IMO



exceptions -- current law

- exceptions:
 - oil & gas leases
 - railroads; public utilities; common carriers
 - land used for manufacturing or industrial purposes & petroleum product storage, sales or distribution
 - land within cities & villages & within 3 miles thereof
 - land inherited by widows/heirs before 3-1-1889, divest within 10 years
 - grandfather clause: land acquired by alien before 3-1-1889
 - debt collection exception; 10-year divestiture



Foreign-Owned Real Estate National Security Act (LB1301)

- introduced by Sen. McKay (Verdel) at the request of Gov. Pillen.
- revises the current alien ownership restriction statutes
- excludes foreign adversaries from most exceptions & conditions their qualifying for two exception
- restrictions & prohibitions are statewide, not limited to land near military installations
- citizens may report suspected violations to Neb Dep't of Agriculture or to Neb Attorney General for investigation
- violations result in divestiture
- LB1301 takes effect January 1, 2025
 - current law stays in effect unamended until then



basic prohibition largely unchanged

- aliens (i.e. non-US citizens) & “foreign corporations” prohibited from owning or leasing land Nebraska
- applies to all non-qualified aliens including (but not limited to) foreign adversaries and to all nonexempted land
 - exemptions have changed in LB1301 so narrower exceptions to general prohibition
 - basically fewer exceptions



foreign adversary exclusions

- entities connected to federally identified foreign adversaries face additional prohibitions: China, Cuba, Iran, North Korea, Russia and Venezuela
- foreign adversaries are **not** entitled to these exemptions
 - oil & gas leases
 - public utility, railroad & common carrier
 - inherited land, 5-year divestiture
- foreign adversaries are not entitled to these exemptions **unless** they have negotiated a CFIUS National Security Agreement (NSAs)
 - land used manufacturing or industrial purposes & petroleum product storage, sales or distribution
 - land within cities & villages & within 3 miles thereof



repealed exceptions

- land inherited by widows/heirs before 3-1-1889, divest within 10 years
- grandfather clause: land acquired by alien before 3-1-1889
- debt collection exception; 10-year divestiture
- all these repealed by LB1301 effective Jan 1, 2025



monitoring & enforcement

- under current law, enforcement is the responsibility of the local county attorney
- under LB1301 citizens may bring concerns regarding possible violations to the Neb Dep't of Agriculture or to the Neb Attorney General.
- Dep't of Ag investigates potential violations, makes referrals to Attorney General or to outside legal counsel.
- if upon investigation the Neb AG or outside legal counsel find violations, they may institute divestiture proceedings
- Neb Attorney General may refer matters to CIFUS for its consideration.



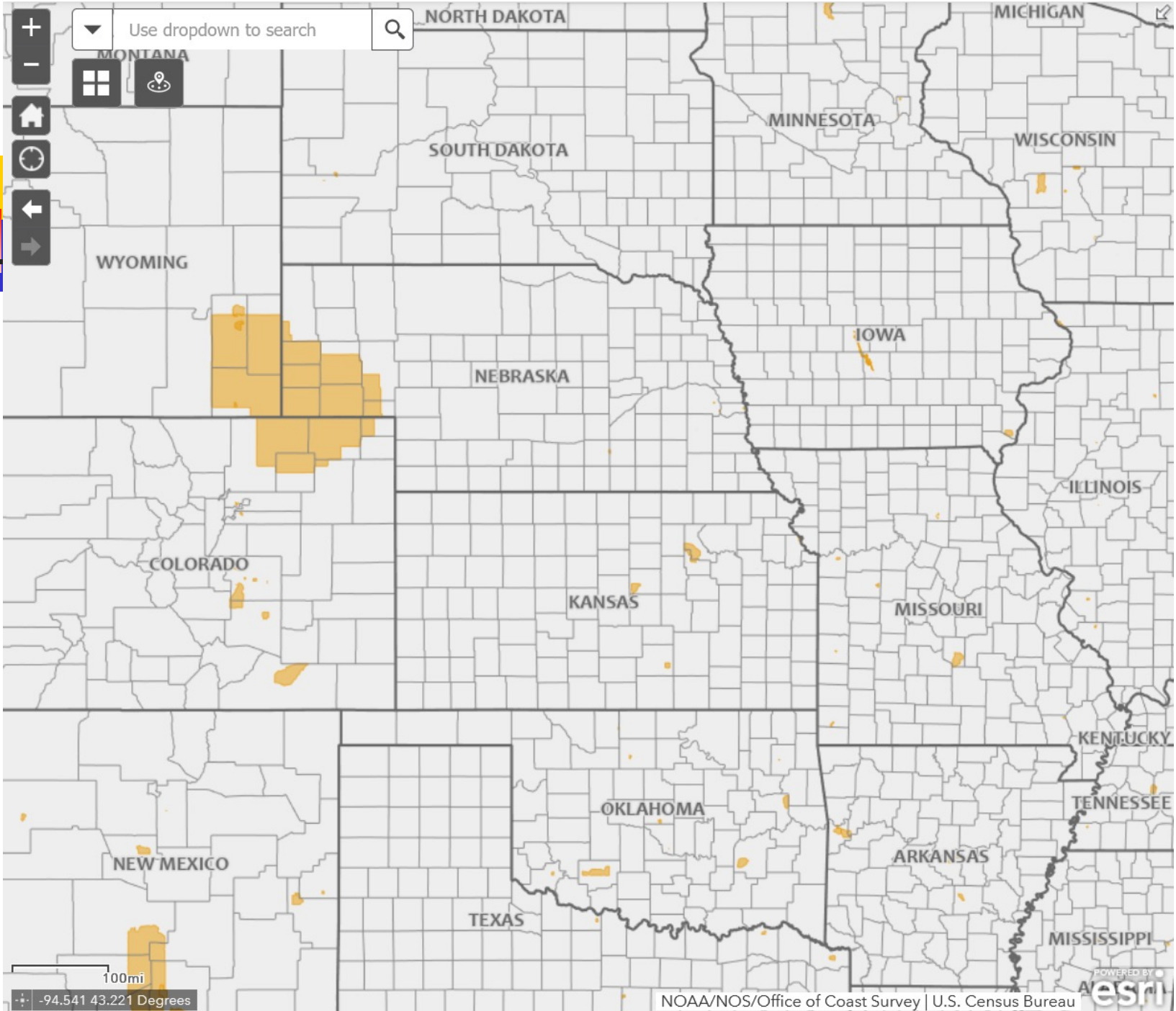
LB1301 summary

- prohibits most real estate purchases by non-qualified aliens (e.g. permanent US residents) – continuation of current policy
- narrows exceptions to land purchasing prohibition, especially for foreign adversaries
- monitoring and enforcement greatly strengthened, citizens (including county officials) can share concerns with Ag Dep't or AG for investigation.
- foreign adversary focus but no military installation focus (all land is included statewide)



land purchases near military installations

- LB1120 introduced by Sen Hardin (Gering). Address suspicious purchases of land near intercontinental ballistic missile fields in the Nebraska panhandle.
- Buyer of real estate near certain military installations must sign a sworn statement that the buyer has no affiliation with federally defined foreign adversaries.
 - China, Cuba, Iran, North Korea, Russia and Venezuela
- applies to federally defined “covered lands” near military installations, airports, seaports, etc.
- In Nebraska that is all of Banner, Cheyenne, Kimball, and Scotts Bluff counties; and portions of Deuel, Garden, Morrill and Sioux counties.
 - Does not include Offutt Air Force Base in Sarpy county



Use dropdown to search



NORTH DAKOTA

MICHIGAN

MONTANA

MINNESOTA

WISCONSIN

SOUTH DAKOTA

WYOMING

IOWA

NEBRASKA

ILLINOIS

COLORADO

KANSAS

MISSOURI

KENTUCKY

NEW MEXICO

OKLAHOMA

TENNESSEE

TEXAS

ARKANSAS

MISSISSIPPI

100mi

-94.541 43.221 Degrees

NOAA/NOS/Office of Coast Survey | U.S. Census Bureau





LB1120, con't

- sworn statement (“affidavit”) must be filed with the local recorder of deeds
- new deed to buyer cannot be recorded until affidavit has been properly filed
- copy of affidavit sent to Neb Attorney General’s office
- LB1120 effective date is July 19, 2024.
- while there is no reference to Neb Dep’t of Ag in LB1120, I would submit concerns to either the Ag Dep’t or the Attorney General’s office.



shell companies & beneficial ownership registries

- “shell companies” may be used to hide criminals, foreign adversaries etc. behind legal entities to obscure their criminal activities
 - e.g. drug gang money laundering, etc.
- The 2021 Corporate Transparency Act (CTA) requires most corporations & other limited liability business entities to register with the Treasury Department & provide information regarding those with major role in the business entity
- when this US “beneficial ownership registry” is operational, it can be used to help see if foreign adversaries are hiding behind a shell entity, etc.



Neb alien ownership issues, con't

- enhanced citizen monitoring & agency investigation & enforcement should strengthen the alien ownership restrictions program in Neb
- CTA beneficial ownership registry, when operational, will help state and federal law enforcement track down criminals including foreign adversaries hiding their identity in shell entities.
- citizens will play a very important role in making this program successful. It can't succeed without citizen participation.
- Questions? Thank you 😊 daiken@unl.edu