

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1265

6 By: McCall

7 COMMITTEE SUBSTITUTE

8 An Act relating to property and critical
9 infrastructure; creating the Military Installation
10 and Critical Infrastructure Protection Act of 2024;
11 defining terms; prohibiting foreign principals from
12 foreign adversary countries from owning, having an
13 interest in or acquiring agricultural land;
14 describing scope of de minimis indirect interest;
15 directing the sale, transfer, or divestiture of
16 agricultural land under certain circumstances;
17 establishing registration requirements; allowing for
18 the acquisition of agricultural land under certain
19 circumstances; deeming contracts, deeds or other
20 agreements invalid; assigning the Office of the
21 Attorney General with the responsibility of making
22 certain determinations; granting the Attorney General
23 the authority to commence certain actions in district
24 court; providing for the sale of land through
judicial foreclosure; providing payment of a reward
to whistleblowers; providing for the disbursement of
proceeds; providing for the adoption of rules;
prohibiting foreign principals from foreign adversary
countries from purchasing, holding, renting or
controlling any property near military bases or
installations; requiring the sale, transfer, or
divestiture of property within certain time period;
deeming contracts, deeds or other agreements invalid;
granting the Attorney General the authority to
commence certain actions in district court; providing
for the sale of land through judicial foreclosure;
providing payment of a reward to whistleblowers;
providing for the disbursement of proceeds; assigning
the Office of the Attorney General with the
responsibility of making certain determinations;

1 establishing guidelines for whistleblowers; providing
2 for referrals to the Office of the Attorney General;
3 establishing rewards for whistleblowers; setting
4 effective date for whistleblower enforcement
5 provision; prohibiting entities and governmental
6 entities from entering into agreements relating to
7 critical infrastructure with foreign principals from
8 foreign adversary counties; authorizing entities and
9 governmental entities to enter into agreements under
10 certain circumstances; requiring companies to file a
11 certification form prior to accessing critical
12 infrastructure; establishing guidelines for
13 maintaining registrations; setting fee for
14 administering certification process; providing for
15 the revocation of certifications; prohibiting the use
16 of certain software in state infrastructure;
17 providing for the replacement of prohibited software;
18 providing software removal and notification
19 requirements; directing the Office of the Attorney
20 General to establish reporting process for non-
21 notified transactions; authorizing the Attorney
22 General to submit memorandums or reports to certain
23 committee; directing the Attorney General to retain
24 certain documents and notify the State Legislature
and Governor; providing for noncodification;
providing for codification; and providing an
effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Military
Installation and Critical Infrastructure Act of 2024".

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 128.1 of Title 60, unless there
is created a duplication in numbering, reads as follows:

1 As used in this act:

2 1. "Agricultural land" shall mean a land area that is either
3 arable, under permanent crops, or under permanent pastures. Arable
4 land includes land under temporary crops such as cereals, temporary
5 meadows for mowing or pasture, land under market or kitchen gardens,
6 and land temporarily fallow. Land abandoned as a result of shifting
7 cultivation is excluded. Land under permanent crops is cultivated
8 with crops that occupy the land for long periods and need not be
9 replanted after each harvest, such as orchards or vineyards. This
10 category excludes land under trees grown for wood or timber.
11 Permanent pasture land is land used for five (5) or more years for
12 forage, including natural and cultivated crops;

13 2. "Company" shall mean a for-profit sole proprietorship,
14 organization, association, corporation, partnership, joint venture,
15 limited partnership, limited liability partnership, or limited
16 liability company, including a wholly owned subsidiary, majority-
17 owned subsidiary, parent company, or affiliate of those entities or
18 business associations that exists to make a profit; or a non-profit
19 organization;

20 3. "Critical infrastructure" shall mean systems and assets,
21 whether physical or virtual, so vital to Oklahoma or the United
22 States of America that the incapacity or destruction of such systems
23 and assets would have a debilitating impact on state or national
24 security, state or national economic security, state or national

1 public health, or any combination of those matters. A critical
2 infrastructure may be publicly or privately owned and includes, but
3 is not limited to:

- 4 a. gas and oil production, storage, or delivery systems,
- 5 b. water supply, refinement, storage, or delivery
6 systems,
- 7 c. telecommunications networks,
- 8 d. electrical power delivery systems,
- 9 e. emergency services,
- 10 f. transportation systems and services, or
- 11 g. personal data or otherwise classified information
12 storage systems, including cybersecurity;

13 4. "Cybersecurity" shall mean the measures taken to protect a
14 computer, computer network, computer system, or other technology
15 infrastructure against unauthorized use or access;

16 5. "Domicile" shall mean either the country in which a company
17 is registered, or where the affairs of the company are primarily
18 completed, or where the majority of ownership share is held;

19 6. "Foreign adversary" shall mean any country designated by the
20 United States Secretary of State as hostile or a Country of
21 Particular Concern (CPC);

22 7. "Foreign principal" shall mean:

- 23 a. the government or any official of the government of a
24 foreign adversary,

1 b. a political party or member of a political party or
2 any subdivision of a political party of a foreign
3 adversary,

4 c. a partnership, association, corporation, organization,
5 or other combination of persons organized under the
6 laws of or having its principal place of business in a
7 foreign adversary, or a subsidiary of such entity, or
8 owned or controlled wholly or in part by any person,
9 entity, or collection of persons or entities of a
10 foreign adversary,

11 d. any person who is domiciled in a foreign adversary and
12 is not a citizen or lawful permanent resident of the
13 United States, or

14 e. any person, entity, or collection of persons or
15 entities, described in subparagraphs a through d of
16 this paragraph having a controlling interest in a
17 partnership, association, corporation, organization,
18 trust, or any other legal entity or subsidiary formed
19 for the purpose of owning real property;

20 8. "Military base or installation" shall mean any land,
21 structure, or property owned or controlled by any division of the
22 Department of Defense, Oklahoma National Guard, or any other
23 department of government, state or federal, critical to the safety
24 and security of Oklahoma or the United States of America;

1 9. "Non-notified transactions" shall mean foreign investments
2 in the United States that are not voluntarily submitted to the
3 Committee on Foreign Investment in the United States for review
4 under Section 4565 of Title 50 of the United States Code;

5 10. "Operational software" shall mean computer programs used
6 for the operation, control, maneuver or maintenance of state
7 infrastructure, or any other computer program applications related
8 to state infrastructure;

9 11. "Software" shall mean any program or routine, or any set of
10 one or more programs or routines, which are used or intended for use
11 to cause one or more computers or pieces of computer related
12 peripheral equipment, or any combination thereof, to perform a task
13 or set of tasks, as it relates to state infrastructure;

14 12. "State infrastructure" shall mean critical infrastructure
15 and transportation infrastructure; and

16 13. "Transportation infrastructure" shall include, but not be
17 limited to:

18 a. airports including, but not limited to, commercial and
19 intermodal airports and heliports and all airport
20 infrastructure,

21 b. roadways including, but not limited to, publicly
22 accessible streets, roads, highways, and bridges and
23 all roadway infrastructure including, but not limited
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1 to, signage, toll booths, weigh stations, and traffic
2 signals,

3 c. railways including, but not limited to, all classes of
4 freight rail and passenger rail and all railway
5 infrastructure including, but not limited to,
6 intermodal rail yards and signals,

7 d. ports including, but not limited to, inland ports,
8 seaports, deepwater ports, inland waterways, and
9 levees and all port infrastructure including, but not
10 limited to, intermodal stations, and

11 e. public transit including bus, ferry, cable car, tram,
12 trolley, and other types of publicly accessible
13 transportation and all public transit infrastructure.

14 SECTION 3. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 128.2 of Title 60, unless there
16 is created a duplication in numbering, reads as follows:

17 A. A foreign principal from a foreign adversary country may not
18 directly or indirectly own, have an interest of greater than twenty-
19 five percent (25%) in, or acquire by purchase, grant, devise, or
20 descent agricultural land or any interest, except a de minimis
21 indirect interest, in such land in this state. A foreign principal
22 has a de minimis indirect interest if any ownership is the result of
23 the foreign principal's ownership of registered equities in a
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1 publicly traded company owning the land and if the ownership of the
2 foreign principal in the country is either:

3 1. Less than five percent (5%) of any class of registered
4 equities or less than five percent (5%) in the aggregate in multiple
5 classes of registered equities; or

6 2. A noncontrolling interest in an entity controlled by a
7 company that is both registered with the United States Securities
8 and Exchange Commission as an investment advisor under the
9 Investment Advisers Act of 1940, as amended, and is not a foreign
10 entity.

11 B. A foreign principal that directly or indirectly owns or
12 otherwise controls agricultural land, as defined in Section 1 of
13 this act, in this state must sell, transfer, or otherwise divest
14 itself of the agricultural land within one hundred eighty (180) days
15 of the effective date of this act.

16 C. A foreign principal that directly or indirectly owns or
17 acquires agricultural land or any interest in such land in this
18 state shall register with the State Department of Agriculture within
19 sixty (60) days of the effective date of this act or the date of
20 acquisition, whichever is latest. The Department shall establish a
21 form for such registration which, at minimum, shall include all of
22 the following:

23 1. The name of the owner of the agricultural land or the owner
24 of the interest in such land;

1 2. The address of the agricultural land, the parcel
2 identification number of the property appraiser, and the legal
3 description of the property; and

4 3. The number of acres of the agricultural land.

5 D. Notwithstanding the provisions of subsection A of this
6 section, a foreign principal from a foreign adversary country may
7 acquire agricultural land on or after the effective date of this act
8 by devise or descent, through the enforcement of security interests,
9 or through the collection of debts, provided that the foreign
10 principal sells, transfers, or otherwise divests itself of the
11 agricultural land within one hundred eighty (180) days of acquiring
12 the agricultural land.

13 E. Any current deeds, contracts, rental agreements, or other
14 legal agreements in conflict with the provisions of this act shall
15 be deemed invalid from the date of adoption unless otherwise
16 provided.

17 F. The responsibility for determining whether an entity is
18 subject to the provisions of this section rests solely with the
19 foreign entity, the Attorney General, any qualifying whistleblower,
20 and no other individual or entity. An individual or entity who is
21 not a foreign entity shall not be required to determine or inquire
22 whether another person or entity is or may be subject to this
23 section, and shall bear no civil or criminal liability under the
24 provisions of this section.

1 G. If a foreign principal from a foreign adversary country does
2 not divest the public or private lands as required by this section,
3 the Attorney General shall commence an action in district court
4 within the jurisdiction of the public or private land.

5 H. If the public or private land is held in violation of the
6 provisions of this section, the district court shall order that the
7 public or private land be sold through judicial foreclosure.

8 I. If a whistleblower referral results in a divestiture of land
9 or other assets held in violation of the provisions of this section,
10 the whistleblower shall be entitled to a reward equal to thirty
11 percent (30%) of the proceeds of the land sale that results from the
12 violation of this section after payments to lienholders. Proceeds
13 of the sale shall be disbursed in the following order, as
14 applicable:

15 1. The payment of authorized costs of the sale, including all
16 approved fees and expenses of the referee and any taxes and
17 assessments due;

18 2. The payment, in an amount approved by the court, to the
19 Office of the Attorney General for reimbursement of investigation
20 and litigation costs and expenses;

21 3. To bona fide lien holders, in their order of priority,
22 except for liens which under the terms of the sale are to remain on
23 the property;

24 4. To whistleblowers; and

1 5. To the restricted foreign entity.

2 J. The State Department of Agriculture shall adopt rules to
3 implement the provisions of this section.

4 SECTION 4. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 128.3 of Title 60, unless there
6 is created a duplication in numbering, reads as follows:

7 A. A foreign principal from a foreign adversary country shall
8 not be allowed to directly or indirectly purchase, hold, rent, or
9 otherwise control any property within ten (10) miles of a military
10 base or installation.

11 B. A foreign principal that directly or indirectly controls any
12 property covered by the provisions of subsection A of this section,
13 excluding temporary contractual agreements such as rental or lease
14 agreements, must sell, transfer, or otherwise divest itself of the
15 property within one hundred eighty (180) days of the effective date
16 of this act.

17 C. Any current deeds, contracts, rental agreements, or other
18 legal agreements in conflict with this law shall be deemed invalid
19 from the date of adoption unless otherwise provided.

20 D. If a foreign principal from a foreign adversary country does
21 not divest the public or private lands as required by the provisions
22 of this section, the Attorney General shall commence an action in
23 the district court within the jurisdiction of the public or private
24 land.

1 E. If the public or private land is held in violation of the
2 provisions of this section, the district court shall order that the
3 public or private land be sold through judicial foreclosure.

4 F. If a whistleblower referral results in a divestiture of land
5 or other assets held in violation of the provisions of this section,
6 the whistleblower shall be entitled to a reward equal to thirty
7 percent (30%) of the proceeds of the land sale that results from the
8 violation of the provisions of this section after payments to
9 lienholders. Proceeds of the sale shall be disbursed in the
10 following order, as applicable:

11 1. The payment of authorized costs of the sale, including all
12 approved fees and expenses of the referee and any taxes and
13 assessments due;

14 2. The payment, in an amount approved by the district court, to
15 the Attorney General for reimbursement of investigation and
16 litigation costs and expenses;

17 3. To bona fide lien holders, in their order of priority,
18 except for liens which under the terms of the sale are to remain on
19 the property;

20 4. To whistleblowers; and

21 5. To the restricted foreign entity.

22 G. The responsibility for determining whether an entity is
23 subject to this section rests solely with the foreign entity, the
24 Attorney General, any qualifying whistleblower, and no other

1 individual or entity. An individual or entity who is not a foreign
2 entity shall not be required to determine or inquire whether another
3 person or entity is or may be subject to the provisions of this
4 section, and shall bear no civil or criminal liability under the
5 provisions of this section.

6 SECTION 5. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 128.4 of Title 60, unless there
8 is created a duplication in numbering, reads as follows:

9 A. Any individual may act as a whistleblower and provide a
10 referral to the Office of the Attorney General for violations of the
11 provisions of Section 3 and Section 4 of this act.

12 B. If a whistleblower referral results in a divestiture of land
13 or other assets held in violation of the provisions of this act, the
14 whistleblower shall be entitled to a reward equal to thirty percent
15 (30%) of the proceeds of the land sale that results from violation
16 of this act.

17 C. The whistleblower enforcement provision shall take effect
18 one hundred eighty (180) days after the effective date of this act.

19 SECTION 6. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 13001 of Title 74, unless there
21 is created a duplication in numbering, reads as follows:

22 A. An entity constructing, repairing, operating, or otherwise
23 having significant access to critical infrastructure may not enter
24 into an agreement relating to critical infrastructure in this state

1 with a foreign principal from a foreign adversary country, or use
2 products or services produced by a foreign principal from a foreign
3 adversary country.

4 B. A governmental entity may not enter into a contract or other
5 agreement relating to critical infrastructure in this state with a
6 company that is a foreign principal from a foreign adversary
7 country, or use products or services produced by a foreign principal
8 from a foreign adversary country.

9 C. Notwithstanding the provisions of subsection A and B of this
10 section, an entity or governmental entity may enter into a contract
11 or agreement relating to critical infrastructure with a foreign
12 principal from a foreign adversary country or use products or
13 services produced by a foreign principal from a foreign adversary
14 country if:

15 1. There is no other reasonable option for addressing the need
16 relevant to state critical infrastructure;

17 2. The contract is pre-approved by the Office of the Attorney
18 General; and

19 3. Not entering into such a contract or agreement would pose a
20 greater threat to the state than the threat associated with entering
21 into the contract.

22 SECTION 7. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 13002 of Title 74, unless there
24 is created a duplication in numbering, reads as follows:

1 A. In order to access critical infrastructure, a company must
2 file a certification form with and pay a certification fee to the
3 Office of the Attorney General. The Office of the Attorney General
4 shall prescribe the registration form to be filed pursuant to the
5 provisions of this section.

6 B. To maintain registration as a company with access to
7 critical infrastructure, a company shall:

8 1. Identify all employee positions in the organization that
9 have access to critical infrastructure;

10 2. Before hiring a person described in paragraph 1 of this
11 subsection, obtain from the Oklahoma State Bureau of Investigation
12 or a private vendor criminal history record information relating to
13 the prospective employee and any other background information
14 considered necessary by the company or required by the Office of the
15 Attorney General to protect critical infrastructure from foreign
16 adversary infiltration or interference;

17 3. Prohibit foreign nationals from an adversary nation from
18 access to critical infrastructure; and

19 4. Be compliant with the provisions of Section 6 of this act.

20 C. The Office of the Attorney General shall set the fee in an
21 amount sufficient to cover the costs of administering the
22 certification process but not to exceed One Hundred Fifty Dollars
23 (\$150.00).

1 D. The Office of the Attorney General shall provide that a
2 company is compliant with all requirements of this section or revoke
3 certification.

4 SECTION 8. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 13003 of Title 74, unless there
6 is created a duplication in numbering, reads as follows:

7 A. All software used in state infrastructure located within or
8 serving Oklahoma shall henceforth not include any software produced
9 by a federally banned corporation, nor any software banned at the
10 federal level.

11 B. All software used in state infrastructure located within or
12 serving Oklahoma shall henceforth not include any software produced
13 in or by a foreign adversary, a state-owned enterprise of a foreign
14 adversary, or a company domiciled within a foreign adversary.

15 C. All software used in state infrastructure in operation
16 within or serving Oklahoma, to include any state infrastructure
17 which is not permanently disabled, shall have all software
18 prohibited by subsection A or B of this section removed and replaced
19 with software which is not prohibited by subsection A or B of this
20 section.

21 D. Any state infrastructure provider that removes,
22 discontinues, or replaces any prohibited software shall not be
23 required to obtain any additional permits from any state agency or
24 political subdivision for the removal, discontinuance, or

1 replacement of such software as long as the state agency or
2 political subdivision is properly notified of the necessary
3 replacements and the replacement software is similar to the existing
4 software.

5 SECTION 9. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 13004 of Title 74, unless there
7 is created a duplication in numbering, reads as follows:

8 A. The Office of the Attorney General shall establish a process
9 by which local officials, states officials, or other persons may
10 submit information or concerns to the Office regarding non-notified
11 transactions in Oklahoma. The Office of the Attorney General may
12 adopt any necessary rules to implement the provisions of this
13 subsection.

14 B. The Office of the Attorney General may submit a memorandum
15 or report concerning non-notified transactions the Attorney General
16 has identified in Oklahoma to the Committee on Foreign Investment in
17 the United States.

18 C. The Office of the Attorney General shall:

19 1. Retain a copy of any documents submitted to the Committee on
20 Foreign Investment in the United States that are included with a
21 memorandum or report submitted under the provisions of subsection B
22 of this section; and

23 2. Notify the State Legislature and the Governor as soon as
24 practicable after submitting a memorandum, report, or other

1 information pursuant to the provisions of subsection B of this
2 section.

3 SECTION 10. This act shall become effective November 1, 2024.

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