



ISSUE BRIEF | China Policy Initiative

# CHINA AND U.S. AGRICULTURAL LAND: TRACKING STATE LEGISLATIVE RESPONSES

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## TOPLINE POINTS

- ★ Chinese Communist Party (CCP) holdings of U.S. agricultural land surged from 13,720 acres in 2010 to 352,140 acres in 2020, valued at \$1.9 billion.
- ★ Legislative strategies to resist at the state level have increased, including bills with provisions that would restrict CCP access to American agricultural land.
- ★ Two core America First principles—“strategic decoupling” and “reciprocity”—should govern our relationship with China and guide state policies for dealing with this issue.

## Overview

The Chinese Communist Party (CCP) has positioned itself as an adversary of the U.S., politically and economically, with the stated intention of ensuring China overtakes America as the world’s leading power. Securing and dominating world food supply chains is an integral part of China’s Belt and Road Initiative, which also promotes hoarding computer chips, minerals, and other sensitive commodities. The CCP has realized that acquiring new land in the U.S. is key to this dominance, and so it has rapidly built up its American agricultural assets in recent years. According to U.S. Department of Agriculture (USDA) reports, Chinese investors’ holdings of U.S. agricultural land surged from 13,720 acres in 2010 to 352,140 acres in 2020—a stunning 5,300% increase. In total, this land is worth approximately \$1.9 billion. The average U.S. farm is 445 acres, so nearly 800 American families could be farming this acreage that is now controlled by the CCP.

As of November 2021, more than a dozen states had laws in place that would effectively prohibit or restrict Chinese-owned land, according to a [Congressional Research Service \(CRS\) report](#).



However, many of these laws were never used, poorly implemented, circumvented by the use of U.S.-based subsidiaries, or undermined by repeals and amendments due to pressure from business groups.

In response to the accelerating threat from China and apparent lack of effective protection, at least 23 state legislatures have used their 2023 sessions to introduce at least 53 bills that would impede CCP access to American agricultural land in some way.

Although strategies have varied widely, the general thrust of this legislative trend reinforces two core America First principles that should govern our relationship with China. First, “**strategic decoupling**,” or the disentangling of our critical supply chains, such as those securing our food, from the CCP and other adversarial nations. Second, the concept of “**reciprocity**,” which dictates that the CCP and anyone tied to it should have no access to any institution or opportunity in America beyond that which we have access to in China. These two ideas should guide state policies in agricultural land access.

## Strategies and Tactics

This paper does not seek to endorse any particular bill or formulation but rather to chronicle strategies and tactics that have been attempted and provide a menu of potential solutions to lawmakers and other decision-makers. None of these 2023 strategies has yet played out in real-time. Furthermore, the best solution may objectively differ from state to state depending on their existing laws, the nature of their agricultural sectors, and their particular security concerns.

State bills vary in what entities they block and what type of land they disallow, with most generally falling into permutations of the following categories.

### Which countries, or types of countries, are designated?

1. China/CCP, specifically.
  - These bills use variations of language such as “prohibiting the government of, and persons and entities from, the People’s Republic of China from acquiring real property located in the state,” as found in [IA HF211](#).
2. “Problem countries.”
  - These bills usually name a list of countries, almost always including China, Russia, Iran, and North Korea, as so specified in, for example. [GA HB246](#). Some bills include additional countries deemed adversarial such as Cuba, Venezuela, and Belarus.
  - Other bills choose a more flexible option that may evolve over time, such as pointing to a federal list. [VA SB1438](#) defines a “foreign adversary” according to a U.S. Secretary of Commerce designation.
3. A blanket ban on all foreign countries, such as [TX HB1075](#).

### What type of property is covered?



1. Agricultural land only.
  - [AZ HB2376](#) is one such bill. It is worth noting here that “agricultural land,” as defined by the [USDA](#), includes land used for forestry production, farming, ranching, or timber production.
2. A qualified subset of agricultural land, usually relating to military bases or critical infrastructure.
  - For example, [NC HB463](#) includes a provision for land within a 25-mile radius of a military base, while [MT SB203](#) combines prohibitions on “critical infrastructure, or land used for agricultural production, or real property or a residence that has a direct line of sight to any part of a military installation.”
3. All real property.
  - These would, by definition, ban the designated country or countries from controlling agricultural land as a subset of all property. For example, [TX SB147](#) and [AR SB383](#).

### Innovations and Special Cases

Legislation in Tennessee, introduced as [TN HB40](#) and [TN SB122](#) in its respective houses, distinguishes itself from categorical bans and embodies the America First concept of “reciprocity.” The language would limit foreigners’ access to real property based on American citizens’ access to property rights in their country of origin:

As introduced, it prohibits foreign ownership of real property in this state by nonresident aliens and foreign entities if the laws of the country where such aliens reside or such entities are located prohibit citizens of the U.S. or its territories or possessions from purchasing real property located within that country.

[TX SB552](#) aims to build on the success of an existing law, the 2021 [Lone Star Infrastructure Protection Act](#), by simply adding “... or agricultural land.” This language is added to the text that already protects communications infrastructure, cybersecurity systems, the electric grid, hazardous waste treatment systems, and water treatment facilities.

Meanwhile, legislation boosted by South Dakota Governor Kristi Noem and introduced into their Senate would have created a security review board to evaluate foreign agricultural land purchases that had passed the federal Committee on Foreign Investment in the United States (CFIUS) process. If passed, [SD SB185](#) would have created a “CFIUS-South Dakota” board consisting of:

- The secretary of the Department of Agriculture and Natural Resources;
- The director of the South Dakota Office of Homeland Security;
- A designee of the governor who shall serve as chairperson;
- An individual who owns at least 160 acres of agricultural land in the state and who, in the opinion of the governor, has expertise in the agriculture industry; and
- An individual who, in the opinion of the governor, has expertise in national or state security.



Proponents of this bill argued that a board would have allowed nuance and flexibility, avoiding a blanket ban to account for legitimate business interests on a case-by-case basis. The selection of a country or countries would be based on objective criteria so that it would defuse civil rights concerns about alleged discrimination or racism. It might also set a template for adjudication for other areas of concern, such as critical infrastructure and mineral rights.

It is notable that South Dakota appeared on the 2021 CRS report map as a state that prohibited or restricted foreign land purchases, but the law has proven ineffective. In the existing code, [SDCL 43-2A](#) prohibits aliens and foreign governments from purchasing agricultural land that exceeds an aggregate of 160 acres. However, according to Governor Noem's office, insufficient mechanisms have prevented the state from detecting any such purchases and the enforcement provision has never been used.

### Analysis of Legislative Successes and Challenges

Efforts to restrict CCP land purchases in Utah, with “agricultural land” meriting a specific mention, met with resounding success as [UT HB186](#) passed both houses and was signed by the governor on March 13, 2023. The law will target “restricted foreign entities,” defined as “a company that the United States Secretary of Defense is required to identify and report as a military company under Section 1260H” of the 2021 National Defense Authorization Act. This includes [dozens of CCP companies](#).

In Virginia, legislation filed as [VA SB1438/VA HB2325](#) promising to ban “foreign adversaries” from buying farmland passed the Senate and House successfully and [is expected to be signed by Governor Glenn Youngkin](#). “Foreign adversaries” was defined as any foreign government or “nongovernment person” determined by the U.S. Secretary of Commerce to have engaged in “a long-term pattern” of conduct threatening national security.

It is notable that both of these successful bills rely on federal government lists and designations to identify their targets, while most 2023 bills have favored a ban on the CCP or of “problem countries.” It is unclear whether this feature contributed to their successful passage, and it remains to be seen whether it will aid implementation.

Mississippi [HB280](#) was originally introduced in January 2023 as a prohibition on all agricultural land sales to all foreign governments in the state. In February, the bill received national attention as bill sponsor State [Representative Becky Currie](#) and China expert [Steve Yates](#) published op-eds in favor of the legislation, and [Adam Millsap of the Stand Together Trust published an op-ed against it](#) in the *Magnolia Tribune*. When Currie realized that [existing law](#) might already apply to some situations meant to be addressed by HB280, she was concerned that the current statute might have, in effect, been weakened. Currie [changed the original language](#) of the bill to form a [study committee instead](#), and it successfully passed in March.

The aforementioned [SD SB185](#) “CFIUS-South Dakota” bill faced stiff opposition despite strong support from Governor Noem. [Breitbart](#) reported in January that a staggering array of South Dakota agricultural interests had voiced concern about the bill, including:



SD Farm Bureau, SD Farmer Union, SD AgriBusiness Association, SD Cattlemen’s Association, SD Corn Grower Association, SD Dairy Producers, SD Pork Producers, SD Soybean Association, SD Stockgrowers Association, SD Wheat Growers Association, the SD Association of Conservation Districts, and the SD Association of Cooperatives.

Despite this opposition, the [bill passed unanimously](#) in the Senate Agriculture and Natural Resources Committee. However, it was [soundly defeated](#) on the Senate floor with a 23-11 vote against it. Senate Republican leader Casey Crabtree [stated](#) that Senate Republicans agreed “wholeheartedly” with Governor Noem’s anti-CCP vision but disagreed on the mechanism.

## Conclusion

The blossoming of bills meant to restrict CCP access to U.S. agricultural land in 2023 is part of a larger positive trend that has seen American citizens and governments awaken to the whole-of-society threat that the CCP poses. This development reinforces the core America First principles of “strategic decoupling” and “reciprocity” that should govern our relationship with China, operating on both the practical and moral levels.

Understandably, these initiatives have met with mixed success. Utah and Virginia have passed laws relying on federal government entity lists for enforcement. Mississippi and South Dakota bills wrestled with the impact of existing laws that may or may not have applied to or impeded the effectiveness of the proposed bill language, while South Dakota faced a concerted and public effort by agricultural interests to kill their legislation. Dozens of other bills advocating for widely varying target entities, land classifications, and mechanisms of enforcement lay in all stages of development across the country.

The process chronicled in this issue brief is healthy and should continue into 2023 summer studies, the 2024 legislative session, and beyond as legal understandings continue to develop and solutions evolve. Fortunately, our federal system allows us the privilege of experimentation in the states, the “laboratories of democracy,” to perfect our approach to complex problems like the threat the CCP poses to our agricultural land.

