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U.S. INFRASTRUCTURE SECURITY REQUIRES EFFECTIVE STATE-LEVEL PROTECTION FROM CHINESE COMMUNIST PARTY OWNERSHIP

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TOPLINE POINTS

- ★ Chinese Communist Party (CCP) entities already own considerable infrastructure and land across the U.S., putting vital systems such as port facilities, energy installations, and adjacent military bases at risk.
- ★ A 2021 Texas bill makes an attempt to address this problem but would not provide the authority to review existing infrastructure projects retroactively.
- ★ States should pass measures allowing review of existing CCP assets and future CCP purchases to fill gaps left by federal review mechanisms.

An effective America First national security policy requires protecting the U.S. from foreign threats while also engaging with the world in ways that are conducive to American interests. Purchases of land and infrastructure by foreign entities present a special challenge. As such, it is imperative that they are subject to a process of vetting and investigation to ensure they do not pose a threat to national security, sovereignty, or the economy. The People's Republic of China (PRC) and its ruling Chinese Communist Party (CCP) already own substantial interests in U.S. infrastructure and are poised to accelerate their acquisition and exploitation of the U.S. through these avenues of investment. While the federal government possesses a mechanism via the Department of Treasury's Committee on Foreign Investment in the United States (CFIUS) to combat this, states currently have no means to move against existing foreign assets and little to no oversight over future foreign investment. In many cases,

the mechanisms that currently exist at both the federal and state levels are going unused and unenforced, leaving dangerous gaps.

In response to some of these emerging problems, Texas Governor Greg Abbott signed the Lone Star Infrastructure Protection Act (LSIPA) in the 2021 legislative session (full text here). The goal of the legislation is to prevent foreign ownership of sensitive land and infrastructure wherever the state may have a vested interest in preventing such ownership. However, LSIPA does not provide any means for compelling divestment from sensitive infrastructure projects by foreign companies that have already been completed.

At least two major CCP infrastructure developments that threaten the security of the state of Texas were established before the legislation's passage, including the property purchase that in part inspired the Lone Star Infrastructure Protection Act in the first place.

In particular, in a series of acquisitions concluding in 2019, a Chinese billionaire purchased 140,000 acres of border-adjacent land in Southwest Texas, with 15,000 acres set aside to construct a wind farm known as the "Blue Hills" developments. This land, bordering the Rio Grande River and the Texas-Mexico border, is also in the same county as Laughlin Air Force Base (AFB), a training ground for U.S. Air Force pilots. Despite significant objections raised by nearby land owners and government officials, a Laughlin AFB environmental document produced in March 2022 notes that the Blue Hills developments are still underway, with a likely completion date sometime in 2023. Federal authorities cleared the purchase into the U.S., and the acquisition has yet to be formally stopped by the Texas program, despite the LSIPA's specific reference to protecting electric infrastructure and generation that connects to the larger Texas grid. Several concerns have been raised over the purchase, including the land being border-adjacent, which creates a border security concern, and the proximity to the Air Force Base, which raises concerns about surveillance and potential espionage of military technology and tactics. This comes amid increasing alarm nationwide over Chinese capabilities to disrupt the U.S. military's nuclear program by companies such as Huawei.

Long before the Blue Hills development, Chinese investors successfully took ownership of sensitive Texas port infrastructure. PRC shipping conglomerate China Merchants Holding International (CMHI) has held a 49% stake in the container port operators Terminal Link, which operates parts of the Port of Houston, since 2013. Terminal Link processes approximately 110,000 20-foot container units (TEUs) per year. The Port of Houston claims an impact on 20% of Texas' GDP, as well as 1.35 million jobs in the state. The Port also handles approximately 1,000,000 TEUs per year in imported foreign cargo. The LSIPA has not been used in this instance either, despite clear exposure to risk from foreign sources. CHMI's access to large amounts of terminal shipping and cargo data of a major American port, through its holding in Terminal Link, presents a data and security risk due to its large impact on Texas and southwestern U.S. commerce. However, LSIPA cannot be applied to previously-made transactions, so the CHMI-owned Terminal Link is still involved in a significant portion



of the Port of Houston's operations. The risk is likely to grow as these Chinese shipping conglomerates continue to acquire more terminals and ports nationwide. CHMI also received ownership in the Port of Miami through the same Terminal Link purchase.

Divestment has been successful in the past at the national level through CFIUS, overseen by the Department of the Treasury. President Trump ordered divestment from Beijing Shiji Information Technology Co. from StayNTouch Inc., a hotel and property management service, in early 2020 due to its ties to the Chinese government and the hotel chain's storage of large amounts of guests' personal data. The same divestment measure was ordered against Beijing Kunlun Tech Co. Ltd, which had acquired the dating app Grindr in 2016. Less than three years later, in 2019, they were compelled to divest the app by CFIUS as well for similar reasons of personal data collection and privacy. Kunlun, however, went a step further by intentionally collecting data that was well beyond its terms of service for users of the app.

While CFIUS has resolved some of its previous errors, it will never be fully fool-proof. Even in the face of national-level threats from the People's Republic of China, it may be up to the states to solve security issues by acting individually with regard to foreign investment. While the LSIPA seeks to do so regarding future deals, it does nothing to address the Blue Hills development nor CMHI's ownership and stakes in the Port of Houston. Such gaps in oversight are still a major concern, and a state-level equivalent to CFIUS could help protect Texas infrastructure from exposure to federal risk.

America First policymaking involves securing the home front against foreign threats. Failure to address current vulnerabilities makes gaps in security more obvious as time goes on and presents even larger threats if they remain unresolved. Governors and state legislatures have a model to follow in solving this gap; CFIUS-like programs would provide a way to secure their states from being compromised by foreign actors.

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