Foreign Investment in the U.S. and Ag Land Ownership Restrictions

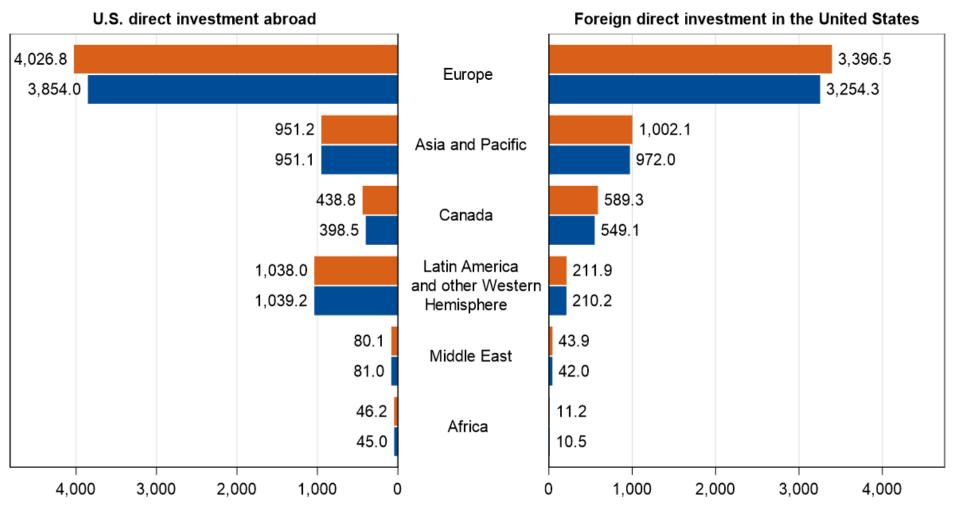
Dave Aiken

Professor, Agricultural and Water Law Specialist

Larry Van Tassell Professor, Director of the Center for Agricultural Profitability



Direct Investment Positions, 2021–2022 Billions of dollars



2022 2021



U.S. Bureau of Economic Analysis

https://www.bea.gov/news/2023/direct-investment-country-and-industry-2022

Why Foreign investment in the U.S.?

- Access to capital and natural resources
- The world's largest consumer market
- Global highland for creative minds
 - Product innovation
- Ease of doing business
 - Stable democracy
 - Transparent and predictable legal system
 - Leading business mindset
- Export platform
 - Rapid export procedures
- Federal incentive programs
 - Clean-energy incentives—Inflation Reduction Act



Why Foreign investment in the U.S.?

- SelectUSA program
 - In existence since 2011
 - U.S. Department of Commerce
 - Facilitates job-creating business investment into the U.S.



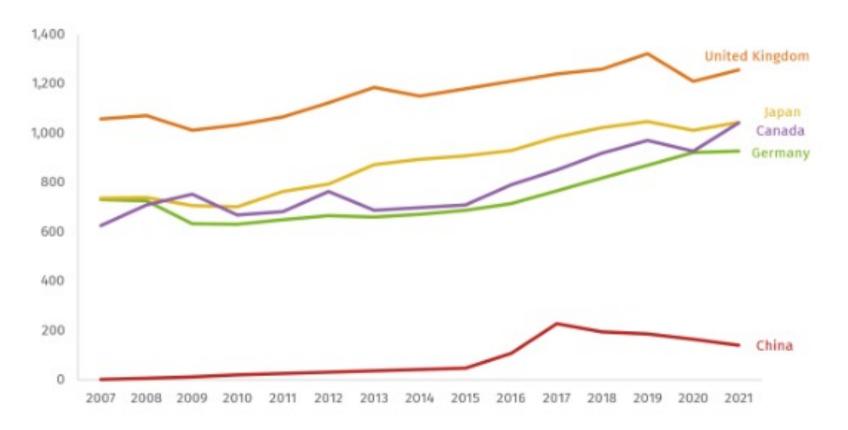
Benefits to the U.S.

- Job creation
- Economic growth
- Replace imports



US Employment at MNCs, Selected Countries*

Unit: Thousands



Source: US Bureau of Economic Analysis. *Based on available data from other years, values have been interpolated for China in 2011, 2017, 2018, and 2019; for Germany in 2017, 2018, and 2019; for the United Kingdom in 2015 and 2016; and for India in 2008, 2015, and 2019.

https://rhg.com/research/vanishing-act-the-shrinking-footprint-of-chinese-companies-in-the-us/

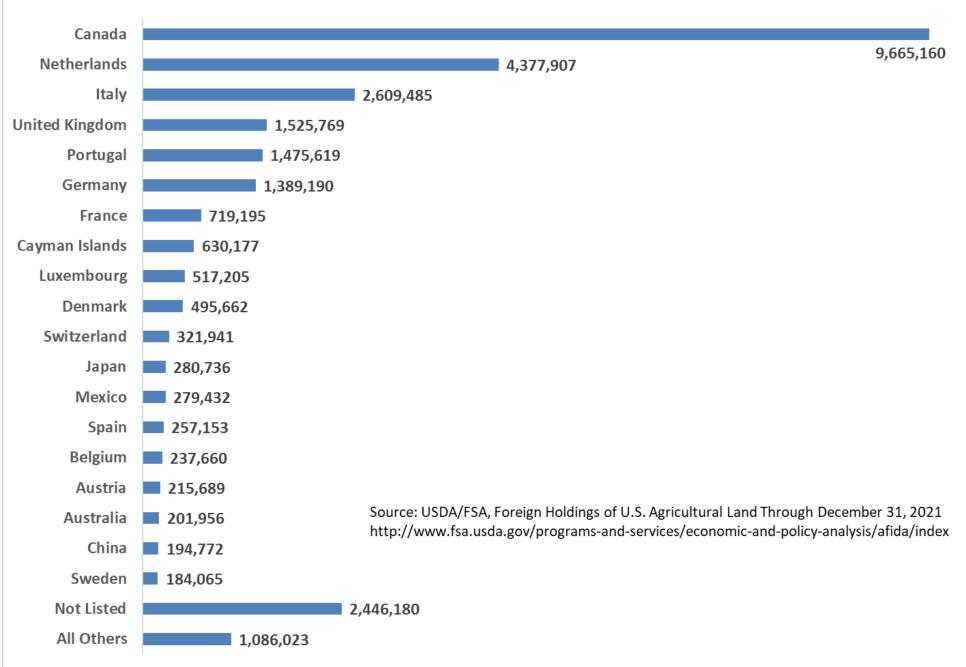


Downside to Foreign Investment

- Erosion of national security
- Theft of technology
- Intelligence gathering
- Foreign control of the U.S. food and energy supply
- Use of U.S. national resources
- Compete for land resources

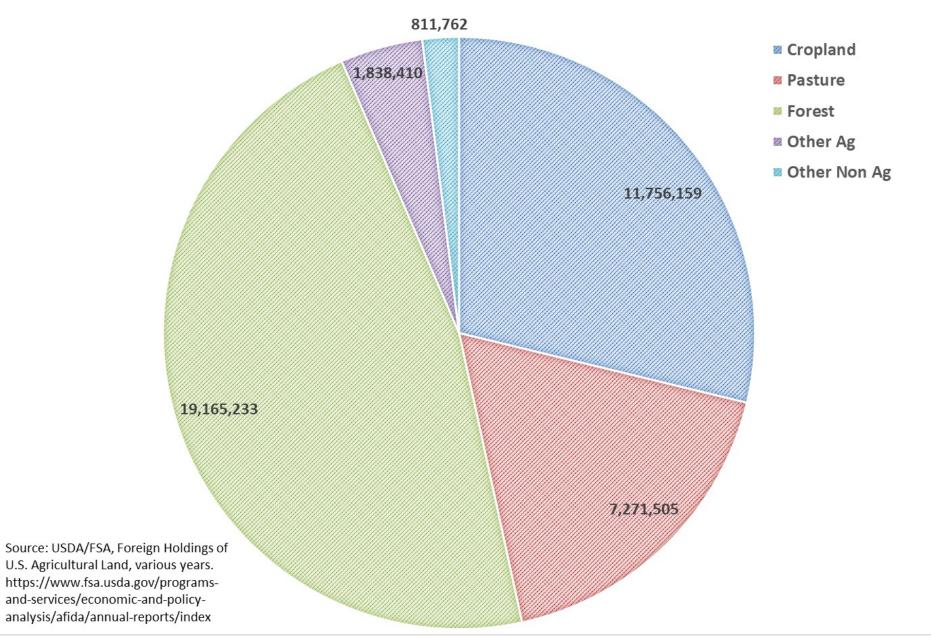


Total Acres of Foreign-Owned Land by Country of Origin, 2021

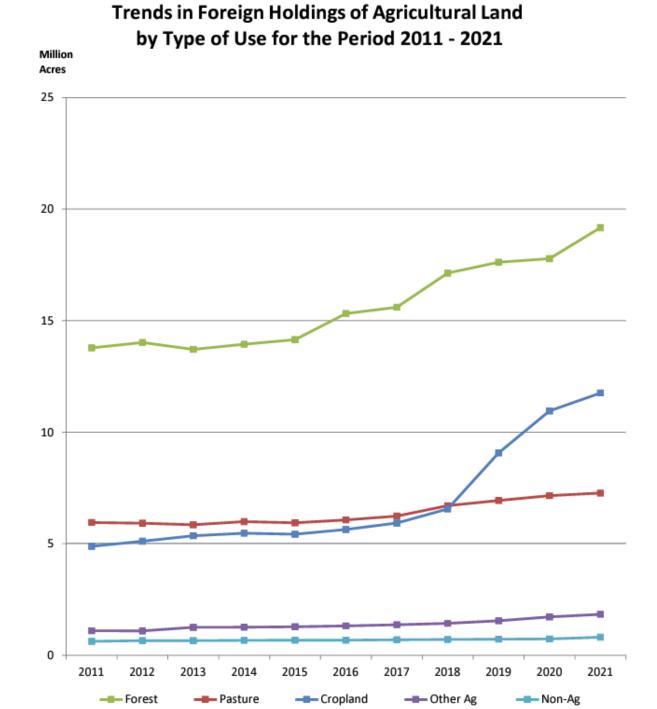


CENTER FOR AGRICULTURAL PROFITABILITY





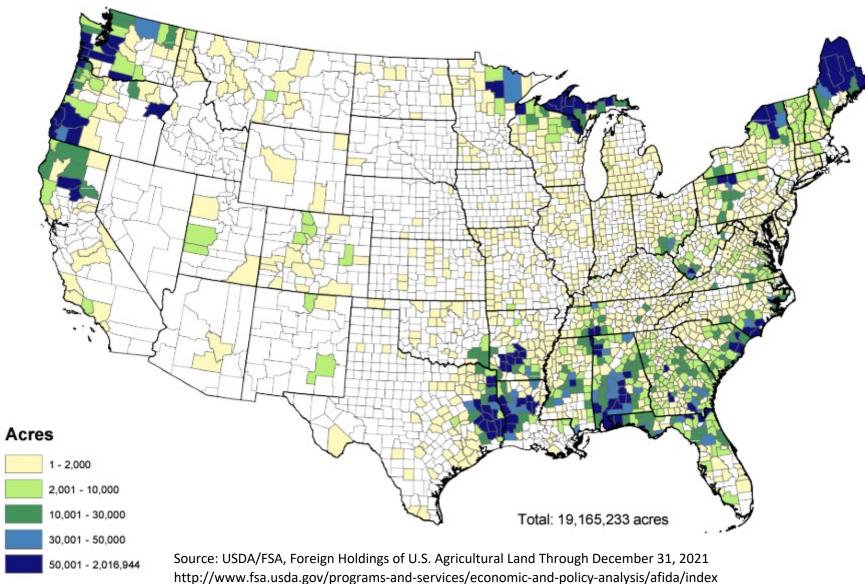
CENTER FOR AGRICULTURAL PROFITABILITY



Source: <u>https://www.fsa.usda.gov/Assets/USDA-FSA-Public/</u> usdafiles/EPAS/PDF/2021_afida_annual_report_through_ 12_31_2021.pdf

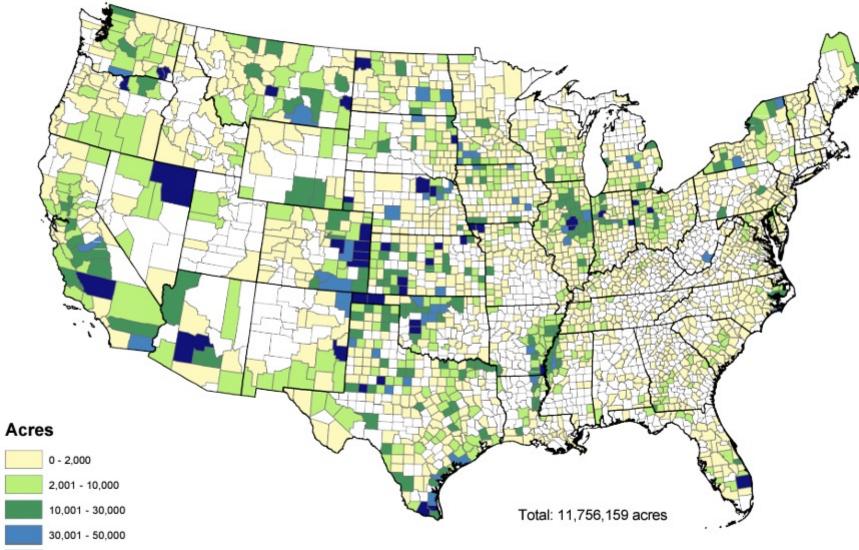


County Concentration of Foreign Holdings of Forest Land as of December 31, 2021



CENTER FOR AGRICULTURAL PROFITABILITY

County Concentration of Foreign Holdings of Crop Land as of December 31, 2021

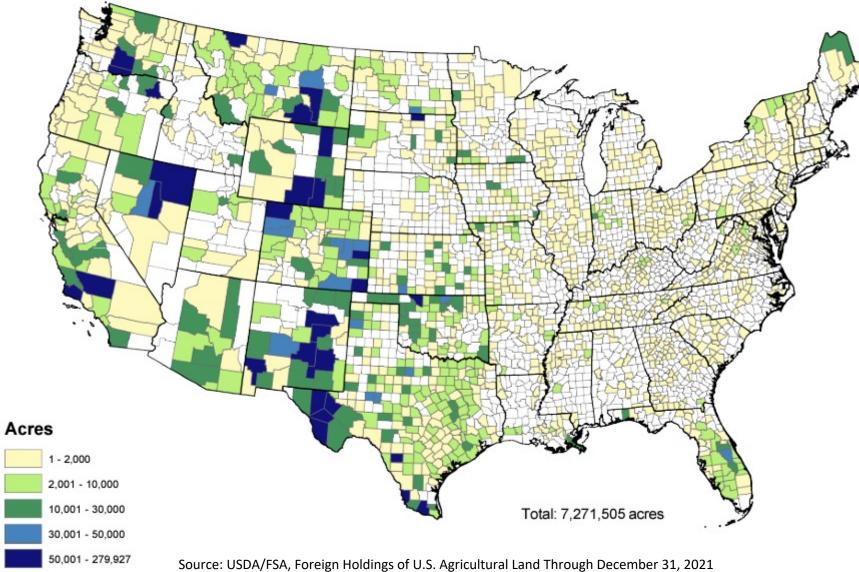


Source: USDA/FSA, Foreign Holdings of U.S. Agricultural Land Through December 31, 2021 http://www.fsa.usda.gov/programs-and-services/economic-and-policy-analysis/afida/index

CENTER FOR AGRICULTURAL PROFITABILITY

50,001 - 280,457

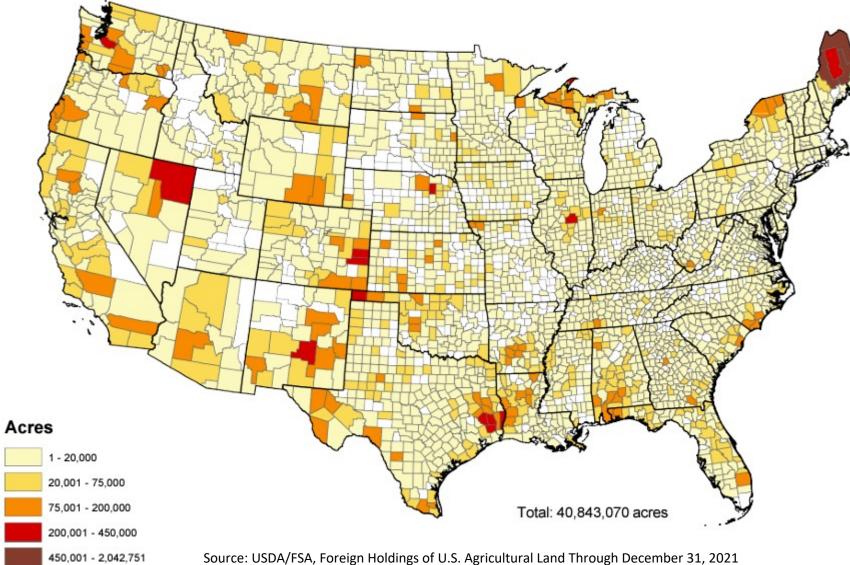
County Concentration of Foreign Holdings of Pasture Land as of December 31, 2021



http://www.fsa.usda.gov/programs-and-services/economic-and-policy-analysis/afida/index

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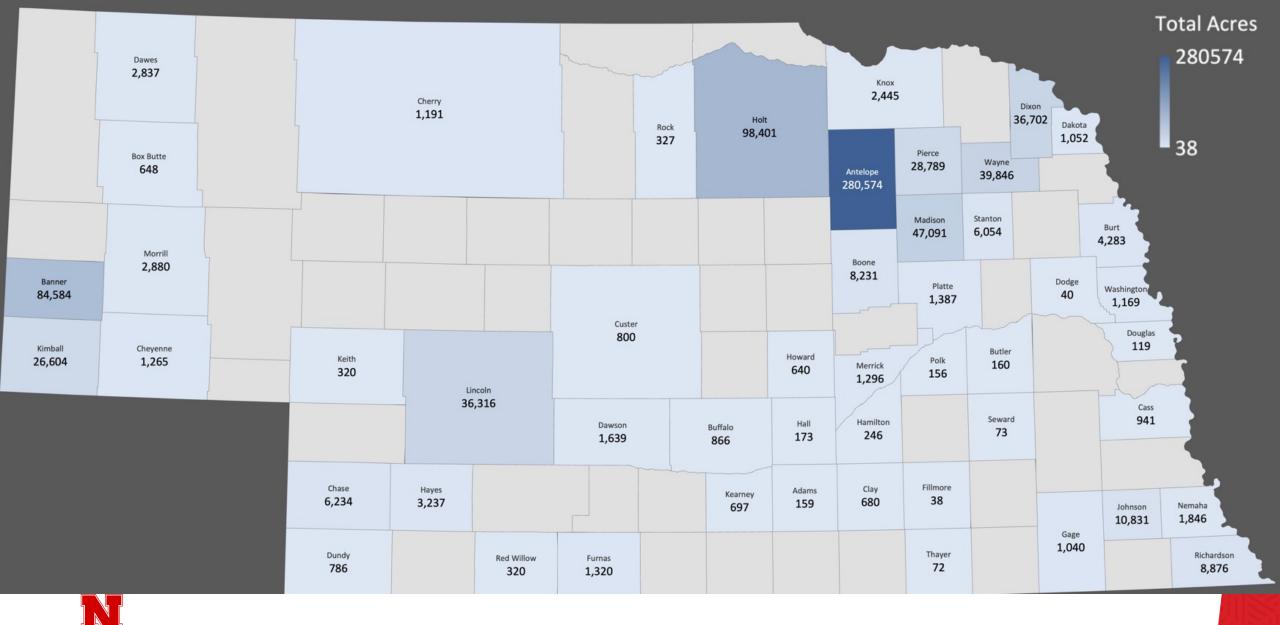
County Concentration of Foreign Holdings of Agricultural and Non-Agricultural Land as of December 31, 2021



http://www.fsa.usda.gov/programs-and-services/economic-and-policy-analysis/afida/index

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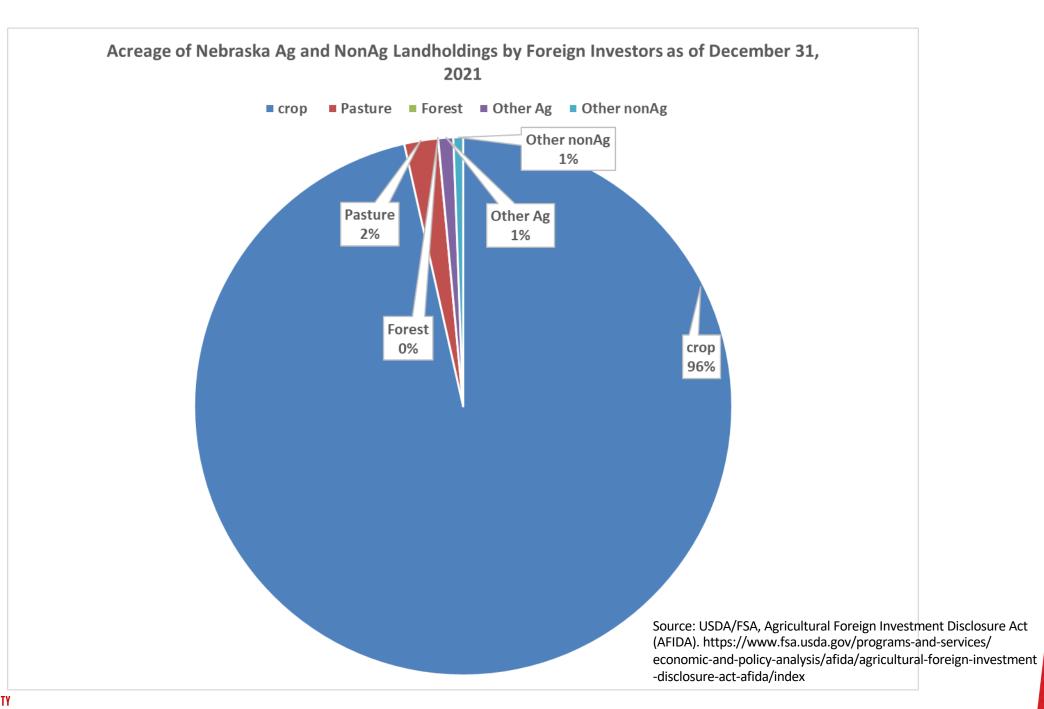
Landholdings (Acres) by Country of Foreign Investor in Nebraska, December 31, 2021



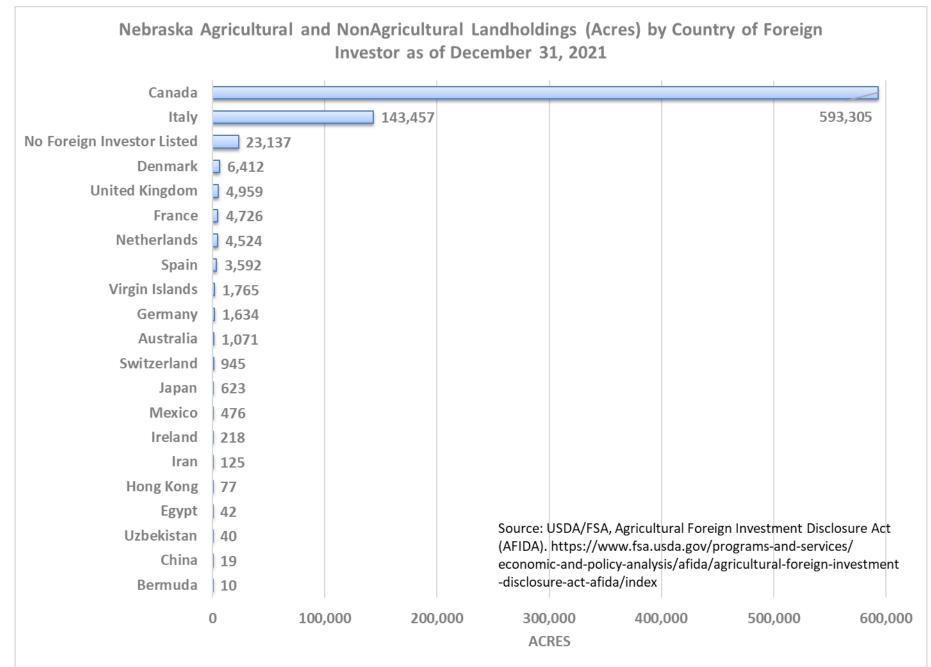
Source: USDA/FSA, Foreign Holdings of U.S. Agricultural Land, various years.

CENTER FOR AGRICULTURAL PROFITABILITY

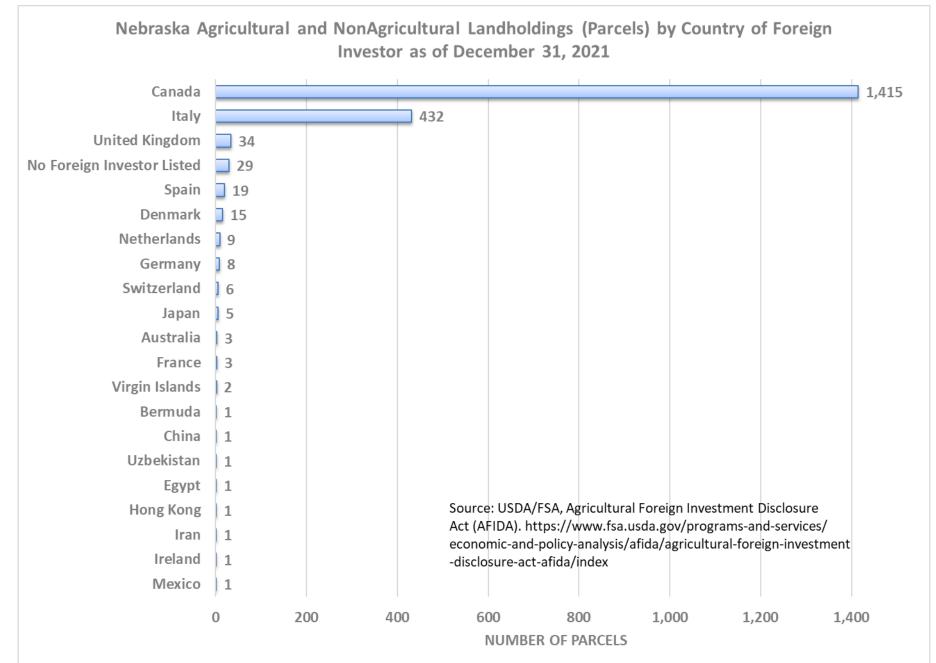
https://www.fsa.usda.gov/programs-and-services/economic-and-policy-analysis/afida/annual-reports/index











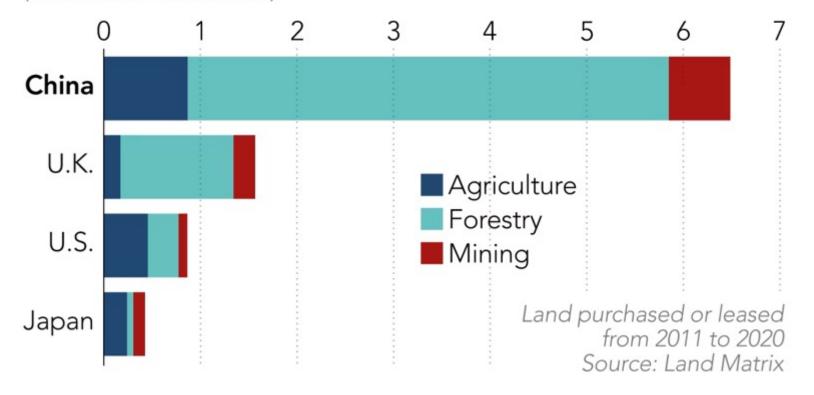


Major Concerns Over China

- Chinese government control over private investors from China
- National security
- Technology theft
- Intelligence gathering



Chinese companies lead in overseas land acquisitions (In millions of hectares)

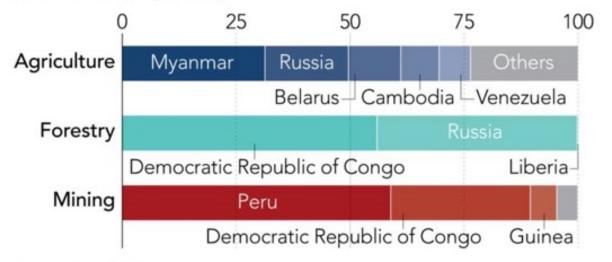


https://asia.nikkei.com/Spotlight/Datawatch/Chinese-companies-corralling-land-around-world



Land acquired or leased by Chinese companies

(2011 to 2020, in percent)



Source: Land Matrix

https://asia.nikkei.com/Spotlight/Datawatch/Chinese-companies-corralling-land-around-world



CHINESE INVESTMENT IN THE US

Chinese Investment Sharply Limited

\$53.5B 63 DEALS

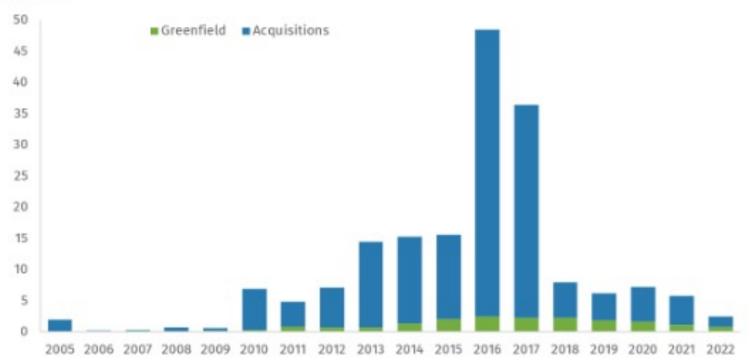
\$23.4B

The China Global Investment Tracker follows large Chinese investments around the world. The top national recipient is the United States, which took in over \$190 billion from 2005 through the first half of 2023. But the PRC's spending here has all but disappeared since 2019, despite the recent attention paid to land acquisitions. Chinese investment is rising globally in 2023 and may edge higher in the US. American investment reviews and Beijing's capital controls will prevent any return to high-volume years.

CENTER FOR AGRICULTURAL PROFITABILITY



Chart: https://www.aei.org/multimedia/chinese-investments-us-handout/



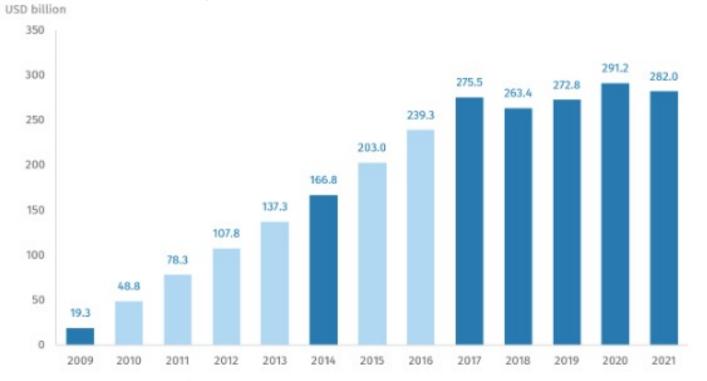
Value of Completed Chinese FDI Transactions in the US, 2000-2022*

USD billion

Source: Rhodium Group. Data represents the combined value of direct investment transactions by mainland Chinese companies in the US, including greenfield projects and acquisitions that result in significant ownership control (>10% of equity). *2021 and 2022 data is preliminary and includes estimates.

https://rhg.com/research/vanishing-act-the-shrinking-footprint-of-chinese-companies-in-the-us/





Total Assets of Chinese Companies in the US*

Source: US Bureau of Economic Analysis. *The values for 2010, 2011, 2012, 2013, 2015, and 2016 have been interpolated based on available data from other years.

https://rhg.com/research/vanishing-act-the-shrinking-footprint-of-chinese-companies-in-the-us/



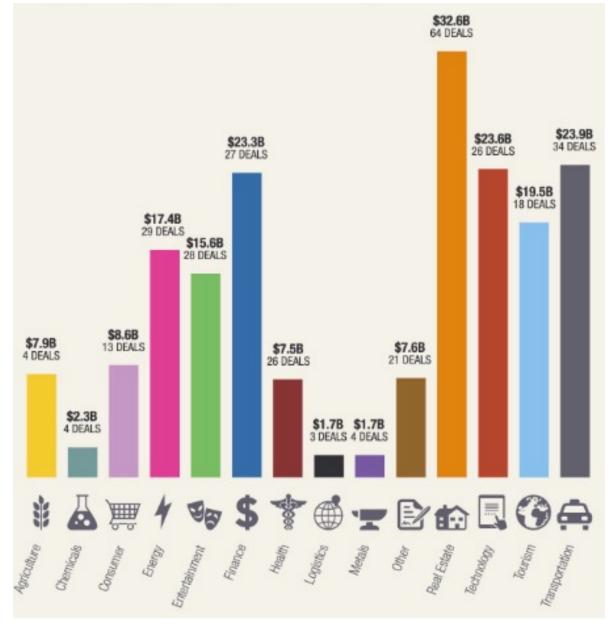




Chart: https://www.aei.org/multimedia/chinese-investments-us-handout/

Local Jobs Provided by Chinese MNCs, Selected Countries*

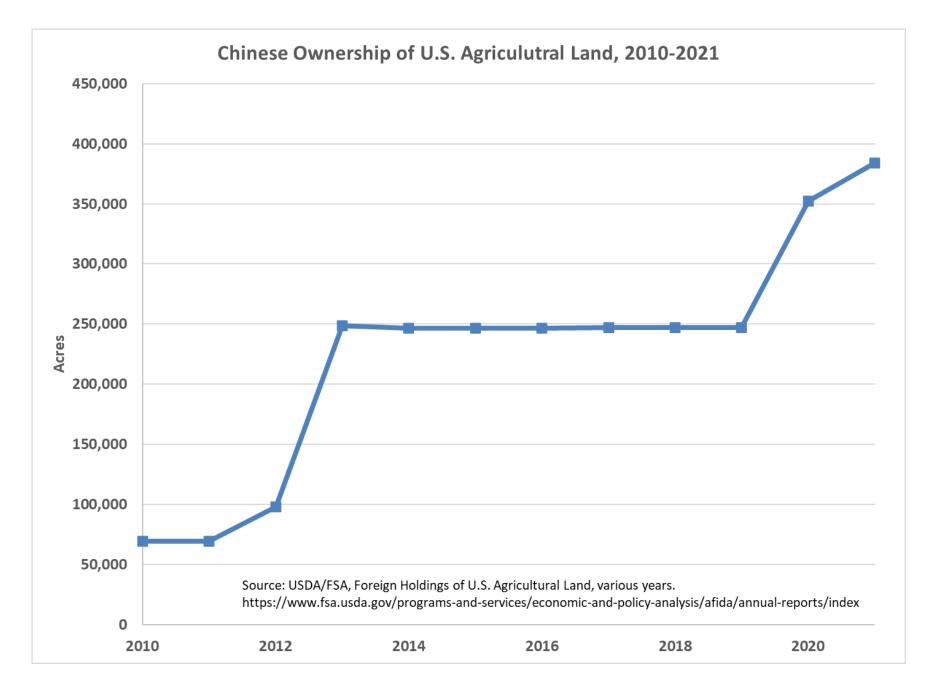
Unit: Thousands

EU + UK US

Source: US Bureau of Economic Analysis, Eurostat, and Rhodium estimates. Employment figures for the UK partially estimated for post-Brexit years. Data from Eurostats represent employed person data, data from BEA represent employee data.

https://rhg.com/research/vanishing-act-the-shrinking-footprint-of-chinese-companies-in-the-us/







Compared to Canada, Chinese entities own much less U.S. farmland

Source: USDA AFIDA annual report Credit: Connie Hanzhang Jin/NPR (https://ipmnewsroom.org/china-owns-380000-acres-of-land-in-the-u-s-heres-where/)



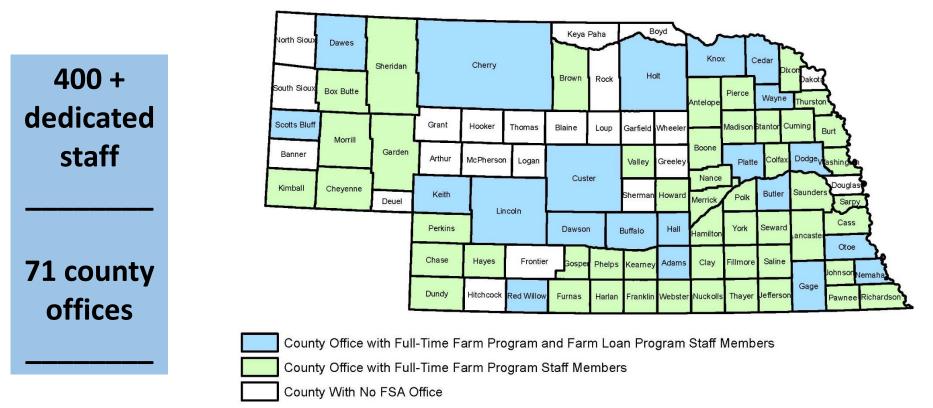




USDA Farm Service Agency: Safety Net, Conservation, Disaster, Farm Loan Programs



Nebraska Farm Service Agency Footprint





FSA Programs Portfolios

Farm Programs

- Safety net programs
- Conservation programs
- Disaster assistance programs

Farm Loans

- Ownership loans
- Operating loans
- Microloans
- Guaranteed loans
- Beginning farmer loans
- Youth loans
- Farm Storage Facility Loans
- Emergency Loans





Farm Programs – Safety Net

- ARC/PLC: Agriculture Risk
 Coverage/Price Loss
 Coverage
- **DMC**: Dairy Margin Coverage
- NAP: Noninsured Crop Disaster Assistance Program



Safety Net – ARC/PLC

ARC/PLC is the primary commodity crop safety net available for main commodities, such as corn, soybeans, wheat, grain sorghum, oats and barley.

It provides financial assistance to farmers when the actual revenue or price for a covered commodity falls below an expected level.

Price Loss Coverage (PLC)

- Price Based selected by Base Crop on the farm
- Payments made when national average price falls below "reference price"





Safety Net – ARC/PLC (continued)

Agriculture Risk Coverage (ARC)

Revenue Based

- **ARC-CO County** Yield Level by base crop on the farm
- ARC-IC Individual/Farm Yield Level by farm for all covered commodities <u>planted</u> on the farm
- Both use national average price and applicable yield to determine actual revenue
- Actual revenue compared to 86% of "historical" revenue to determine payments





Safety Net – Dairy Margin Coverage

- Risk management to assist dairy producers when the margin between national milk prices and national average feed costs falls below a level selected by the producer
- Catastrophic coverage is no cost to the producer other than a \$100 administrative fee; various levels of buy-up coverage



Safety Net – Noninsured Crop Disaster Assistance (NAP)

- Provides financial assistance to producers of certain eligible crops for which there is no commercially-available risk protection insurance; can assist with low yields, loss of inventory or prevented planting when eligible disasters strike (drought, freeze, hail, excessive moisture, others)
- Generally covers specialty crops, like vegetables, fruits, but also grass, alfalfa, triticale, rye, and others, where commercial insurance is not available
- Covers crop loss in excess of 50 percent, at 55 percent of the average market price for the crop; buy-up coverage is available up to 65 percent in 5 percent increments, at 100 percent of the average market price (except grazing crops not eligible for buy-up)
- Service fee is the lesser of \$325 per crop or \$825 per producer per administrative county, not to exceed \$1,950 total for a producer with farming interests in multiple counties



Farm Programs – Conservation Reserve Program



- Voluntary program that pays landowners who take environmentally sensitive land out of production and put it into naturalresource conserving and wildlifefriendly habitat
- General CRP, Grassland CRP, Continuous CRP, Special Initiatives
- In Nebraska, we have a CRP enrollment of about 1.5 million acres



Farm Programs – Disaster

- Disaster Designations
- Programs available to address situations such as: Drought, Wildfire, Flooding







The Secretary of Agriculture is authorized to designate counties as disaster areas to make emergency (EM) loans available to producers suffering losses in those counties and in counties that are contiguous to a designated county.

Four types of disaster designations:

- USDA Secretarial Disaster Designation
- Presidential Major Disaster and Presidential Emergency Declaration
- FSA Administrator's Physical Loss
 Notification
- Quarantine Designation by the Secretary Under the Plant Protection or Animal Quarantine Laws



USDA Secretarial Disaster Designation

- Must be requested of the Secretary of Agriculture by:
 - A governor or the governor's authorized representative, or
 - An Indian Tribal Council leader, or
 - An FSA State Executive Director (SED).
- The Secretarial disaster designation is the most widely used.
- There is an expedited process for drought. ***



USDA Secretarial Disaster Designation – What is the Trigger for It (other than drought fast-track)?

A county must have a **30 percent production loss of at least one crop.**

OR

A determination must be made by surveying area commercial lenders regarding whether they will be able to provide emergency financing to producers in the county.



USDA Secretarial Disaster Designation – What Are Eligible Disasters?

- Drought Flooding Excessive rain and humidity Severe storms Lightning Hail Mudslides and landslides Wind Tornadoes Hurricanes
- Snow Ice Blizzards Frost Freeze Below-normal temperatures Pests and disease Tropical storms Fire Excessive heat



USDA Secretarial Disaster Designation – What Are the Steps to Get One?

<u>STEP 1</u>

The governor, Indian Tribal Council leader, FSA State Executive Director, or others makes a request in writing to the Secretary of Agriculture within three months of the ending date of the disaster.

STEP 2

FSA county offices assemble required agricultural loss information for the Loss Assessment Report.

STEP 3

The County Emergency Board reviews the Loss Assessment Report to determine if a 30 percent production loss of at least one crop occurred, and makes a recommendation to approve, defer or reject the request.

Continued...



USDA Secretarial Disaster Designation – What Are the Steps to Get One?

STEP 4

The State Emergency Board reviews the request and the County Emergency Board's recommendation. The State Emergency Board's recommendation is submitted to FSA's national headquarters.

<u>STEP 5</u>

FSA national headquarters reviews the loss information on the Loss Assessment Report, determines eligibility and prepares a package, including the letter of approval or disapproval, to be signed by the Secretary.



USDA Secretarial Disaster Designation – What Are the Steps to Get One?

County FSA offices are to record disaster impact data within 24 hours of the disaster incident.

County FSA offices use the Systematic Tracking for Optimal Risk Management (STORM) electronic system to record and calculate losses.

To gather data for input, they will use a combination of:

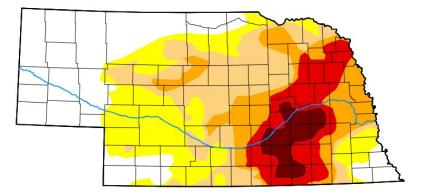
- Field visits
- FSA County Committee knowledge
- Surveying producers
- Insurance agent or loss adjuster verification
- Other government agency representative input



USDA Secretarial Disaster Designation – Fast Track for Drought

 For severe drought, Fast Track provides for a nearly automatic designation when, during the growing season, any portion of a county meets the D2 (Severe Drought) drought intensity value for eight consecutive weeks or a higher drought intensity value for any length of time as reported in the U.S. Drought Monitor

(http://droughtmonitor.unl.edu)



Map released: Thurs. September 21, 2023 Data valid: September 19, 2023 at 8 a.m. EDT

Intensity





Presidential Major Disaster and Presidential Emergency Declaration

- Presidential major disaster declarations, which must be requested of the President by a governor, are administered through the Federal Emergency Management Agency (FEMA).
- May trigger FSA Emergency Loans; depends on type of FEMA disaster





FSA Administrator's Physical Loss Notification

- An FSA Administrator's Physical Loss Notification (APLN) is for physical losses only, such as a building destroyed by a tornado.
- Livestock-related losses are considered physical losses.
- An APLN is requested of FSA's Administrator by an FSA State Executive Director.





Quarantine Designation by the Secretary Under the Plant Protection or Animal Quarantine Laws

A quarantine designation authorizes emergency loans for production and physical losses resulting from quarantine.

The State Executive Director initiates this type of designation request.



What Does a Designation Do for Those Impacted?

The **FSA Emergency Loan Program** triggers. This is a low-interest loan program.

Eligibility Criteria:

- There must be lender verification that commercial banking assistance was denied.
- The damage to the farm must be attributable to the declared disaster.
- Producer must have suffered a 30% loss in crop production or a physical loss to livestock, livestock products, real estate or chattel property.



What Does a Designation Do for Those Impacted?

FSA Emergency Loan Program

Loan Purposes:

- Restore or replace essential property;
- Pay all or part of production costs associated with the disaster year;
- Pay essential family living expenses;
- Reorganize the family farming operation;
- Refinance certain non-real estate operating debts.

Maximum loan amount is \$500,000; amount is limited to the actual amount of physical or production loss caused by the disaster.

The current Emergency Loan interest rate is 3.75%.



What a Designation Does <u>NOT</u> Do for Those Impacted



It does not trigger other FSA disaster-type programs.



Farm Programs – Disaster

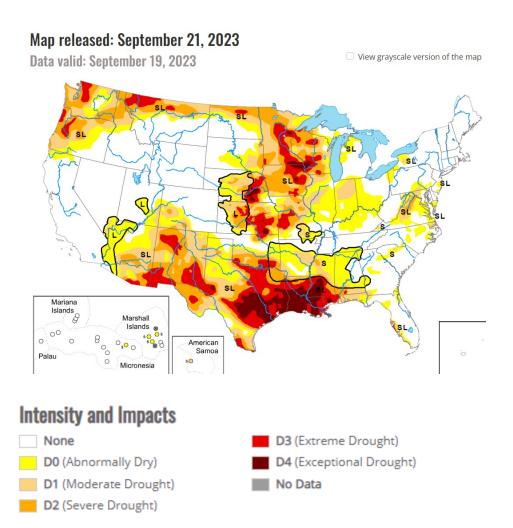
- LFP: Livestock Forage Disaster Program
- ELAP: Emergency Assistance for Livestock, Honeybees and Farm-raised Fish
- LIP: Livestock Indemnity Program
- ECP: Emergency Conservation Program
- CRP: Emergency Haying and Grazing



Disaster – Livestock Forage Program

Payments to eligible livestock producers who have eligible grazing lands that have suffered a grazing loss due to a qualifying drought during the normal grazing period for a county.

U.S. Drought Monitor is used as a program trigger.





Disaster – ELAP

- Can provide some financial assistance to eligible producers of livestock, honeybees, farm-raised fish when losses are tied to an eligible adverse weather event and those losses aren't covered by other programs
- All types of disasters blizzard, flood, lightning, wildfire, et cetera
- Can help with costs associated with losses of livestock feed and grazing due to adverse weather or other disasters (but not drought as drought covered by LFP)
- Can help with additional costs of transporting feed to eligible livestock because of an adverse weather event or transporting livestock to new feed resources (can include drought and Drought Monitor is a trigger for this)
- Can help with costs associated with hauling water to eligible livestock during drought (Drought Monitor is a trigger for this)
- Eligible livestock include grazing animals; feedlot animals not covered under this program





Disaster – Livestock Indemnity Program (LIP)

- Provides financial assistance for livestock losses (above normal mortality) that are due to a qualified disaster event
- Includes flooding, blizzards, winter storms, extreme heat, extreme cold among others (county by county based on conditions)
- USDA sets a national payment rate per head based on 75% of average fair market value
- A couple of parts to the application process, including notice of loss within 30 days of event and follow-up with supporting documents to complete forms for payment; March 1 of the following year for application for payment



Disaster – Emergency Conservation Program (ECP)

- Cost-share program to assist producers through reimbursement of expenses associated with land rehabilitation and fencing restoration and repair back to pre-disaster condition
- Program triggered at the county level based on FSA County Committee assessment of disaster and need
- Cultural and environmental consultations required with this program
- Can cover up to 75% of the cost of repairs (limited resource/beginning/underserved can receive up to 90 % cost share); \$500,000 limit per person/legal entity per disaster
- Producers who want to access this cost-share program must contact FSA prior to taking any action/repairs to their property; FSA cannot retroactively reimburse expenses



Disaster – Conservation Reserve Program Emergency Haying/Grazing



Emergency having or grazing of CRP approved cover is allowed on all practices outside of the primary nesting season when:

- All or part of the county is designated as D2 (severe drought) or greater for one week according the U.S. Drought Monitor; or
- There is a 40% loss in forage production in the county in which CRP acreage is physically located; or
- USDA determines that CRP can assist in response to a natural disaster event without long-term damage to established cover





Farm Loans

- Ownership loans
- Operating loans
- Guaranteed loans
- Beginning farmer loans
- Microloans
- Farm Storage Facility Loans
- Youth loans



Farm Loan Programs

Operating Loans (Direct)

Used to purchase items such as livestock and feed, seed, farm equipment, fuel, insurance; pay for family living expenses; make minor improvements or repairs to buildings and fencing; and pay for general farm operating expenses. Loan limit is \$400,000 with a maximum 7-year term.

Ownership Loans (Direct)

Can be used to purchase or expand a farm or ranch, construct new or improve existing farm or ranch buildings, and pay for soil and water conservation and protection purposes. Loan limit is \$600,000 with a maximum 40-year term.

Guaranteed Loans

Commercial lenders extend credit to family farm operators and owners who do not qualify for standard commercial loans; in exchange the lender can receive protection from loss, up to 95 percent. Guarantees, for both operating and ownership loans, **Farm** can be granted for up to \$2.037 million.

fsa.usda.ɑov



Farm Loan Programs – Beginning Farmer

Direct Farm Ownership Down Payment Program

Specific to beginning farmers and ranchers, women and/or social disadvantaged farmers/ranchers, this type of loan may be used to purchase a farm or ranch. A minimum 5% cash down payment is required. Term is up to 20 years. The interest rate is set at the farm ownership rate minus 4%, with a floor of 1.5%.

Down payment loans cannot exceed 45% of the lessor of:

- The purchase price,
- The appraised value of the farm/ranch to be acquired, or
- \$667,000 (FSA's loan amount cannot exceed **\$300,150**).

The balance of the purchase price not covered by the down payment loan and applicant down payment may be financed by a commercial or private lender, including the seller.

This program is only for those who are considered beginning farmers. For FSA program purposes, a beginning farmer is someone who has Service farmed less than 10 years. farmed less than 20 years.



Farm Loan Programs – Beginning Farmer

Direct Farm Ownership Loans – Joint Financing

This type of loan may be used to purchase a farm or ranch with no down payment required. Financing is provided jointly by FSA not to exceed 50% of the total amount financed and another lender providing the other 50% or more. FSA's loan limit is **\$600,000**.

Term is up to 40 years. The interest rate is set at the farm ownership loan rate minus 2%, with a floor of 2.5%.

This loan is accessible to all customers, but it is often used for beginning farmers.



Farm Loan Programs

Microloans

Designed to meet the needs of small or niche type operations by easing some requirements and offering less paperwork. \$50,000 loan limit for purchases and \$50,000 loan limit for operational expenses.

Farm Storage Facility Loans

Low-interest financing for producers to store, handle and/or transport eligible commodities they produce; Up to \$500,000 per loan, with a minimum down payment of 15%; loan terms vary and eligible commodities list is long; microloan option of \$50,000 max with lower down payment.

Youth Loans

Available to youth ages 10 to 20 years, these loans can help them finance income-producing, agriculture-related projects. The project must be of modest size, educational, and initiated, developed and carried out by the youth with supervision/oversight through an organization like FFA or 4-H. Maximum loan amount of \$5,000.



Farm Loan Programs - Other

Inflation Reduction Act

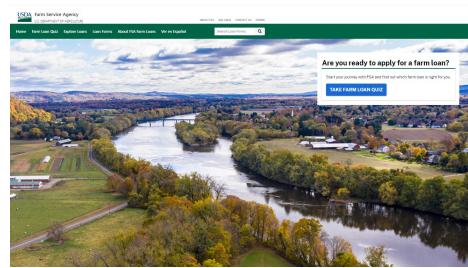
Large piece of legislation that included a number of provisions for FSA farm loan customers. Visit farmers.gov for more information or contact your local office.

Loan Assistance Tool and Farm Loan Discovery Tool

Links to both can be found at farmers.gov.

Loan Discovery Tool has clickable process to determine which loans may fit a producer's needs.

Loan Assistance Tool has clickable step-bystep process to help producers understand for what loans they may be eligible, what the requirements are for those loans, and how to fill out paperwork.



Learn More heck your eligibility for FSA loans, discover the various FSA loan products, learn about documentation equivements, and follow eavy to understand instructions when completing the loan application forms.





FSA ONLINE

www.farmers.gov

An official website of the United States government Here's h	Translations Service Centers Contact			
USDA U.S. DEPARTMENT OF AGRICULTURE	PAND	EMIC ASSISTANCE BLOG DATA USDA.GOV log in į sign up		
$\underbrace{ \text{Home} } \text{Loans} \lor \text{Protection and Recovery} \lor \\$	Conservation \vee Working With Us \vee	Your Business V Search Farmers.gov Q		
Necesita información en español? Busque <u>nuestra</u>	as traducciones o haga una solicitud.	DISMISS		
FARMERS.GOV				

Fall into growing organic

USDA can assist with organic certification costs.

Learn about the Organic Certification Cost Share Program 📀

News

- Simplified Direct Farm Loan Application
- Learn about USDA's new Urban Service
 <u>Centers</u>
- Inflation Reduction Act:
- <u>Assistance for Distressed Borrowers</u>
- <u>Assistance for Producers Discriminated</u>
 <u>Against in Loan Programs</u>
- <u>Conservation Assistance</u>
- Boosting Domestic Production through Double Cropping, Nutrient Management and Fertilizer Investments
- What should your state's <u>farmers.gov</u> <u>dashboard</u> include?

Important Dates

Date varies	Conservation Program State Ranking		
by state	Dates		

Sep 30, 2023 Margin Protection Insurance Plan

Nov 1, 2023 Organic Certification Cost Share Program (OCCSP)

Jan 31, 2024 <u>Food Safety Certification for Specialty</u> <u>Crops Program</u>

View All ()

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SDA Farm Service Ager U.S. DEPARTMENT		41		6	
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Vebraska Stat	te Office				
Nebraska Stat					
	te Office Spotlights				
Section Topics		wsletter:	August		
Section Topics Nebraska Home	Spotlights		August		

FSA Reminds Producers to Report Livestock Losses Due to Extreme Weather

As extreme heat and humidity hang on in Nebraska, Farm Service Agency is reminding livestock producers of the availability of the <u>Livestock Indemnity Program</u> (LIP). LIP



Electronic Newsletter



U.S. DEPARTMENT OF AGRICULTURE

Nebraska FSA and NRCS State Office Newsletter - August 2023

Farm Service Agency | Natural Resources Conservation Service | Risk Management Agency

In This Issue:

- A Message from the FSA Acting State Executive Director
- USDA Updates Livestock Disaster Program Payment Rate to Assist <u>Producers Hard-Hit by Heat and Humidity</u>
- FSA Offers Drought Assistance for Livestock Producers Through Emergency Assistance for Livestock, Honey Bees and Farm-raised Fish Program (ELAP)
- USDA Microloans Help Farmers Purchase Farmland, Cover Operating
 Expenses
- USDA Offers Targeted Program Benefits for Certain Underserved Individuals
- Have Expiring CRP? Consider Helping a Beginner Through Transition
 Incentive Program
- Section 22007 Program to Assist Those Who Experienced
 Discrimination
- August FSA Loan Interest Rates
- Cost-Share Opportunities Available Through Local NRCS Offices
- Dates to Remember

A Message from the FSA Acting State Executive Director

It has been a challenging past month across the state with many long-standing records being toppled for heat and high humidity. For those producers with livestock, we know you work hard to ensure the best care for animals during these extreme conditions. However, if despite your efforts you had livestock deaths due to the high heat and humidity, please remember to contact your county FSA office for information on the Livestock Indemnity Program (LIP). LIP provides producers with financial benefits for livestock losses above normal mortality if those losses are due to a qualifying extreme weather event

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For More Information

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