



Foreign Ownership of U.S. Ag Land

Joint Report of the Market Structures and Budget & Economy Issue Advisory Committees

During the 2022 resolutions process, AFBF received 11 policy proposals from nine different states concerning foreign ownership of U.S. agricultural land. During December resolutions, subcommittee four reviewed these policy proposals relevant to (then) section 419 of the policy book (now section 420): Foreign Investment.

Many of the proposals differed and even contradicted each other in ultimate intent, making it difficult for the subcommittee to take any clear stance. The subcommittee recommended that these proposals be reviewed more thoroughly, a task ultimately assigned to members of the Market Structures and Budget and Economy Issue Advisory Committees.

Three meetings were held during 2023 concerning foreign ownership of U.S. agricultural land. The Market Structures and Budget and Economy Committees met individually, in person, on February 17th. Speakers on the topic included Joe Glauber, Senior Research Fellow at the International Food Policy Research Institute and Rene Johnson, Specialist in Agricultural Policy at the Congressional Research Service.

The second meeting was held jointly and virtually on April 20th and included a presentation of current Agricultural Foreign Investment Disclosure Act (AFIDA) data from AFBF senior economist, Veronica Nigh followed by open discussion of possible policy options for the committee to recommend to the AFBF board of directors. Initial discussions on April 20th resulted in four potential options as listed in Appendix C. Given the conflict between the discussed options, the IAC's met jointly again on June 20th to refine recommendations further.

The final recommendation unanimously supported by the Market Structures and Budget and Economy IAC would add a third policy under section 420 Foreign Investment on page 161 of the AFBF 2023 policy book listed as:

- 3. We support additional funding to improve data collection, auditing techniques and enforcement of reporting under the Agricultural Foreign Investment Disclosure Act (AFIDA). Current data collection and reporting on foreign ownership of U.S. agricultural land is incomplete, flawed, and unclear. Farmers need an accurate image of current ownership dynamics to inform policy development.**

During open discussion time, members expressed concern over ownership by adversarial nations as well as the possible implications of expanding federal jurisdiction over the sale of private property. Additionally, the status and authority of state legislation and federal legislation was considered. Ultimately, both IACs unanimously agreed that it is not appropriate to have additional policy further limiting foreign ownership of U.S. agricultural land without knowing the full extent of the current situation.

APPENDIX A: Existing Policy

401 / Electric Power Generation (Page 148)

5.4.3 (We oppose) Foreign governments being allowed to own a controlling interest in public utilities;

420 / Foreign Investment (Page 161)

1. Foreign investment in U.S. assets is a concern. The impact of foreign investment in agriculture, banking, insurance and other business institutions in the United States should be monitored.
2. Foreign ownership of utility companies and natural resource businesses, including agricultural land, should be limited to less than a controlling interest. We oppose preferential treatment of foreign investments in agriculture and insist that foreign investors be required to conform to the same tax laws, import and export regulations as American producers.

439 / Taxation (Page 166)

3.16 (We oppose) Any foreign entity or persons receiving any tax credits, abatements, incentives or any other in-kind contribution that affects the taking of agricultural land in the U.S.;

462 / Role of USDA (Page 176 and 177)

8. We support adding the Secretary of Agriculture to the Committee on Foreign Investment in the United States.

12. USDA should be:

- 12.1 A monitor of domestic and foreign agricultural affairs;
- 12.2 An accurate source of agricultural data and research; and
- 12.3 An agricultural policy adviser to other departments of the federal government;

516 / Transfer of Federal Lands (Page 197)

2.3. (We oppose) The transfer by deed or lease of any of the federal or state-owned lands to any foreign government or the United Nations.

APPENDIX B: 2022 Policy Recommendations

During the 2022 resolutions process subcommittee four reviewed policy proposals from state farm bureaus including those relevant to (then) section 419 of the policy book (now section 420): Foreign Investment. The subcommittee recommended that these proposals be reviewed more thoroughly at a later date when more detailed information could be accessed on the subject. These are the proposals submitted by states for our reviews:

419 / Foreign Investment Nebraska Farm Bureau

Amend 2. ~~Foreign ownership of utility companies and natural resource businesses, including agricultural land, should be limited to less than a controlling interest.~~ **We oppose the sale of any agricultural real estate in the United States and/or the use of it as collateral to any foreign governments, foreign entities, or foreign individuals.** We oppose preferential treatment of foreign investments in agriculture and insist that foreign investors be required to conform to the same tax laws, import and export regulations as American producers.

419 / Foreign Investment Minnesota Farm Bureau

Amend 2. Foreign ownership of utility companies, **food processing companies**, and natural resource businesses, including agricultural land, should be limited to less than a **10%** interest. We oppose preferential treatment of foreign investments in agriculture and insist that foreign investors be required to conform to the same tax laws, import and export regulations as American producers.

419 / Foreign Investment Minnesota Farm Bureau

New 3. We oppose foreign investment in US agricultural real estate with exceptions that would allow limited basis ownership by foreign citizens holding an E2 visa and applying for US citizenship of agricultural land.

419 / Foreign Investment Texas Farm Bureau

New 3. We oppose foreign ownership of agricultural land near military installations.

419 / Foreign Investment Wyoming Farm Bureau

New 3. We support Congress introducing legislation to specifically prohibit all foreign ownership, either directly or indirectly or through other agents of all land, water, and underground mineral estate within the boundaries of the United States of America.

419 / Foreign Investment South Dakota Farm Bureau

New 3. We oppose the purchase and/or ownership of agriculture farm ground that would be owned by a majority of stockholders from foreign countries or entities.

419 / Foreign Investment Pennsylvania Farm Bureau

New 3. We recommend sale of farmland, land near a military installation, or land near a critical infrastructure facility be restricted to US citizens or companies.

419 / Foreign Investment Pennsylvania Farm Bureau

New 3. We recommend the House Agriculture and Oversight Committee ask the Government Accountability Office to investigate foreign investments in United States farmland on the impact of national security and trade.

419 / Foreign Investment Montana Farm Bureau

New 3. We oppose any future ownership of military, agricultural, natural resources, and telecommunication lands by companies or governments of adversarial countries.

419 / Foreign Investment Indiana Farm Bureau

New 3. We support the restriction of foreign entities' ability to buy U.S. farmland.

525 / Land Ownership Arkansas Farm Bureau (recommended to move to 419)

New 4.9 (We oppose) Ownership of agricultural land as a means or method to circumvent national security or trade restriction.

APPENDIX C: April 20th Meeting Discussion and Options

On April 20, 2023, the Market Structures and Budget and Economy IACs met to discuss next steps on policy regarding foreign ownership of U.S. agricultural land. The following represent the first set of policy options recommended by one or more IAC members.

Bullet points included below provide additional context and opinions of members relevant to each discussion topic.

1. Current data collection and reporting on foreign ownership of U.S. agricultural land is incomplete, flawed and unclear. USDA must improve data collection, auditing techniques and enforcement of reporting under the Agricultural Foreign Investment Disclosure Act (AFIDA) to provide farmers with an accurate image of current ownership dynamics. This will likely require additional funding for administrative and staff support.

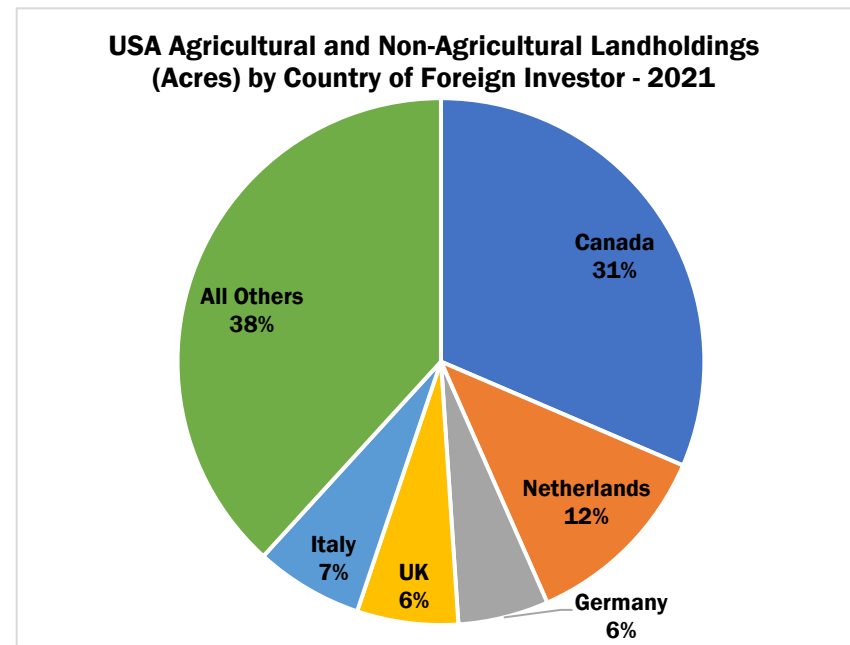
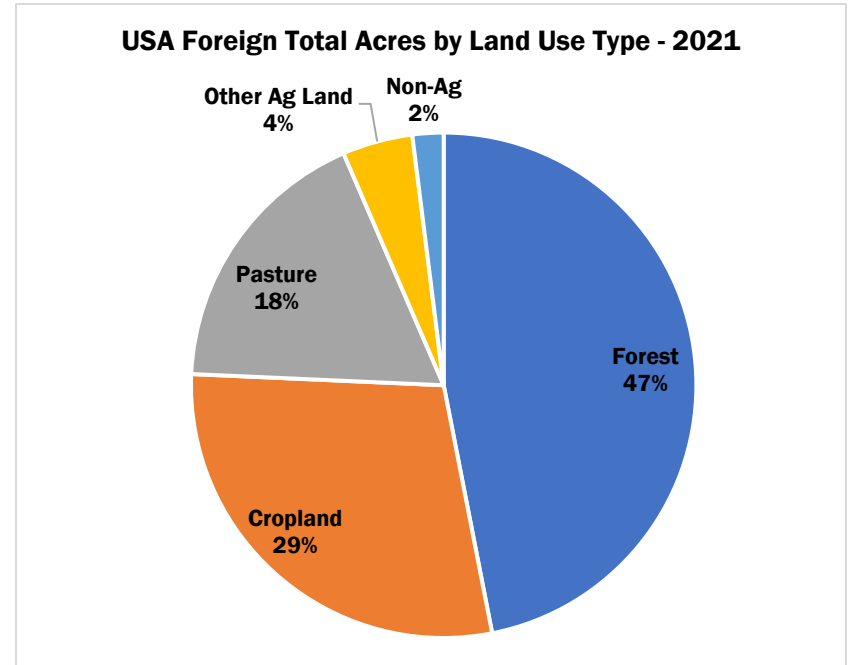
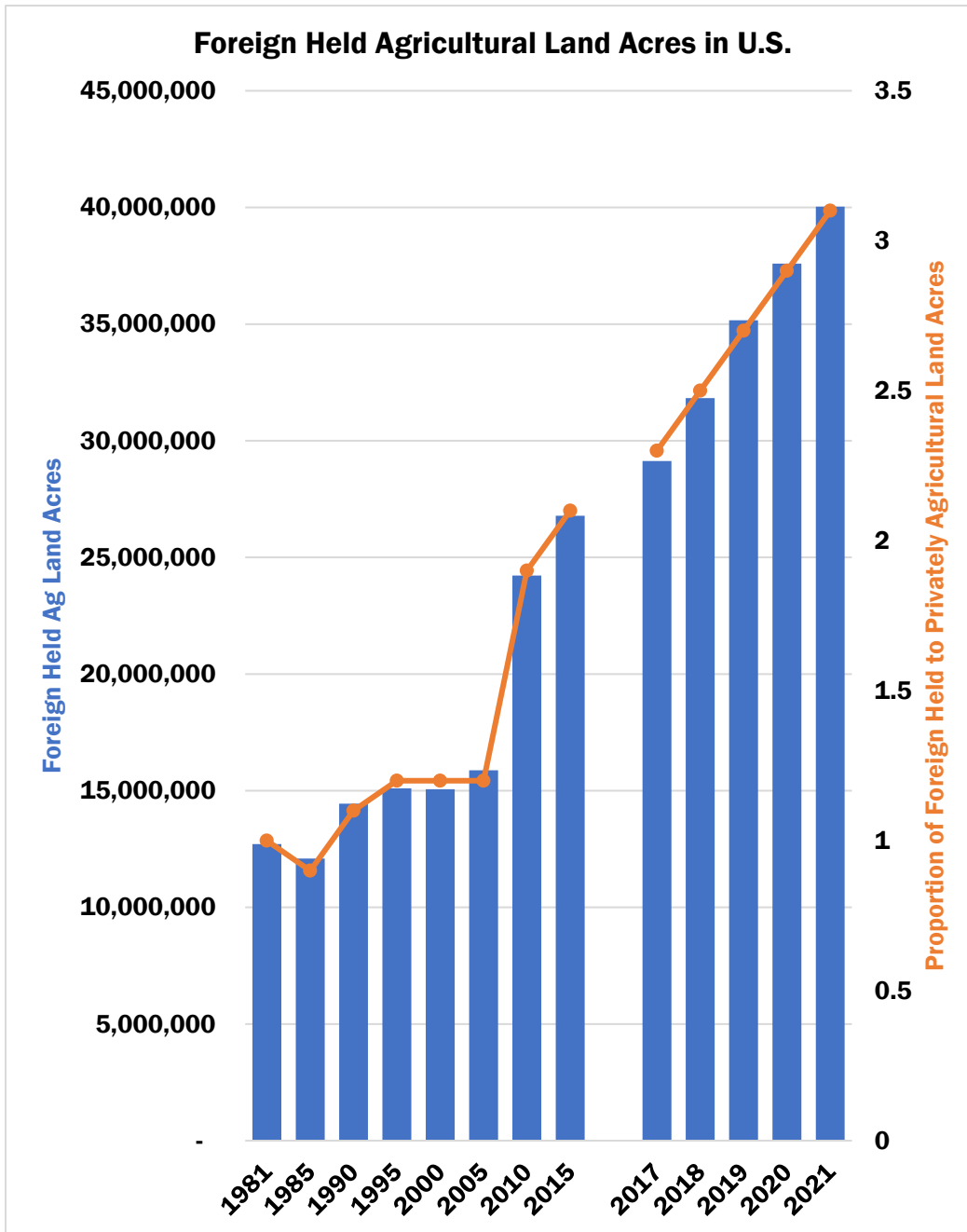
- a. Members reported that local county officials shared that they have never filled out foreign ownership paperwork, though USDA has reported on their counties.
- b. The Congressional Research Service (in-person IAC presentation by Renee Johnson) noted several shortcomings of AFIDA including:
 - i. Data is incomplete given omissions due to unreported purchases/transfers.
 - ii. Ownership transparency is limited (USDA lacks the “legal authority to require disclosure beyond the third tier of ownership” and cannot always “identify the ultimate beneficial owners.”)
 - iii. Some investors are from an “identity haven” and the “actual nationality of the real owners is not known.”
 - iv. Accuracy of disclosed data relies on voluntary compliance and self-reporting.
 - v. Limits of policing disclosures given volume of annual transactions.
 - vi. Incentives for anonymity to hide the extent of investments in order to avoid federal or state action.
 - vii. Data is not standardized and reports are difficult to use.
 - viii. USDA lacks staff and resources to verify, monitor and track transactions.
- c. From 1998-2021 USDA assessed penalties under AFIDA only 494 times. All fees assessed were for late filing, suggesting there was no effort at detection beyond checking dates on reported data.
 - i. The rate used to assess fees was less than 1% (maximum penalty is 25%) of the market value of the land.
 - ii. Due to staffing shortages USDA did not assess or collect penalties between 2015-2018 and in 2020.
- d. We need a better understanding of where ownership stands before enacting possibly unnecessary regulations. Only the top five countries by ownership are reported in AFIDA. The top five countries by ownership in 2021 were: Canada (12.8 million acres), Netherlands (4.8 million acres), Italy (2.7 million acres),

United Kingdom (2.5 million acres) and Germany (2.2 million acres). All other countries combined to own 15.6 million acres.

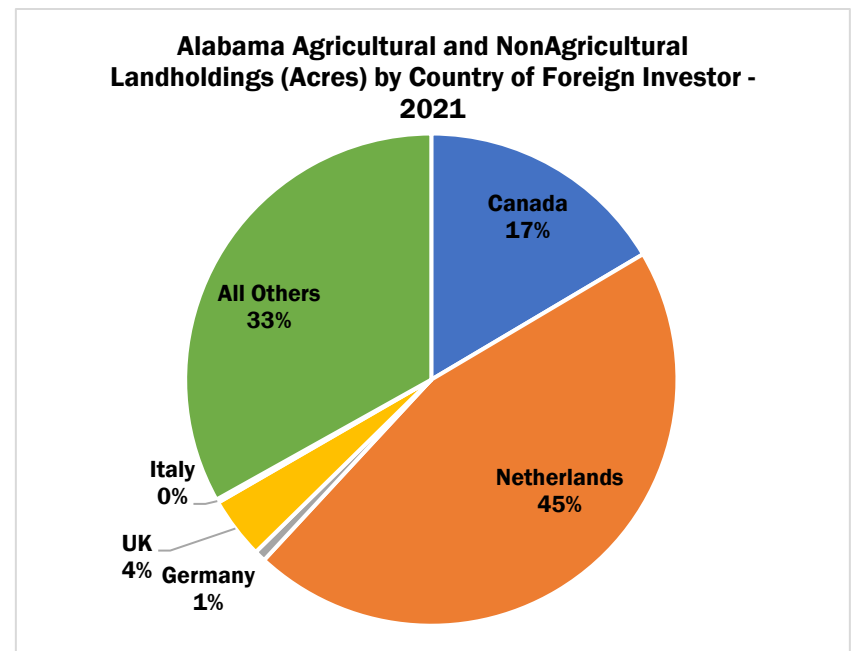
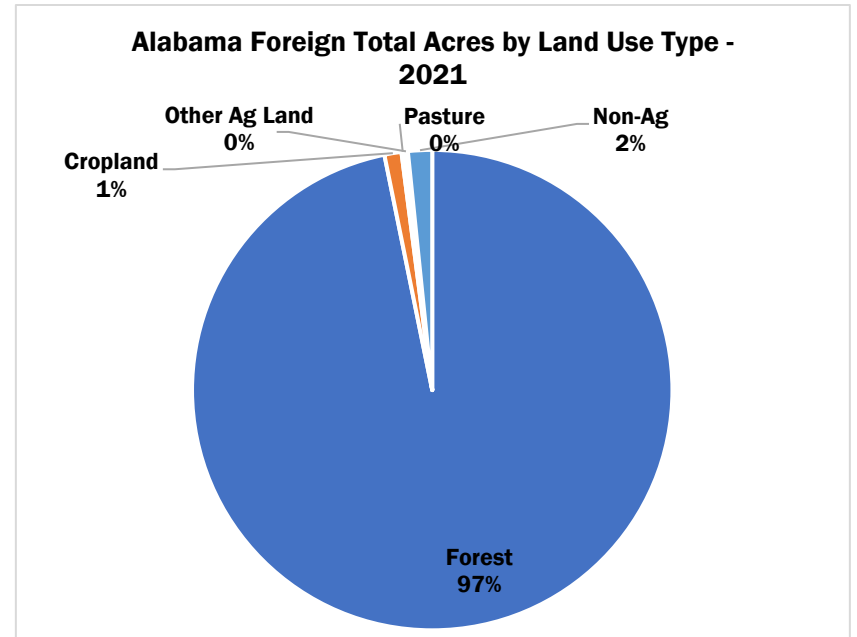
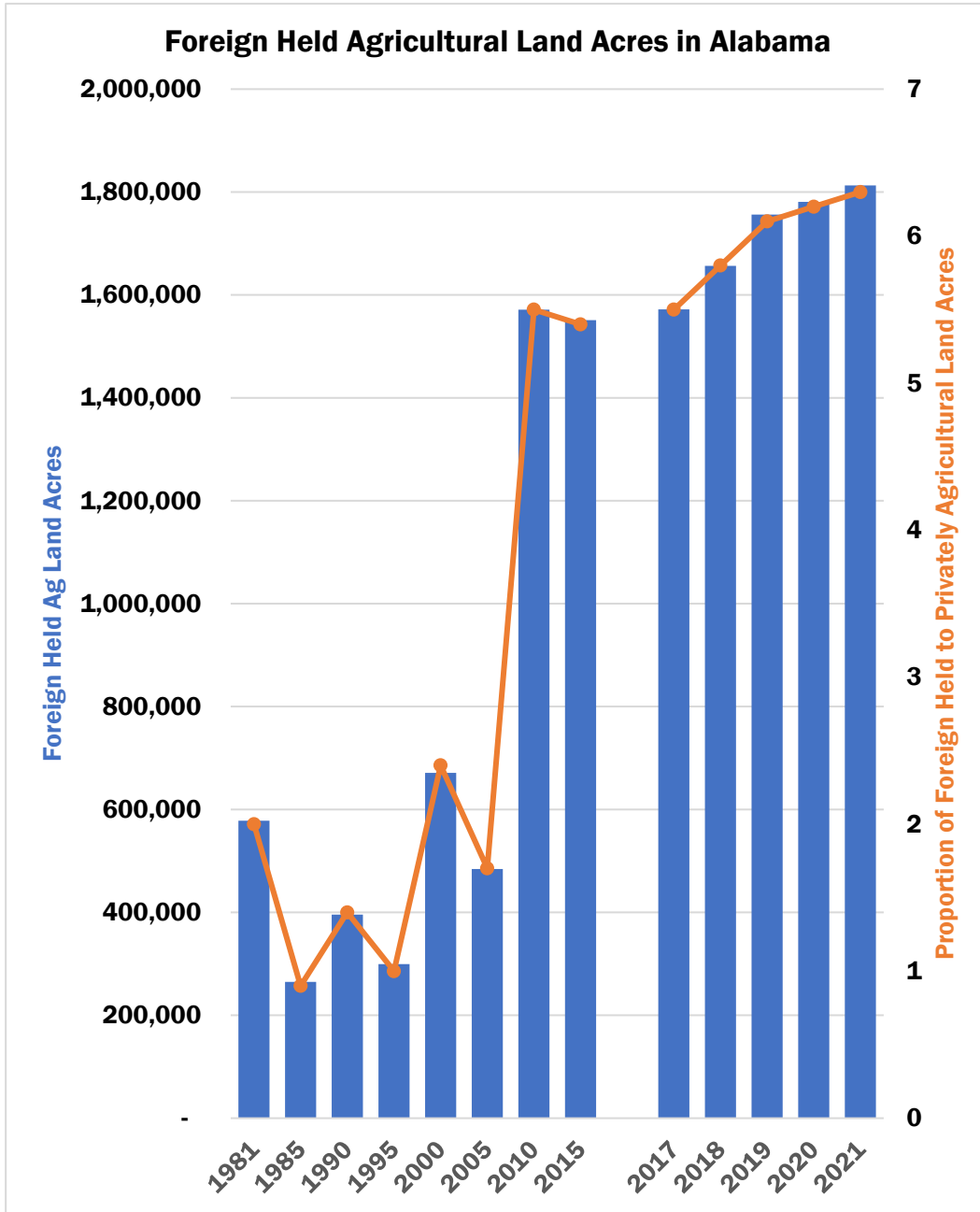
- e. Need farm bill monetary support for reporting and staffing.
 - f. Consensus among IAC members on this suggestion was widespread.
2. **The sale of private land should not be addressed at the federal level. This is a state issue. Many states already have pending or existing legislation regulating foreign ownership of U.S. agricultural land which should not be superseded by federal interference. It is not appropriate for AFBF to have national policy dictating who can purchase or sell private property.**
- a. Members were concerned that having policy restricting ownership would open the door for interference with U.S. companies operating in other countries and companies headquartered in other countries doing business in the U.S. which often benefit farmers and consumers.
 - b. Concern that having federal law will give the executive branch the opportunity to interpret language in their own way opening the door for regulation larger in scope than originally intended.
 - c. Members reported that constitutionally, land purchases fall under states' rights.
 - d. Current AFIDA reporting indicates very little ownership by adversarial nations.
3. **Foreign ownership of U.S. agricultural land is a national security risk IF that ownership is by owners residing in an adversarial nation. Federal law is necessary to prevent hostile nations from infiltrating and manipulating U.S. markets and ensuring national security. Adversarial nations must be identified and regulated accordingly.**
- a. Members noted this suggested policy may need to be broader in nature to apply to companies that may be exporting sensitive intellectual property.
 - b. Foreign countries may be purchasing up U.S. land to prevent U.S. farmers from producing products in a manner meant to control markets.
 - c. Foreign countries may be purchasing land for renewable energy production to meet the changing international regulatory environment. This also includes carbon offsets. In either case land is taken out of agricultural production.
 - d. We need language banning ownership by residents of China, Russia, Iran and North Korea specifically.
 - i. AFBF should support existing introduced bills to restrict these countries.
 - e. Members noted it is very difficult to define “adversarial nation” and nations who hypothetically qualify could change from year-to-year.
 - i. List of state sponsored terror countries only includes Cuba, North Korea, Iran and Syria – doesn’t even include Russia and China.
 - ii. On what subject are we defining adversarial? Military? Energy? Ag competitors? Too nuanced to define.
4. **Foreign ownership of U.S. agricultural land should be limited to certain locations. Restricted areas should include acreage near sensitive military or government sites, high agricultural productivity regions and critical energy infrastructure.**

- a.** How should these locations be identified? Will the map of sensitive locations become too complex too quickly?
- b.** The physical location – with absolute references to the location – in border areas or other pre-determined “strategic” zones has historically been the subject of acquisition-related mechanisms in many countries. Some mechanisms refer to physical locations in relative terms, for instance by referring to a location near a sensitive site or defense installation. Finally, some mechanisms refer to land that is qualified by certain features, which may include physical location.

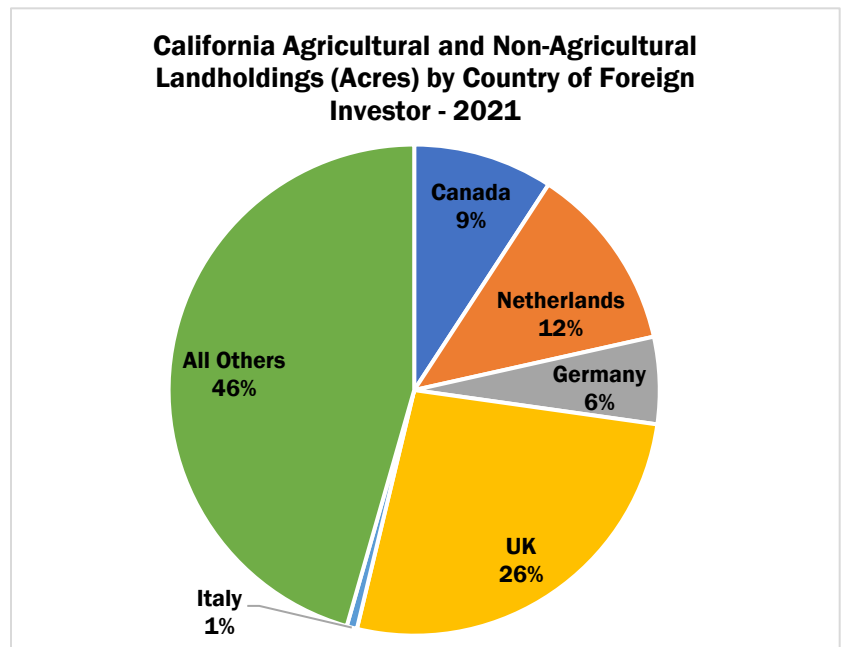
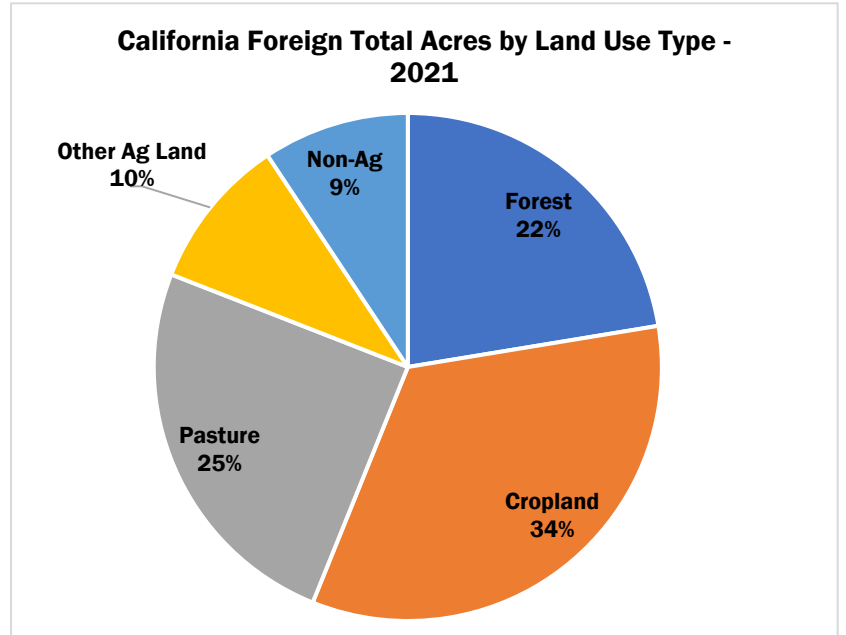
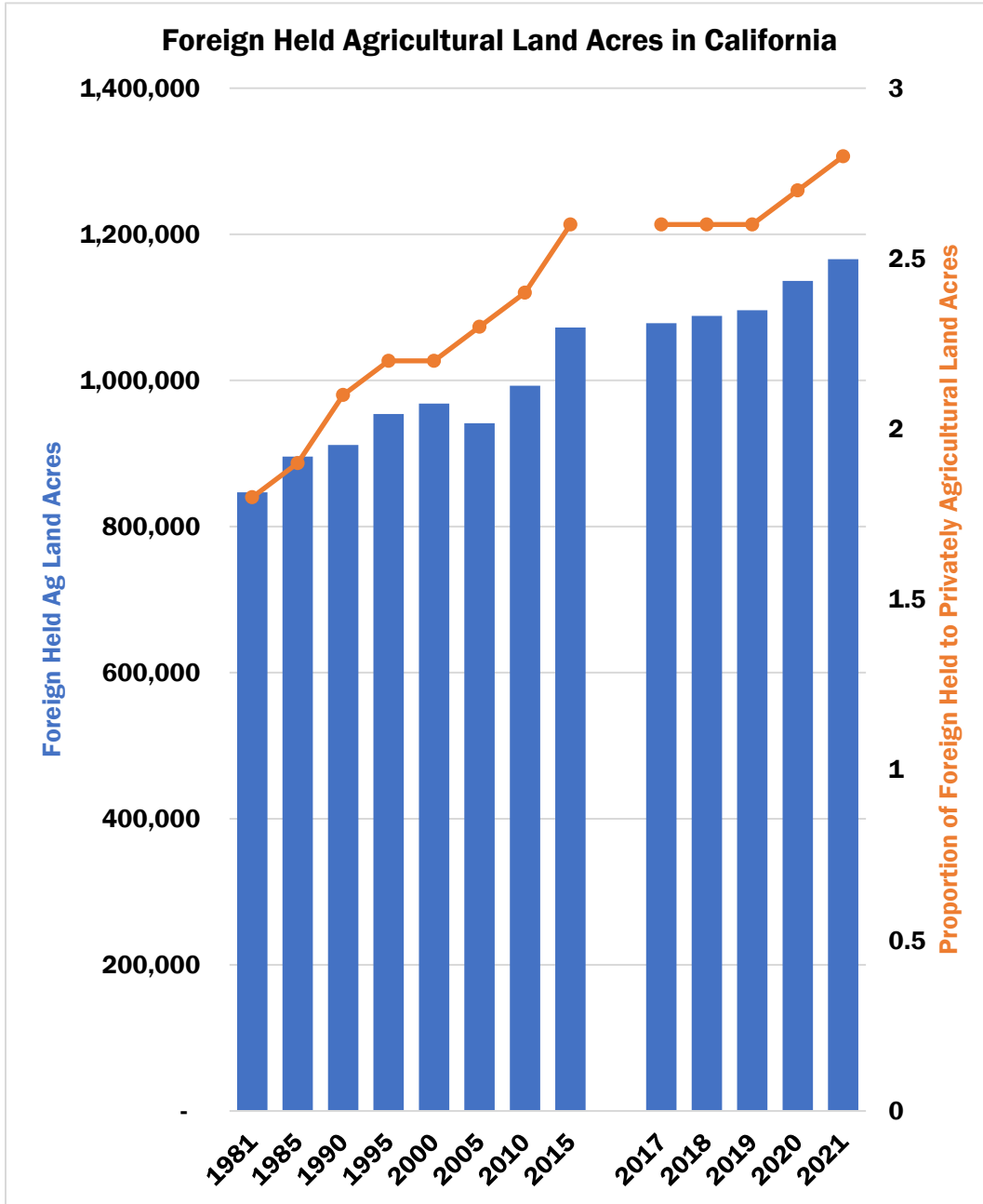
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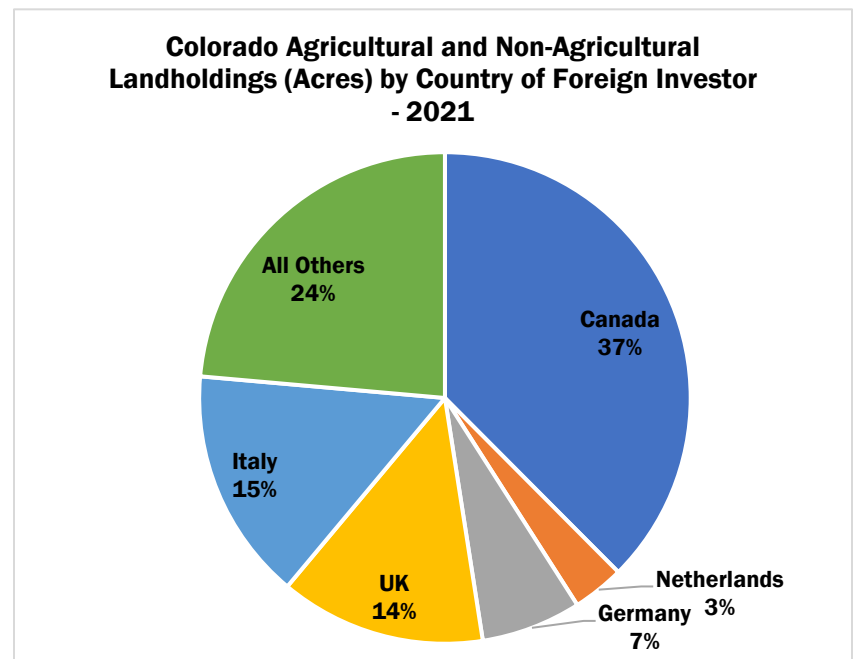
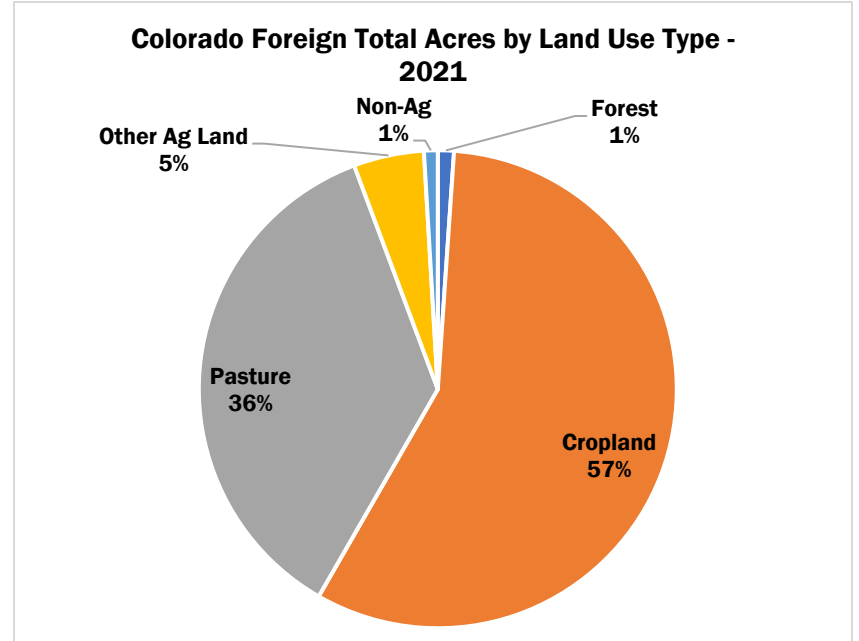
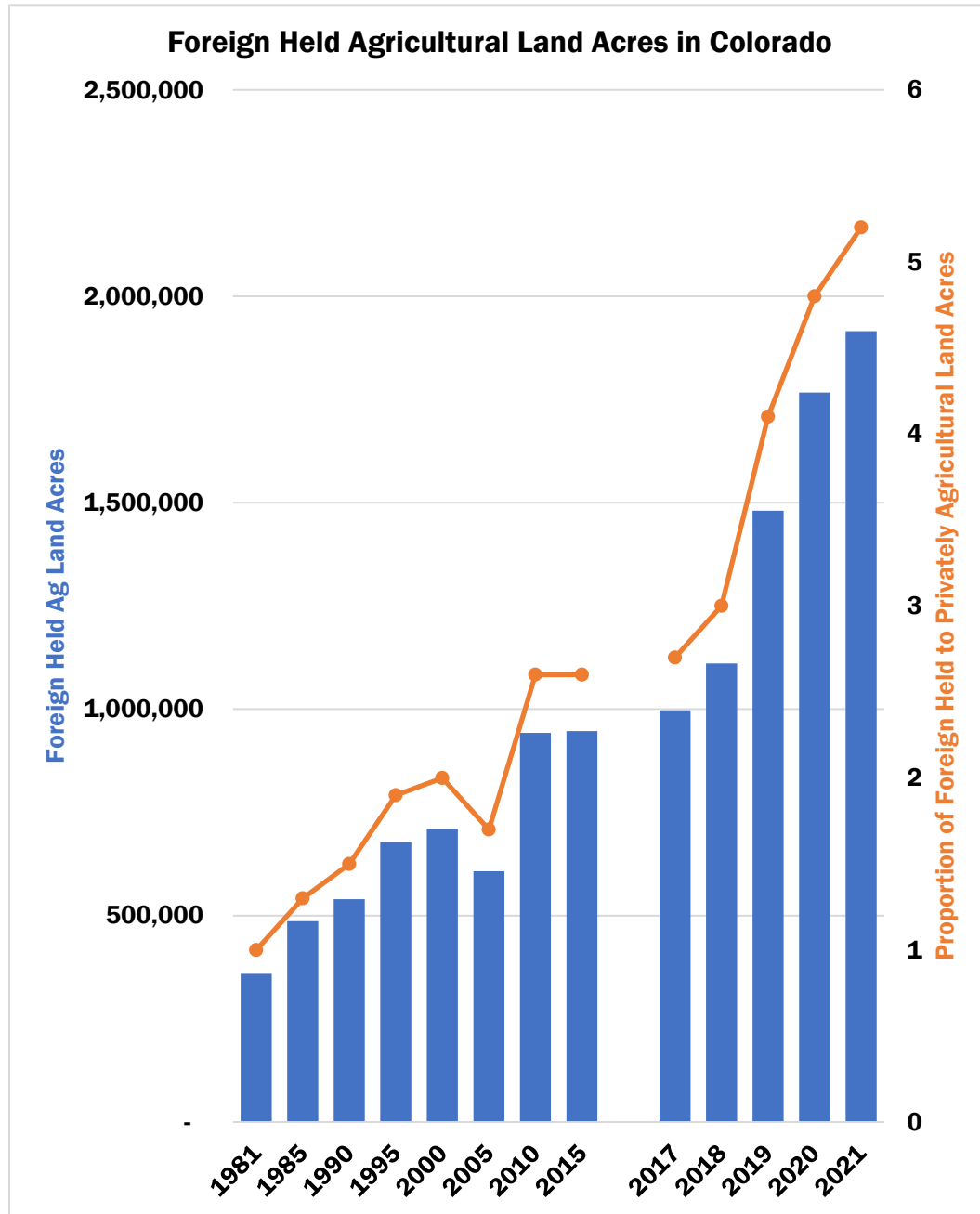
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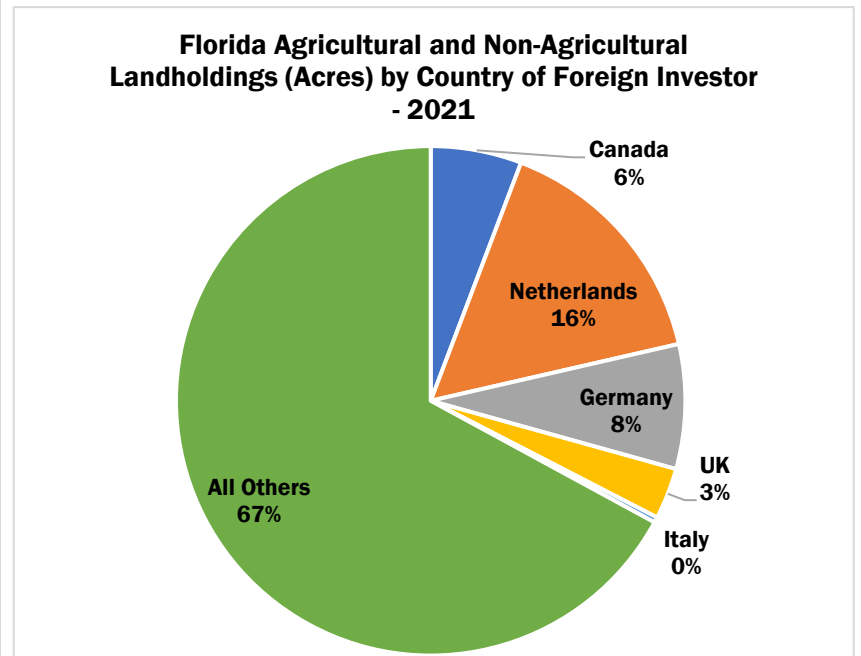
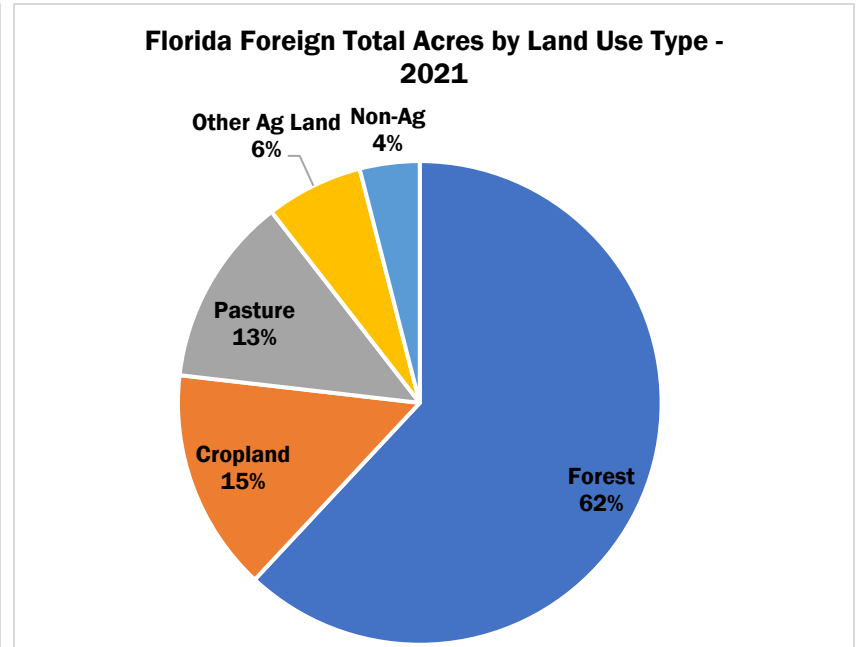
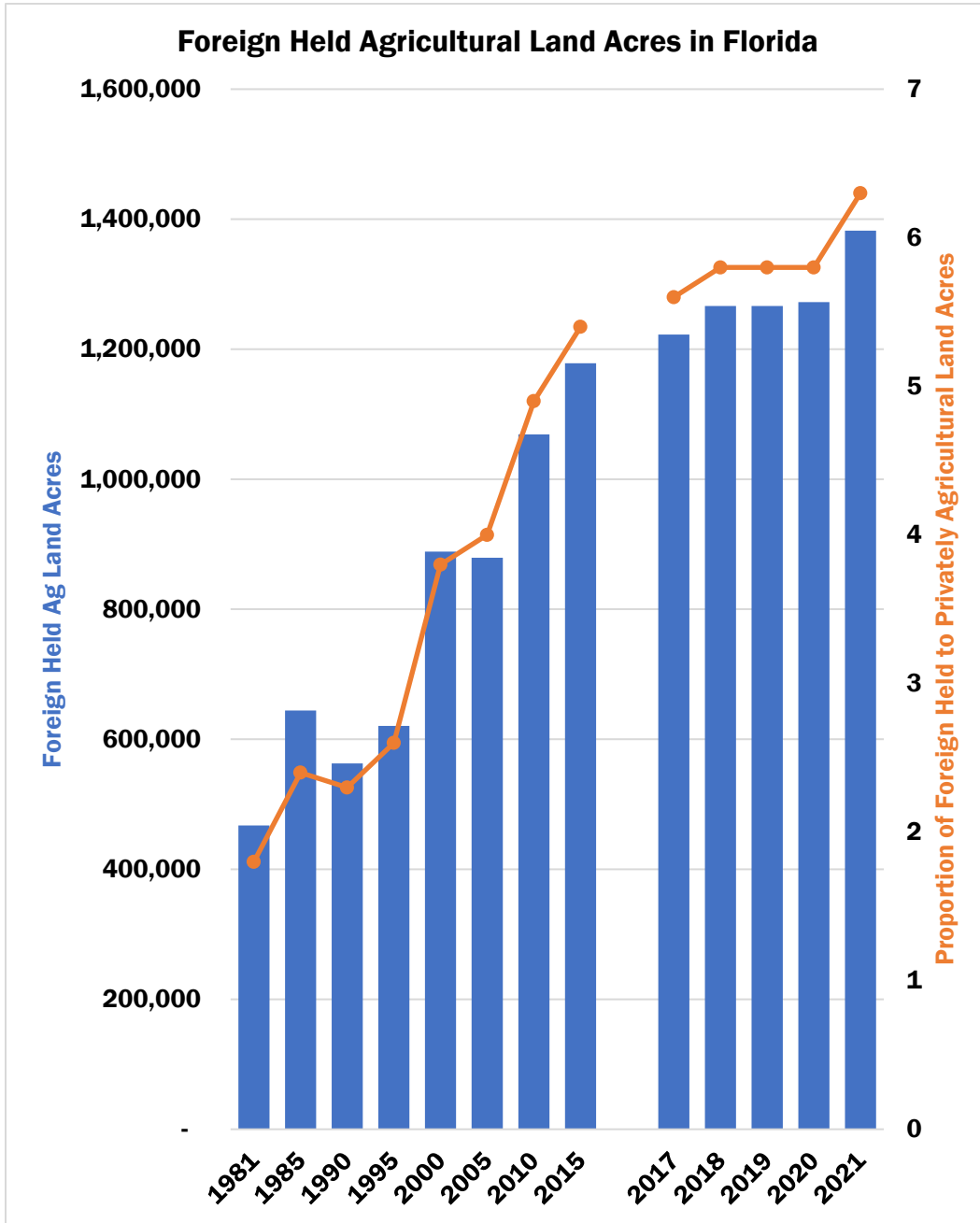
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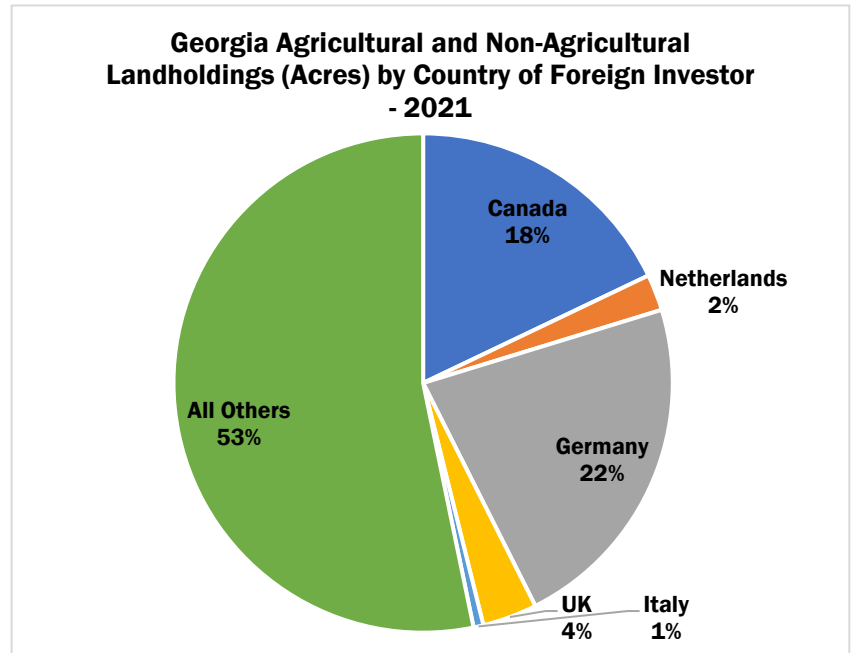
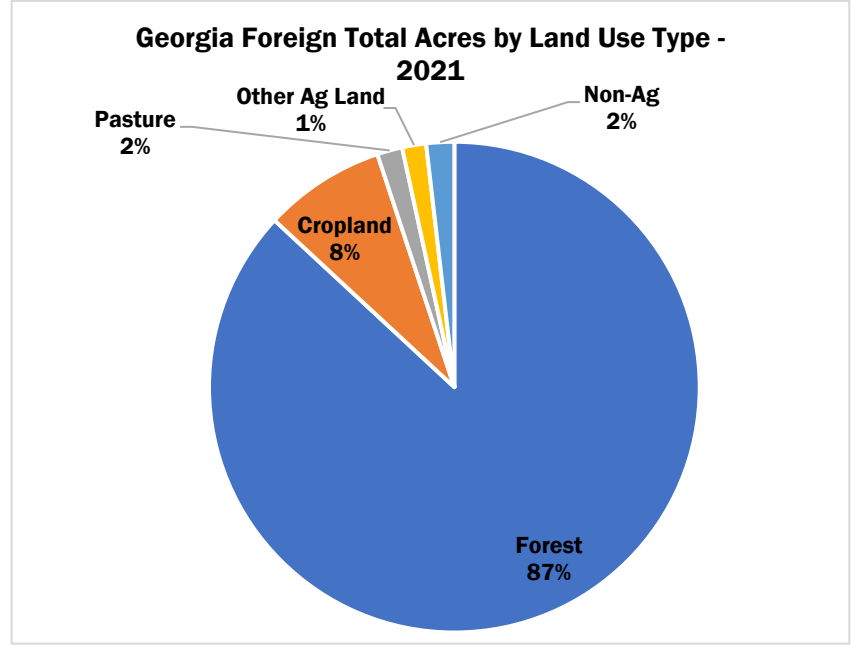
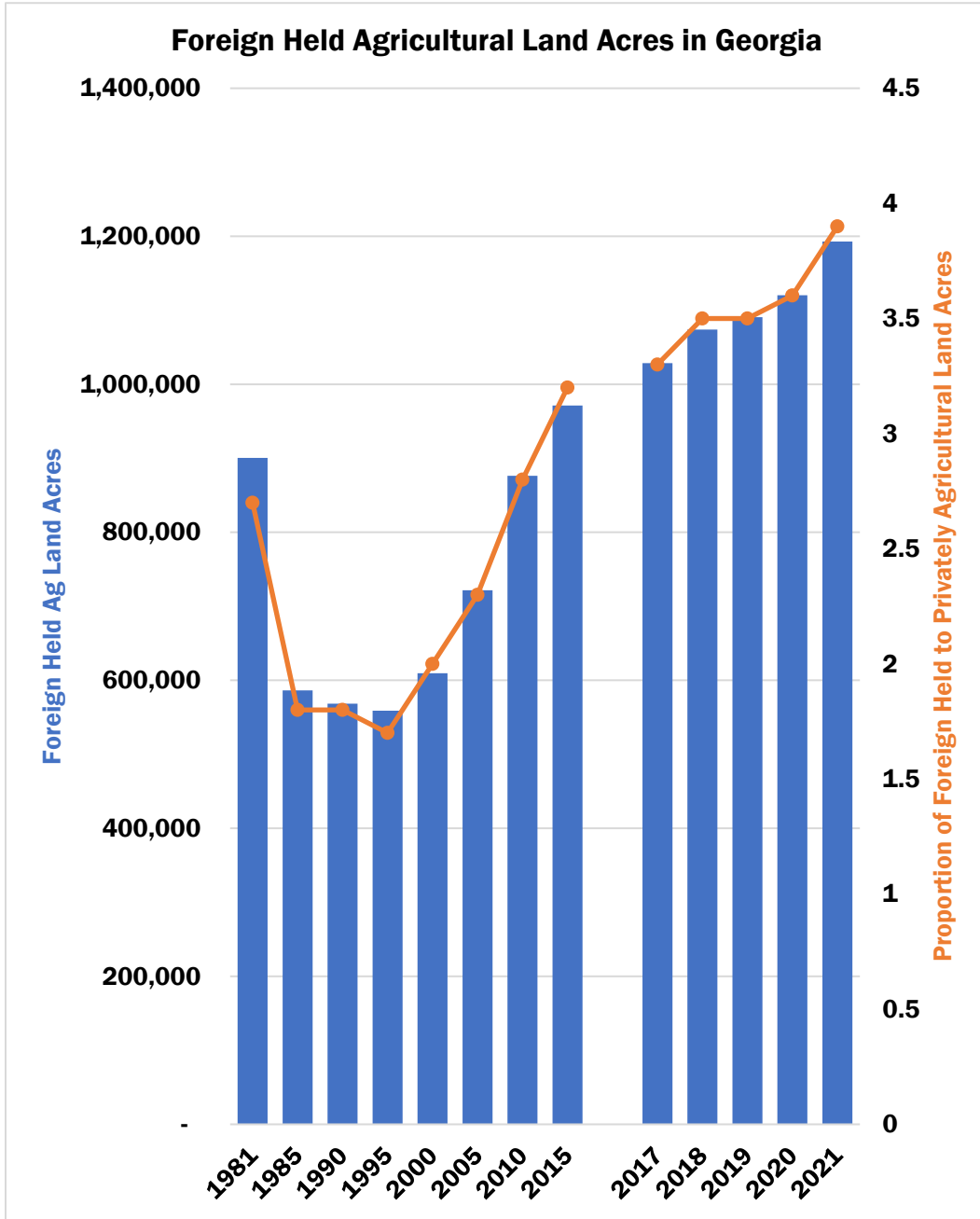
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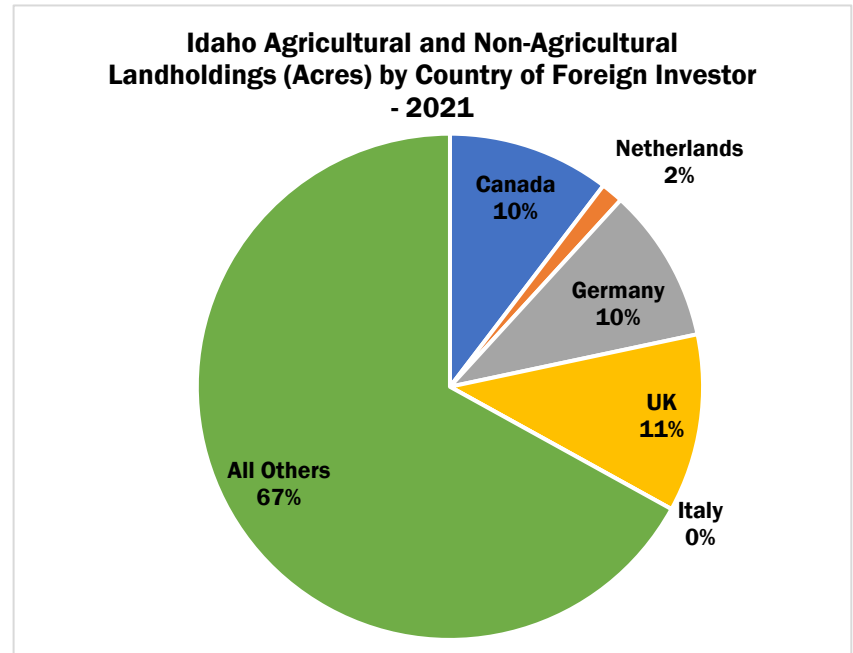
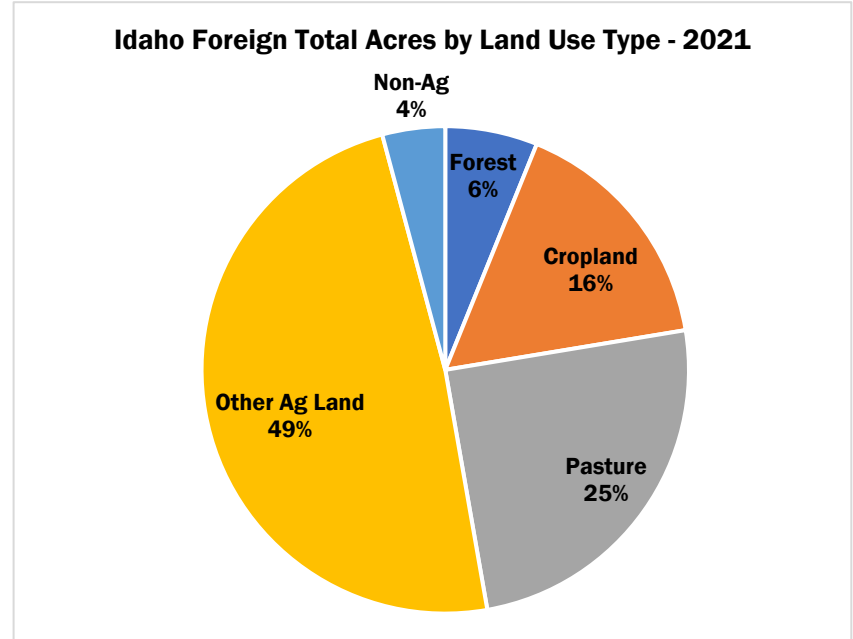
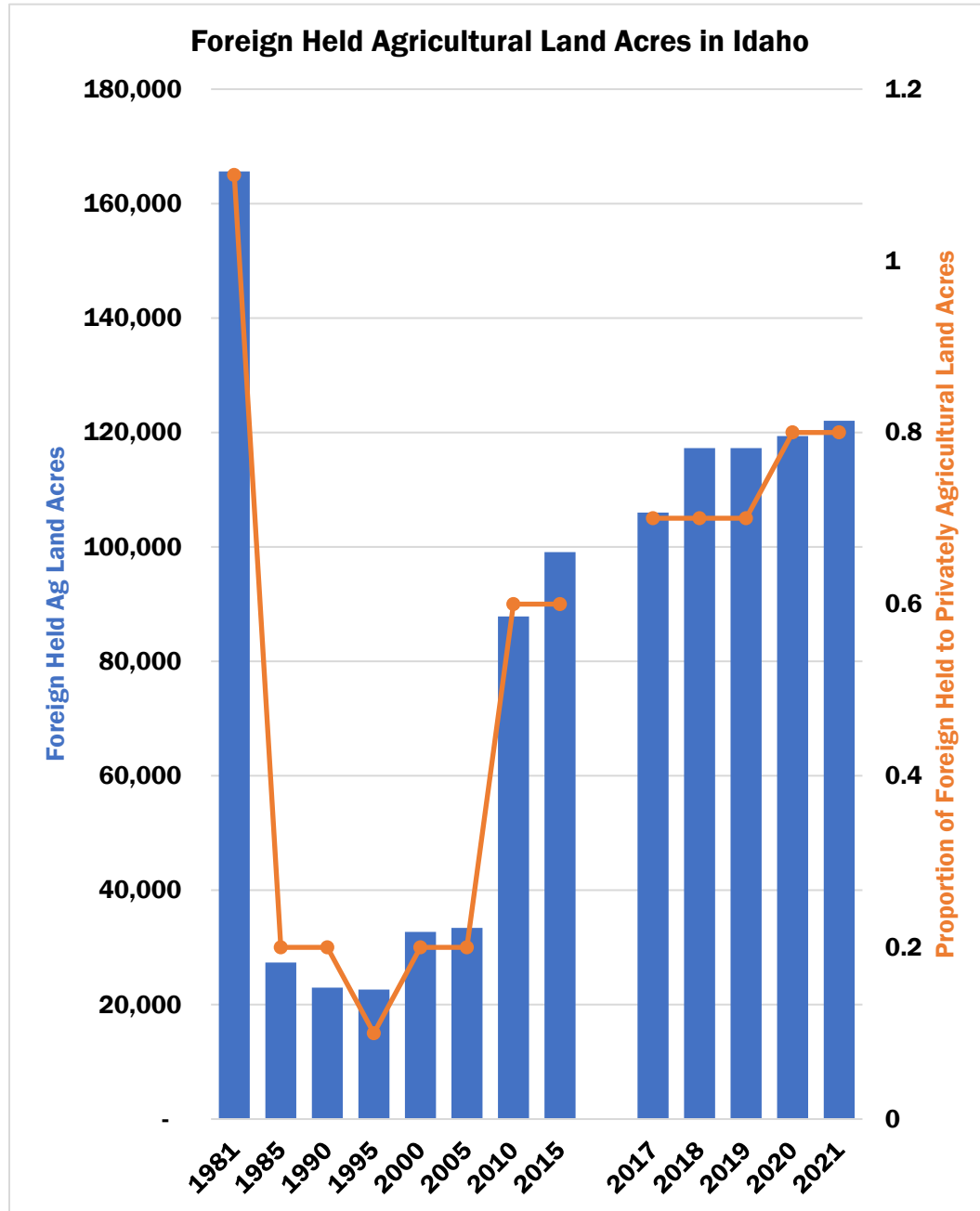
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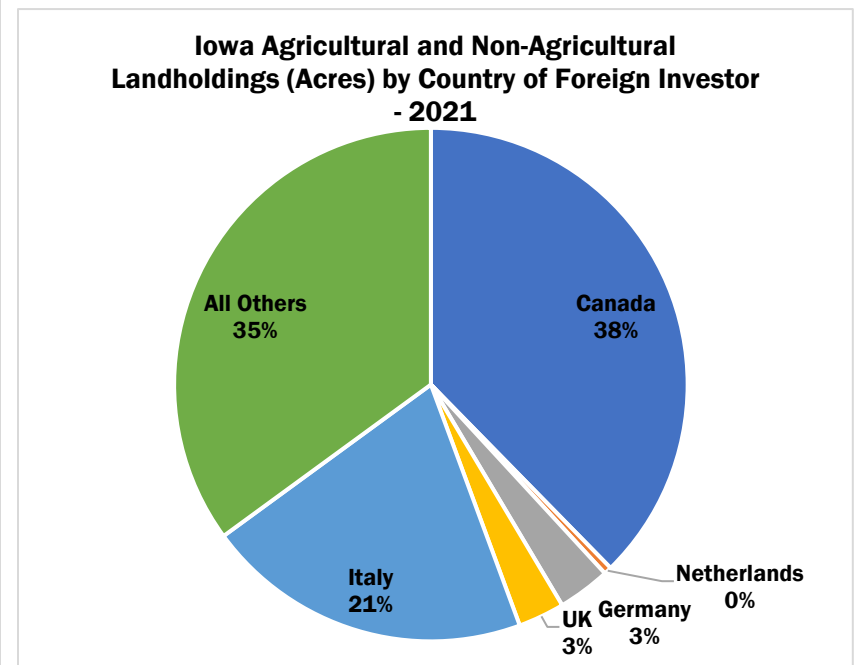
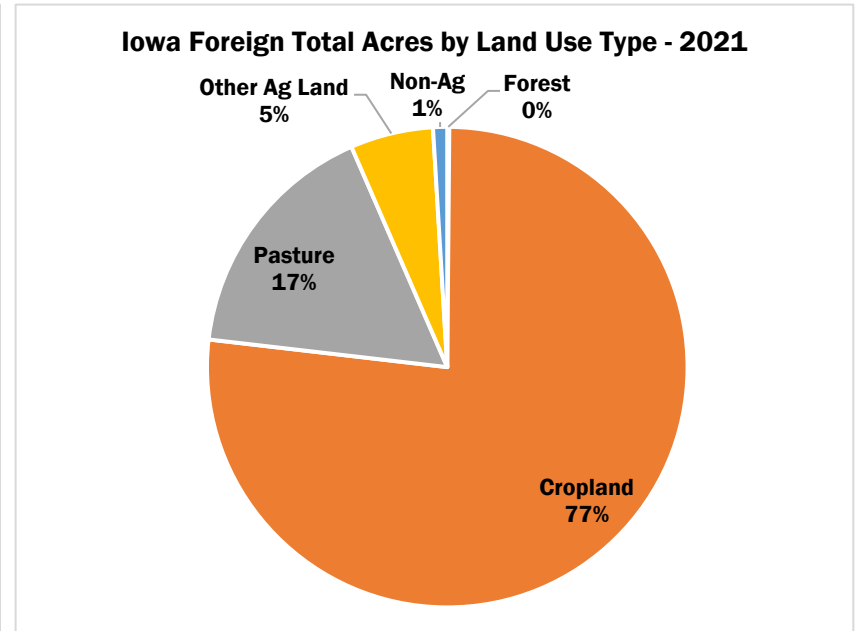
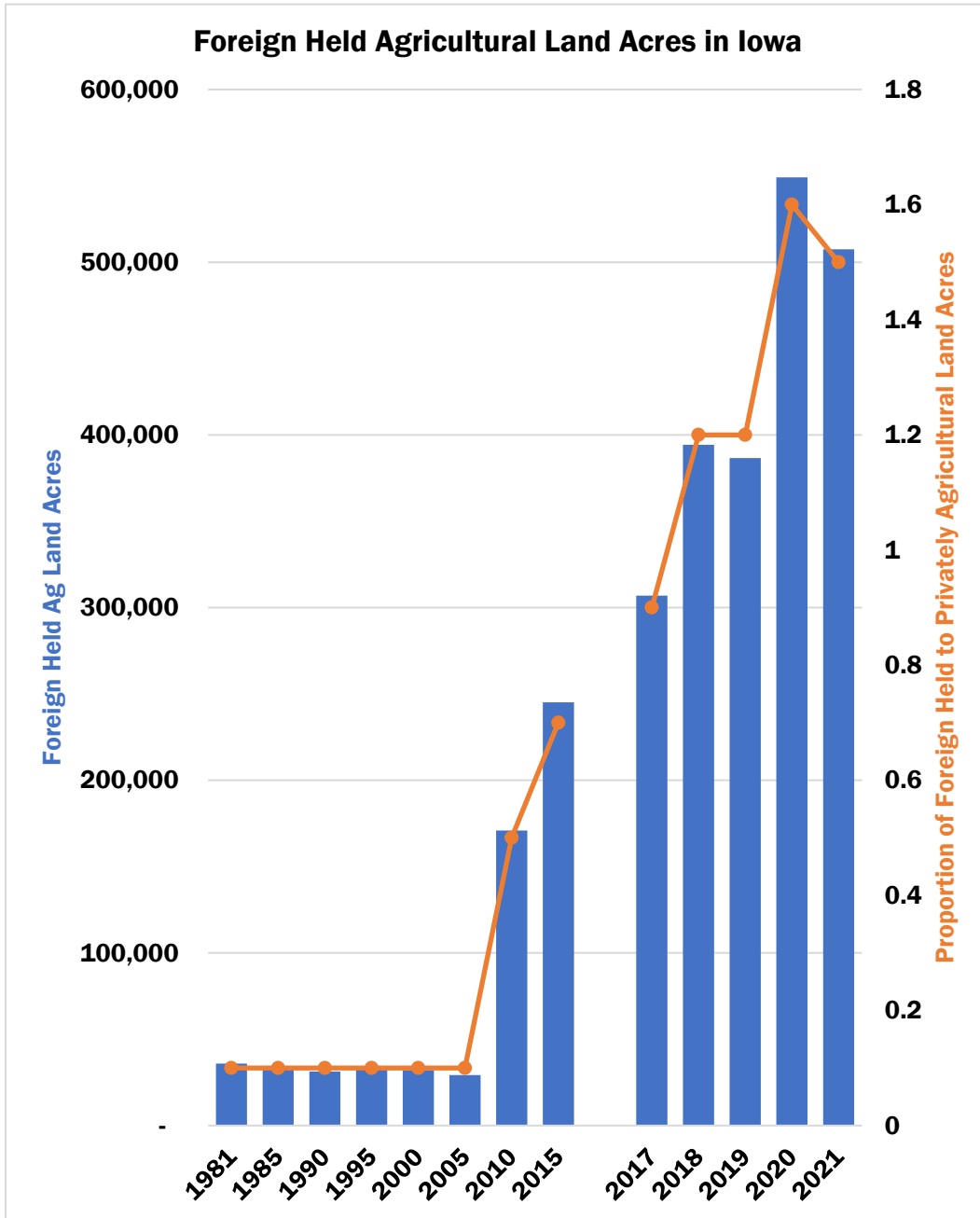
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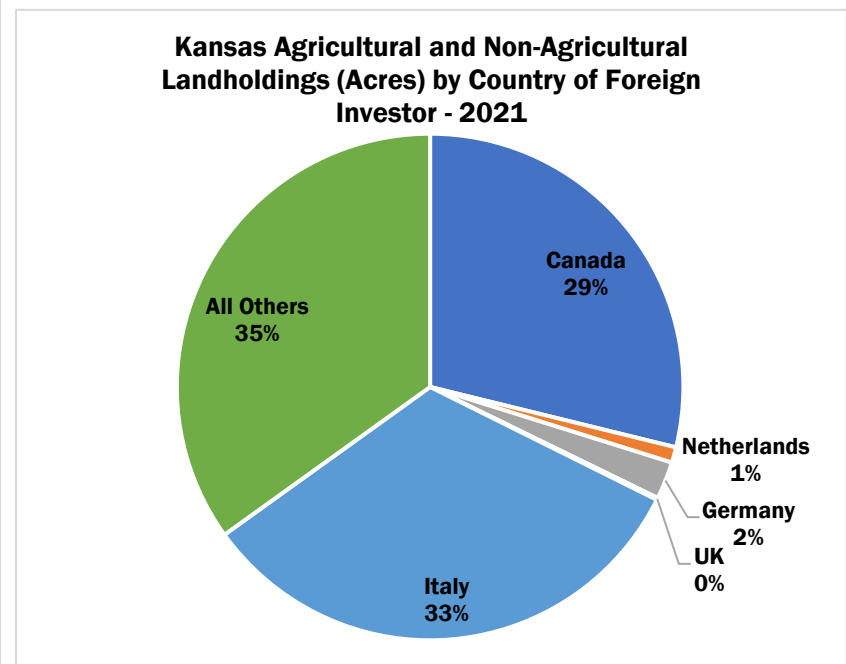
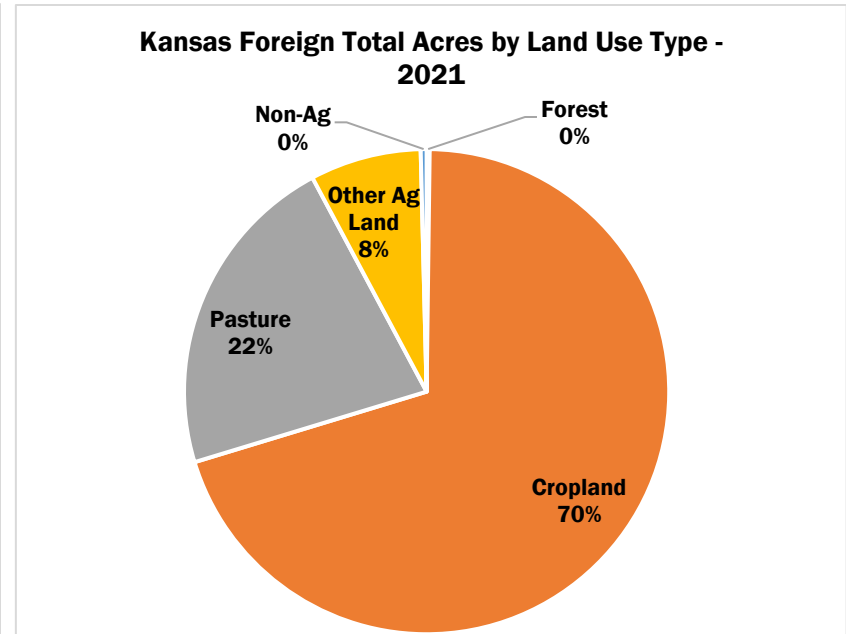
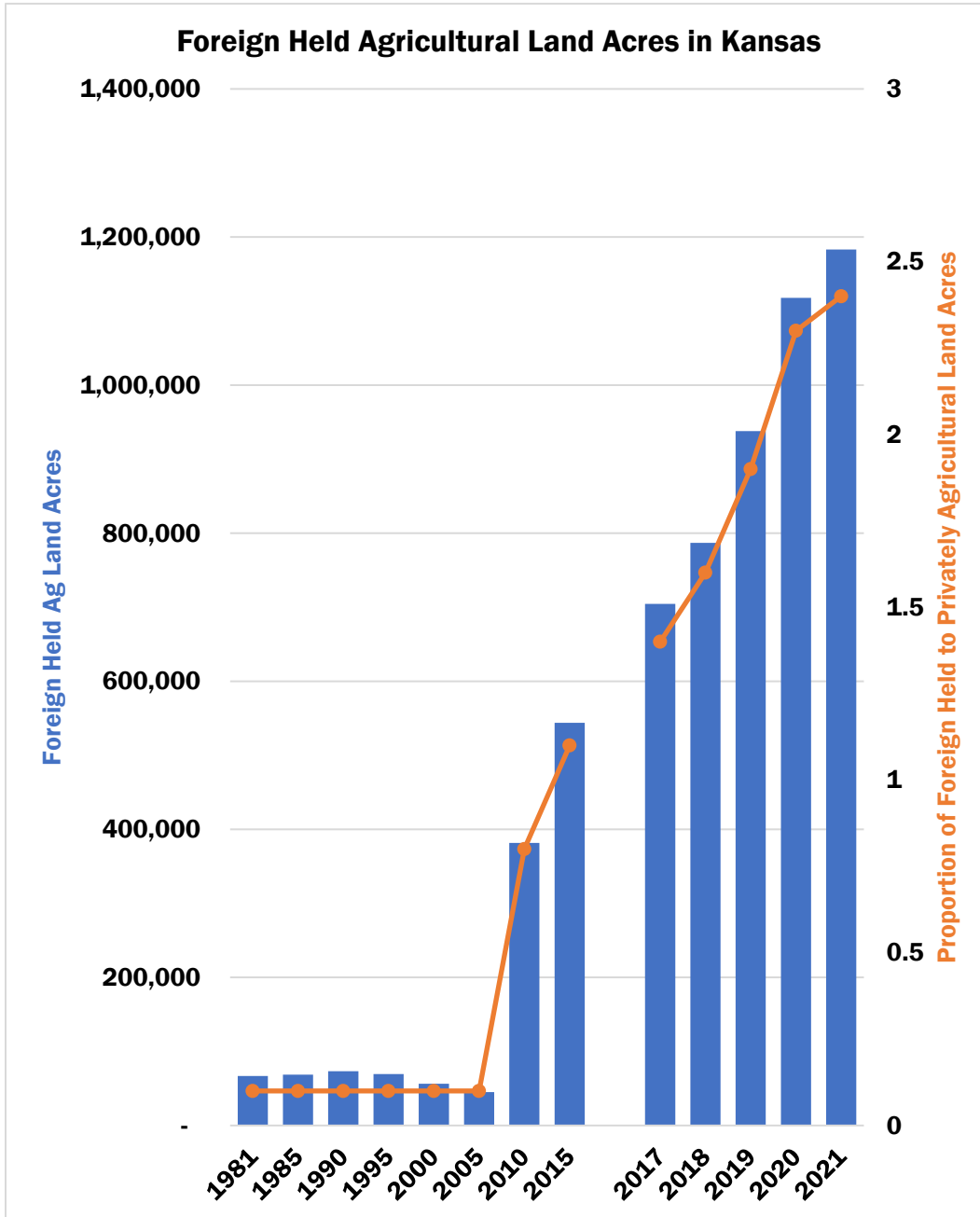
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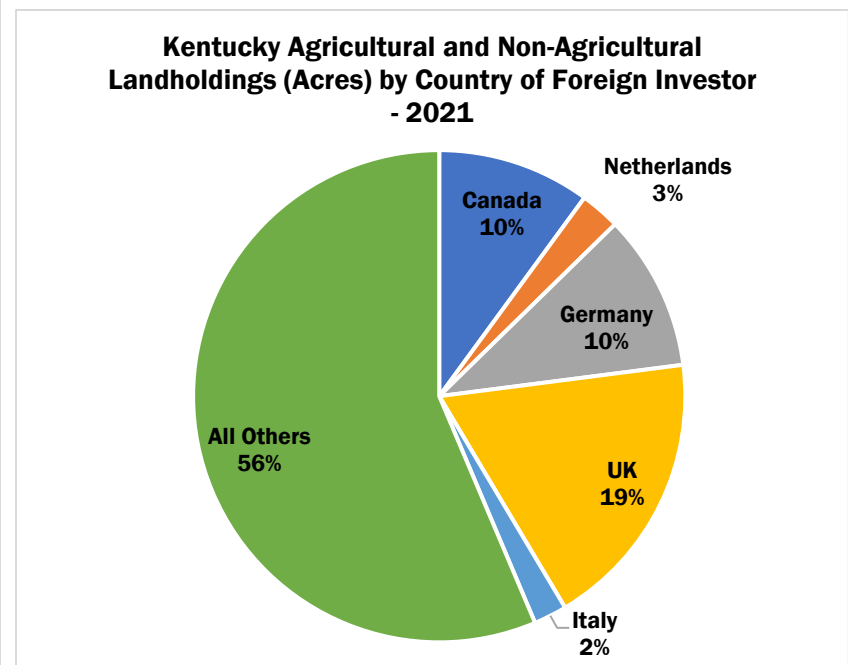
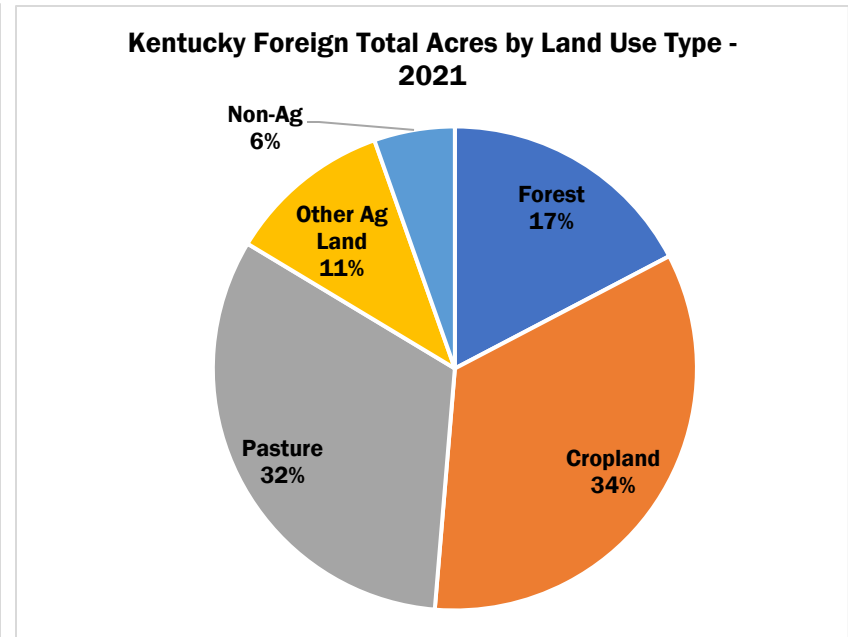
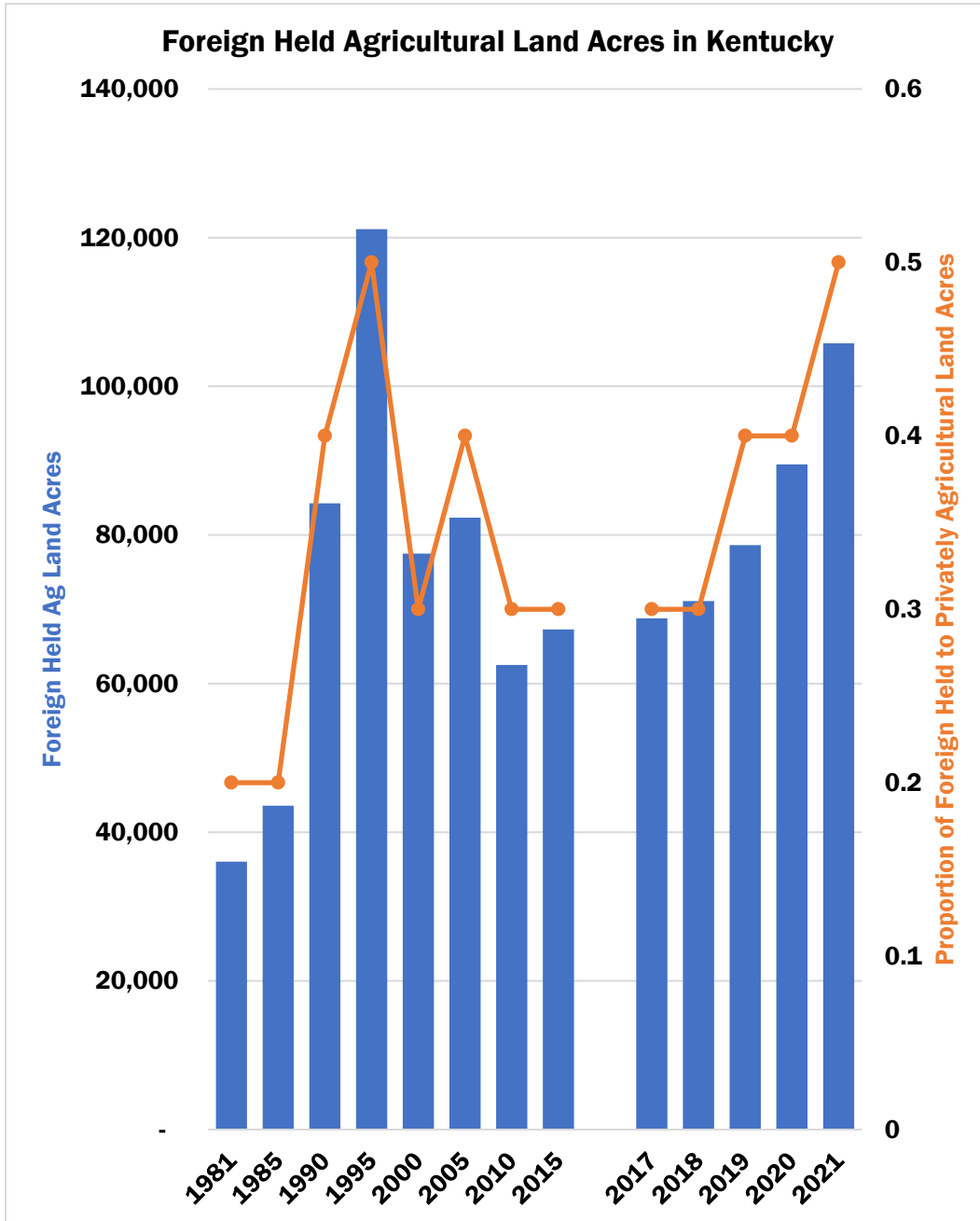
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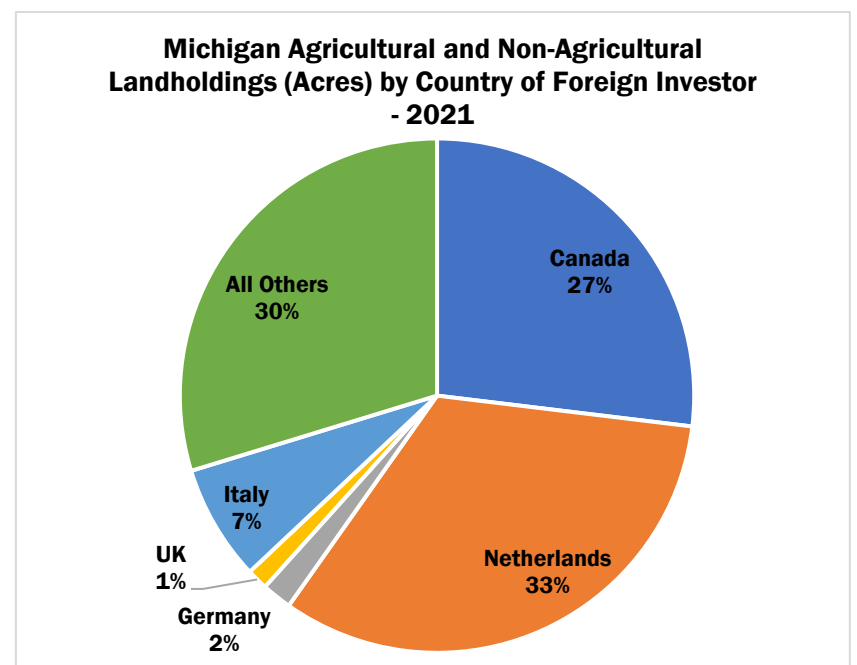
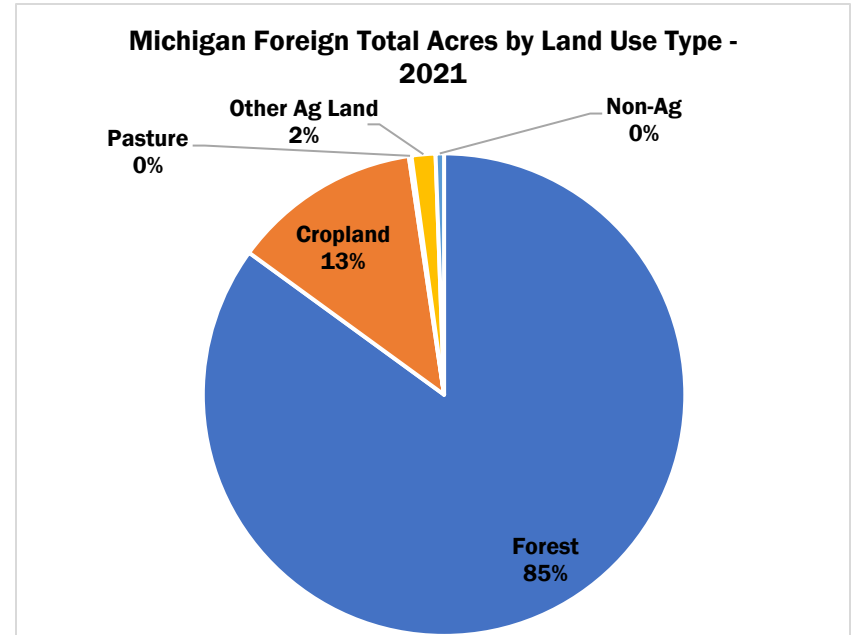
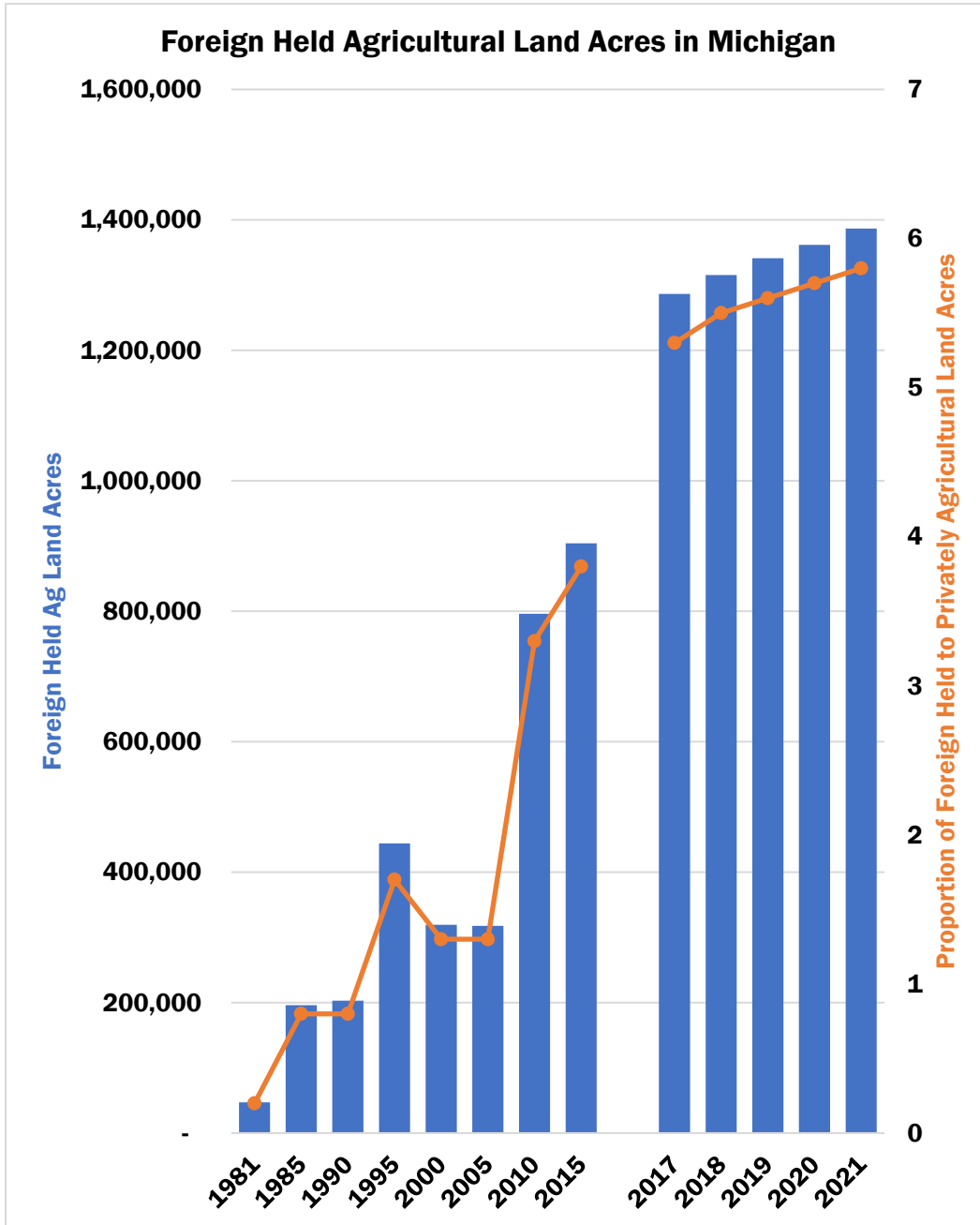
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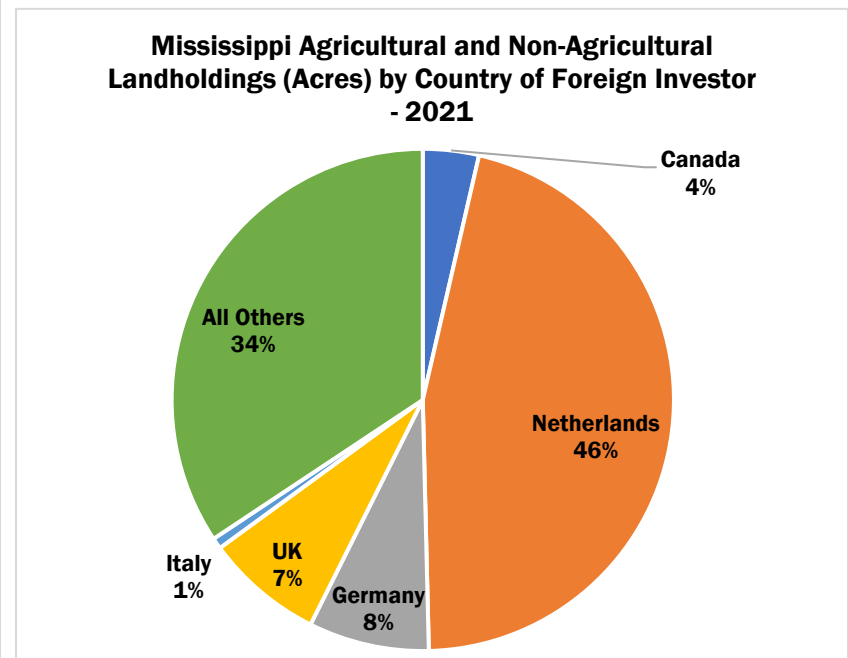
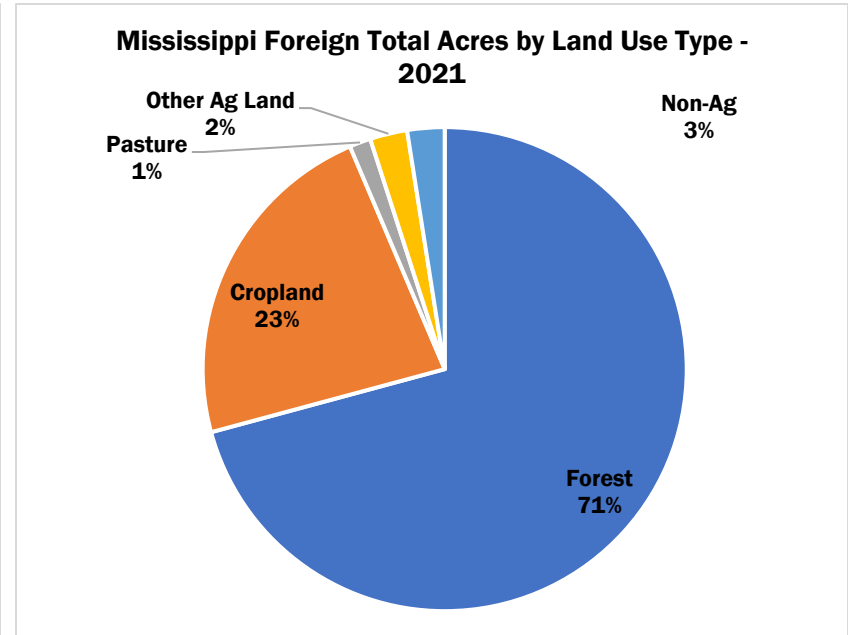
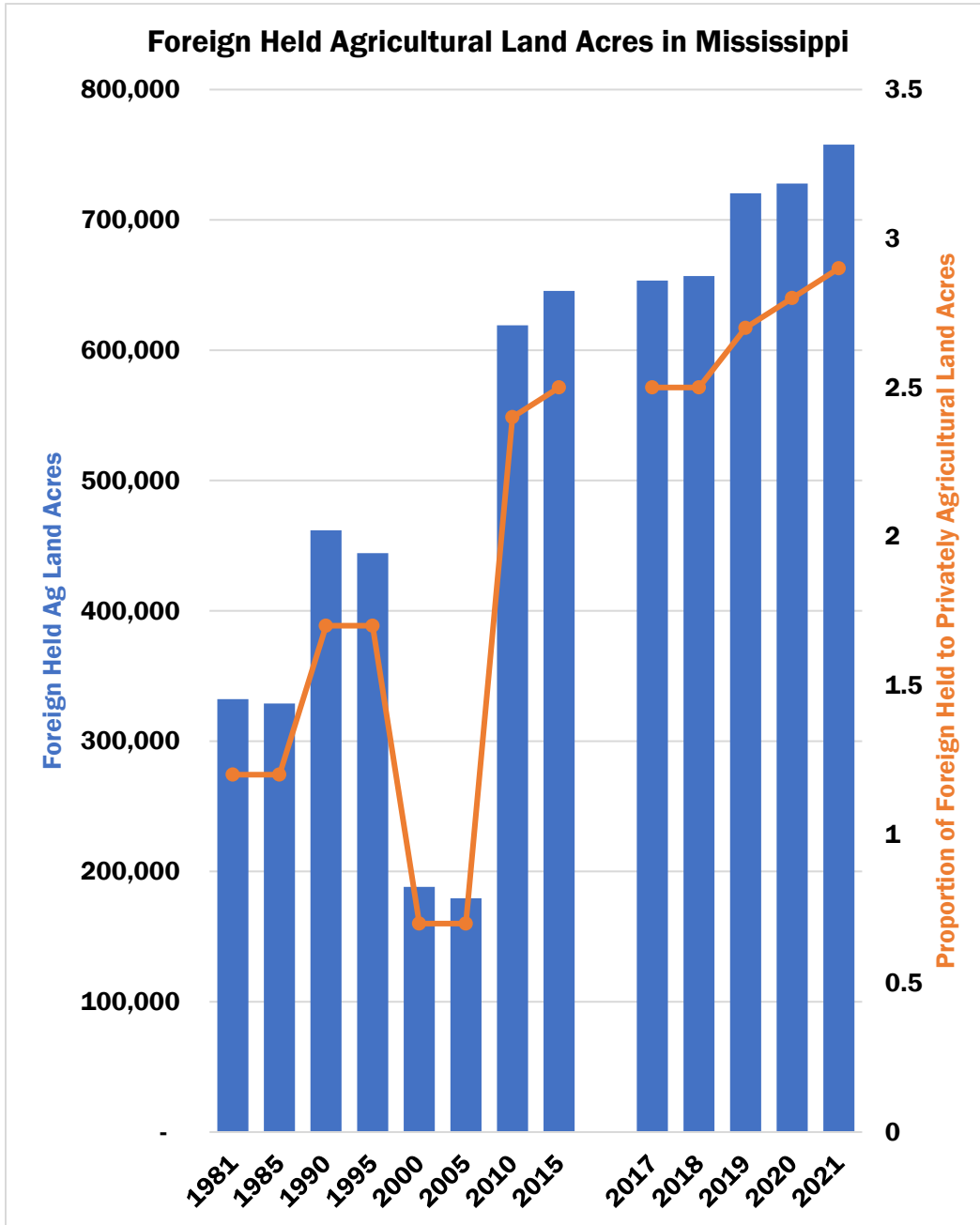
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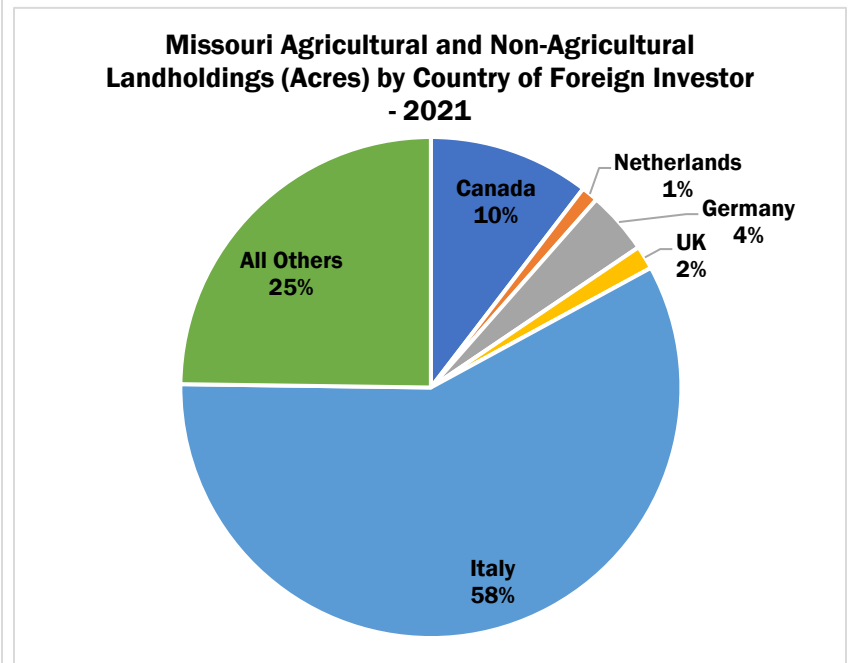
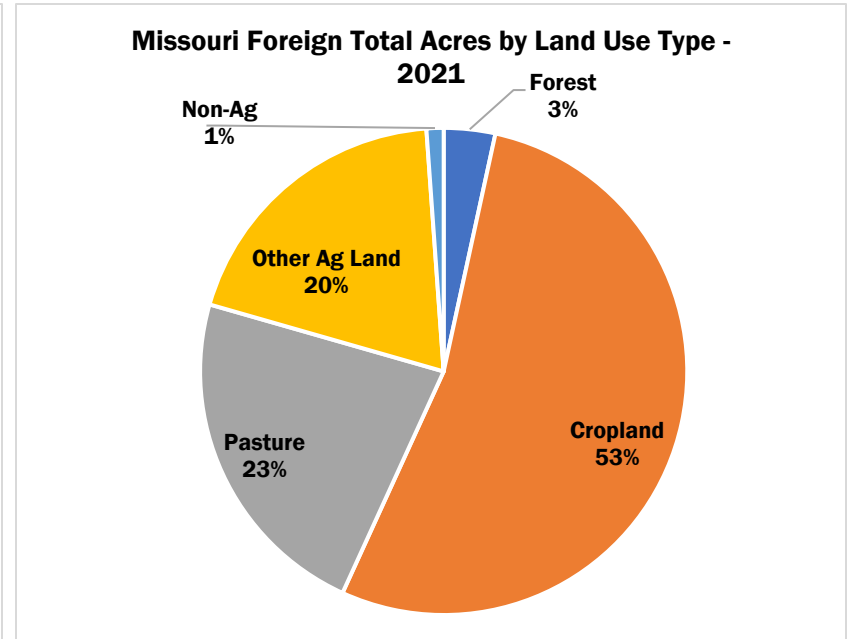
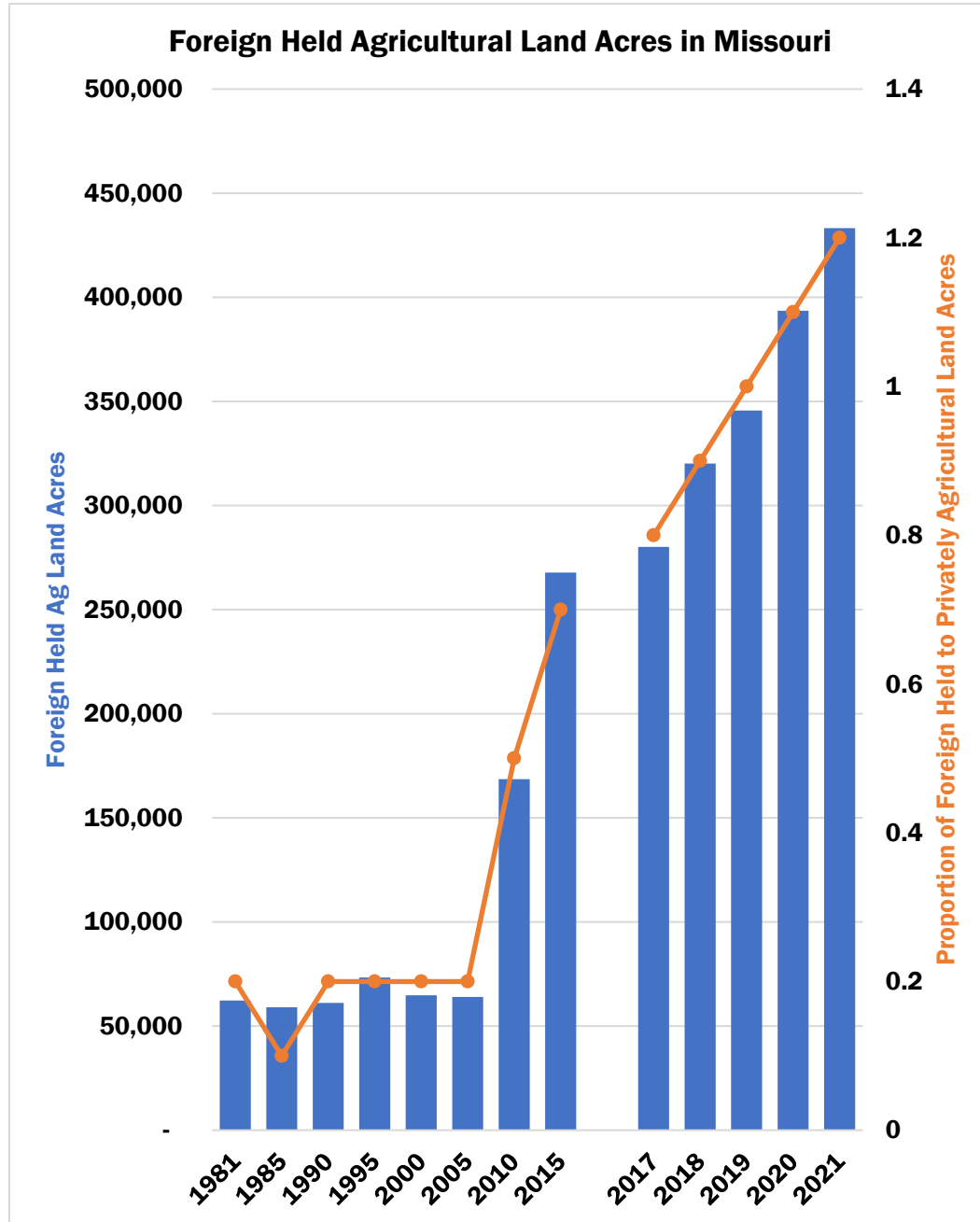
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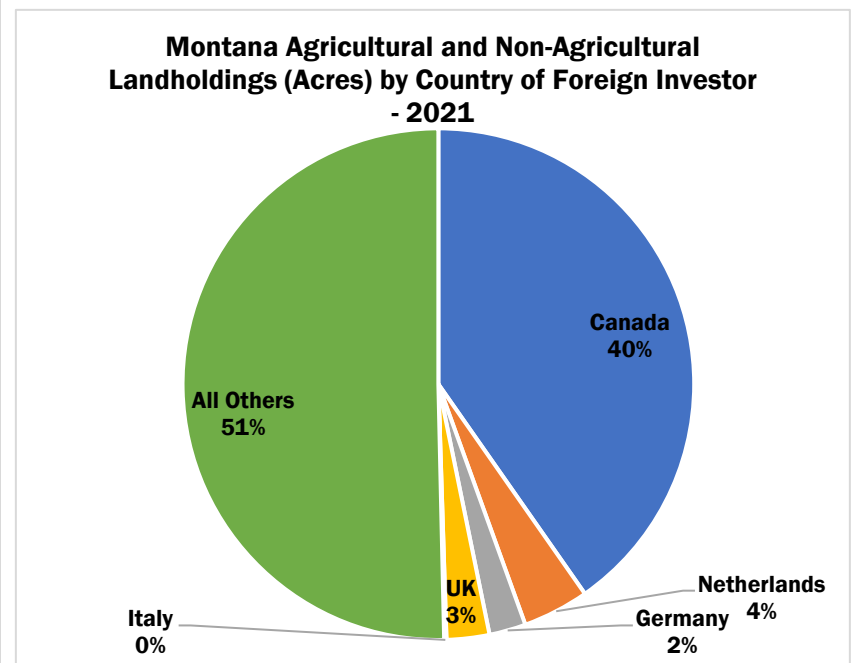
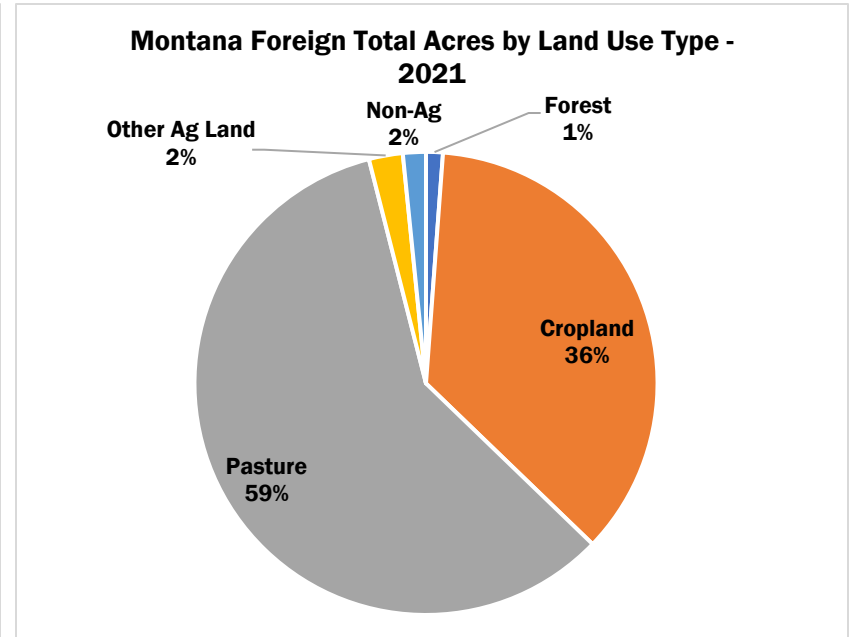
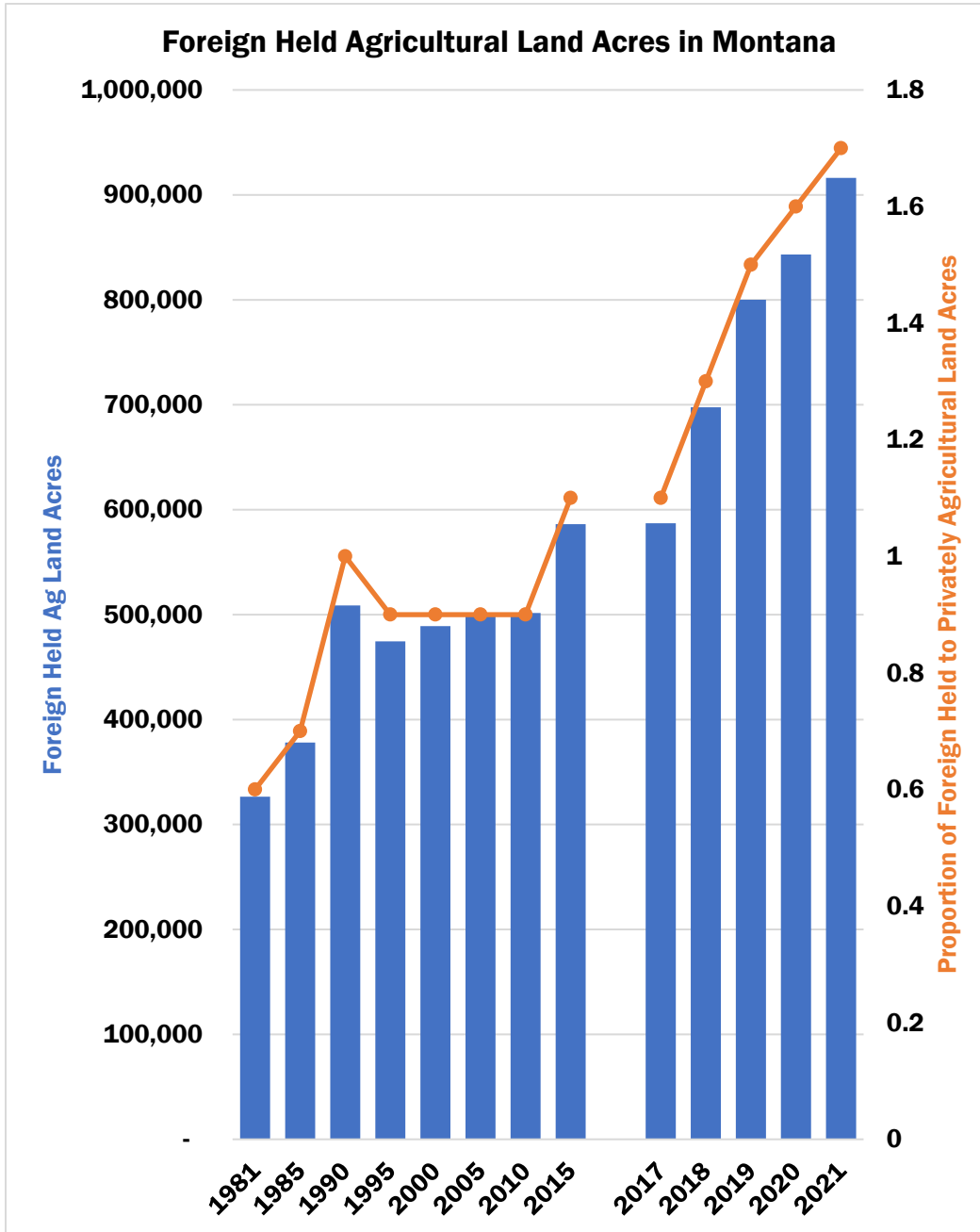
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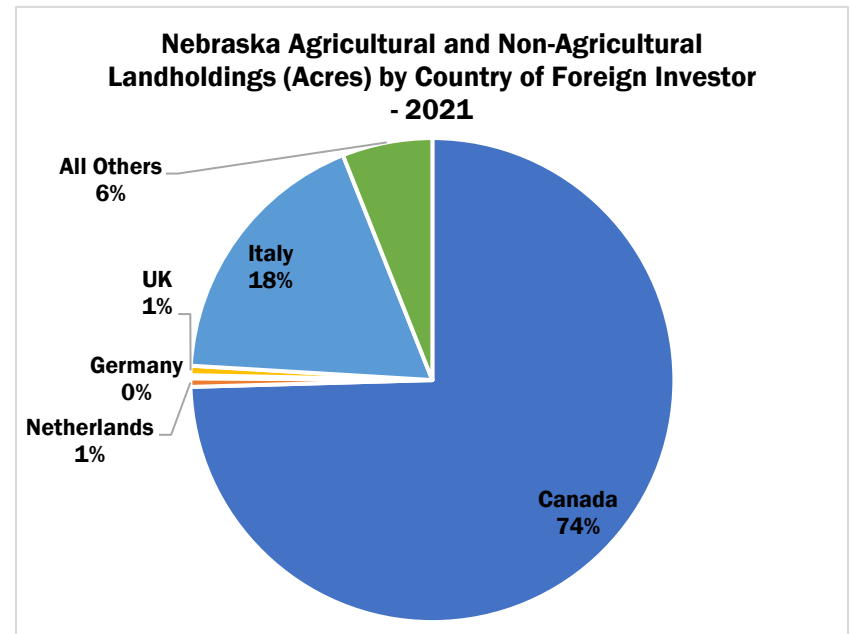
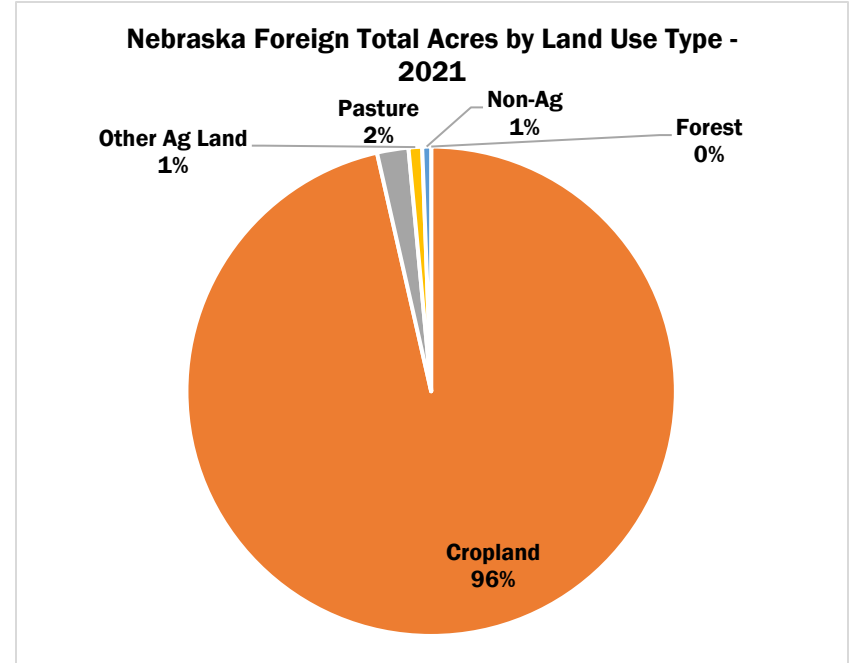
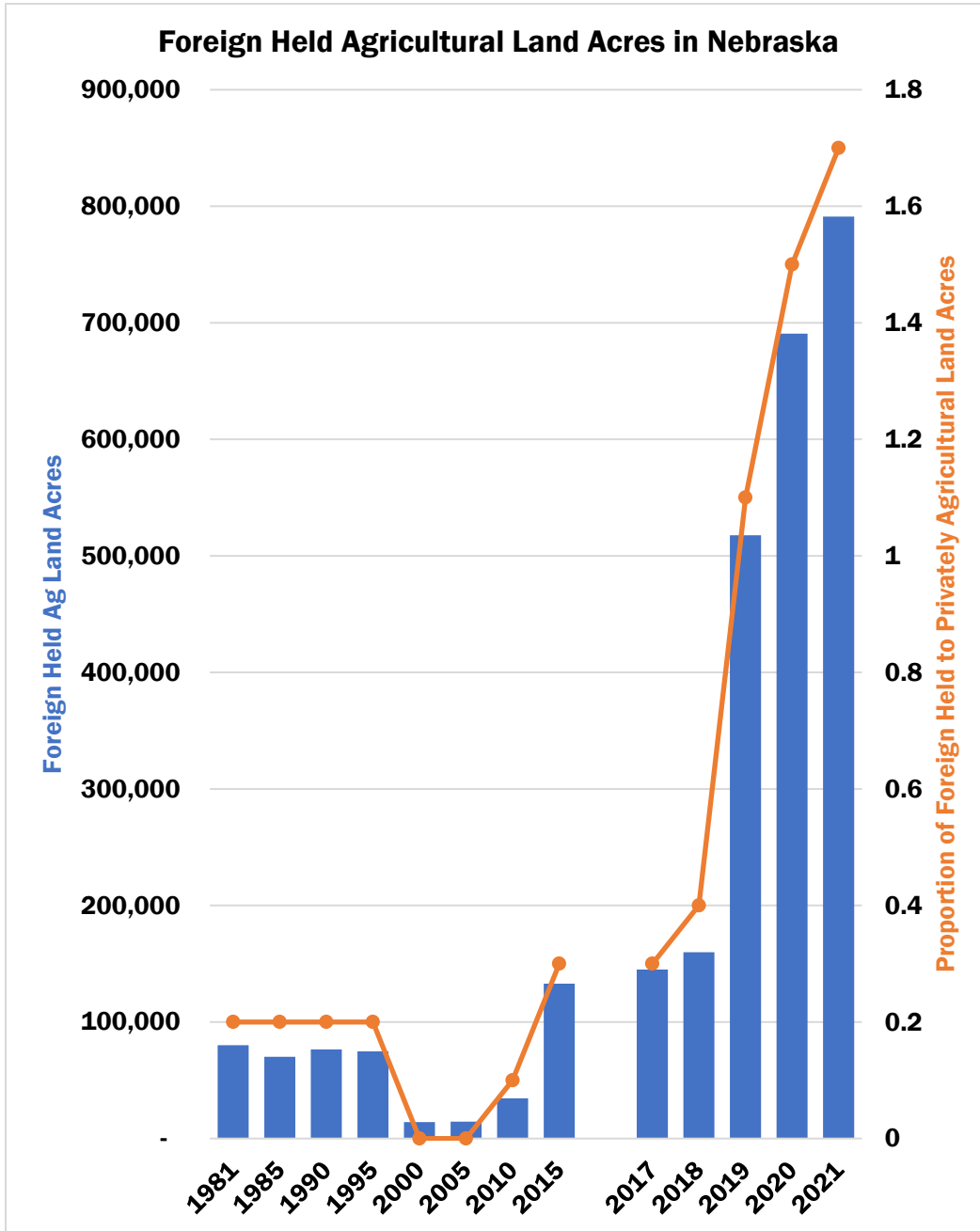
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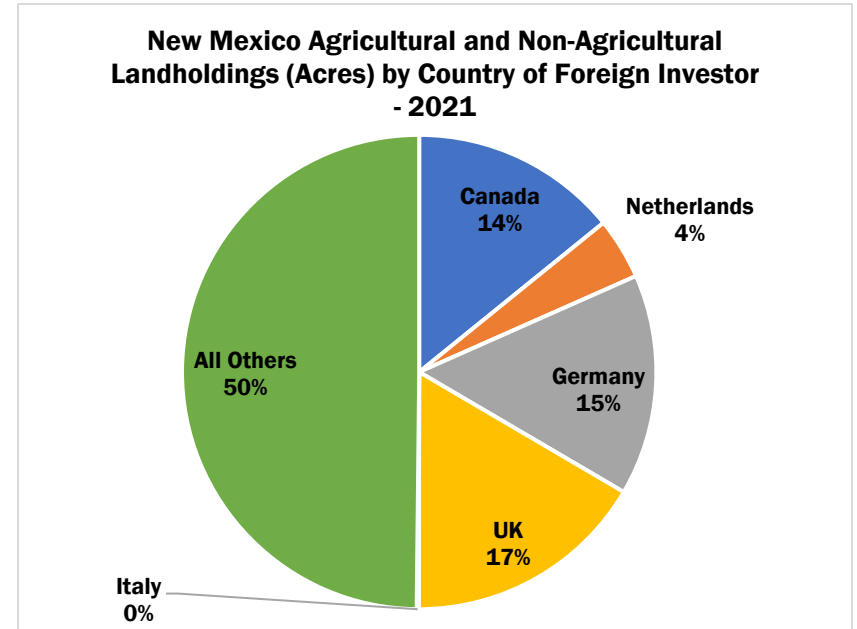
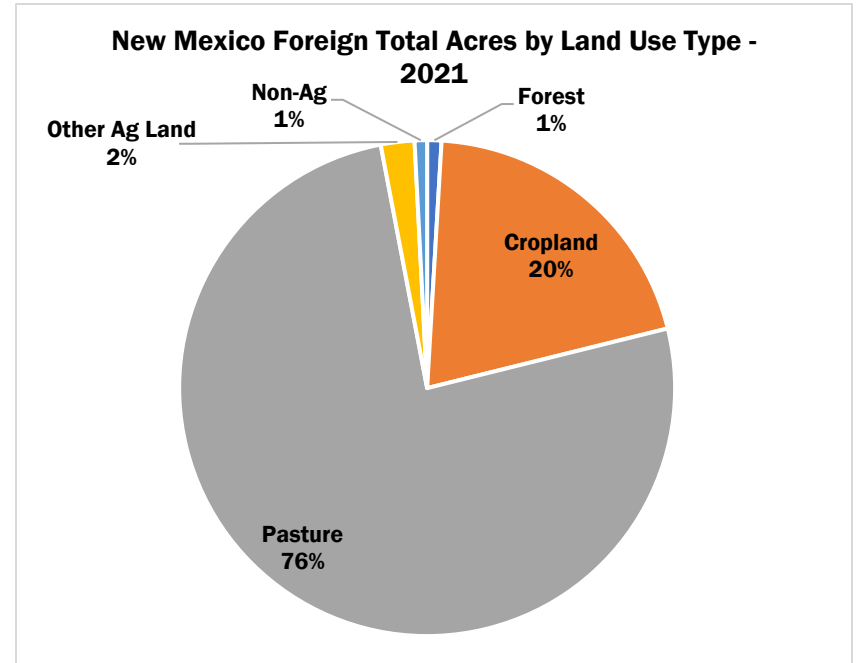
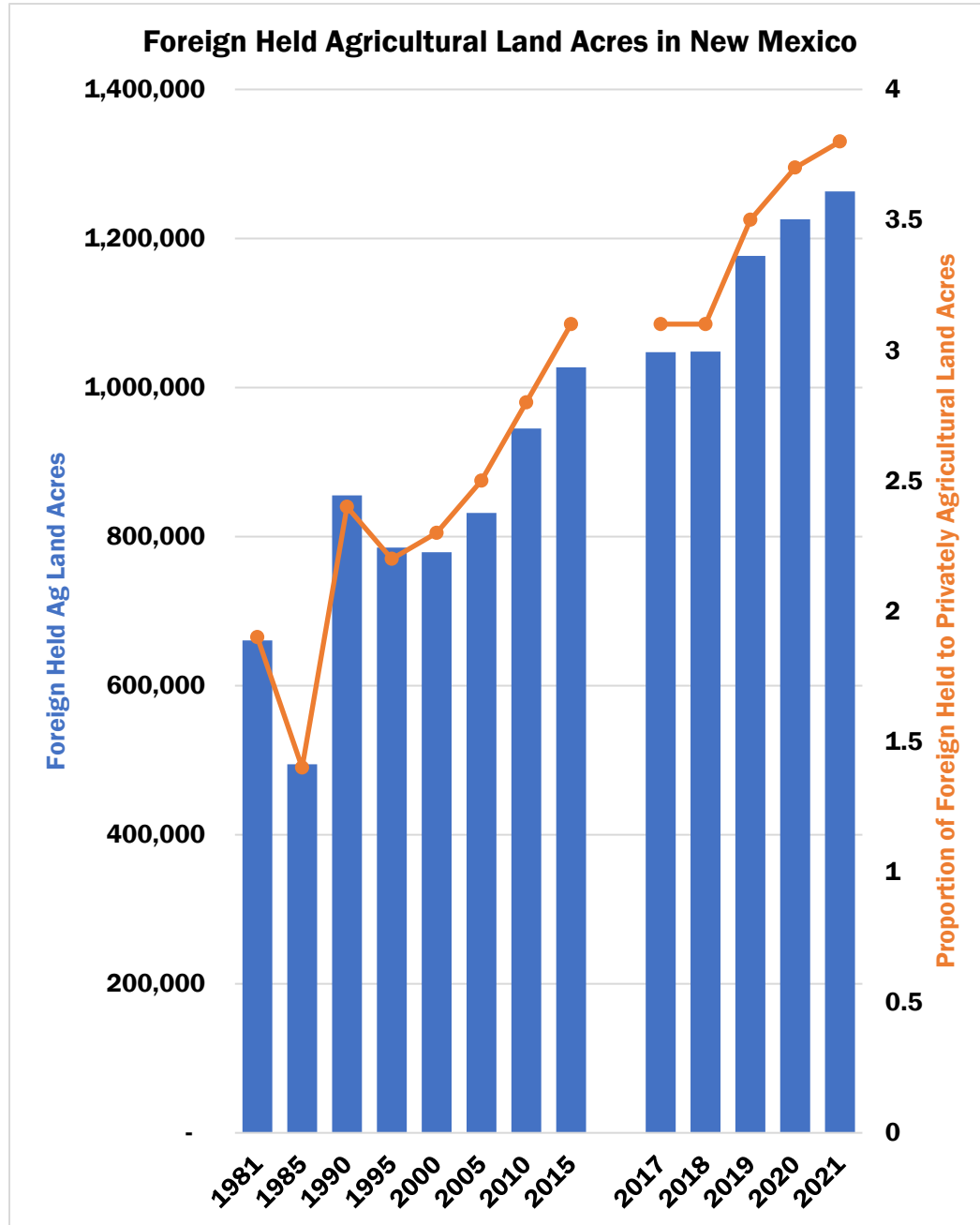
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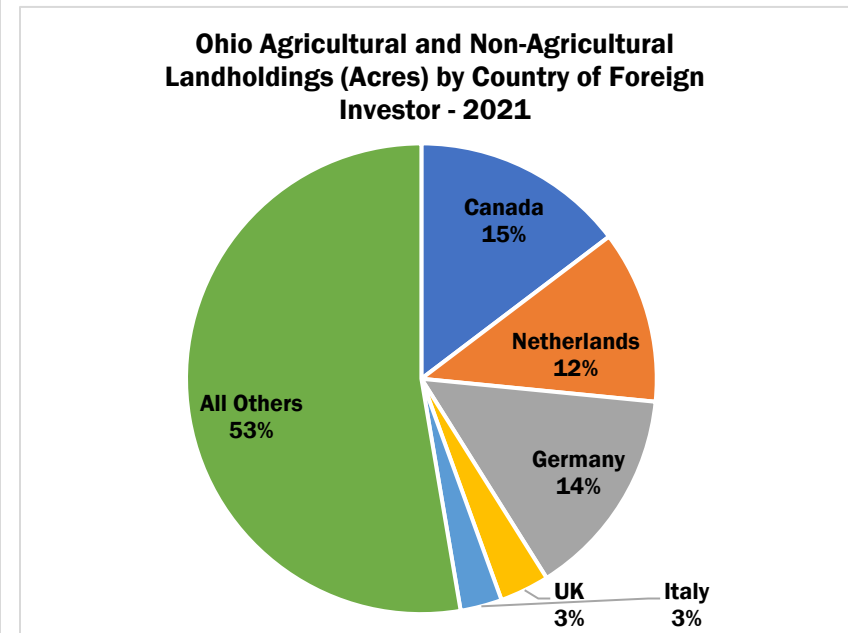
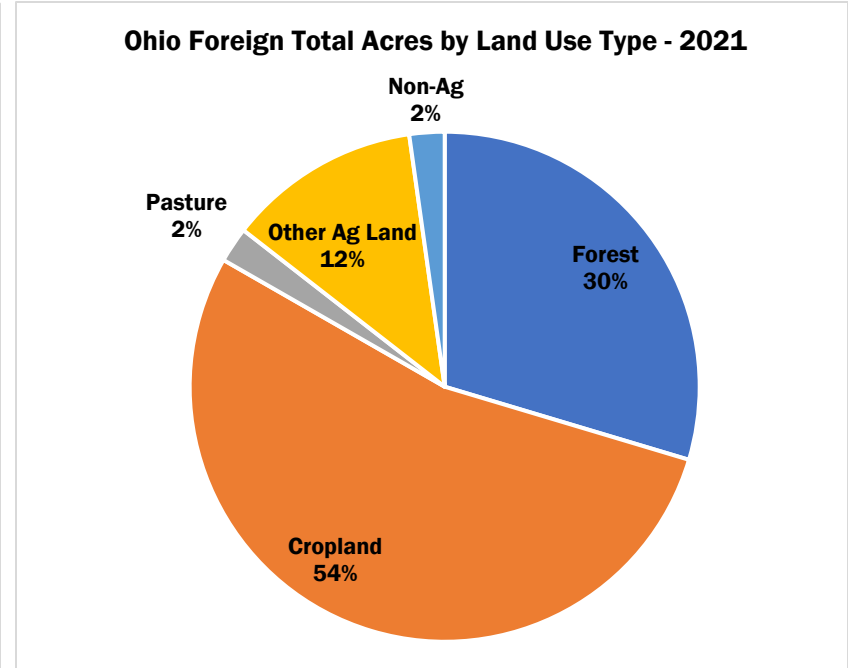
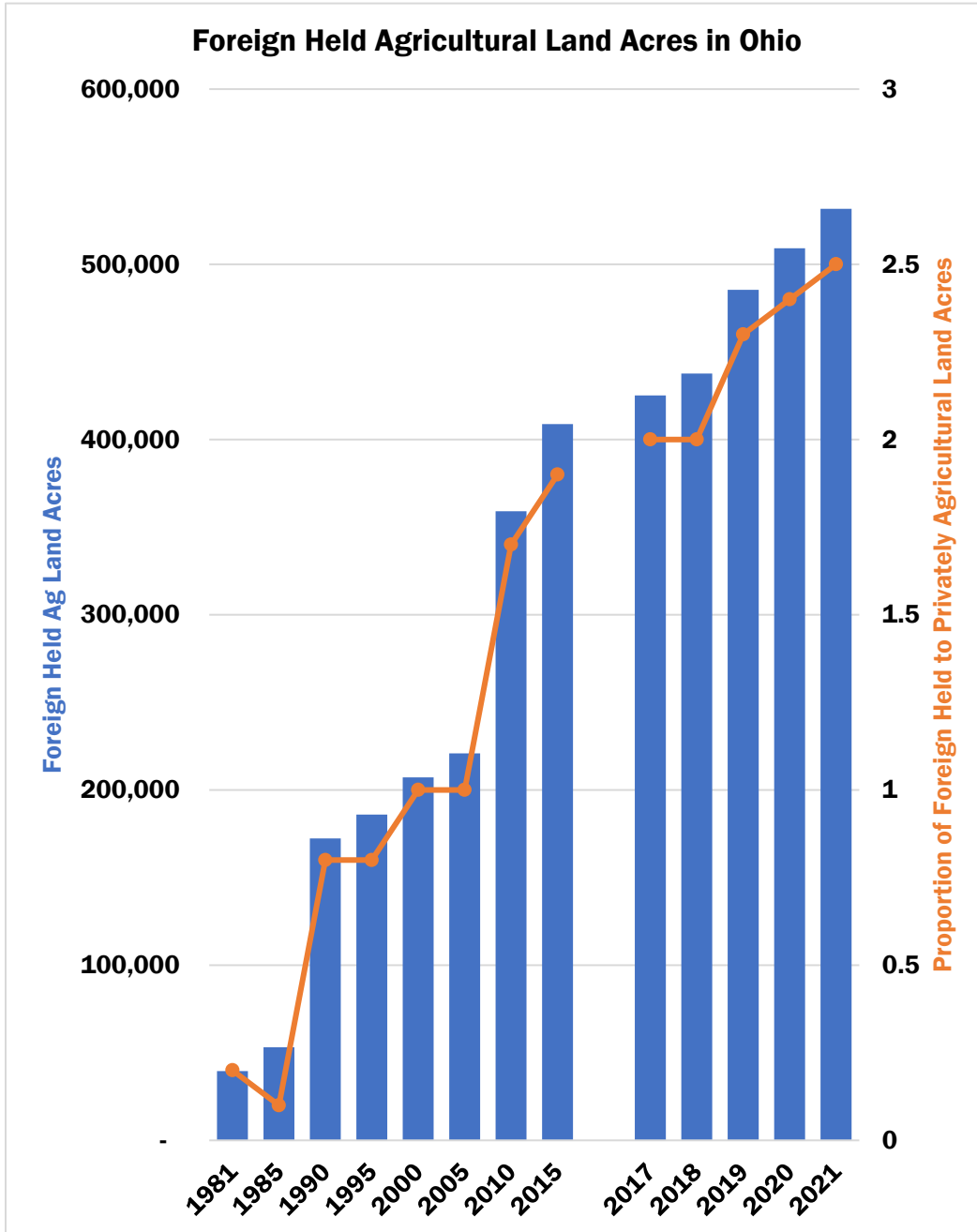
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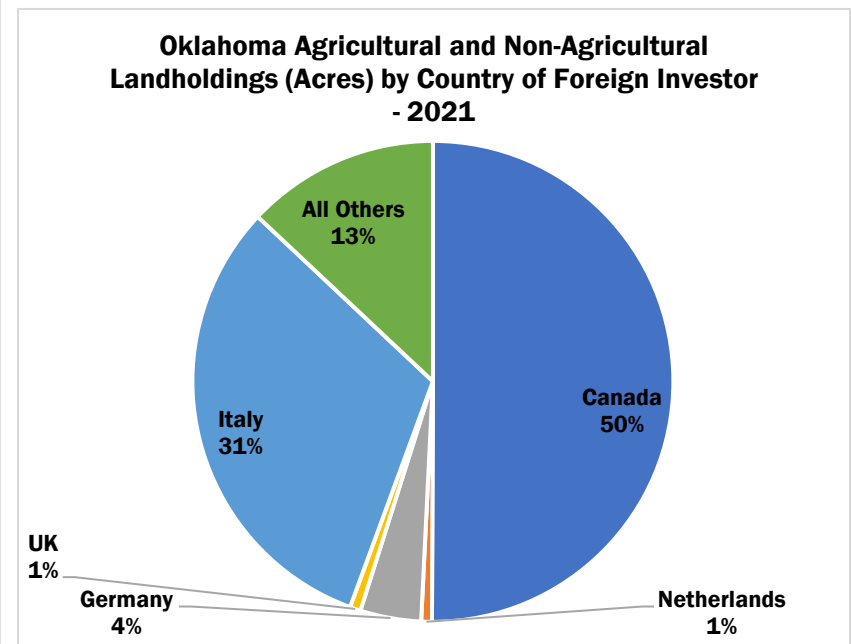
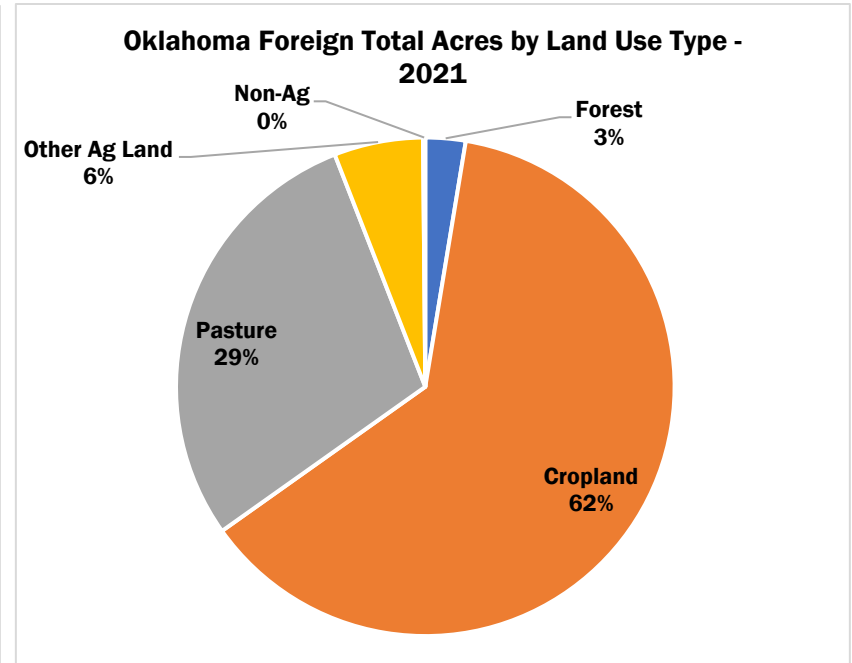
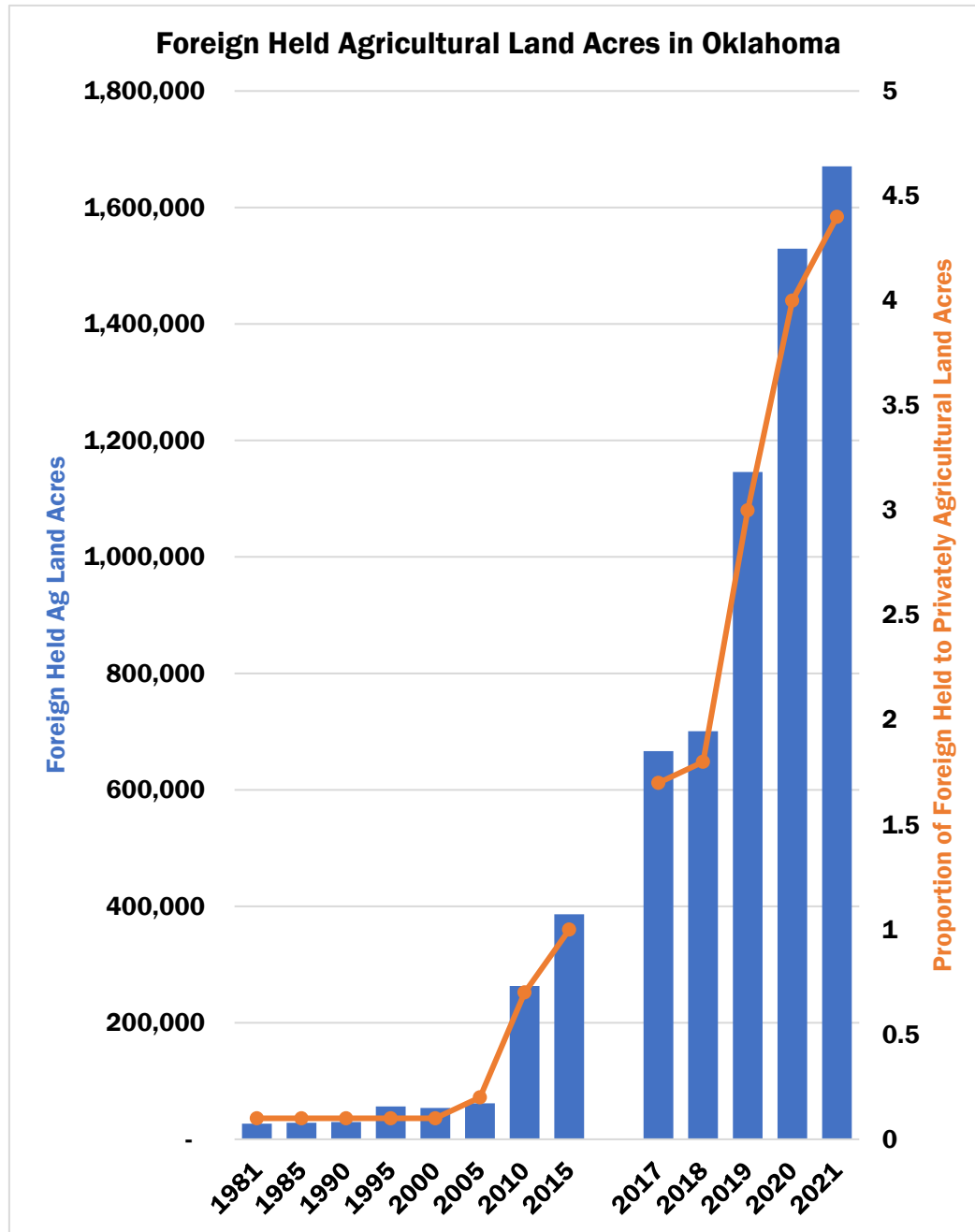
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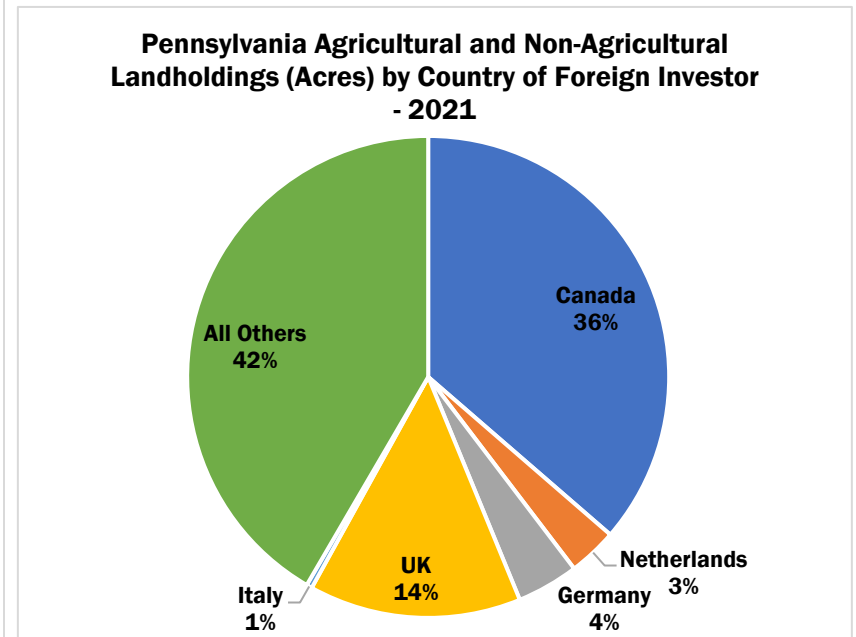
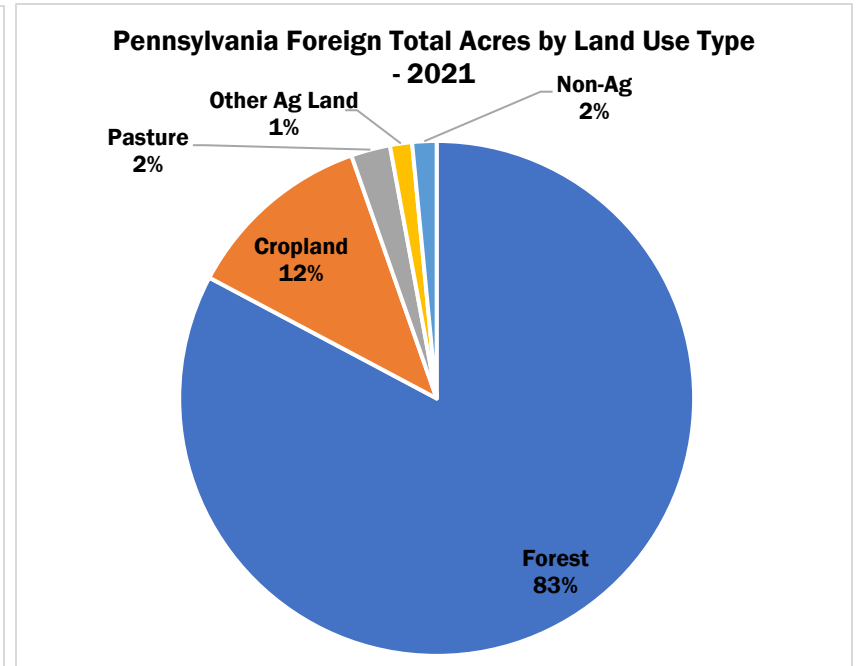
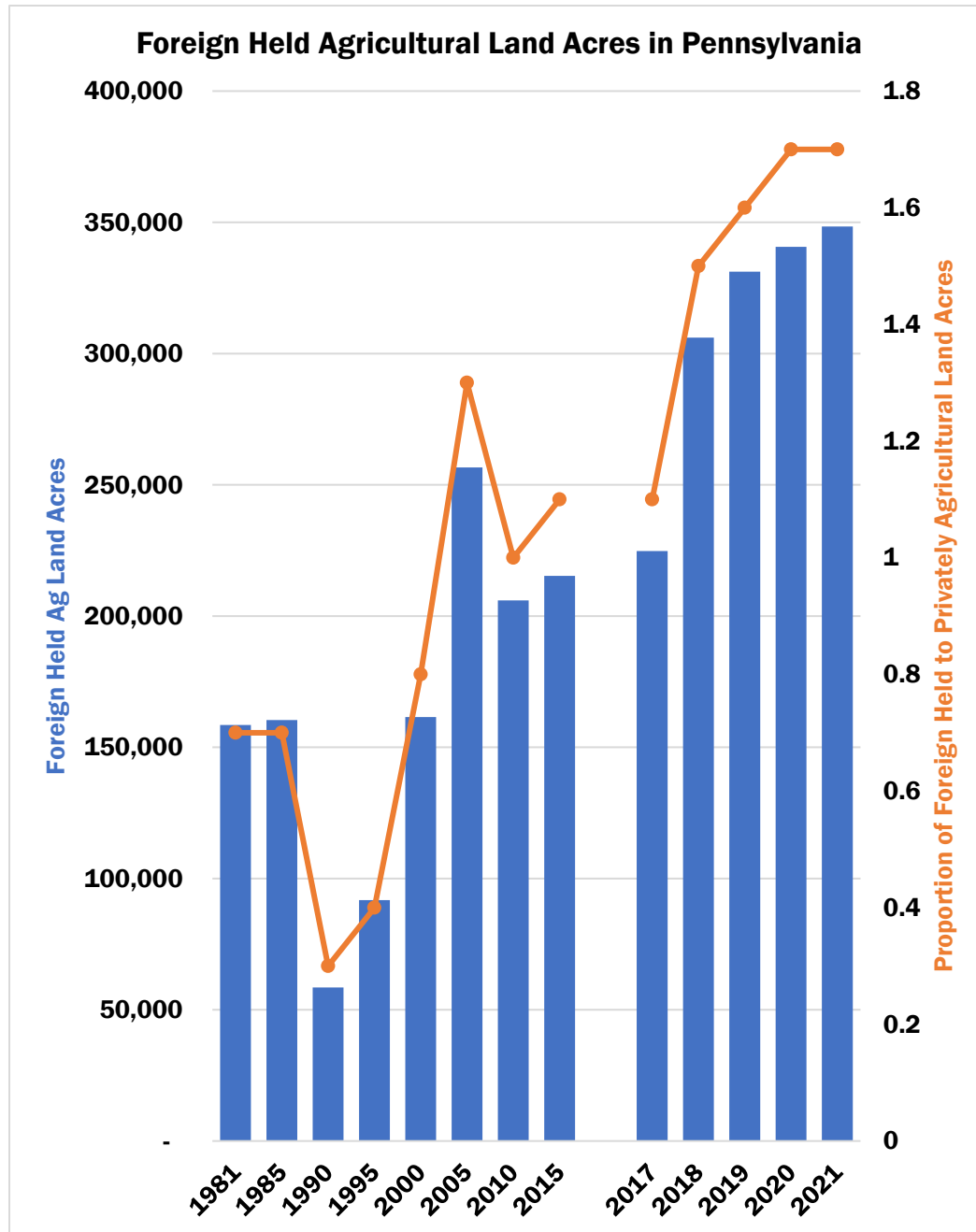
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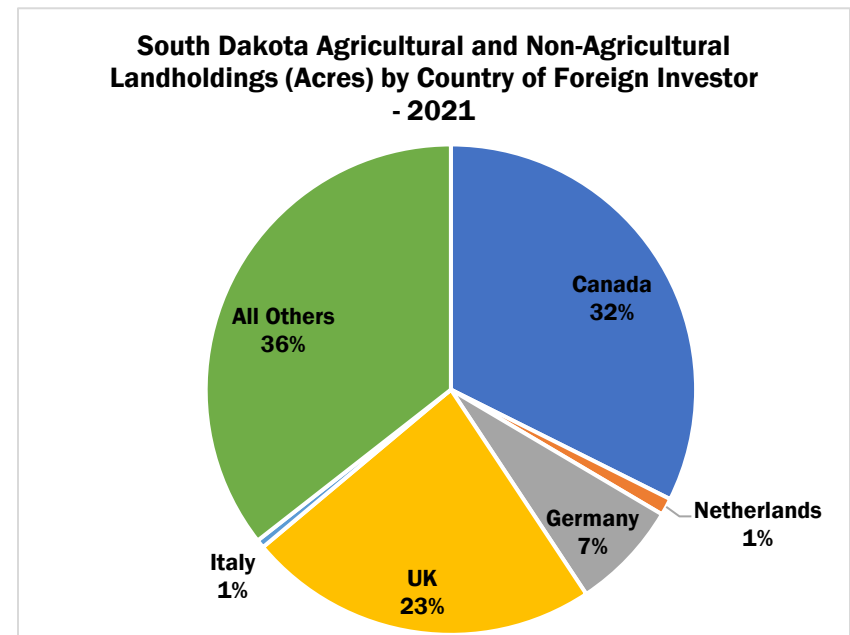
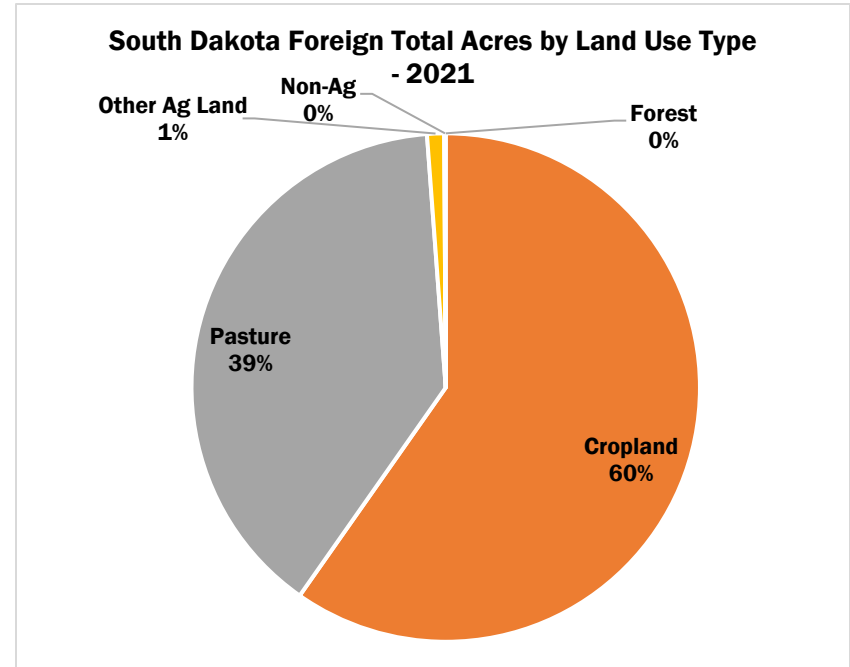
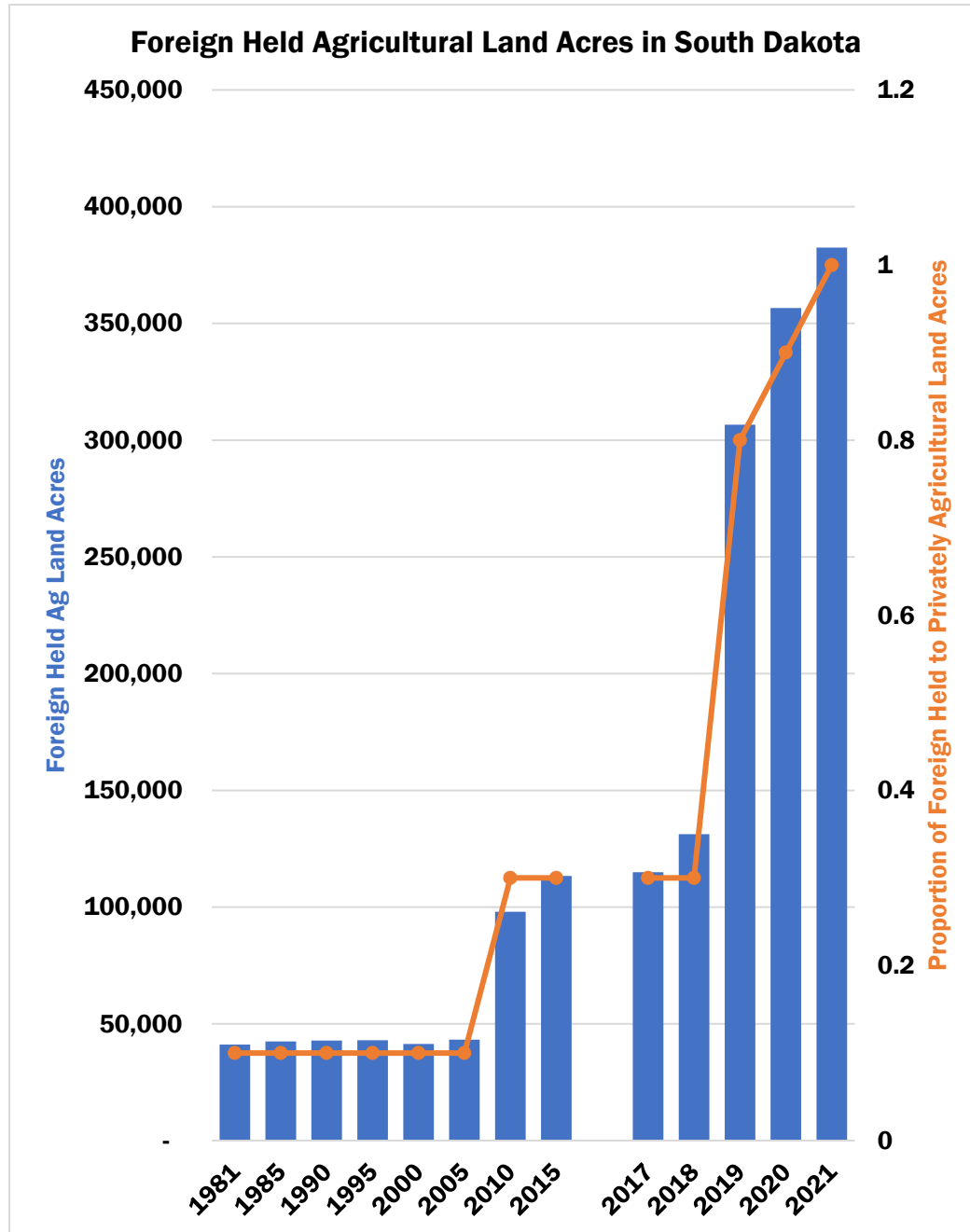
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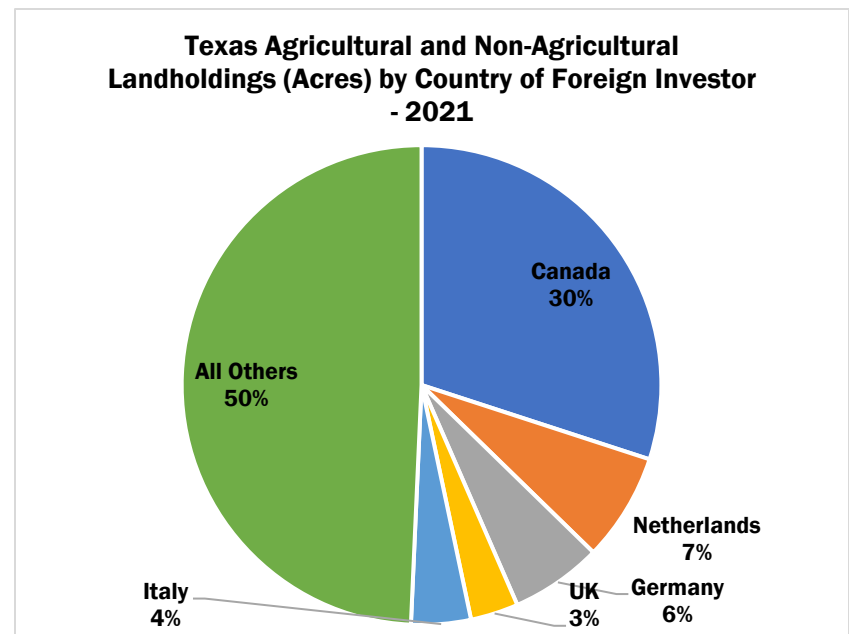
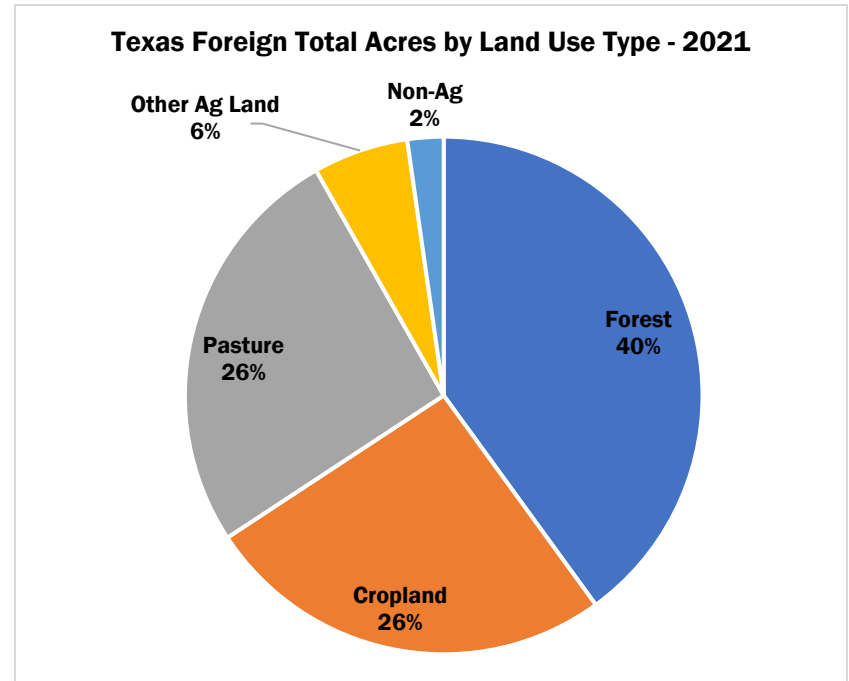
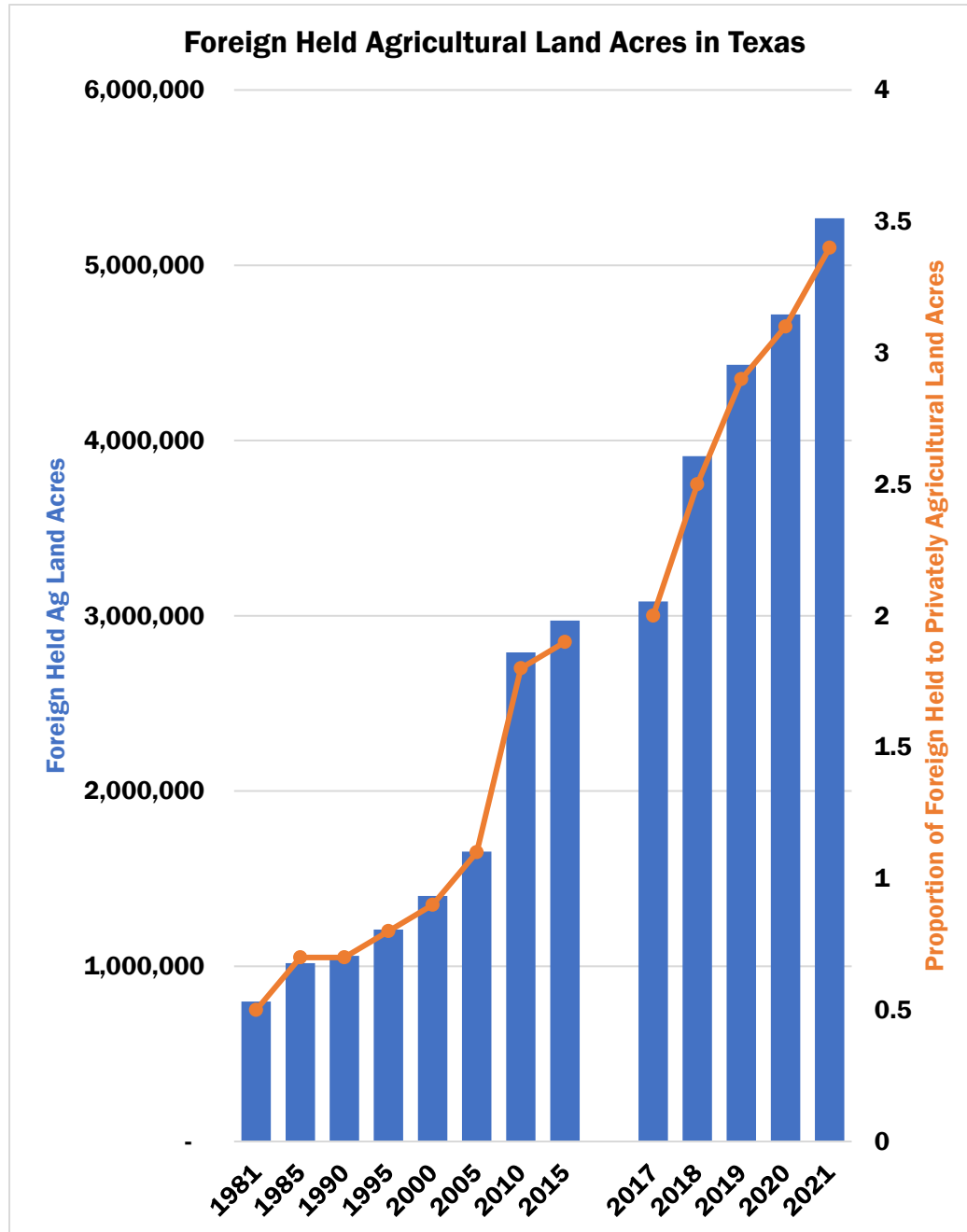
Foreign-Owned Ag Land – Pennsylvania



Foreign-Owned Ag Land – South Dakota



Foreign-Owned Ag Land – Texas





FOREIGN INVESTMENT IN THE U.S. FOOD AND AGRICULTURE SECTOR: SELECTED LEGISLATIVE ACTIONS AND PROPOSALS

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February 2023

Congressional Research Service

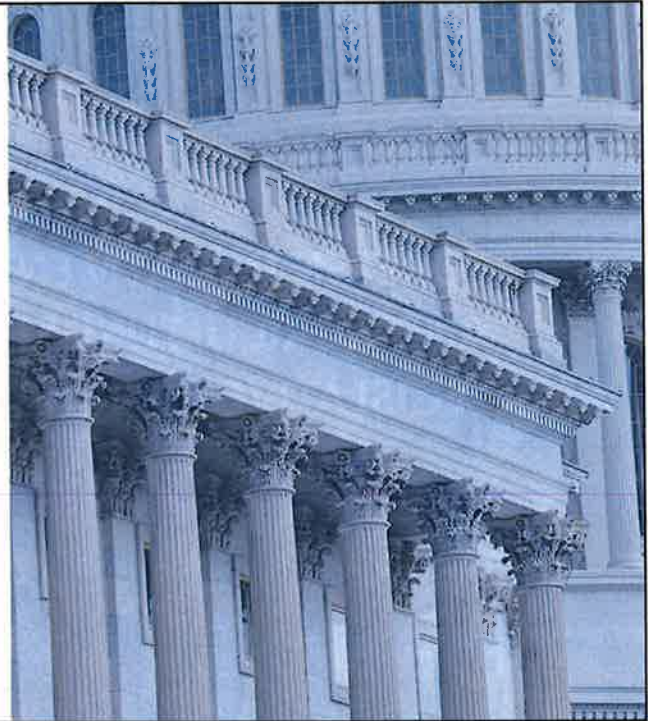
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Agenda

- Selected Federal Authorities
- Enacted Legislation (117th Congress)
- Introduced Legislation (117th and 118th Congress)
- Other Ongoing Actions



Selected Federal Authorities

Selected Federal Authorities

- Agricultural Foreign Investment Disclosure Act of 1978 (AFIDA; P.L. 95-460, 7 U.S.C. §§3501-3508); regulations at 7 C.F.R. Part 781
- Section 721 of the Defense Production Act of 1950 (DPA, P.L. 81-774; 50 U.S.C. §4565) governing activities of the Committee on Foreign Investment in the United States (CFIUS); regulations at 31 C.F.R. Chapter 8



Agricultural Foreign Investment Disclosure Act of 1978 (AFIDA)

- Requires foreign persons/entities who acquire, transfer, or hold an interest in *U.S. agricultural land* to disclose such transactions or any changes to USDA within 90-days
- Defines ***U.S. agricultural land*** as land used for “agricultural, forestry, or timber production purposes” (7 U.S.C. §3508)
- Exempts certain transactions from reporting as set in USDA regulations (based on size, annual gross receipts, and other criteria)
- Prescribes maximum civil penalties of up to 25% of the fair market value of the interest held in the land for failure to comply (7 U.S.C. §3502)
- Provides that USDA may engage in “investigative actions” (7 U.S.C. §3503)
- Establishes a nationwide system for USDA to collect and report such data to states and the public (7 U.S.C. §§3505-3506)

Foreign Holdings of U.S. Agricultural Land, 2021

Selected Country/Category	Total	Foreign Entities (million acres)	U.S. Entities w/ Foreign Shares	% of U.S. Farmland Holdings	% of Total Foreign Holdings
Canada	12.8	9.7	3.2	1.0%	31%
Netherlands	4.9	4.4	0.5	0.4%	12%
Italy	2.7	2.6	0.1	0.2%	7%
United Kingdom	2.5	1.5	1.0	0.2%	6%
Germany	2.3	1.4	0.9	0.2%	6%
Portugal	1.5	1.5	0.0	0.1%	4%
France	1.3	0.7	0.6	0.1%	3%
Denmark	0.9	0.5	0.4	0.1%	2%
Luxembourg	0.8	0.5	0.3	0.1%	2%
Mexico	0.7	0.3	0.4	0.1%	2%
Switzerland	0.7	0.3	0.4	0.1%	2%
Cayman Islands	0.7	0.6	0.0	0.1%	2%
Japan	0.6	0.3	0.4	0.1%	2%
Belgium	0.6	0.2	0.4	0.1%	1%
Spain	0.3	0.3	0.0	<0.1%	1%
China	0.4	0.2	0.2	<0.1%	1%
Hong Kong	0.1	0.0	0.1	<0.1%	0%
Russia	0.0	0.0	0.0	<0.1%	0%
998/Not Listed	1.4	0.9	0.5	0.1%	3%
999/No Predominate	1.8	1.5	0.3	0.1%	4%
All other entries	3.8	1.7	2.2	0.3%	9%
Top 5	25.2	19.6	5.7	2.0%	62%
Top 10	30.4	23.1	7.3	2.4%	74%
Total	40.8	29.1	11.7	3.16%	100%

Source: CRS from USDA, *Foreign Holdings of U.S. Agricultural Land Through December 31, 2021* (Report 1). Holdings may include buildings and other capital assets. Farmland values not available. Shares based on a total of 1,290.5 million acres. May not add due to rounding.

As of 2021, foreign persons and entities held an interest in 40.8 million acres of U.S. agricultural land (3.16%), of which:

- Solely foreign-owned (71%)
- U.S. subsidiary-owned (29%)

62% of total acres (top five) :

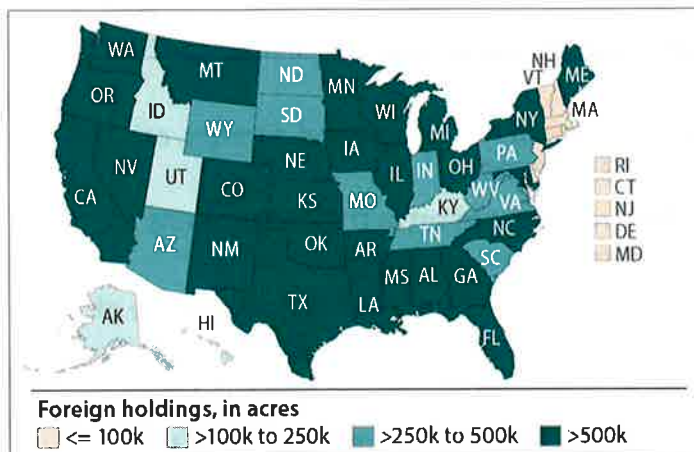
- Canada (31%)
- Netherlands (12%)
- Italy (7%)
- United Kingdom (6%)
- Germany (6%)

7.5% of all foreign-held acres:

- Coded as 998 (foreign country not listed)
- Coded as 999 (no predominant country listed)

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Foreign Holdings of U.S. Agricultural Land, 2021



Source: CRS from USDA data, available at USDA, *Foreign Holdings of U.S. Agricultural Land Through December 31, 2021* (Report 1), <https://www.fsa.usda.gov/programs-and-services/economic-and-policy-analysis/afida/annual-reports/index>.

All U.S. states report foreign holdings in U.S. agricultural land. As of 2021, leading states were:

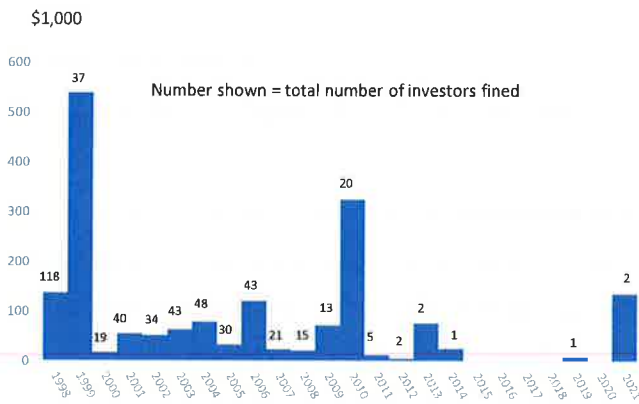
- Texas (5.3 million acres)
- Maine (3.6 million acres)
- Colorado (1.9 million acres)
- Alabama (1.8 million acres)
- Oklahoma (1.7 million acres)

Other states with more than 1 million foreign-owned acres:

- Arkansas, California, Florida, Georgia, Kansas, Louisiana, Michigan, New Mexico, Oregon and Washington

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Penalties Assessed and Investors Fined, 1998-2021 (\$ in Thousands)



Source: CRS from USDA data, available at USDA, Foreign Holdings of U.S. Agricultural Land Through December 31, 2021 (Report 10), <https://www.fsa.usda.gov/programs-and-services/economic-and-policy-analysis/afida/annual-reports/index>. Based on the year penalties were assessed.

From 1998-2021, USDA assessed penalties under AFIDA 494 times (335 unique investors, excluding 6 cancelled penalties). All fees assessed were for late filing.

USDA the rate used to assess fees is less than 1% (maximum penalty in the 1978 statute is 25%) of the market value of the land

USDA states that due to staffing shortages it did not assess or collect penalties under AFIDA between 2015-2018 and in 2020

Brief Background: 1970s and Today

1970s

- “Open door policy” regarding U.S. foreign investment
- Increasing foreign investment in U.S. land and states initiating new restrictions
- Concerns focused on the Organization of the Petroleum Exporting Countries
 - **Concerns:** Possible loss of local control and survival of farming community; feudal-type system of absentee landholdings; increase in land prices and threats to family-farm ownership; increase in land rental/leasing rates and threats to U.S. food security (per Federal Reserve Bank, 1979)

Today

- Increasing foreign investment in U.S. land and states initiating new restrictions
- Concerns focused on China
 - **Concerns:** Possible control/influence over U.S. food systems and/or supply chain interference; foreign access to U.S. intellectual property and technologies; and U.S. access to farming inputs such as agrichemicals and seeds (e.g., ChemChina’s consolidation of its agricultural assets); trade and foreign relations

Source: H.Rept. 95-1570/S.Rept. 95-1072; C.B. Luttrell, “The ‘Danger’ From Foreign Ownership of U.S. Farmland,” Federal Reserve Bank of St. Louis, January 1979; and comments by Representative Austin Scott (TX) at the Hudson Institute, February 1, 2023, and James Talent, member of the U.S.-China Economic and Security Review Commission, *Agri-Pulse*, December 1, 2021.

Reported Shortcomings of the AFIDA Data

AFIDA Enactment (1979 Cong. Record)

- Lack of transparency about foreign agricultural transactions and inadequate data/information made it “difficult to judge the impact of these land purchases”
- Need for data and information to “clear up the existing confusion on the extent of foreign ownership of U.S. farmland and the consequences of these land holdings on agriculture”

GAO (1989 partial AFIDA audit, NSIAD-90-25BR)

- Data are “incomplete” given omissions due to unreported purchases/transfers
- Ownership transparency is limited (e.g., USDA lacks the “legal authority to require disclosure beyond the third tier of ownership” and cannot always “identify the ultimate beneficial owner”)
- Some investors are from an “identity haven” and the “actual nationality of the real owners is not known”

Source: 124 Cong. Rec. 23065; H.Rept. 95-1570/S.Rept. 95-1072; and various GAO reports (1979 and 1989).



Reported Shortcomings of the AFIDA Data (cont.)

- Accuracy of disclosed data relies on voluntary compliance and self-reporting
- Practical limits of policing disclosure, given volume of annual transactions
- Possible incentive for non-reporting/anonymity to hide the extent of their investment to avoid possible federal or state action
- USDA’s database has information not included in publicly available annual reports (e.g., county where property is located)
- Nearly half of all transactions do not disclose a transaction price
- Data are not standardized, and available reports are difficult to use
- USDA lacks staff and resources to verify, monitor, and track transactions

Source: L.E. Schönander, *The Agricultural Foreign Investment Disclosure Act: Recommendations for Improving Transparency*, Lincoln Policy, 2022; T.L. Schmidt, “Closing the Barndoor: A Suggested United States Response to International Restrictions on Foreign Acquisition of Agricultural Land,” *California Western International Law Journal*: Vol. 10: No. 3, Article 5, 1980.



Section 721 of the Defense Production Act (CFIUS)

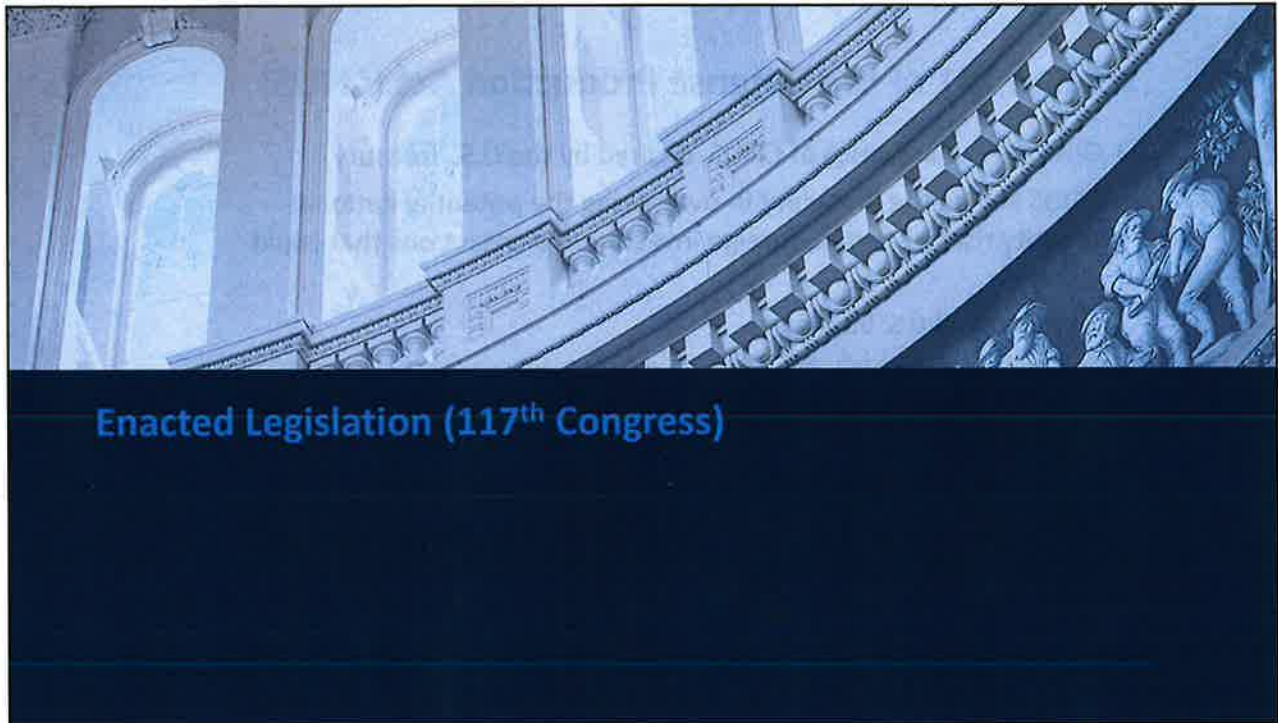
- Governs the activities of CFIUS, chaired by the U.S. Treasury
- CFIUS serves the President in overseeing the potential national security risks of certain foreign investment transactions that could result in:
 - control of U.S. businesses
 - noncontrolling investments in certain U.S. businesses involved in *critical infrastructure* or *critical technologies*, and sensitive personal data
 - certain real estate transactions that meet specific criteria
- If an investment transaction is found to threaten U.S. national security, the President has the authority to block or unwind the transaction

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Section 721 of the Defense Production Act (CFIUS) (cont.)

- Currently, USDA and HHS are not members of CFIUS but may be brought in to review transactions; however:
 - CFIUS may consider review of foreign investment transactions in the food and agriculture sector (but not mandated to do so)
 - U.S. Treasury may designate USDA and HHS as co-leads in a CFIUS investigation on a case-by-case basis
 - The Cybersecurity and Infrastructure Security Agency has designated USDA and HHS as the co-Sector Risk Management Agencies for the U.S. food and agriculture sector
- President Biden has instructed CFIUS to consider “elements of the agricultural industrial base that have implications for food security” (E.O. 14083)

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Enacted Legislation (117th Congress)

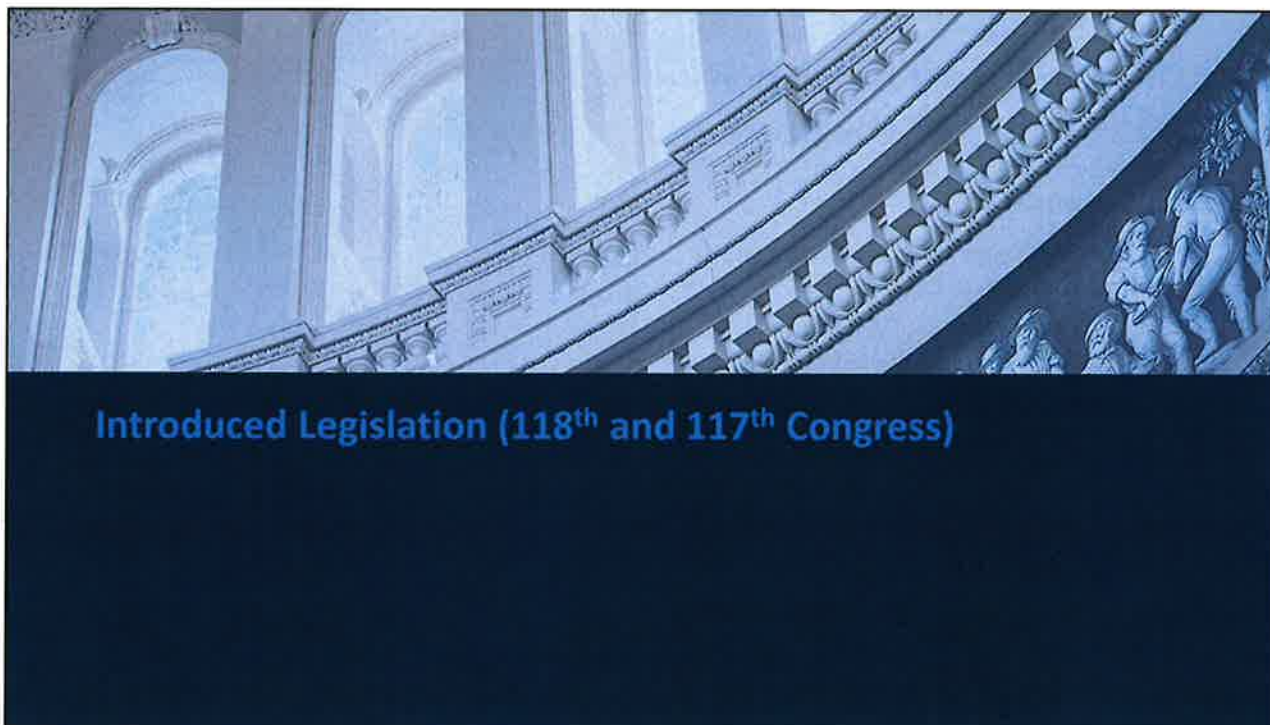
Enacted Provisions in the 117th Congress (AFIDA)

FY2023 Consolidated Appropriations Act (P.L. 117-328, §773)

- Requires USDA to report on the impact of foreign investments in U.S. agricultural land on “family farms, rural communities, and the domestic food supply”
- Directs USDA to establish (within 3 years) a “streamlined process for electronic submission and retention of disclosures,” including an “internet database” with “disaggregated data from each disclosure submitted” under AFIDA

FY2022 Consolidated Appropriations Act (H. Comm. Print 47-047)

- Directs USDA to report on trends including land owned or partially owned, by the governments of China, Russia, Iran, or North Korea, as well as the “potential impacts on the American agricultural sector, food security, and rural economies”
- Highlights congressional concerns about potential “threats to food security and rural economies” including by “non-farming entities, including private equity firms and foreign-owned corporations”



Introduced Legislation (118th and 117th Congress)

House-Passed Bills Not Enacted in the 117th Congress

House-Passed FY2023 Appropriations (H.R. 8294, Division B, §769)

- Would have directed USDA to “take such actions” to prohibit the purchase of U.S. agricultural land by “companies owned, in full or in part, by the People’s Republic of China, Russia, North Korea, or Iran”

House-Passed FY2022 Appropriations (H.R. 4502, §777)

- Would have allowed USDA to prohibit U.S. agricultural land purchases by companies owned, in full or in part, by China, Russia, Iran, or North Korea
- Would have prohibited participation in USDA-administered programs by these foreign entities

House-Passed America COMPETES Act of 2022 (H.R. 4521, Division P)

- Would have required USDA to certify current foreign landholders, amend civil penalties, and also submit a report to Congress

Other Proposed Legislation (117th and 118th Congress)

Bills that would:

1. Tighten Foreign Investment Disclosure Requirements to USDA
2. Restrict Access to USDA Farm Programs by Foreign Persons/Entities
3. Expand Federal Review of Foreign Investment Transactions to Include the Secretaries of USDA and HHS
4. Prohibit U.S. Agricultural Land Purchases by Certain Foreign Adversaries

Some introduced legislation may include a combination of these various proposals



(1) Bills to Tighten AFIDA Reporting Requirements

117th Congress

Farmland Security Act of 2022 (H.R. 9395/S. 4667)

- Would have required additional annual reporting by USDA on foreign investments in U.S. agricultural land and establish a public database
 - Note: Aspects enacted in FY2023 Appropriations Act (P.L. 117-328, §773)

Agriculture Foreign Investment Transparency Act (H.R. 9483)

- Would have required all AFIDA reports be publicly available on USDA's website
- Would have expanded the scope of AFIDA reporting to include land leases (including idle farmland) and companies that issue equity securities that are foreign-traded, and all interests acquired, transferred, or held by a foreign person

Securing America's Land from Foreign Interference Act (S. 4703)

- Would have raised the minimum penalty for nondisclosure to 10% of the land value

Security and Oversight for International Landholdings (SOIL Act) of 2022 (S. 4821)

- Would have expanded AFIDA's scope to include certain land leasing agreements
- Would have revoked the minimum acreage requirement
- Would have expanded USDA reporting of investments involving China and Russia

(2) Bills to Restrict Access to Federal Assistance

117th Congress

Security and Oversight for International Landholdings (SOIL Act) of 2022 (S. 4821)

- Would have prohibited assistance, including subsidies, by any federal agency to a person for an agricultural real estate holding wholly or partly owned by a foreign national of a country designated as a “nonmarket economy country” or identified as a country that poses as risk to U.S. national security

Farm Credit for Americans Act (S. 4954)

- Would have prohibited Farm Credit lenders from lending to foreign nationals (subject to certain exceptions)

Domestic Water Protection Act of 2022 (H.R. 9194)

- Would have imposed excise taxes on certain sales of a water-intensive crop using Western groundwater



(3) Bills to Expand Federal Oversight of Foreign Transactions

118th Congress

Promoting Agriculture Safeguards and Security (PASS) Act of 2023 (H.R. 683/S. 168)

- Would add USDA as a CFIUS member
- Would require review of certain agricultural transactions and investments, including “biotechnology related to the agriculture sector”
- Would prohibit certain transactions involving agricultural companies and real estate
- Would establish new reporting requirements on agricultural transactions

Foreign Adversary Risk Management (FARM) Act (H.R. 513/S. 68)

- Would add USDA as a CFIUS member
- Would require review of certain agricultural investments by foreign entities
- Would add agricultural supply chains to the definitions of *critical infrastructure* and *critical technologies*
- Would establish new reporting requirements on agricultural transactions



(3) Bills to Expand Federal Oversight of Foreign Transactions (cont.)

117th Congress

Security and Oversight for International Landholdings (SOIL Act) of 2022 (S. 4821)

- Would have added USDA as a CFIUS member
- Would have required CFIUS review of acquisitions/transfers of an interest (except security interests) in agricultural land by a person that is a national of a country designated as a “nonmarket economy” or as posing a national security risk

Agricultural Security Risk Review Act (H.R. 3413/S. 1755)

- Would have added USDA as a CFIUS member

Food Security is National Security Act of 2021 (S. 3089)

- Would have added USDA and HHS as a CFIUS member



(4) Bills to Prohibit Investments from Certain Countries

118th Congress

Promoting Agriculture Safeguards and Security (PASS) Act of 2023 (H.R. 683/S. 168)

- Would prohibit transactions by China, Russia, Iran, or North Korea (*prohibited country*)
- Would prohibit transactions by certain foreign persons (based on association with a *prohibited country*)
- Would prohibit certain transactions involving agricultural companies and real estate

Other 117th Congress Bills

FY2023 and FY2022 Agriculture Appropriations (H.R. 8294, H.R. 4502)

- Would have prohibited transactions by China, Russia, Iran, or North Korea

Prohibition of Agricultural Land for the People’s Republic of China Act (H.R. 7892)

- Would have prohibited U.S. agricultural land purchases by China



(4) Bills Prohibiting Investments in U.S. Public and Private Lands

118th Congress

Protecting Our Land Act (H.R. 212)

- Would prohibit the purchase of U.S. public or private real estate by foreign adversaries and state sponsors of terrorism

Securing America's Land from Foreign Interference Act (H.R. 334)

- Would prohibit the purchase of U.S. public or private real estate by China

Other 117th Congress Bills

- **Protecting Military Installations from Foreign Espionage Act (H.R. 2728)**
- **Protecting Military Installations and Ranges Act of 2021 (S. 1278)**
- **Securing America's Land from Foreign Interference Act (H.R. 3847/S. 4703)**
- **National Security Moratorium on Foreign Purchases of U.S. Land (H.R. 6383)**



Other Ongoing Actions

Recent Congressional Actions

House Agriculture Committee

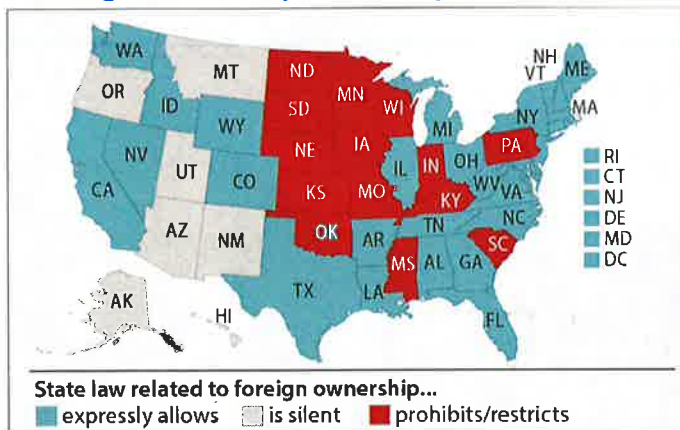
- In October 2022, Members of the House Agriculture Committee tasked the Government Accountability Office (GAO) with conducting a review of AFIDA, of foreign investment in U.S. agricultural land and its impacts, and of U.S. government efforts to monitor these farmland acquisitions
- Press reports indicate the committee intends to conduct a hearing on foreign ownership of U.S. agricultural land but may consider any legislative changes to USDA’s authorities as separate stand-alone action outside the farm bill

House of Representatives

- The 2023 House Resolution (H.Res. 11) established the *House Select Committee on Strategic Competition between the United States and the Chinese Communist Party*
 - Concerns about China’s “escalating aggression” and possible economic coercion
 - Concerns about fueling backlash against U.S. Asian Americans and Pacific Islanders
- Some Members intend to address U.S. farmland ownership concerns focused on U.S. competition with China



Overview of Selected State Laws Related to Foreign Ownership of U.S. Agricultural Land



Source: CRS using data from National Agricultural Law Center, at <https://nationalaglawcenter.org/state-compilations/aglandownership/>, as depicted at <https://nalcpo.wpenginepowered.com/wp-content/uploads/assets/Webinars/Foreign-Land-Ownership.pdf>.

No U.S. state has instituted an absolute prohibition on foreign ownership

Some states limit or have proposed to prohibit certain foreign persons and entities from acquiring or owning an interest in agricultural land within their state

USDA has identified 339 counties in Iowa, Kansas, Pennsylvania, and Wisconsin as having the strictest prohibitions



Selected CRS Products



- CRS InFocus IF12312, *Foreign Ownership of U.S. Farmland: Selected Policy Options*
- CRS InFocus IF11977, *Foreign Ownership and Holdings of U.S. Agricultural Land*
- CRS Report R46248, *U.S. Farm Programs: Eligibility and Payment Limits*
- CRS Report RL33388, *The Committee on Foreign Investment in the United States (CFIUS)*
- CRS Legal Sidebar LSB10848, *National Security Review Bodies: Legal Context and Comparison*

CRS public website: <https://crsreports.congress.gov/>



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