

CASE NO. 25-1047

IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

JONES EAGLE LLC,
Plaintiff-Appellee,

v.

WES WARD, et al.
Defendants-Appellants.

On Appeal from the United States District Court for the Eastern District of
Arkansas, Case No. 4:24-CV-990 (Hon. Kristine G. Baker)

**MOTION OF THE CATO INSTITUTE FOR LEAVE TO FILE BRIEF AS
AMICUS CURIAE IN SUPPORT OF PLAINTIFF-APPELLEE**

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Dated: August 6, 2025

RULE 26.1 CORPORATE DISCLOSURE STATEMENT

The Cato Institute is a nonprofit entity operating under § 501(c)(3) of the Internal Revenue Code. *Amicus* is not a subsidiary or affiliate of any publicly owned corporation and does not issue shares of stock. No publicly held corporation has a direct financial interest in the outcome of this litigation due to *amicus*'s participation.

RULE 29 DISCLOSURE STATEMENT

No counsel for either party authored this brief in whole or in part. No person or entity other than *amicus* made a monetary contribution to its preparation or submission.

MOTION FOR LEAVE TO PARTICIPATE AS *AMICUS*

Pursuant to this Court's discretion, the Cato Institute respectfully moves for leave to file an *amicus* brief supporting Plaintiff-Appellee to assist the Court in its consideration. All parties were provided with notice of *amicus*'s intent to file as required under Rule 29(2). Counsel for both Appellant and Appellees have consented to the filing of this brief.

INTEREST OF *AMICUS CURIAE*

The Cato Institute was established in 1977 as a nonpartisan public policy research foundation dedicated to advancing the principles of individual liberty, free markets, and limited government. Cato's Robert A. Levy Center for Constitutional Studies was established in 1989 to promote the principles of limited constitutional

government that are the foundation of liberty. Toward those ends, Cato publishes books and studies, conducts conferences, and issues the annual *Cato Supreme Court Review*.

Amicus is interested in this case because equal protection of the law is fundamental to individual liberty and dignity. In this case, Arkansas law (Act 636 of 2023 and Act 174 of 2024) discriminates against aliens from two dozen specified countries by depriving them of their rights to own and acquire property interests within the state.

ISSUE TO BE ADDRESSED BY *AMICUS*

Amicus will argue that the guarantees provided by the Constitution's Equal Protection Clause prohibit the enforcement of Acts 636 and 174. More precisely, the alienage classifications of these two Acts trigger strict scrutiny review, and the application of strict scrutiny precludes such classifications.

CONCLUSION

For the reasons stated above, the Cato Institute respectfully requests that the Court grant this motion to participate as *amicus* in the above-captioned case.

Respectfully submitted,

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CERTIFICATE OF MOTION LENGTH & VIRUS CHECK

Counsel certifies under FRAP 32(g) that the foregoing motion meets the formatting and type-volume requirements set under FRAP 27(d) and FRAP 32(a). The motion is printed in 14-point, proportionately-spaced typeface using Microsoft Word and contains 270 words, including headings, footnotes, and quotations, and excluding all items identified under FRAP 32(f).

Per 8th Cir. R. 28A(h)(2), this motion has been scanned and found virus free using Bitdefender Endpoint Security Tools.

/s/ Thomas A. Berry
Counsel for Amicus Curiae

Dated: August 6, 2025

CERTIFICATE OF SERVICE

The undersigned certifies that on August 6, 2025, he electronically filed the above motion with the Clerk of Court using the CM/ECF System, which will send notice of such filing to counsel for all parties to this case. The undersigned also certifies that lead counsel for all parties are registered ECF Filers and that they will be served by the CM/ECF system.

/s/ Thomas A. Berry
Counsel for Amicus Curiae

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No publicly held corporation has a direct financial interest in the outcome of this litigation due to *amicus*'s participation.

/s/ Thomas A. Berry
Counsel for Amicus Curiae

Dated: August 6, 2025

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INTEREST OF *AMICUS CURIAE*¹

The Cato Institute was established in 1977 as a nonpartisan public policy research foundation dedicated to advancing the principles of individual liberty, free markets, and limited government. Cato's Robert A. Levy Center for Constitutional Studies was established in 1989 to promote the principles of limited constitutional government that are the foundation of liberty. Toward those ends, Cato publishes books and studies, conducts conferences, and issues the annual *Cato Supreme Court Review*.

Amicus is interested in this case because equal protection of the law is fundamental to individual liberty and dignity. In this case, Arkansas law discriminates against aliens from two dozen countries by depriving them of their rights to own and acquire property interests within the state.

INTRODUCTION AND SUMMARY OF ARGUMENT

This case illuminates a disturbing trend: state legislatures resurrecting alien land laws.² Such laws were first enacted in the late 19th and early 20th centuries; they aimed to deprive Asian immigrants of the right to own, acquire, and inherit real

¹ Fed. R. App. P. 29 Statement: No counsel for either party authored this brief in whole or in part. No person or entity other than *amicus* made a monetary contribution to its preparation or submission.

² See Andy Z. Lei, *From Railroads to Real Estate: The Legacy of Exclusion Revived in New Alien Land Laws*, 26 ASIAN-PAC. L. & POL'Y J. 102, 123, 128 (2024).

property.³ Today, such laws (and the invidious discrimination against aliens that such laws embody) are recognized as incompatible with the Constitution’s guarantee of equal protection. *See Graham v. Richardson*, 403 U.S. 365 (1971); *Takahashi v. Fish & Game Comm’n*, 334 U.S. 410 (1948).⁴ But Arkansas Act 636 of 2023 and Act 174 of 2024 ignore that constitutional guarantee by attempting to reestablish alien land laws in the 21st century. This Court must reject Arkansas’s attempt to deprive aliens of property rights.

Act 636 of 2023 (ARK. CODE ANN. §§ 18-11-110 and 18-11-801 (2024), *et seq.*) prohibits aliens from 24 specified countries from acquiring any “interest in agricultural land” on pain of civil and criminal penalties. *Id.*, § 18-11-802(1)(A), (5). The Act creates an Office of Agricultural Intelligence “to collect and analyze

³ *See* James Alan Huizinga, *Alien Land Laws: Constitutional Limitations on State Power to Regulate*, 32 HASTINGS L.J. 251, 252 (1980) (explaining “[t]he practical effect of these laws . . . was only that Asians were excluded from owning real property”). The legislatures’ first target was agricultural land holdings, but “[u]ltimately, the ownership bar expanded to include all ‘real property.’” Keith Aoki, *No Right to Own?: The Early Twentieth-Century “Alien Land Laws” as a Prelude to Internment*, 40 B.C. L. REV. 37, 38, 40 (1998).

⁴ The Supreme Court upheld alien land laws in a series of 1923 decisions that now appear outmoded. *See Frick v. Webb*, 263 U.S. 326 (1923); *Webb v. O’Brien*, 263 U.S. 313 (1923); *Porterfield v. Webb*, 263 U.S. 225 (1923); *Terrace v. Thompson*, 263 U.S. 197 (1923). Today, the validity of those decisions is doubtful. *See Graham*, 403 U.S. at 373–74 & n.9 (*Takahashi* “cast[s] doubt on the continuing validity of the special public-interest doctrine in all contexts”); *Yifan Shen v. Comm’r*, No. 23-12737, 2024 U.S. App. LEXIS 2346, at *8–9 (11th Cir. Feb. 1, 2024) (Abudu, J., concurring).

information concerning the unlawful sale or possession of agricultural land by prohibited foreign parties.” *Id.*, § 18-11-805. Potential violations are referred to the Attorney General, *id.*, who is empowered to investigate businesses owned by disfavored aliens—no matter how small their stake of ownership. Neither probable cause nor reasonable suspicion is necessary to initiate an investigation; all that is needed is the Attorney General’s subjective belief that a violation may exist. *Id.*, § 18-11-804(c)(2).

Similarly, Act 174 of 2024 (ARK. CODE ANN. § 14-1-606 (2024)) prohibits aliens from 23 countries from acquiring any “interest” in a “digital asset mining business.” *Id.*, § 14-1-606(a)(1)–(2). The Attorney General may “conduct an investigation” of firms owned by disfavored aliens upon personal request or “receipt of information that leads [him] to believe that a violation . . . may exist.” *Id.*, § 14-1-606(d). The Attorney General may order “prohibited foreign parties to divest all interest in the digital asset mining business within three hundred sixty-five (365) calendar days,” no matter how negligible that interest is. *Id.*, § 14-1-606(e)(1). In the absence of compliance with such an order, the Attorney General may institute proceedings in circuit court to compel divestment. *Id.*, § 14-1-606(e)(2)–(3). There is no statutory provision for just compensation. Offending parties face sizable penalties—up to a \$1,000,000 fine and treble damages. *Id.*, § 14-1-606(e)(3)–(4).

Jimmy Chen is a naturalized American citizen of Chinese descent who immigrated to the U.S. in 2003. Chen is the manager of Jones Eagle; through Eagle Asset Holding, Inc., he holds a controlling interest in the firm. Besides Eagle Asset Holding, Jones Eagle has other owners who are not U.S. citizens. Jones Eagle owns and operates a data center in Arkansas County, Arkansas, where it occupies a two-acre leasehold on agricultural land.

In 2019, Arkansas County enacted an ordinance that made it impossible for Jones Eagle to operate a data center business within the county. Jones Eagle's predecessor in interest, Jones Digital, sued to enjoin enforcement of that ordinance and successfully secured a consent judgment. *Jones Digital LLC v. Arkansas Cnty.*, No. 2:23-cv-00220-LPR (E.D. Ark. Nov. 16, 2023). But Jones Digital's court victory provoked a response from Arkansas's governor: Three weeks after the judgment was issued, Governor Sarah Sanders criticized Jones Digital in a press release and "alerted" the Attorney General to investigate the company for alleged "ties to China."⁵

Jones Eagle then asked the office of the Attorney General to meet and confer so that Jones Eagle could demonstrate compliance with its obligations, but that office declined to do so. Instead, it issued an investigative subpoena that ordered Jones

⁵ Press Release, Sarah Huckabee Sanders, Governor, Arkansas, Sanders Administration Holds China Accountable (Dec. 13, 2023), <https://tinyurl.com/4m8z64d5>.

Eagle to provide various documents. At this point, the Attorney General had neither probable cause nor reasonable suspicion of any statutory violation. Once more, Jones Eagle sought to meet with agents of the Attorney General to discuss how best to satisfy the government's demands; once more, the office refused. After Jones Eagle failed to meet the subpoena's deadline, the Attorney General instituted contempt proceedings in Baxter County Circuit Court. Shortly thereafter, Jones Eagle sued the state Secretary of Agriculture and other defendants, seeking an injunction against enforcement of Act 636 and Act 174. The U.S. District Court for the Eastern District of Arkansas granted the injunction, holding that federal law likely preempted Acts 636 and 174. This Court should affirm the district court's judgment.

The Cato Institute files this brief to provide an alternative ground for affirming the judgment of the district court. The Equal Protection Clause provides that no state shall "deny to any person within its jurisdiction the equal protection of the laws." U.S. CONST. amend XIV, § 1. The Supreme Court has interpreted this guarantee to forbid invidious class legislation on the basis of alienage. *See Graham*, 403 U.S. at 372; *Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886). Acts 636 and 174 create overbroad alienage classifications that accomplish no legitimate policy objective. These Acts fail strict scrutiny and therefore violate the Equal Protection Clause.

ARGUMENT

I. ACTS 636 AND 174 TRIGGER STRICT SCRUTINY

A. Facial Alienage Classifications by State Governments Generally Trigger Strict Scrutiny.

When the government singles out discrete and insular minorities with “no direct voice in the political processes,”⁶ the Equal Protection Clause requires the use of strict scrutiny to “smoke out” the possibility of class prejudice. *Adarand Constructors v. Peña*, 515 U.S. 200, 226 (1995) (internal quotation marks omitted). Aliens “are a prime example of a discrete and insular minority for whom such heightened judicial solicitude is appropriate.” *Graham*, 403 U.S. at 372; *Examining Bd. of Eng’rs, Architects & Surveyors v. Flores de Otero*, 426 U.S. 572, 603 (1976).⁷ Because of the historical consequences of most state alienage classifications—namely, systematic exclusion driven by political powerlessness—the Supreme Court has “deemed necessary” close judicial scrutiny of such classifications. *Foley*, 435

⁶ *Foley v. Connelie*, 435 U.S. 291, 294 (1978) (citing *United States v. Carolene Products Co.*, 304 U.S. 144, 152–53, n. 4 (1938)).

⁷ A description of the particular indignities inflicted upon Chinese and Asian immigrants more broadly is contained in Denny Chin & Kathy Hirata Chin, “*Kung Flu*”: *A History of Hostility and Violence Against Asian Americans*, 90 FORDHAM L. REV. 1889 (2022).

U.S. at 295; *see also Parada v. Anoka Cnty.*, 54 F.4th 1016, 1020 (8th Cir. 2022).⁸ Strict scrutiny is especially appropriate when state law “str[ikes] at the noncitizens’ ability to exist in the community.” *Foley*, 435 U.S. at 295. Such classifications are inherently suspect and presumptively invalid, *Graham*, 403 U.S. at 376, because “[t]he right to work a living in the common occupations of the community is of the very essence of personal freedom and opportunity that it was the purpose of the [14th] Amendment to secure.” *Truax v. Raich*, 239 U.S. 33, 41 (1915).

Federal courts will therefore apply strict scrutiny to state-law classifications that aim to exclude aliens from the surrounding economy. In such cases, “[t]he power of a state to apply its laws exclusively to its alien inhabitants as a class is confined within narrow limits,” *Graham*, 403 U.S. at 372 (cleaned up), and “only the most exceptional circumstances can excuse discrimination on that basis in the face of the

⁸ The Supreme Court has recognized “a State’s historical power to exclude aliens from participation in its democratic political institutions.” *Foley*, 435 U.S. at 295–96 (cleaned up). When this traditional prerogative is exercised, courts will apply a less demanding standard of review to state alienage classifications. *See, e.g., id.* (upholding a state law that barred non-citizens from becoming state troopers); *Ambach v. Norwick*, 441 U.S. 68 (1979) (upholding a state law that barred non-citizens who had not sought citizenship from becoming public school teachers). In the case at hand, alien ownership of real property is unrelated to the state’s maintenance of political community.

equal protection clause.” *Oyama v. California*, 332 U.S. 633, 646 (1948).⁹ There are no such exceptional circumstances here. *Contrast Foley*, 435 U.S. at 291; *Ambach*, 441 U.S. at 68.

B. Acts 636 and 174 Create Facial Alienage Classifications, Thus Triggering Strict Scrutiny

Act 636 criminalizes certain aliens’ ownership of “interest[s] in agricultural land.” ARK. CODE ANN. § 18-11-802(1)(A) (2024). Act 174 criminalizes certain aliens’ ownership of interests in digital asset mining companies. *Id.*, § 14-1-606(a)(2). Each proscription is aimed exclusively at aliens from 24 and 23 nations, respectively. Act 636 prohibits the ownership or acquisition of *any* interest in agricultural land by aliens from countries subject to International Traffic in Arms Regulations (ITAR), 22 C.F.R. § 126.1 (2025).¹⁰ That bar applies to aliens from 24 countries total, including China. 22 C.F.R. § 126.1(d)(1)–(2) (2025).¹¹ For its part,

⁹ *Federal* alienage classifications do not face such scrutiny. “Congress, as an aspect of its broad power over immigration and naturalization, enjoys rights to distinguish among aliens that are not shared by the States.” *Nyquist v. Mauclet*, 432 U.S. 1, 7 n.8 (1977). “Under the Constitution, the states are granted no such powers.” *Takahashi*, 334 U.S. at 419. “State laws which impose discriminatory burdens upon the entrance or residence of aliens lawfully within the United States . . . have accordingly been held invalid.” *Id.*

¹⁰ ARK. CODE ANN. § 18-11-802(5)(A) (2024).

¹¹ The state asserts that “the statute exempts citizens and residents of countries subject to ITAR restrictions if they are also resident aliens of the United States.”

Act 174 prohibits acquisition or retention of any interest in digital asset mining companies by aliens from a similar (but not identical)¹² group of countries. ARK. CODE ANN. § 14-1-606(a)(2) (2024).

The exclusionary sweep of Acts 636 and 174 is plain and indiscriminate, and it extends far beyond any ITAR objective. The laws expressly target aliens from two dozen countries in order to deprive them of their right to own and acquire property interests within the state. The Acts are “directed at aliens” and “only aliens are harmed by [them].” *Nyquist*, 432 U.S. at 9. Such “explicit” legislative classification requires strict scrutiny. *In re Griffiths*, 413 U.S. 717, 725 (1973); *Flores de Otero*, 426 U.S. at 602; *Graham*, 403 U.S. at 372. And, to repeat, that requirement is underscored when such classification strikes at the ability of aliens to be a part of

Opening Br. 3. However, any such alien is exempted *only* “during the continuance of his or her residence in the State of Arkansas.” § 18-11-804(a). Lawful alien inhabitants from ITAR countries who do not reside in Arkansas remain prohibited from acquiring agricultural land. But even if section 804(a) provided an exemption for all lawful alien inhabitants of the U.S., the broader statutory scheme would still constitute impermissible discrimination against undocumented immigrants. *See Plyler v. Doe*, 457 U.S. 202 (1982).

¹² Act 174 fixes the definition of “prohibited foreign party” based on ITAR regulations from January 1, 2024. *Id.*, § 14-1-606(a)(3)(A). Act 174’s scope of prohibition may thus become larger or smaller than that of Act 636, depending on subsequent State Department action. Act 636 currently applies to aliens from 24 countries. Act 174 only applies to aliens from 23 countries because the U.S. added Nicaragua to the ITAR in March 2024, after the operative date. *See International Traffic in Arms Regulations: Addition to List of Proscribed Countries*, 89 Fed. Reg. 18796 (Mar. 15, 2024) (codified at 22 C.F.R. 126 (2025)).

their community by curtailing their right to own and acquire property—a right that “Government is instituted to protect,” James Madison, *Property*, in 1 THE FOUNDERS’ CONSTITUTION 598 (Philip Kurland & Ralph Lerner eds., 1987), and without which “liberty cannot exist.” John Adams, *Discourses on Davila*, in 6 THE WORKS OF JOHN ADAMS 280 (Charles Francis Adams ed., 1851).

II. ACTS 636 AND 174 FAIL STRICT SCRUTINY

A. Neither Act Serves a Compelling State Interest.

To survive strict scrutiny, the alien classifications of Acts 636 and 174 must be “precisely drawn” and “necessary” to advance a compelling state interest. *Flores de Otero*, 426 U.S. at 605; *Parada*, 54 F.4th at 1020. But it appears that Defendants-Appellants have not provided, and cannot provide, such an interest. The state’s brief suggests that Arkansas has a “sovereign interest in enforcing its statutes.” Opening Br. 20. But if that oblique assertion is understood as an attempt to answer an equal protection challenge, the state’s argument flunks strict scrutiny review. *See Oyama*, 332 U.S. at 646 (rejecting an asserted interest that “presupp[ose] the validity” of challenged legislation).

One might hypothesize arguments resting on other potential state interests, but those arguments also fail. Acts 636 and 174 were apparently motivated by the legislature’s desire to “defend” Arkansas against hostile foreign interests. Opening Br. 3. But in the absence of actual dangers such as military invasion, national defense

responsibilities rest exclusively in the federal government as a matter of constitutional first principles. U.S. CONST. art. I, § 10, cl. 3 (“No State shall . . . engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay”). A constitutionally invalid purpose cannot serve as the foundation of a compelling state interest.

Once national-defense justifications are set aside, Acts 636 and 174 appear to be the product of nativist sentiments intended to advance “national affinity.” *Nyquist*, 432 U.S. at 10. As the sponsor of Act 636 put it, “If we don’t want a balloon flying over our nation, we shouldn’t want them [*i.e.*, aliens] owning land.” Opening Br. 3–4 (internal quotation marks omitted). Neither nativism nor xenophobia is a legitimate state interest. *See Nyquist*, 432 U.S. at 10; *Takahashi*, 334 U.S. at 419–20; *Romer v. Evans*, 517 U.S. 620, 634 (1996) (“a bare desire to harm a politically unpopular group cannot constitute a *legitimate* governmental interest”) (cleaned up).

B. Neither Act Is Narrowly Tailored

Even if the presence of a compelling state interest is assumed, the application of strict scrutiny would require Arkansas to establish that “the means adopted to achieve the goal are necessary and precisely drawn.” *Flores de Otero*, 426 U.S. at 605. Acts 636 and 174 draw overbroad, slapdash classifications that subject aliens from two dozen countries to second-class treatment. In this case, the application of strict scrutiny reveals the absence of the narrow tailoring that such scrutiny requires.

Act 174 “single[s] out and ban[s] lawful alien inhabitants . . . from following a vocation,” *Takahashi*, 334 U.S. at 420—here, digital mining—on pain of fines, imprisonment, and the compelled divestiture of their business. *See* ARK. CODE ANN. § 14-1-606 (2024); *cf. Truax*, 239 U.S. at 41 (“It is an act aimed at . . . aliens, as such.”); *Griffiths*, 413 U.S. at 722. The thrust of Act 636 is similar: It is a blanket prohibition aimed at almost the same set of aliens (although it also folds in aliens from Nicaragua, *see* note 12, *supra*). Act 636 prevents its targets from owning or acquiring interests in agricultural land on pain of civil and criminal penalties. *See* ARK. CODE ANN. §§ 18-11-110 & 18-11-801 (2024), *et seq.*; *cf. Oyama*, 332 U.S. at 648 (Black, J., concurring); *id.* at 651 (Murphy, J., concurring). The Acts target aliens from a diverse array of countries—from Burma to China to Syria—with identical cookie-cutter ownership prohibitions. The classifications “sweep too broadly,” “bearing no particular or rational relationship to” any credible threat posed by aliens as a class or subclass. *Flores de Otero*, 426 U.S. at 606 (conjugation modified); *cf. Takahashi*, 334 U.S. at 427 (Murphy, J., concurring) (“This discrimination, patently hostile, is not based upon a reasonable ground of classification.”). Even if, under certain circumstances, “some resident aliens [from the ITAR nations] are unsuited” to own these properties, that cannot justify “a wholesale ban.” *Griffiths*, 413 U.S. at 725. For “if any fundamental assumption underlies our system, it is that guilt is personal [to the individual] and not inheritable

[by the class].” *Korematsu v. United States*, 323 U.S. 214, 243 (1944) (Jackson, J., dissenting).

Moreover, Arkansas’s reliance on a classificatory scheme found in federal regulation is without legal force here. As a practical matter, there appears to be no relationship between the administration of international arms control and Arkansas’s asserted interests. Just because “[i]t is the policy of the United States to deny licenses and other approvals for exports and imports of defense articles and defense services, destined for or originating in certain countries,” 22 C.F.R. § 126.1(a) (2025), it does not follow that aliens from those countries are broadly dangerous as a class or that they may be stripped of their rights to own particular businesses or parcels of land. Indeed, for the state to draw that discriminatory conclusion would be impermissible. *Griffiths*, 413 U.S. at 722 n.8. Arkansas therefore cannot “single out and ban its lawful alien inhabitants” from pursuing data mining or buying farmland “simply because Congress has put such groups in special classifications in the exercise of its broad and wholly distinguishable powers” over international arms control. *Takahashi*, 334 U.S. at 420.

The Acts’ prohibitions on resident aliens also fail the means-end test (that is, the requirement that the statutes’ means are both necessary and precisely drawn to achieve their goals) in a second respect. Even the slightest degree of foreign ownership puts the Acts in play, which itself demonstrates how distant their design

is from the precisely-drawn tailoring the Constitution requires. This is easily shown with a hypothetical example: Imagine that there are two data mining companies in Arkansas—a small, local firm controlled by an American citizen (that is, a firm like Jones Eagle), and a powerful multinational firm that is wholly owned and operated by Chinese nationals. The multinational firm’s size, leverage, and sole Chinese ownership might more plausibly endanger legitimate government interests, but Jones Eagle’s minority Chinese ownership appears unlikely to pose any meaningful risk that could not be addressed through narrowly tailored regulations of commercial conduct and land use.

When the state places the same burdens on a small venture like Jones Eagle with only a small percentage of alien ownership as on a hypothetical wholly-owned Chinese tech giant, the consequence is a policy that is unmoored from the putative evils of alien asset ownership. *Cf. Romer*, 517 U.S. at 635 (“It is a status-based enactment divorced from any factual context from which . . . a relationship to legitimate state interests [can be discerned].”). The legislation’s overbroad and stringent restrictions are “undertaken for [their] own sake,” *id.*, evincing “an underlying intent to exclude” based on alien status. *Lei*, *supra* note 2, at 126. That suspect motive appears confirmed by legislators’ likening of foreign asset ownership to the Japanese Navy’s attack on Pearl Harbor. R. Doc. 1, at 12.

Strict scrutiny requires precise tailoring, but the tailoring here is no better than one-size-fits-all. The Arkansas General Assembly picked 24 disfavored countries, and then it deemed every single one of those countries’ foreign nationals—who have all previously been authorized to live and work in America—unworthy to buy or own businesses and farmland. That isn’t narrow tailoring: It is arbitrary class legislation. Under the Equal Protection Clause, neither Act 174 nor Act 636 is “entitled to wear the cloak of constitutionality.” *Takahashi*, 334 U.S. at 422 (Murphy, J., concurring).

CONCLUSION

For the foregoing reasons, and for the reasons advanced by Appellee, the Court should affirm the decision below.

Respectfully submitted,

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CERTIFICATE OF BRIEF LENGTH & VIRUS CHECK

The undersigned counsel certifies:

1. In accord with FRAP 32(g), this *amicus curiae* brief meets the formatting and type-volume requirements of FRAP 29(a)(4), 29(b)(4), and 32(a). This *amicus curiae* brief is printed in 14-point, proportionately spaced typeface using Microsoft Word and contains 3,599 words. This includes headings, footnotes, and quotations, and excludes all items identified by FRAP 32(f).
2. Per 8th Cir. R. 28A(h)(2), this brief has been scanned and found virus free using Bitdefender Endpoint Security Tools.

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Dated: August 6, 2025

CERTIFICATE OF SERVICE

The undersigned counsel certifies that on August 6, 2025 he electronically filed the foregoing *amicus curiae* brief with the Clerk of the Court for the Eighth Circuit using the CM/ECF system. The undersigned also certifies that all participants in the case are registered CM/ECF users and service will be accomplished by the CM/ECF system.

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Dated: August 6, 2025