

FARM BILL 2023

“BUY-PROTECT-SELL”

Keeping Working Lands Working and Providing Opportunities for Producers to Purchase Land at an Affordable Price



Goals: The goals of “Buy-Protect-Sell” are to prevent development or conversion of agricultural land; protect the agricultural land with a conservation easement; and provide opportunities for more producers to purchase land at an affordable price. The average age of a farmer reached 57.5 years old this year, and an estimated 370 million acres (about twice the area of Texas) of farmland are expected to change hands in the next 20 years. All the while, increasing costs of agricultural land—due to pressure from development—limit the ability of new and beginning farmers to purchase that land. This makes BPS an essential tool to preserve working farmland, using existing programs, and get that farmland in the hands of the next generation of farmers at an affordable price.

Summary: An entity, often a nongovernmental organization (NGO), will facilitate “Buy-Protect-Sell” with the following approach:

- **Step 1: Buy.** The NGO will buy agricultural lands, as a temporary landowner.
- **Step 2: Protect.** The NGO will sell a permanent conservation easement to an eligible entity (typically another entity besides the NGO-landowner) that will protect the agricultural nature of the parcel and reduce the fair market value of the land;
- **Step 3: Sell.** The NGO will sell the protected land to a farmer or rancher at a more affordable price.

Farm Bill 2023:

Buy-Protect-Sell transactions were authorized under the 2018 Farm Bill as part of the Agricultural Conservation Easement Program (ACEP). ACEP is a program that ensures America’s best farmland is permanently protected from development or conversion. Unfortunately, the text of the statute and subsequent ACEP regulations made BPS transactions functionally unworkable and there has not been a successfully-executed Buy-Protect-Sell transaction since the 2018 Farm Bill.

We are seeking statutory changes to ensure that Buy-Protect-Sell transactions work as intended going forward. These changes include: clarifying that the NGO landowner can be different from the NGO easement holder (to ensure that BPS complies with state easement laws); eliminating restrictions on the sale price of the encumbered land; ensuring that BPS transactions have the same easement transaction timeline, land eligibility requirements, and payment options as standard ACEP Agricultural Land Easement (ALE) transactions, making BPS work for Western states protecting water rights; and clarifying that Buy-Sell-Protect transactions and ALE easement transactions on lands where the landowner has a lease-to-own agreement with a farmer or rancher can be eligible as standard ALE transactions rather than needing to operate under a Buy-Protect-Sell framework.