

ACEP Buy-Protect-Sell Reform in the 2023 Farm Bill

Statement of Support

The undersigned organizations support fixing the authority for Buy-Protect-Sell (BPS) transactions under the Agricultural Conservation Easement Program (ACEP) in the 2023 Farm Bill. BPS transactions allow non-governmental organizations (NGOs), such as land trusts, to 1) buy agricultural land, as a temporary landowner; 2) sell a conservation easement on that land, permanently protecting it from conversion and reducing its fair market value; and 3) sell that encumbered land to a farmer or rancher at a more affordable price. This transaction framework gives NGOs a key tool to protect farmland at risk, as well as the ability to get cheaper agricultural land in the hands of beginning farmers and ranchers. BPS was created as a mechanism under the 2018 Farm Bill to achieve these goals. Unfortunately, due to original statutory issues, and subsequent regulatory hurdles, BPS has been functionally unworkable.

The fixes needed to make BPS function are:

- *Allow the eligible entity easement holder to be different from the eligible entity landowner, and allow multiple entities to be a part of a BPS transaction*
- *Eliminate restrictions on the sale price of the encumbered fee land*
- *Lengthen the time allowed to execute BPS easement transactions*
- *Allow for advance payment for BPS transactions*
- *Eliminate additional restrictions on land eligibility*
- *Allow Buy-Sell-Protect transactions, and transactions on lands where there's a lease-to-own contract in place with a farmer or rancher, to be processed as standard ALE transactions*

Fixing Buy-Protect-Sell would modify an existing program, without additional cost, to help transfer protected farmland to beginning farmers and ranchers. We are at a crossroads in the agriculture sector. Over 40% of America's farmland is owned by Farmers over 65 years old, with the average age of farmers rapidly increasing—currently 57.5 years old¹. As such, an estimated 370 million acres (about twice the area of Texas) of farmland are expected to change hands in the next 20 years². All the while, increasing costs of agricultural land—due to pressure from development—limits the ability of new and beginning farmers to purchase that land. This has resulted in agricultural land being lost to development at an alarming rate, with 11 million acres lost between 2001 and 2016 and an additional 18 million acres at risk of conversion by 2040³.

It's vital to secure ACEP-ALE easements on lands owned by existing farmers and ranchers. However, to combat the current crisis of farmland conversion, we must also have a functioning Buy-Protect-Sell mechanism that will allow NGOs to temporarily acquire farmland when it goes up for sale, and permanently protect it so that it can be acquired by the next generation of farmers at an affordable price.

¹ <https://www.nytimes.com/2022/11/13/us/politics/farmland-values-prices.html>

² https://farmlandinfo.org/wp-content/uploads/sites/2/2022/08/AFT_FUT_Abundant-Future-7_29_22-WEB.pdf, iii

³ https://farmlandinfo.org/wp-content/uploads/sites/2/2022/08/AFT_FUT_Abundant-Future-7_29_22-WEB.pdf, iv

Signed,

American Farmland Trust, National
Coalition of Oregon Land Trusts, OR
Colorado Cattlemen's Agricultural Land Trust, CO
Colorado Open Lands, CO
Connecticut Farmland Trust, CT
Delaware Department of Agriculture, DE
Grand Traverse Regional Land Conservancy, MI
Groundswell Conservancy, WI
Heart of the Lakes, MI
Iowa Natural Heritage Foundation, IA
Leelanau Conservancy, MI
Legacy Land Conservancy, MI
Maine Farmland Trust, ME
Montana Association of Land Trusts, MT
National Young Farmers Coalition, National
Oregon Agricultural Trust, OR
Partnership of Rangeland Trusts, West
Renewing The Countryside, MN/WI
Santa Clara Valley Open Space Authority, CA
The Conservation Fund, National
The Land Trust Alliance, National
The Trust for Public Land, National
Theodore Roosevelt Conservation Partnership, National
Triangle Land Conservancy, NC
Vermont Land Trust, VT
Washington Association of Land Trusts, WA
WeConservePA, PA

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