



Conservation Easements

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KEY FINDINGS

- A **conservation easement** is a voluntary and binding legal agreement between a property owner and an easement holder (a land trust or governmental agency) that permanently restricts the use of open land and water areas for the purpose of preservation.
- The **LeRay McAllister Working Farm & Ranch Protection Fund** offers grants for agricultural and open land conservation easements in Utah.
- Landowners who donate conservation easements, particularly qualifying farmers and ranchers, may be eligible for a **federal income tax deduction**.
- Conservation easement land may be purchased by private individuals, land trusts, or public entities. The terms of the easement stay with the land regardless of ownership changes.

SIGNIFICANT LEGISLATION

- **Working Farm & Ranch Protection Fund (2023)**
Moved the LeRay McAllister Fund to the purview of the Utah Department of Agriculture and Food and requires counties to deposit 20% of rollback funds into an account for agricultural or open land preservation.
- **Land Conservation Easement Act (1985)**
First authorized the creation and use of conservation easements in the state.

RECENT APPROPRIATIONS

- To the LeRay McAllister Fund:
2021: \$1,000,000, One-Time
2019: \$3,000,000, One-Time

Introduction

Definitions and Characteristics

A conservation easement is a legal agreement between a landowner and an easement holder for the purpose of preserving and maintaining land or water areas. Land in conservation easements is primarily in a “natural, scenic, or open condition” and has agricultural, recreational, cultural, wildlife habitat, or other values (see [Utah Code §57-18-2](#)). The property owner chooses which restrictions will be placed on the property in the conservation easement agreement, “donating” certain ownership rights, and those restriction terms remain with the land in perpetuity. The terms of these agreements may only be modified in limited circumstances and require judicial proceedings. These agreements are voluntary and landowners who donate eligible land through a conservation easement receive federal tax breaks. Conservation easement holders are entities, usually government agencies or land trusts (community-based nonprofit organizations), that work with the landowner during the drafting process and ensure that the restrictions are enforced.



Significance

Utah is one of the fastest growing states in the country, with a population expected to increase from 3.45 million residents to 5.5 million by 2060.ⁱ Amid rapid residential and commercial growth, conservation easements allow for the guaranteed existence of open areas for aesthetic value, recreation, vital ecosystems, and agriculture. According to the Utah Department of Agriculture and Food (UDAF), nearly 21.3% of Utah’s farmland, 2.9 million acres, has been eliminated since 1970.ⁱⁱ Furthermore, farmers and ranchers are aging out of the industry. The average age of farmers and ranchers in Utah is 55.6 years old.ⁱⁱⁱ Potential benefits for agricultural producers who donate their land into a conservation easement include family farmland preservation, allowing future generations to enter the industry, and reinforcing local food security and rural economies.

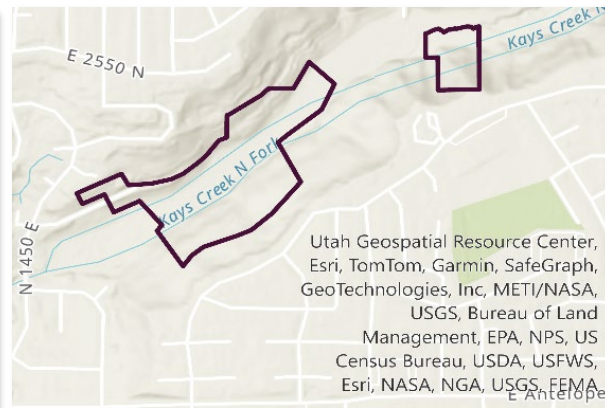
Nearly 3 million acres of Utah farmland has been eliminated since 1970.

Types of Conservation Easements

Purposes

[Utah Code §57-13c-101\(3\)](#) identifies the following purposes for conservation easements:

- Retaining or protecting the natural, scenic, wildlife, wildlife-habitat, biological, ecological, or open-space values of real property
- Ensuring the availability of real property for agricultural, forest, outdoor-recreational, or open-space uses
- Protecting natural resources, including wetlands, grasslands, and riparian areas
- Maintaining or enhancing air or water quality
- Preserving the historical, architectural, archeological, paleontological, or cultural aspects of real property
- Other purposes under [Chapter 18, Land Conservation Easement Act](#)

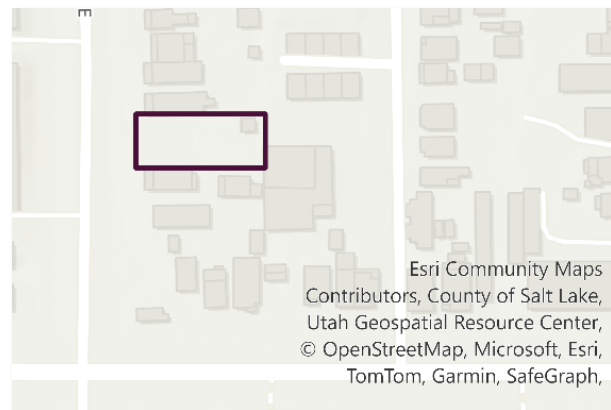


Kays Creek Corridor in Layton, preserved for its riparian areas and recreational trails.



Examples

Many conservation easements in Utah are held by state agencies such as UDAF and the Department of Natural Resources (DNR). One such easement is Kays Creek Corridor, located in Layton, which is held by DNR.^{iv} In addition to preserving the natural riparian corridor ecosystem and local wildlife, the area offers recreational paved trails. Another example of an easement nestled within an urban area is the 4th East Community Garden held by Salt Lake City. Conservation easements may also be established for the historical value of the land and can be applied to structures. The Abbey of Our Lady of the Holy Trinity, a Trappist monastery in Huntsville, Utah, was established in 1947 and closed in 2017 when the monks who farmed the land retired. Residents purchased the land and worked with Summit Land Conservancy and Ogden Valley Land Trust to establish the conservation easement to protect both the agricultural tradition and history tied to the land. The conservation easement was partially funded by an \$8.8 million grant from the [Natural Resources Conservation Service](#) (NRCS).^{v,vi}



4th East Community Garden in Salt Lake City, an example of a preserved agricultural open space in an urban area.

Structure & Financing

Historical Background

The modern concept of conservation easements was established in the late 1950s, followed by tax subsidies for conservation easement donations enacted by Congress in 1980.^{vii} Over five million acres of farmland, grasslands, and wetlands are in conservation easements through partnerships between the United States Department of Agriculture and private landowners.^{viii} Nationwide, an estimated 40 million acres of land are bound in conservation easements.^{ix}

Federal Law & Funding

Federal Tax Incentives

Conservation easement donations, like other charitable donations, are eligible for federal income tax benefits. Landowners can claim tax deductions for the value of the donated easement. The value of the donated land is determined by calculating the difference in property value before and after the easement donation. Conservation easement tax deductions are primarily covered under [26 U.S. Code §170](#) of the Internal Revenue Code (IRC).



Conservation Easement Incentive Act of 2015

[H.R. 641](#) amended the Internal Revenue Code to make permanent the charitable donation tax deductions for conservation purposes. This Act, cited as the “Conservation Easement Act of 2015,” also raised the maximum deduction for conservation easements from 30% of their adjusted gross income (AGI) in any year to 50%. H.R. 641 allows up to 100% AGI deductions for qualified farmers and ranchers and extends the period in which a donor can make tax deductions to 15 years. The Act also allows Native corporations an increased tax deduction for conservation easement donations related to lands under the Alaska Native Claims Settlement Act.

National Resources Conservation Service

Most conservation easement funding comes from the NRCS, which offers both the [Agricultural Conservation Easement Program](#) (ACEP) for working farms and ranches and [Wetlands Reserve Easements](#) for wetlands and migratory waterfowl habitats. The NRCS can contribute up to 50% of the land easement’s fair market value. For critical grassland, the NRCS may offer up to 75% of the land easement. Funding is also available through the NRCS Farm and Ranch Land Protection Program.^x

State Law & Funding

Conservation Easement Act

The Land Conservation Easement Act was enacted in 1985 (see [Utah Code §57-18-1](#)). In addition to defining and identifying the characteristics of a conservation easement, this section outlines the requirements for creation, acquisition, and termination. According to [Section 57-18-7](#), a conservation easement or access to a conservation easement may not be obtained by eminent domain, though the existence of a conservation easement may not defeat or interfere with the otherwise proper exercise of eminent domain. In 2011, [H.B. 156](#) amended the section to require county assessors to consider the effects of a conservation easement on the property value and require property owners to notify county assessors when a conservation easement is granted.

LeRay McAllister Working Farm and Ranch Protection Fund

[H.B. 371](#) was enacted in 2023 and requires counties to deposit 20% of rollback funds into an account for preserving open or agricultural land, including conservation easements funding (see [Utah Code §17-41-602](#) and [§59-2-506](#)).^{xi} The bill also moved the LeRay McAllister Critical Land Conservation Program from the Governor’s Office of Planning and Budget to the Conservation Division within UDAF and renamed it the LeRay McAllister Working Farm and Ranch Fund. The LeRay McAllister Fund is overseen by the [Land Conservation Board](#) and uses appropriated funds from the Legislature to purchase conservation easements, provide matching funds for conservation easements, and offer grants for restoration projects (see [Utah Code §4-46-302](#)). According to the Land Conservation Board, the LeRay McAllister Fund made \$27,413,016 in grants since 1999, preserving nearly 100,000 acres of land.^{xii} In the 2021 General Session, the LeRay McAllister Fund received a one-time appropriation of \$1,000,000 for conservation easement funding. In 2019, the fund received a one-time appropriation of \$3,000,000 for purchasing conservation easement on land deemed critical to local communities, restoring



conserved lands, and acquiring parcels in critical watersheds from willing sellers and resolving private property conflicts.

Agriculture Conservation Easement Account

The Agriculture Conservation Easement Account is a restricted account within the General Fund and consists of conservation easement stewardship fees revenue, grants, donations, and account interest (see [Utah Code §4-46-304](#)). UDAF is authorized to use money from this account to monitor and enforce compliance with conservation easements held by the department.

Conclusion

Conservation easements are a tool for private landowners, land trusts, and public entities to permanently preserve open land or water areas. However, many conservation easement benefits may also be considered drawbacks (see Table 1). These complex legal agreements permanently limit the landowner’s ability to alter their property, which could negatively impact market value. The long-term nature of these agreements poses challenges to the entity responsible for enforcing the conditions of the agreement into perpetuity. Effective land management requires understanding these benefits and challenges.

Table 1. Advantages and Disadvantages of Conservation Easements

Advantages	Disadvantages
<p><i>Preservation</i> Conservation easements make certain that open land will remain in its natural state.</p>	<p><i>Monitoring and Enforcement</i> The entity acting as the conservation easement holder is responsible for ensuring compliance.</p>
<p><i>Financial Incentives</i> Conservation easement donors may qualify for significant tax breaks and other forms of compensation.</p>	<p><i>Market Value Impact</i> Restricting development can reduce a property’s market value.</p>
<p><i>Flexibility</i> Conservation easements can allow for a variety of uses and can be tailored to the landowner’s preferences.</p>	<p><i>Permanence</i> The agreements bind landowners and can only be altered in judicial proceedings.</p>
<p><i>Community Benefits</i> Local benefits may include aesthetic value, recreational opportunities, and food security.</p>	<p><i>Restricted Use</i> Development, access, and activities may be prohibited depending on the conservation easement terms.</p>
<p><i>Legacy</i> Preserve heritage and critical land while providing opportunities for future generations.</p>	<p><i>Complexity</i> Conservation easements can be a complicated process with many legal implications to consider.</p>



ENDNOTES

- ⁱ Kem C. Gardner Policy Institute, "Utah population to increase by 2.2 million people through 2060." January 19, 2022. [Utah population to increase by 2.2 million people through 2060 - Kem C. Gardner Policy Institute](#).
- ⁱⁱ Utah Department of Agriculture and Food, "H.B. 371: Changes and updates affecting land conservation in Utah." [Final H.B 371 Handout \(utah.gov\)](#).
- ⁱⁱⁱ National Agricultural Statistics Service, "Utah agriculture." U.S. Department of Agriculture, April 2024. [Utah AG Profile 2022.docx \(usda.gov\)](#).
- ^{iv} This information comes from the National Conservation Easement Database (NCED). See <https://site.tplgis.org/NCED/planningapp/>. NCED data should be compared with data from other sources for completeness and accuracy.
- ^v Leia Larsen, "Former Utah monastery celebrates 75 years, and a new conservation easement." *The Salt Lake Tribune*, July 11, 2022. <https://www.sltrib.com/religion/2022/07/11/former-utah-monastery-celebrates/>.
- ^{vi} Natural Resources Conservation Service, "An agricultural tradition continues on historic site of Huntsville monastery." U.S. Department of Agriculture, November 2, 2023. <https://www.nrcs.usda.gov/conservation-basics/conservation-by-state/utah/news/an-agricultural-tradition-continues-on-historic>.
- ^{vii} Jeff Pidot, "A primer on conservation easements and land trusts." Lincoln Institute of Land Policy, 2005. <https://www.jstor.org/stable/pdf/resrep18162.4.pdf>.
- ^{viii} U.S. Department of Agriculture, "USDA recognizes 5 million acres enrolled in conservation easements." April 2, 2021. <https://www.usda.gov/media/press-releases/2021/04/02/usda-recognizes-5-million-acres-enrolled-conservation-easements>.
- ^{ix} Alex Brown, "Private lands are the next battleground in state conservation policy." *The Washington Post*, May 8, 2022. <https://www.washingtonpost.com/science/2022/05/08/land-conservation-private-property/>.
- ^x Natural Resources Conservation Service, "Programmatic environmental assessment." Farm and Ranch Lands Protection Program, 2009. <https://www.nrcs.usda.gov/sites/default/files/2022-09/FRPP-Programmatic-EA-January-2009.pdf>.
- ^{xi} When land becomes ineligible for greenbelt (when it is developed or goes into non-use), the owner becomes subject to what is known as a rollback tax. The rollback tax is the difference between the property taxes paid while on greenbelt and the property taxes which would have been paid had the property been assessed at market value. See <https://propertytax.utah.gov/locally-assessed/faq/>.
- ^{xii} Utah Department of Agriculture and Food, LeRay McAllister Working Farm and Ranch Fund report. Utah Land Conservation Board, November 15, 2023. <https://le.utah.gov/interim/2024/pdf/00000230.pdf>.