

Additional Incentives for Land Conservation

Tax Credits under the New Mexico Land Conservation Incentives Act

It's great to be up here in Taos. Up until a couple of months ago, I worked for an organization called "1,000 Friends of New Mexico," which is a non-profit, "smart-growth" organization. For the last couple of years, 1,000 Friends has worked with the Taos Land Trust and the Trust for Public Land to try and start an open space and agricultural protection program here in Taos County. I've spent a lot of time here the last couple of years, and while it's moving very slowly, I hope that one day Taos County will have an open space program. Only two counties have open space programs, Bernalillo and Santa Fe. New Mexico is one of the few Western states that does not have a statewide land conservation program, which is really sad. Colorado generates something like \$500 million a year for land conservation through their state lottery. I wish New Mexico had done that when we created our lottery a few years ago.

I'm here today to talk about something called the Land Conservation Incentives Act, which is administered by the Natural Lands Protection Committee (see Appendix C). The state legislature created the committee in 1987. How many

of you have ever heard of the Natural Lands Protection Committee? Anybody? One--well, I'd never heard of it either until about a year ago, when the governor appointed me to its board. The previous governor didn't appoint anybody to the committee in eight years, nor had it met in all that time. Today, the committee is comprised of seven members: the chair--who is the Secretary of Energy, Minerals, and Natural Resources--Joanna Prukop; the Director of the Game and Fish Department, Bruce Thompson; the Secretary of the Agriculture Department, Miley Gonzalez; State Land Commissioner Pat Lyons; and I'm one of three public members.

The basic purpose of the Natural Lands Protection Committee is to oversee the Natural Lands Protection Act, which was also passed by the legislature in 1987. I'll quote from the legislation: "The purpose of the Natural Lands Protection Act is the joint acquisition and protection of unique and ecologically significant lands in New Mexico by the State of New Mexico and New Mexico Corporations." If anyone wants to look this up on the web, or in the statutes, it's Chapter 75, Article 5.

It's really quite an amazing

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piece of legislation, yet I'd been involved in land preservation and conservation for years and never even knew this was on the books. The Nature Conservancy, the worldwide conservation organization that acquires ecologically significant properties for conservation purposes, approached the Legislature in 1987. They proposed that if any nonprofit land conservation organization wanted to buy a piece of land that was important for preservation and came up with at least 10 percent of the purchase price, the State would throw in the other 90 percent. Lo and behold, the Legislature actually passed this law! So conservation organizations in New Mexico such as the Taos Land Trust, the Nature Conservancy or the Trust for Public Land can purchase land this way that is then held jointly by the State of New Mexico and the land conservation group. The conservation organization is required to maintain the property and pay taxes on it. The land must be open to the public but only on guided tours by the organization.

So far, only the Nature Conservancy has taken advantage of this law. They've acquired five properties around the state, totaling about 1,900 acres--three properties down in Grant County, in the Gila area, and two properties in McKinley County, outside of Zuni Pueblo. While I haven't seen the properties myself, I have seen photo-

graphs, and they look pretty amazing.

But the real reason I'm here today is to talk about the Land Conservation Incentives Act, which was passed a year ago and went into effect in January. It provides a tax break for individuals or corporations, limited partnerships or any type of legal entity, that wants to donate land to a state agency, to a county or city or to a nonprofit land conservation group like the Taos Land Trust. Anyone who donates land outright or donates a conservation easement can get a tax break of up to \$100,000. You can get as much as 50 percent of the fair market value, up to \$100,000, written off over a 20-year period.

I'd like to read the purpose of the Act: "The purpose of the Land Conservation Incentives Act is to encourage private landowners to be stewards of lands that are important habitat areas, or contain significant natural open space and historical resources, by providing private land donors with incentives that encourage the protection of private lands for open space, natural resources, biodiversity conservation, outdoor recreation, farmland and forestland preservation, historic preservation and land conservation purposes."

Note that historic properties, such as homes or farms, are included in the measure. As an example, if somebody donated a piece of property worth \$100,000, they could get a tax

credit of up to \$50,000 (half the fair-market value) and write it off over a 20-year period. That comes to \$2,500 a year that they would not have to pay in state income taxes.

Unfortunately, this is geared to people who have a lot of money or a lot of land and need a big tax break. But it's a good start in the toolbox of land conservation. We really have to thank the Nature Conservancy and Senator Richard Romero, who sponsored the bill, and Governor Bill Richardson, who signed it.

The Natural Lands Protection Committee will evaluate and decide which properties are worthy of getting this tax break. Then the land, or the conservation easement, has to be donated to the government agency or the land conservation trust. The next step is to submit an application to the Energy, Minerals and Natural Resources Department--including such documents as a copy of the appraisal, a letter from the land conservation group saying that the property has been donated and a copy of the deed. Successful applications then are referred to Tax and Revenue, which implements the tax break.

I'd like to talk about another topic that I'm excited about that ties into land conservation. Over the last couple of years, a loose-knit group of folks--mainly from environmental groups like the Sierra Club, The Nature Conservancy, Trust for Public

Land, Audubon Society, Animal Protection--have been working to start a statewide open space program. We knew that as long as Gary Johnson was governor, we probably wouldn't get very far, considering he never even appointed anybody to the Natural Lands Protection Committee. But once Bill Richardson came into office, we met with him and he said, "I want to be known as the conservation governor, and I want to start a statewide open-space program." We realized that now is our window of opportunity--and over the last year or so, we've met on a monthly basis. The group includes Joanna Prukop and Bruce Thompson, as well as a representative from the governor's office. Our main focus is figuring out how to finance a statewide program for open space and wildlife habitat acquisition.

We would like to raise between \$30 and \$50 million a year in perpetuity to buy property around the state. We're hoping to introduce a bill in the 2005 legislative session, with some type of funding mechanism, whether it's general-obligation bonds, earmarking a percentage of gross receipts for this program, or a dollar surcharge on everybody's income tax, which is not going to kill people. Another possibility is the legislature setting aside a percentage of the lottery proceeds to go to this program, like Colorado does. However, all our lottery money goes to

education, and that's a big priority right now. So we're looking at a lot of different measures. The problem is that Governor Richardson is in a tax-cutting mood right now, even though he's the one who told us "I want to start this program; you figure out how to pay for it and then come back to me." It's going to be a tough one, so we have to come up with something creative.

Another option we're looking at is a real estate transfer tax of one percent, which would raise between \$15 million and \$20 million a year, statewide. But, again, Governor Richardson is totally opposed to the measure. The Realtors Association of New Mexico is a very strong political action committee in this state, so it would be really tough to get something like that through. Even though a lot of people don't know it, New Mexico, up until the 1950s or early 1960s,

actually had a real estate transfer tax, and the legislature did away with it. So there is a precedent. In the end, it all comes down to what the Legislature and the Governor will support.

