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State scrutinizing tax credits

Credits a key tool in area conservation efforts

By **Janet Urquhart**
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Property owners across the Roaring Fork Valley and throughout Colorado received nearly \$193 million in state tax credits in the past six years for preserving land from development.

The state, however, has not tracked how much land has been saved or where that land is, according to a new report.

On Monday, staff of the Legislature's Joint Budget Committee delivered the report on the program, designed to encourage landowners to sell conservation easements, which provide money in exchange for agreements not to develop land.

Staffers also suggested to lawmakers that the state could appropriate money to buy the easements it wants rather than providing credits for land approved for conservation by independent trusts. The Aspen Valley Land Trust is among those independent entities that brokers deals using tax credits.

The tax-credit program is in frequent use in both Pitkin County and the greater Roaring Fork Valley to preserve land from development. It's a tool that local land-conservation officials aren't eager to lose.

"The state tax credits for conservation easements are a very important conservation tool, especially in places like Garfield County, where there is no public funding," said Dale Will, director of Pitkin County's Open Space and Trails program.

Pitkin County uses tax credits in conservation deals, but it also has a dedicated tax to use for the purchase of open space and conservation easements; sometimes, a deal employs both. Garfield County has no public funds to apply toward land conservation.

The tax-credit program is key in many counties where no open space tax is in place, said Martha Cochran, executive director of the Aspen Valley Land Trust.

"It means there are about 10,000 acres of conserved land in Garfield County that probably wouldn't be otherwise," she said.

The AVLT holds conservation easements from Aspen to DeBeque; tax-credit deals total roughly \$5 million a year for the trust, Cochran said.

According to the state report, since 2000, the state has provided \$192.5 million in conservation credits, including \$85.1 million in 2005 alone.

"We have no idea what we're getting for this," said Rep. Michael Garcia, D-Aurora. "And how do you know these people wouldn't be preserving the land anyway?"

Under the program, the state has no control over what land is preserved. Nonprofit land trusts that issue

conservation easements are required to accept only land with a conservation value.

Garcia said he was surprised that the credits continued during the state's budget crisis, which forced closure of dozens of driver's license offices and cuts in numerous other programs.

"It cost us \$57 million in 2004-05. That's the entire senior property tax exemption right there," Garcia said.

The program gives landowners an income-tax credit for some of the value of the land they conserve - currently 100 percent of the first \$100,000 of value, and 40 percent of the value after that, up to a \$500,000 cap. In 2007, the credit will change to a flat 50 percent of up to \$750,000 in value.

What makes Colorado's program somewhat unusual is the ability for a landowner to sell the tax credits to someone else, Will explained.

For landowners who aren't facing a substantial state income tax liability, there is little incentive to conserve property in exchange for a credit on their tax bill. But the ability to sell the credits means a property owner who owes little in state income tax can strike a deal with someone who owes the state a large sum.

The credits have been selling for roughly 85 percent of their face value, according to Will, meaning buyers can purchase credits to offset what they owe in income taxes for somewhat less than it would cost to simply pay the income taxes.

For example, someone who owes \$50,000 in state income taxes might strike a deal to buy \$50,000 worth of tax credits for \$40,000, saving \$10,000 on the cost of paying the taxes.

In Pitkin County, an open space deal might include a payment from open space funds to the landowner in combination with the sale of tax credits. That way, the county conserves land for less than the cost of purchasing a conservation easement at its total value, stretching the county's open space dollars, Will said.

The landowner who sells tax credits in exchange for conserving land gets some value from their property, but not necessarily as much as the land would fetch on the open market, Cochran said. In the Roaring Fork Valley, where both land values and development interest are extraordinarily high, landowners may recoup far less than they would if the property sold for development.

"It's still a small compensation for what you could get," she said.

Nonetheless, the budget committee's report cited an Internal Revenue Service review of 250 Colorado conservation easements, in which the IRS found "very few cases that appear to have complied with the statute and have a realistic valuation of the easement."

Some land was valued as if it were about to be developed for housing "when no such potential exists," the report said.

"In most cases, there is little or no decrease in the value of the property after the easement is created," the report said. "Few if any of the properties have been determined to have significant wildlife/plant habitat or meet the scenic enjoyment or public benefit definitions."

The Associated Press contributed to this report.

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