

## MINUTES

### **GOVERNOR'S TASK FORCE ON ENDOWMENTS AND PHILANTHROPY**

Livestock Building Conference Room  
January 16, 2003

Present:

Sue Talbot (chair)	Sharen Peters
Spence Hegstad	Dennis Peterson
Judy Held	Clark Pyfer
Amy Kelley	John Scibek
Mark Kelley	Jim Soft
Tim McCauley	Laurie Perrodin
Galen McKibben	Josh Turner
Aidan Myhre	Judy Wing

### APPROVAL OF DECEMBER MINUTES

Sue asked whether any corrections need to be made to the December minutes. Spence moved that the minutes be approved as distributed. Judy Held seconded the motion. All approved by voice vote.

### COMMUNICATIONS

Sue brought up the subject of the Montana Community Foundation's list-serve. Galen pointed out that it really isn't a "list serve," it is an e-mailing list (a list-serve is a discussion tool, where any response from one member is sent to all on the list). He suggested the Task Force members might want to initiate one for discussion among the members, but it was decided that simple e-mail serves the needs of the group for now.

Sue reported that she and Linda Reed sent out the first e-correspondence to the MCF list on Wednesday the 15th, which all should have received. The sender was Amber Maloney; the Subject Line: Governor's Task Force on Endowments & Philanthropy Update. It read:

This is our first message about legislation that could impact the public policies that encourage charitable giving in Montana. We know many of you are monitoring legislative activities carefully because of the likely changes in state financial support for your programs. But, don't forget to keep your eye on the following bills that could influence the inclinations of Montanans to give money to support charitable work

Here's a summary of bills we're watching:

- LC1191 - introduced by Senator John Cobb. This bill is not available yet; however, news reports from an interview between Senator Cobb and the Great Fall Tribune provide an overview of his goals. They are:
- Eliminate most Montana income tax credits. This will likely include the tax credit for donations of planned gifts (by individuals) and out right gifts (by corporations) to permanent endowments.
  - Eliminate the deductibility of donations to non-profits
- LC0850 - introduced by Representative Joe Balyeat. This bill would:
- Allow a tax credit for an out-right gift to a qualified endowment of any private or public non-profit elementary or high school. Currently only planned gifts (from individual donors) qualify for tax credits.
  - Eliminate increased tax credits currently provided by law to go into effect July 1, 2003 and keep them at their current levels.

LC1409 - introduced by Representative Cindy Younkin on behalf of the Governor's Task Force on Endowments and Philanthropy. This is only a bill draft request, to be used if necessary.

SB143 - introduced by Senator John Bollinger. This bill has nothing to do with tax credits or tax deductions for charitable donations, but rather it will:

- Distinguish charitable gift annuities from commercial gift annuities sold through insurance companies. As a result, charitable organizations offering gift annuities will not be subject to the same degree of regulation by the State Auditor.
- Require that charitable organizations offering charitable gift annuities
  - o Have \$300,000 in net worth or a minimum of \$100,000 in unrestricted cash.
  - o Have been in operation for at least 3 years.
  - o Maintain a separate annuity fund with at least one-half the value of the initial amount transferred for outstanding annuities.

These latter requirements will increase the likelihood that charitable organizations offering charitable gift annuities will be able to fulfill their financial obligations to donor annuitants.

The first hearing on this bill was held January 9 and as a result of comments from representatives of insurance companies, it will likely be amended to provide greater oversight to the auditor's office.

We hope these messages are useful and that you'll participate with us in defending and promoting public policies that encourage charitable giving to Montana non-profits.

Sue Talbot  
Chair, Governors Task Force on Endowments and Philanthropy

Linda E. Reed  
Executive Director, The Montana Community Foundation

Sue said that she found it very helpful to know what bills have been filed. She didn't know the exact makeup or size of the MCF list. Galen assumed it is the list to which Bill Pratt sent "Net Notes" – primarily nonprofits, around 300 participants. Sue asked Amy to forward the Task Force list to Amber to make sure everyone receives the e-mail alerts. Dennis mentioned that people have been asking him where to get this sort of information, and he'd been telling them to contact MCF. Sue said that's what we should tell people for now, and Linda is willing to keep e-mailing these updates.

Sue asked whether anyone else should be adding information to future updates. Jim suggested informing people about two additional bills: **LC 1496** ([SB231](#)), the Uniform Principal and Interest Act; and **LC 1497** ([SB230](#)), the Prudent Investors Act. The first evolved out of the IRS, and is a definition of what constitutes income. Jim said it will be important to charities managing trusts. The second essentially brings to the management of funds modern portfolio technology. He noted that Montana is one of the last states to adopt it.

**NOTE: Both of these bills are being sponsored by Sen. Brent R Cromley (D-Billings) and will be heard in (S) Business and Labor on Thursday, January 30 at 9 A.M. in room 422.**

Jim also thought that a restatement of the Uniform Trust Code might be introduced, but didn't think it would impact the duties of the Task Force.

Sue asked how we should coordinate the distribution of information. It was agreed that individual members should take responsibility in forwarding appropriate information to Linda or Ralph or Amber at MCF.

Sue asked whether we should be putting out more than a description of bills to watch, whether we want more of a discussion/commentary. Sharen thought that we should be lining up people to testify in the event any of the bills we are supporting need assistance – representatives of organizations and smaller cities who are willing to come to Helena on short notice. She asked whether it is effective or permissible to have a Helena person present a letter written by someone who lives across the state; Judy Wing thought that would be counted as written testimony, not oral. Sue thought we should be asking potential testifiers to identify themselves. Judy Held thought it would be far more effective for people to be asked – that is how she came to Helena to testify last session. All agreed that members of small communities, as opposed to Helena or Missoula, are preferable, as are those with solid knowledge of the issues.

Clark suggested it would be good to inform people about how to track bills through the legislative web site. (NOTE: You can look up bill information at [http://laws.leg.state.mt.us/pls/laws03/law0203w\\$.startup](http://laws.leg.state.mt.us/pls/laws03/law0203w$.startup) if you know the bill or LC number.) Amy will forward information to Galen so that he can change the EndowMontana home page to prominently feature a link to the 2003 session (replacing the blurb in the upper right-hand corner about the Special Session bill).

### **LEGISLATIVE HEARING ON INSURANCE COMMISSIONER’S CHARITABLE GIFT ANNUITIES BILL**

Sue introduced John Scibek, Director of Planned Giving for the University of Montana Foundation, as a new member of the Task Force. John attended the hearing on SB 143, the Insurance Commissioner’s exemption bill to regulate charitable gift annuities being carried by Sen. John Bohlinger. He reported that he was among five or six proponents, including Aidan, Linda Reed, Pat Harper (the head of AARP), and Mike Munck (Task Force advisory member and Executive VP of St. Peter’s Hospital Foundation). He said there were two opponents who were both representing insurance agents. Their primary concern was how the law would be policed. Jill Gerdrum, representing the Insurance Commissioner, said that the law would be self-policed. The Commissioner would only take action when a complaint is filed. The opponents felt that there should be more oversight.

At the end of the hearing, committee member Dale Mahlum (R-Missoula) essentially told the proponents and opponents to work it out and submit a revised bill to the committee. Informally talking with others after the hearing, John had suggested amending the bill to require notification to the Insurance Commissioner every year rather than just once, although the insurance representatives did not hear the suggestion. Sue noted that the Task Force should recruit a member who works in the insurance field; Mick Maerlie has been a Task Force member for years and should be filling that role, but has not attended a Task Force meeting in years. She will ask him for a recommendation to replace him as an active member. Jim said he would follow up with Jill Gerdrum on this bill, and whether they need the Task Force’s assistance.

### **FINANCIAL REPORT**

Sue read an e-mail from Ralph Yaeger, who couldn’t be at the meeting. Ralph reported that there had been no new revenues taken in since the last meeting, but neither had there been any expenses. Several Task Force members brought checks to the meeting, however: Foundation for Community Care, Benefis Healthcare

Foundation, Yellowstone Boys & Girls Ranch, and Wells Fargo. Jim reported that the Task Force should also be receiving contributions from DA Davidson as well. Dennis reported that other contributions should be forthcoming from several hospitals and/or their foundations. Sharen reported that she has received some rejections from some of the colleges and universities, and is following up with others. John suggested contacting the community colleges as well.

Jim tallied up the contributions received thus far and those that are definitely on the way, and determined that the Task Force has reached the halfway point in its \$25,000 fundraising goal. Sue noted that time is quickly running out, however, as the fundraising is tied to the legislative effort.

### **THE MONTANA ENDOWMENT TAX CREDIT: PRESENTING THE NUMBERS**

Jim suggested that the Task Force not try to prepare a facts sheet for general distribution on the revenue impact of the tax credit. The numbers are complicated, and require some knowledge of how charitable gift annuities work, and he fears that most people won't take the time to understand them. Rather, he suggested we continue giving the "6 reasons" why the tax credit is a good thing (which is listed on both the Yellowstone and the EndowMontana web sites). He gave as an example of this concern the Billings Gazette article by Mary Pickett on John Cobb's draft bill to rescind all Montana tax credits. She interviewed Jim for several hours, and did a good job on the article, but wasn't particularly interested in the numbers; she was more interested in the ideology. (See the article at <http://www.billingsgazette.com/index.php?id=1&display=rednews/2002/12/28/build/local/40-charity-tax.inc>)

Sue noted that, should a legislator or anyone else want to see the numbers, we could certainly provide them. Jim suggested that if a legislator wants that information, Aidan should let him know and he could meet one-on-one with that legislator.

Jim added that, in addition to the "6 reasons," he shares with people the increase in trusts formed since the tax credit's inception. He points out that thanks to the tax credit there has been a lot of economic stimulus in the banks alone, and that is good for Montana. Sue added that the case could be made for the economic stimulus provided by the growth in Montana's nonprofit sector as well. Josh added that Mike Schectman has been working on a revised edition of the report: "Montana Nonprofits: The Hidden Sector in our Economy," which should be out soon.

John noted that the Department of Revenue is putting out a new form for people claiming the tax credit. He will forward the "Qualified Endowment Credit Form" (QEC) in pdf form to Amy, who will attach it to the e-mail version of the minutes.

### **LEGISLATIVE UPDATE**

Aidan added to John's report on the committee hearing for SB 143, the Charitable Gift Annuities bill being sponsored by the Insurance Commissioner. She said that the bill has been amended to read that a charity issuing charitable gift annuities must submit financial information to the Commissioner every year in order to maintain its exemption status. If not, it will be regulated like an insurance product. The committee is supposed to take Executive Action on the bill tomorrow.

Aidan reported that there have been several bill drafts filed that could impact the charitable endowment tax credit and charitable giving in general. Cindy Younkin has filed a bill as a placeholder, should the Task Force wish to bring a bill before the legislature.

Sen. Cobb filed a bill, LC 1191, that would eliminate all tax credits, but it hasn't been given an official bill number yet. Rep. Bayleat filed a bill to amend the Endowment Tax Credit to specifically provide for contributions to private schools (HB 398 -- see <http://data.opi.state.mt.us/bills/2003/billhtml/HB0398.htm>). That bill will be heard on Wednesday, January 29 in House Taxation, 8 am, room 152. Aidan suggested that the February meeting would be a good time to discuss whether we want to have people ready to testify before the legislature, should the need arise.

Aidan thought it would be helpful for her if the Task Force assigned a legislative subcommittee with whom she could communicate in between regular Task Force meetings. Tentatively, it was decided that group should be:

- Linda Reed
- Jim Soft
- Judy Held
- Steve Browning (if available)
- John Scibek
- John Delano (if available)

Aidan asked whether the Task Force had enough funds for her to hire a second lobbyist; Sue said yes. Sharen moved that the Task Force give Aidan the authority to hire a second lobbyist; Mark seconded the motion. All approved by voice vote. Aidan will contact Aimee Grmoljez about the position.

#### **NEXT MEETING**

The next meeting will be on **Thursday, February 13, from 10 a.m. to 2 p.m.** in the conference room of the **Northwest Power Planning Council** (the Livestock Building is not available that day).

**PLEASE BE AWARE THAT PARKING WILL BE EXTREMELY LIMITED, AND THAT TICKETS ARE BEING ISSUED.**

Meeting adjourned at 1:30 p.m.