

MINUTES
GOVERNOR'S TASK FORCE ON
ENDOWMENTS AND PHILANTHROPY

Northwest Power Planning and Conservation Council Conference Room
 Thursday, September 21, 2006

Members Present:

Sue Talbot, Chair	Galen McKibben
Sid Armstrong	Jodi Medlar (MCF)
Linda Carlson	Aidan Myhre
Linda Coulston	Sharen Peters
Steve Daniels	Bill Pratt
Dorcie Dvarishkis	Peter Sullivan
Judy Held (by phone)	Judy Wing
Amy Kelley	David Hunter (DOR)
Brian Magee	Barbara Wagner (DOR)

APPROVAL OF AUGUST MINUTES

No corrections were noted. Peter moved to accept the minutes as distributed; Sid seconded the motion. The group unanimously approved by voice vote.

FINANCIAL REPORT

Despite being in the middle of their audit, MaryAnn Gorsich of the Montana Community Foundation prepared *three* monthly Statement of Activities for the Task Force covering the August 1 through August 31, 2006 period (**Jodi was asked to pass on a huge thanks to MaryAnn from the Task Force!**):

- General account (no contributions and \$1,328 in expenses for a fund balance of \$5,450.20);
- Lobbying (\$3,287.50 in contributions and \$2,787.50 in expenses for a fund balance of \$500, with contributions from MCF for \$2,787.50 [already paid out and reflected in the expenses] plus \$300 from Linda Carlson and \$200 from United Way of Lewis & Clark Co.);
- Governor's Conversation (\$15,650 in contributions and \$5,618.02 in expenses for a fund balance of \$10,031.98).

SUBCOMMITTEE REPORT ON FISCAL SPONSORSHIP

Dorcie presented the subcommittee assignment (and referred to the minutes of the two subcommittee meetings, provided with the meeting agenda), which was to answer the following questions:

1. Who should hire and pay for the lobbyist for the renewal of the tax credit?
2. Should the GTF pay MCF a fee for services rendered?
3. What are GTF's projected expenses and fundraising objectives between now and the end of the fiscal year (June 30, 2007)?
4. Does GTF's current relationship with MCF work? (a. Alternatively, is there another organization with which GTF should seek a formal relationship? b. Is that organization available for that relationship? And if it is, what would the cost be and how long will it take to set up that relationship?)
5. What does the Subcommittee recommend for the relationship to be with MCF?
6. How should GTF's formal relationship, if any, be formalized? (i.e. in a contract or letter of agreement)
7. What legal form [different from its current form], if any, should GTF seek?
8. What role, if any, should the SC play with regard to future legislative activities?

She explained that, given the GTF has no independent legal status, the only option available for fiscal sponsorship is to be a “project” of another organization with a 501(c)(3) status unless or until the GTF pursues such status on its own in the future. She said the group agreed that the GTF should pursue fiscal sponsorship with the Montana Nonprofit Association, which both Brian Magee and Linda Reed thought appropriate.

Brian reiterated that the idea fits well with the mission of MNA. He proposed the idea to their Executive Committee, which discussed it and decided it needed to be decided by the full Board, which will have a special meeting for the issue on Monday, September 25th. He was not sure whether they’d make a final decision then or whether there would be more questions, but he has stressed to them the importance of deciding quickly. Linda Reed had expressed previously that, should MNA not want to take on the fiscal sponsorship, then the GTF needs to pursue another avenue other than MCF.

There was some discussion about whether there were concerns on either side about public policy positions the GTF might take in the future, and what would happen if the two groups found themselves at cross purposes. Brian said that issue was discussed, and that the MOU drafted by Steve Browning is clear in outlining the independence between the two groups. Several people mentioned that the GTF doesn’t have any other options right now given its (lack of legal) status. It was also noted that there is a lot of overlap between the two organizations, with Brian on the GTF and Judy Held and Jim Soft on the MNA board.

It was decided that any discussion about reorganizing the GTF – including being an independent nonprofit entity or becoming officially and legally attached to the Governor’s office – should wait until after the legislative session, but that it should definitely be a topic of discussion.

GOVERNOR’S CONVERSATION STEERING COMMITTEE REPORTS

Linda Carlson reported on the fundraising committee: the total raised so far is \$30,531.98 (the financial report presented earlier did not include September contributions or a “check in the mail” for \$10,000) after some expenses have been paid out. There is an additional \$1,500 in-kind contribution from Blue Cross for printing. The group is continuing to raise money for activities post-Conversation. All thanked Linda for the very successful effort.

Sid noted that \$1,500 had been budgeted for videotaping the Conversation, but that Steve Malley and Helena Civic TV will do it for \$150 if the GTF becomes an HCTV member for \$60. Peter made a motion that the GTF join HCTV; Linda Coulston seconded the motion. All approved except Dorcie, who abstained; she felt she couldn’t vote until she knew if there was another avenue that might be more beneficial should there be PBS possibilities. Dorcie suggested sharing the footage with other local civic stations. Bill suggested editing the footage into a format that might interest PBS. Brian suggested posting/streaming the video on the EndowMontana web site. Galen suggested it would be good to have several video cameras taking footage from different angles, and requested a still photographer be present as well. **Sid thanked all for the good suggestions and said she would pursue them.**

Sid reported that Ted Smith (head of the Kendall Foundation who originally suggested forming the GTF at the first Governor’s Conversation and current GTF advisory member) agreed to be the facilitator, which he will do at no charge. There was discussion about the invitation list; Sid reminded that we want “heavy hitters” – people with the ability and resources to affect change. The list was passed around and members were asked to provide contact information where missing, check those to whom they’d be willing to make a follow-up phone call, and to note anyone *not* on the list who should be invited. Sid added that all GTF members would automatically be invited. She said that she talked to many attendees at the recent Philanthropy Northwest conference, and some may come to the Conversation. Brian and Judy Held will be attending an upcoming 2006 Montana Faith Community Impact Summit with Sen. Baucus in Billings, at which there may be potential invitees. The invitations will go out at least five weeks before the Conversation.

Bill passed out a list of “breakout session” topics for which he asked GTF members to sign up as facilitators. Sue suggested Jean Wolverton as a breakout session moderator. Bill noted a major change in the Conversation agenda: the gathering time has been extended to 9:30–2 p.m. He reported that Margie Thompson will moderate the opportunities panel and Carol Williams will moderate the experience panel. They are also hoping for Penny McPhee and Bob Dickeson as panel participants. They’d been turned down by the NW Area Foundation and Eloise Kobel. Bill said that the fallback is to have one large panel if they can’t fill two panels.

There was discussion about the MCF Transfer of Wealth Study, whether it would be completed before the Conversation and, if so, whether they would want information included in the briefing packet. Sid noted that someone from Nebraska would be presenting their Transfer of Wealth Study and how the Nebraska Community Foundation is using it to build endowment and has garnered national recognition and new sources of money to the state for this purpose. **Jodi will discuss it with Linda Reed.**

Aidan suggested thinking about inviting a really good reporter who understands the issues and might be willing to do a series of stories, follow the issue over time. Someone suggested Ian Marquand. **Sid will suggest it to the steering committee and the Governor,** as they had initially thought they would not invite any reporters.

MNA ANNUAL CONFERENCE

There was discussion about the GTF participation in the conference as a “break sponsor,” and Sue lined up volunteers and logistics for the table.

DOR PRESENTATION

David Hunter, Deputy Director of the Montana Department of Revenue (DOR) and Barb Wagner, DOR Tax Policy Analyst, presented to the GTF its draft Endowment Tax Credit renewal bill. He emphasized that the bill is in draft form, and that the Department is open to suggestion and looking for advice from the Task Force for any changes that would make a stronger bill that the GTF would support. He explained that the bill does three main things:

1. Extends the tax credit six years (that number was chosen simply because that’s how the current law is written, to maintain consistency);
2. Has an immediate effective date (because of the section making gifts to buildings ineligible for the tax credit); and
3. Continues with the same rates for both individuals and corporations.

Mr. Hunter noted that the bill has not yet been submitted to the Legislative Council for final drafting, as they are waiting for feedback from the GTF. The DOR has to submit the bill at the end of October.

In addition to the draft bill, they handed out two other documents: a memo from Barb to Director Dan Bucks with general information about the tax credit, the definition of planned gifts, and the legislative history of the credit; and a draft fiscal note. **Amy will e-mail these documents to all GTF members.** He noted that the legislature now requires a fiscal note extended out to four years rather than two. He added that the numbers would change somewhat once they have the 2005 tax numbers in hand at the end of October. They don’t know yet what the fiscal impact of the DOR ruling allowing gifts to buildings to qualify for the tax credit.

Mr. Hunter pointed out that if the GTF wishes to increase the percentages on either the individual or corporate gifts, it would affect the fiscal impact. A 20% increase will not simply increase the numbers by 20%, but the assumption is that more entities will file for the credit if the percentage is increased, which will increase the fiscal impact even more. He warned that if the fiscal note is too large, we run the risk of losing the credit in the legislature. He said that if the GTF wanted to change the bill, the first hurdle would be to convince David Ewer and the Governor, who has to account for the bill in his budget. The second hurdle will be the legislature.

Sid raised a concern for Jim Soft, who could not be at the meeting: that the language pertaining to the buildings exclusion might be written such that it could inadvertently exclude real property as part of an endowment's investment portfolio. Mr. Hunter did not think so, but welcomed feedback on the language. He added that it's a narrow line they tried to tread: the purpose of the credit is to build endowments, not to spell out what the investment policy of endowments should be, although they wanted to disallow capital campaigns because of the enormous fiscal impact that would have. **Sid will forward the bill draft to Jim Soft.**

There was some discussion about the sunset provision: why include it if the legislature could eliminate the credit at any time? Mr. Hunter suggested discussing that possibility with the Governor. Dorcie asked if there were other examples of credits that went from temporary to permanent; no one could think of an example, but Barb said she'd look into it. (Barb's reply to the GTF is attached.)

There was additional discussion about the fiscal impact: the limit agreed to by the previous governor was \$5 million, where this fiscal note shows less than \$3 million. Is there some room to change the bill to allow for a slightly greater fiscal impact, still keeping it under \$5 million?

There was also discussion about the building exclusion, and how it should not imply that the GTF is opposed to capital campaigns. Bill suggested that someone draft a separate bill allowing gifts to capital campaigns to qualify for a different tax credit. Several members noted that people are finding it difficult to use the gifts to buildings for which people can currently receive the credit because of the 5-year wait period required before the money is available to invest in the building.

Mr. Hunter provided his direct phone number and e-mail address if GTF members have any questions: 444-3717, davidhunter@mt.gov. **He reiterated that he needed input from the GTF by mid-October**, given the late October deadline to file the bill with Legislative Council. The group thanked Mr. Hunter and Ms. Wagner for their work and for taking time out to meet with the GTF.

LEGISLATIVE STRATEGY

Aiden pointed out that this is the first time that a governor has been directly engaged in the work of the Task Force, and the opportunity that presents. She strongly suggested the GTF get behind the Governor's bill, and that if the GTF wanted to raise the corporate rate, it should do so in a separate bill. There was some discussion about this strategy. Aidan's concern with raising the individual rate or percent is that it will increase the size of the credit received without actually increasing the number or size of gifts given, nor would it particularly encourage new gifts; thus it wouldn't expand the goal of the credit, to build endowments. She added that publicizing the tax credit more would encourage more people to participate – perhaps even more than increasing the gift percentage. Steve agreed. There was general agreement on this point in regards to individual gifts, but that increasing the corporate percentage would, in fact, increase the number of gifts.

Sid expressed concern that there won't be enough money in the Governor's budget to increase the credit, as many other good purposes are vying for limited funds. Judy Held expressed that she would like to see the GTF consider adding more stringent rules surrounding when deferred payment gift annuity payments must begin in order to receive the tax credit benefit (such as no later than five years prior to the annuitant's life expectancy). This would protect the integrity and spirit of the law, plus reduce costs to the State. There was general agreement that the GTF had no interest in pursuing a separate tax credit renewal bill from the Governor.

There was discussion about the fact that the DOR bill does not fit with the vote taken by the Task Force at its August meeting, to approve the recommendation of the Subcommittee on Legislation of the Governor's Conversation Steering Committee (Steve Browning, Chair) which were:

1. Make the sunset a 10-year period.

2. Provide that the DOR correction disallowing buildings to qualify for the credit be effective upon enactment.
3. Increase the percentage for corporate gifts from 20% to 40%.
4. Increase the percentage for individual planned gifts from 40% to 50%.

The vote did have the caveat that the decision should be revisited once the draft fiscal note was available.

Sharen expressed the desire to have the tax credit be consistent over time – it keeps changing, and that confuses people. She thought it would also enable the GTF to pursue new ventures, rather than working to renew the tax credit every few years.

Sid made a motion that the GTF accept the endowment tax credit renewal bill elements proposed the DOR: namely, the 6-year sunset, the 40% individual and 20% corporate rates, and the removal from eligibility of gifts to buildings. All approved, with the caveat that everyone be allowed to read the bill – especially Jim Soft, who has spent a great deal of time thinking about the language of the buildings exclusion – and to vote on it at a later date.

Several members, including Sid and Aidan, had to leave the meeting as it was getting late. The discussion continued, with Dorcie expressing concern that these discussions and votes were taking place without the full support of the GTF. Several members were confused about the role of the Governor's Conversation Steering Committees vs. the Task Force, and that there perhaps hadn't been enough communication between them.

There was general agreement among the members remaining that there should be more conversation with the Governor's office and the DOR about the draft bill, to find out how receptive they are to changing the bill. There was also agreement that the 20% rate for corporations is too low to be effective. Dorcie made the point that not all organizations are able to accept planned gifts, where they can accept outright gifts. **Jodi volunteered to ask Barb at DOR to run the numbers for the fiscal impact at the 30% rate for corporations** [NOTE: Jodi did ask Barb, who agreed to have those numbers within two weeks]. Sharen, Judy Wing and Dorcie volunteered to write up a case for the 30% corporate credit level, pending receipt of the impact numbers. **It was agreed that the Task Force would have to continue discussion, and take some sort of final vote, before the mid-October deadline requested by DOR** (since the next GTF meeting will not be until October 21st).

LUNCH & LEARN

Sue reported Jim Soft's desire to postpone the L&L sessions until the Fall of 2007. **Sue would like to urge him to hold them in the Spring**, in order to take advantage of the federal IRA rollover before it sunsets in December 2007. All agreed.

CONSULTANT COMPENSATION

There was discussion about compensating Aidan as the GTF lobbyist. It was noted that MCF has already paid her \$2,787.50. Sue suggested that a vote on the issue be postponed until she can talk with Aidan about whether she's amenable to the revised legislative strategy. All agreed.

There was a discussion about compensation for Galen, who has not billed the GTF for his work for quite some time. Galen proposed three alternatives: pay him a flat \$200 per month, in which case the GTF will not be his top priority; have him bill his actual time; or his preferred alternative is to bill his actual time with a \$200 cap, with any additional time considered a donation to the GTF which he can deduct. Galen was asked to leave the room for an Executive Committee discussion and vote. The group agreed to adopt Galen's preferred alternative, with the caveat that it would be revisited a year from now.

10-YEAR REPORT

Galen said that the person at Blue Cross who is the contact for the GTF on printing the report has been out of town until tomorrow. Galen said that the report would not be printed in time for the MNA conference, but that it would for the Governor's Conversation.

TASK FORCE WEB SITE

Galen reported that the "Planned Giving Opportunities" section posted on the new web site (www.EndowMontana.org/new) is all of the material he's received thus far. He still doesn't have the "John and Mary" examples discussed at previous meetings. **Sue will follow up with Dale and Dennis about that.** She noted that both had been very involved in the Fiscal Sponsorship Subcommittee. Galen would like to post the new version of the website ASAP. He reiterated that he is always looking for new content to post. Dorcie suggested linking to the Planned Giving Design Center.

NEXT MEETING

It was agreed that the next meeting would be on the regular third Thursday, which is **October 19th, at the Dept. of Labor conference room** (next to the Northwest Power Planning and Conservation Council). Sue asked for 100% attendance by Active Task Force members at the October meeting given the proximity to the November Conversation.

The meeting adjourned at 2:30 p.m.



Dan Bucks
Director

Montana Department of Revenue



Brian Schweitzer
Governor

MEMORANDUM

TO: Governor's Task Force on Endowments and Philanthropy

FROM: Barbara Wagner, Tax Policy Analyst

DATE: September 21, 2006

SUBJECT: Responses to questions posed in today's meeting and note on further fiscal estimates

During today's meeting, the Task Force asked a question whether there were any permanent credits that had begun as a temporary credit, specifically asking about the College Contribution Credit. During the 1995 Legislative Session, HB199 made permanent the College Contribution Credit, which provides a nonrefundable credit equal to 10% of a contribution to the general endowment funds of the Montana University System foundations or the general endowment funds of a Montana private college (or its foundations). The maximum credit is \$500 and is available to both individual and corporate taxpayers. This credit was originally established in 1991 as a temporary provision extending through 1995, but was made permanent in 1995.

In addition, the Task Force asked about the relative size of the endowment credit compared to other tax credits. The tables provided on the next page show the relative size of the endowment credit for individual taxpayers (Table 1) and for corporate taxpayers (Table 2) for tax years 2003 and 2004. As you can see, the charitable endowment credit is the third largest credit and comprises approximately 10% of the total amounts of credits claimed by individual taxpayers. For corporate taxpayers, the charitable endowment credit was 4% of total credits claimed in 2003 and 6% of total credits claimed in 2004.

Finally, the committee requested an estimate of the fiscal impact of extending the corporate endowment credit through FY2011 if the rate for corporations was increased from 20% to 30%. This estimate will require some time to complete and will be provided to the committee within the next few weeks.

	2003			2004		
	Number of People Taking Credit	Credit Claimed	Category as a Percent of Total Credits Claimed	Number of People Taking Credit	Credit Claimed	Category as a Percent of Total Credits Claimed
Other state/foreign tax credit	10,467	14,825,737	67.9%	11,403	17,617,666	65.4%
Energy conservation credit	9,027	2,468,241	11.3%	12,401	3,149,233	11.7%
Charitable endowment credit	734	2,179,696	10.0%	879	2,585,041	9.6%
Contractor's gross receipts credit	325	837,704	3.8%	360	897,881	3.3%
Other credits	50	397,020	1.8%	91	814,158	3.0%
Alternative energy systems credit	679	313,659	1.4%	977	462,497	1.7%
Employee health insurance credit	211	139,015	0.6%	689	431,943	1.6%
Physician credit for rural practice	85	339,146	1.6%	71	336,836	1.2%
Recycling credit	46	121,359	0.6%	73	311,111	1.2%
College contribution credit	2,215	154,441	0.7%	2,308	182,645	0.7%
Historic bldg. preservation credit	8	20,657	0.1%	29	97,748	0.4%
Elderly care credit	33	21,713	0.1%	45	36,638	0.1%
Alternative energy production credit	27	12,123	0.1%	26	16,982	0.1%
Dependent care assistance credit	9	8,484	0.0%	8	6,208	0.0%
Developmental disability account credit	0	0	0.0%	1	1,050	0.0%
Empowerment zone credit	0	0	0.0%	1	365	0.0%
Total Credits	22,835	21,838,995		27,855	26,948,002	

	2003		2004	
	Credit Claimed	Percent	Credit Claimed	Percent
Increase Research and Development Activities Credit	1,047,686	41%	0	0%
Contractor's Gross Receipts Tax Credit	824,008	32%	567,180	28%
Infrastructure Users Fee Credit	190,585	7%	589,693	29%
Montana Recycle Credit	149,268	6%	35,725	2%
Empowerment Zone Credit	114,898	4%	184,924	9%
Qualified Endowment Credit	112,435	4%	120,498	6%
Health Insurance for Uninsured Montanans Credit	53,459	2%	101,932	5%
Historical Buildings Preservation Credit	27,087	1%	50	0%
Montana Capital Company Credit	26,859	1%	205,445	10%
New and Expanding Industry Credit	14,659	1%	84,708	4%
Montana College Contribution Credit	5,454	0%	2,098	0%
Montana Dependent Care Assistance Credit	50	0%	50	0%
Developmental Disability Account Contribution Credit	0	0%	126,044	6%
Total	2,566,448		2,018,347	