

MINUTES
GOVERNOR'S TASK FORCE ON
ENDOWMENTS AND PHILANTHROPY
Northwest Power Planning Council Conference Room
Thursday, December 7, 2006

Members Present:

Sue Talbot, Chair	Aimee Grmoljez
Lt. Governor Bohlinger	Jean Jenkins
Sid Armstrong	Amy Kelley
Barbara Anthony	Brian Magee
Linda Carlson	Galen McKibben
Linda Coulston	Jodi Medlar
Steve Daniels	Aidan Myhre
Dorcie Dvarishkis	Dennis Peterson
Mike Halligan	Bill Pratt
Spence Hegstad	Peter Sullivan
Judy Held (by phone)	Josh Turner

APPROVAL OF OCTOBER MINUTES

Dorcie corrected the section pertaining to the discussion with U of M personnel about revisions in the tax credit bill; she made Dean Eck aware of the issue of disallowing gifts for buildings from qualifying for the tax credit, but he did not state his position on the issue. **Amy will make that revision and send the revised minutes to Galen to post on the web site.**

GOVERNOR'S CONVERSATION REPORT

Sid reported that the head count for lunch attendees was 78, although several more participated in the morning discussions. Josh reported on the expense budget: the total raised was \$47,650; total spent was \$30,641.44 (\$25,800 budgeted); leaving a balance of \$17,008.56.

Sue shared reports by Ted Smith and Bruce Sievers on their assessment of the Conversation; Bill Pratt reported on the Working Group debriefing session. The primary unanswered question is: where do we go from here, and what should be the role of the Task Force in beginning to implement some of the ideas that came out of the Conversation? Sue highlighted advice shared by Ted Smith: that there are no silver bullets, but many avenues. The question is one of strategy: who should do what from here.

Sid reported that thank you letters went out from the Governor and Lt. Governor to all participants, and that she and Josh are working on a detailed written proceedings and a shorter written summary of the event, which will go out to all participants along with a DVD of the plenary (recorded by Helena Civic TV). Barb suggested posting these on the web site; all agreed.

Lt. Governor Bohlinger expressed that it was wonderful to have people from all over the state and country come together to make suggestions and participate in the Conversation. He is glad to have the administration behind the renewal of the tax credit, and wished there were more money in the budget to increase it.

TAX CREDIT RENEWAL BILL

Sue thanked Jim Soft, Dan McLean, and other Task Force experts for their work with the Dept. of Revenue on the draft bill, making sure it accomplishes what was intended by the Department. There was some discussion about a bill sponsor, whether it would be better to have a Republican or Democrat, and whether it would be wiser to start it in the House or the Senate. Sid reported that Dan Bucks had already asked Kim Gillan (D-Billings) to carry the bill. Aidan noted that Sen. Gillan is on the Senate Taxation Committee, where the bill will have to be heard, that she has served in both the House and Senate, that she is a businesswoman, and that she is well-respected by both parties.

Aidan introduced Aimee Grmoljez to the group. She noted that, as chair of Big Brothers & Sisters and member of the MNA Policy Council, Aimee is very familiar with the issue. The two of them will represent MNA at the legislature. Brian reiterated that, as the fiscal sponsor of the Task Force, the Task Force is a project of MNA, and therefore the position that the TF takes at the legislature will be the same as MNA's position on the tax credit – there cannot be any confusion on that. He noted that both Jim Soft and Judy Held sit on MNA's Policy Council, so there will be consistent communication between the two entities.

Aidan was asked about the key challenges the tax credit renewal bill (SB 150) might face. She saw two main challenges: 1) the exclusion of capital campaigns (i.e. gifts specifically for buildings) from qualifying for the credit; and 2) Eric Feaver's concern that the tax credit can benefit private (parochial) schools, which he thinks is unconstitutional. Aidan's position on the latter is that the issue is one that would need to be decided by the courts rather than the legislature. She noted that the definitions in the Montana Endowment Tax Credit are tied to the federal definitions.

Peter raised a concern he heard: that the CPA society plans to oppose the bill because of the buildings exclusion. There was some discussion about this, but all agreed that the Task Force position is to support the exclusion. Several members suggested that a tax credit for capital campaigns could be a separate, stand-alone bill. Mike commented that we can't control everything at the legislature; if the CPA Society comes out in opposition, they are very powerful. But we need to let them know that the bill will not receive the Governor's signature with that language struck. Brian asked about talking with the CPA members before the session; **Jim Soft had volunteered to speak with them previously**. Aidan will be giving a presentation to the Montana Taxpayer's Association on the 18th.

There was some discussion about the proposal to increase the corporate credit from 20% to 30%. The Lt. Governor reiterated that the Governor has promised "no tax increases," so he would not support an increase in this bill. Steve pointed out that the worst thing that could happen for philanthropy is to lose the bill entirely. Aidan commented that once a bill is introduced, it is a very fluid process – there are multiple opportunities for amendments. "We can carry the message, but we can't control the process."

EXECUTIVE SESSION

Sue asked Aidan and Aimee to leave the room for an Executive Session to discuss hiring them through MNA on behalf of the TF, which would pay each lobbyist \$5000 for the session. Brian noted that he will be proposing the same at the MNA Public Policy Council meeting on the 18th.

It was agreed by all that the two lobbyist are very capable, professional, well-respected, and able to articulate the Task Force and MNA's message. Peter made a motion to hire them; (Dennis?) seconded the motion. All approved.

MONTANA NONPROFIT DAY

Brian reported that on Tuesday, January 16th, the MNA will be hosting "Vision and Voice: Montana Nonprofit Day 2007" from 9:30 a.m. – 5:30 p.m. at the State Capitol Rotunda and Great Northern Hotel in Helena.

The goal of the day is for nonprofits across Montana to speak with one voice about our vision for the future and the vital role that nonprofits play in community and civic life. Included in the day is a morning Nonprofit Showcase and Slide Show, followed by a lunch with legislators and then a presentation of MNA's Public Policy Agenda, all in the capitol rotunda. He noted that the tax credit will be part of that agenda presentation. The afternoon session will move to the Great Northern Hotel for a "Legislative Advocacy for Nonprofits" seminar. The Task Force can have a table in the rotunda for the morning. Any Task Force members interested in participating should register on line:

<http://guest.cvent.com/EVENTS/Info/Summary.aspx?e=94e1746c-f451-4b28-9c2b-282989c0c169>

Brian explained MNA's "Get Active" legislative campaign system, and how all MNA members of the system can be reached at any time to mobilize around a particular issue. He said that they will be working with the TF on talking points for alerts.

EXPLORATION WORKS

Galen showed a short video to members about his experience fundraising for the Explore Works building in Helena. He explained that they'd had difficulty accepting endowment money for it, being a small organization. Brian responded that MNA is interested in growing their technical assistance capability to help others do this.

MNA FISCAL SPONSORSHIP

Dan McLean is the attorney working on the necessary documents to transition the TF fiscal sponsorship from MCF to MNA.

ENDOWMONTANA WEB SITE

Galen reported that the planned giving examples are now posted and gave a demonstration of how it worked. Dennis credited Marilyn Parker, the Planned Giving Director for Benefis Healthcare Foundation, for providing the examples.

It was agreed that Galen needs to make several additional changes to the web site:

- the current MCF link on the home page should be changed to MNA with a note that MNA is the fiscal sponsor of the Task Force
- the Tax Credit section needs to begin with "what is the tax credit" (**Amy will draft that text and forward it to Galen**)
- the FAQ section needs to be made similar to the planned giving section, with the answers appearing as mouse-overs in order to shorten the page length

- there should be a “links and resources” section added to the main navigation (**Amy will get information from Bill and others and send a list of links to Galen**)

Bill said he’d take a crack at drafting information on how to begin to build an endowment. He is already working on something for the MNA web site.

Galen said that posting the video from the Conversation is not possible with the current service provider. He has been considering moving the web site to a different provider. This needs to be resolved in the transition from MCF to MNA.

E-NEWSLETTER

Amy will work on a draft newsletter, reporting on the Governor’s Conversation as well as SB 150.

TAX CREDIT NUMBERS

It was agreed that the figure of \$250 million in new endowments created, which was attributed to the DOR in the TF 10-Year Report, needs to be changed. **Dorcie will contact Barb Wagner** to ask if they can estimate the money in endowments generated by the tax credit (NOTE: based on the Barb Wagner’s analysis, attached, it was agreed that the figure needs to be changed to \$100 million, extrapolating her figures out another year to the tax credit sunset). **Sue will make a sticker to place over the printed reports to correct the figure. Galen will change the pdf posted on the EndowMontana web site.**

FUNDRAISING

With additional funds Sue knows will be coming to the Task Force, she estimates that there will be \$7500 in the bank for TF operating expenses. **Linda Carlson will contact DA Davidson and First Interstate** about contributions to the TF, since they were not asked to contribute to the Conversation.

Josh asked if some of the funds leftover from the Conversation should fund a staffperson to follow through on the ideas generated at the Conversation. Another suggestion was to have Sue, the Governor, and the Lt. Governor ask the foundations that attended to contribute money for future planning. Brian agreed that asking for a “bridge grant” is a good idea. Sue reiterated comments by both Ted Smith and Bruce Sievers that such an “ask” shouldn’t focus on how poor we are, but on the positive opportunities at hand. Bill agreed, but said that we also need to emphasize the need for infrastructure as well as assets, both of which are lacking in Montana. Sue said that Ted Smith offered to come to Montana again, without being reimbursed; she thought Bruce would also return with some financial support.

LUNCH & LEARN SESSIONS

Jim Soft has told Sue that the Fall of 2007 would be a good target date for holding sessions. Sue would rather see them held in the spring in order to take advantage of the short-term IRA rollover opportunity. Sue will talk to Jim about the idea of holding a webinar instead of traveling all over the state.

NEXT MEETING

Since the Nonprofit Day at the capitol is on the 16th (the regular meeting date for the TF would be Thursday the 18th) it was proposed that the January meeting be held on the same day, after the lunch with legislators and presentation of the MNA agenda. **[NOTE: It was since agreed that the meeting will be held on January 16th, at the Northwest Power Planning Council, at 1:30 p.m.]**

ATTACHMENT

To: Dorcie Dvarishkis, UM Foundation and Governor's Task Force Member

From: Barb Wagner, Tax Policy Analyst, Montana Department of Revenue

Date: December 21, 2006

Subject: Questions on the fiscal impact of the Endowment Credit

You requested information on the charitable gift amount used to claim the endowment credit, the amount of endowment credit claimed in 2005, and an estimate of the fiscal impact of the technical change included in LC513.

Credit Claimed and Gift Amount used to Claim the Credit, 1997-2005

Table 1 provides the amount of charitable endowment credit claimed from 1997-2005, along with the gift amount used to claim the credit. The amount of endowment credit claimed by individual taxpayers in tax year 2005 was \$2,491,431. Due to differences in tax years and filing dates for corporate taxpayers, information on the amount of charitable endowment credit taken by corporate taxpayers for tax year 2005 will not be available until next spring.

Table 1: Amount of Endowment Credit Claimed and the Gift Amount used to Claim the Credit						
Year	Individual			Corporate		
	Credit Claimed	Credit Percentage	Gift Amount used to Claim Credit	Credit Claimed	Credit Percentage	Gift Amount used to Claim Credit
1997	\$1,332,693	50%	\$2,665,386	\$173,972	50%	\$347,944
1998	\$3,288,234	50%	\$6,576,468	\$380,512	50%	\$761,024
1999	\$5,660,049	50%	\$11,320,098	\$652,207	50%	\$1,304,414
2000	\$7,121,923	50%	\$14,243,846	\$751,549	50%	\$1,503,098
2001	\$7,550,411	50%	\$15,100,822	\$712,539	50%	\$1,425,078
2002	\$1,694,781	40%	\$4,236,953	\$108,087	20%	\$540,435
2003	\$2,179,696	40%	\$5,449,240	\$112,435	20%	\$562,175
2004	\$2,585,041	40%	\$6,462,603	\$120,498	20%	\$602,490
2005	\$2,491,431	40%	\$6,228,578			
Total	\$33,904,259		\$72,283,993	\$3,011,799		\$7,046,658

Table 1 also shows the gift amount used to claim the credit, which is calculated by dividing the credit claimed by the credit percentage. This "reverses" the process used to claim the credit; to claim the credit, taxpayers multiply the amount of their gift times the credit percentage to equal the credit. This is represented in the following formula:

$$\text{Gift amount} * \text{credit percentage} = \text{credit amount}$$

However, the endowment credit is limited to \$10,000 per taxpayer; therefore, if the credit amount calculated with the formula is above \$10,000, only \$10,000 can be claimed.

Because of the \$10,000 limit on the endowment credit, it is inappropriate to imply that the gift amount given in Table 1 above is the total amount of charitable gifts due to the endowment credit. Any gift amount given over the amount used to claim the credit would not be included in the Table 1 figures. For example, assume a single taxpayer gave a \$50,000 gift in 2004. The credit percentage in 2004 was 40%; therefore, the taxpayer would calculate a credit amount of \$20,000 ($\$50,000 \times 40\%$), but could only claim a credit of \$10,000. The taxpayer would claim a \$10,000 on their tax forms, and the Department of Revenue would only record a gift amount of \$25,000 ($\$10,000 / 40\%$). The other \$25,000 given by the taxpayer would not be recorded.

Further, it is inappropriate to refer to the gift amounts given in Table 1 above as the charitable endowment gifts *caused* by the endowment credit. Taxpayers also consider other factors when making charitable gifts. Research on charitable giving indicates that tax breaks increase the amount of giving, but there would likely still be some philanthropists that would give in the absence of any tax benefits.

In summary, Table 1 shows that taxpayers have given gifts of at least \$79,330,651 to qualified endowments from 1997-2005. The actual amount given to qualified endowments may be significantly greater than \$79,330,651. It is not possible to discern the motivations of the taxpayer and determine whether the tax credit caused these gifts, but the amount of gifts given to charitable endowments would almost certainly be lower in the absence of the credit.

Cost of the Exclusion of Operational Asset Funds

You also requested an estimate of the fiscal impact of the technical change included in LC513 that would clarify the definition of a “permanent, irrevocable fund” to exclude funds that expend contributions for the construction, renovation, or purchase of an operational asset. As you well know, the Department of Revenue issued a legal opinion in January 2006 that indicated that current statute did not exclude funds that purchased operational assets. However, the Governor’s Task Force on Endowments and Philanthropy has indicated that allowing such funds to benefit from the endowment tax credit was inconsistent with the intent of the charitable endowment credit because such funds were not “permanent.”

The Department of Revenue believes this technical change will have no fiscal impact. Data to determine the validity of that assumption will not be available until the Department evaluates 2006 tax information to determine whether the amount of endowment credit claimed changed significantly after the legal opinion was issued. The Department will not have the full 2006 tax year database until November 2007.

I hope this information has been helpful. If you have any questions or comments, please contact me, Barb Wagner, at 406-444-3528 or bwagner@mt.gov.

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