Proposed Endow Iowa Administrative Rules 8-13-2003

Community Vitality Center Governance Board Comments

Executive Summary:

The CVC supports and recommends the following for consideration as part of the Endow Iowa Administrative Rules:

- The CVC supports the Proposed Rule (47.4(2), which states that 10% of the aggregate amount available for tax credits shall be reserved for those permanent endowment gifts totaling $30,000 or less.
- The CVC recommends for consideration that 50 percent of permanent endowment tax credits be reserved for use in those counties designated as non-metro during the year 2000 to assure rural-urban equity in terms of establishing permanent endowments relative to population, jobs, and income indicators.
- The CVC recommends for consideration that administrative rules be established to assure community foundation affiliated account holders that they will have guaranteed portability for any matching grant, permanent endowments, or any other deposits made with any nationally certified community foundation. Such a provision would allow a local affiliate to change affiliation without penalty or extra fees. This may be desired when a local affiliate gains national certification or if a change in the depository community foundation is desired by the local affiliate due to performance or other reasons.
- The CVC recommends that administrative rules be established to provide for the appointment of an ex officio member or appropriate liaison to serve as a communication link between the Community Vitality Center and the "lead philanthropic entity" board to provide opportunity for enhanced communication between rural community interests and the lead philanthropic entity.

Respectfully submitted on behalf of the CVC Governance Board by Mark A. Edelman, Director, 478 Heady Hall, ISU Ames IA 50011. Phone: 515-294-3000.

The mission of the Community Vitality Center (CVC) is to serve as a catalyst for innovative projects and initiatives designed to improve the vitality of Iowa communities. The 23 member board includes representatives from diverse community and private sector leader interests from across the state as well as representatives from Iowa's higher education institutions, IDED, and USDA-Rural Development (see www.cvcia.org). While we have participants on our board from metropolitan areas, the major focus of CVC programs is to stimulate new ideas and provide assistance to Iowa communities and people, particularly those who reside outside metropolitan areas and university towns.

During its first two years of operation, CVC efforts have focused on:

1. improving community philanthropy opportunities
2. developing greater opportunities for entrepreneurship
3. providing opportunities for communities to assess their current circumstances
4. facilitating the development of innovative economic development strategies
5. analyzing the metro-non-metro differential impacts of public policy

The CVC's efforts in improving community philanthropy started over a year ago as the CVC's executive committee approved activities that led to the formation of a Community Philanthropy Task Force and discussions with those who led the development of the statewide Nebraska Community Foundation in the mid 1990's and Iowa rural community and rural oriented foundation leaders about the ways that we might transfer and build upon their successful efforts in Iowa. Two critical elements emerged from these discussions.

First, the Transfer of Wealth Study, conducted by Nebraska and based on a Boston College Study of national wealth transfer, suggests that the timing of wealth transfer opportunity is different for rural counties than for metro areas. Iowa has one of the oldest age structures of any state in the nation. As you look at the demographics county by county, the rural counties typically have higher age structures than do metro areas. The Nebraska Study found that due to the older age structure, the transfer of wealth will likely rise rapidly and peak during the next 20 years for the rural counties and then fall off, whereas the wealth transfer will continue to rise in metro counties.

Secondly, we found that Nebraska 's success was due primarily to the creation of an entity whose mission it was to work with rural community leaders in improving their community philanthropy efforts and creating activity in communities where none existed. According to the Iowa Non-Profit Resource Center, there are now about 90 community foundations operating in Iowa. Iowa has a few communities that represent models of success. For example, Manning, Iowa, with a population of 1,500 has successfully used four local community foundations to raise funds for hospital expansion, tourism attractions such as the German Haus-barn and other community betterment projects that have significantly enhanced the community quality of life over the past few decades. It is important to note that the Nebraska and Manning accomplishments occurred without the aid of matching grants or state tax credits. And the CVC commitment toward helping rural communities to understand their opportunities, to facilitate training, and to assist communities in organizing their philanthropy initiatives will continue regardless of Endow Iowa outcomes.

Because of Endow Iowa , the CVC concludes Iowa citizens and communities now may have a greater opportunity to generate re-investment in the local quality of life. What we do in the state's rural communities is particularly important during the next few years as the rural counties face the more rapid and short-lived potential transfer of wealth as implied by the Nebraska analysis.

To help facilitate the initial steps in this process, the CVC has commissioned two projects that are in process. First, we are conducting a county-by-county transfer of wealth study, so that we will have similar estimates of the size and timing of wealth transfer in all of Iowa 's counties. Second, we are working with the Iowa Nonprofit Resource Center located at the University of Iowa to conduct a survey to identify barriers, limitations, and training needs that face existing community foundations and communities that do not have community foundations.

Ultimately, the tentative goal is to organize a rural community philanthropy service bureau that works with community leaders and community foundation leaders that is not aligned with any particular foundation, but has the potential to collaborate with all community foundations. We plan to unveil the results of the two studies and the service bureau at a statewide community philanthropy workshop next Spring.

Now for our comments on the Proposed Administrative Rules for Endow Iowa . It is important that you be aware that these comments follow a more detailed policy assessment of alternative legislative proposals conducted by the CVC Philanthropy Task Force last Spring. This assessment was shared with the Iowa Council on Foundations, as well as selected legislative and interest group leaders. The 3 concerns identified by the CVC Philanthropy Task Force remain as follows:

1. Lack of an independent board to assure appropriate rural representation, lack of an open "lead philanthropic entity" selection process based on merit criteria, and lack of public input procedures to assure that rural philanthropy barriers are addressed.
2. High caps on donation incentives that may use up most of the authorized tax credits.

3. Certification restrictions that may exclude 3/4s of the existing community foundations and other state and regional foundations from directly benefiting from the philanthropic incentives unless they agree to deposit the matching seed grants and tax credited permanent endowments with a limited number of certified community foundations or become certified themselves. The national certification standards are new, untested, and have only recently established procedures for certification.

Item 2 has been partially—but not totally addressed by the Proposed Rules (47.4(2). The proposed rule states that 10% of the aggregate amount available for tax credits shall be reserved for those permanent endowment gifts totaling $30,000 or less. The CVC and Philanthropy Task Force not only favor this rule, but also favor increasing the percentage amount reserved for smaller permanent endowment gifts to encourage a larger number of potential permanent endowments in a larger number of communities across the state.

The Philanthropy Task Force remains concerned about the bulk of the tax credits potentially being used by a few large donors from large metropolitan areas, even with this proposed rule. Based on the nonmetro county designations for the year 2000, Iowa 's 88 nonmetro counties accounted for 52 percent of Iowa 's population, 50 percent of the Iowa labor force, and 47 percent of the aggregate income. The CVC recommends that Administrative rules and/or future adjustments to Endow Iowa legislation are needed to go a step further. These numbers suggest a reservation of 50 percent of the tax credits should be considered to assure equity in establishing permanent endowments in counties designated nonmetro. This would provide greater assurance of equal opportunity to tax credits in nonmetro Iowa and it would also help to assure that the opportunities provided by the rapid rise and peak in rural wealth transfer will be addressed rather than lost due to inability to quickly mobilize certification and donors in rural areas.

Items one and three remain unaddressed by the proposed rules in part because the law was written so as to leave little flexibility. However these items may likely remain as significant concerns to many Iowans. Endow Iowa requires that all matching grants and tax credited permanent endowments be deposited in community foundations that meet community foundation certification standards of the National Council on Foundations.

The national standards are still new and untested. When the Endow Iowa legislation was passed the National Council on Foundations had no certification body. In the intervening months, a “Standards Action Team” (SAT) has been created to review the certification standards and compliance. It is worthy to note, that only three of the 18 members on this body are representatives of community foundations based in communities that are likely to be considered nonmetro. In fact, a majority of the SAT members are from metro areas that are much larger than Iowa 's largest metropolitan area. Iowa citizens may ask how applicable are the seven pages of community foundation standards and compliance requirements for the typical community foundations in Iowa , such as those in Manning? Furthermore, according to the National Council on Foundations website, Iowa currently has 10 Community Foundations that have signed letters of intent to become certified.

- Community Foundation of the Great River Bend
- Greater Cedar Rapids Community Foundation
- Greater Des Moines Community Foundation
- Community Foundation of Greater Dubuque
- Community Foundation of Fort Dodge and North Central Iowa
- Community Foundation of Johnson County
- Community Foundation of Greater Muscatine
- Siouxland Community Foundation

- South Central Iowa Community Foundation
- Community Foundation of Waterloo/Cedar Falls and Northeast Iowa

Iowa has over 3,000 public charities across the state and all have a track record of sorts in potentially providing some form of community improvement benefits. All of the nonprofits that maintain their IRS 501.c.3 non-profit status and have books annually audited already provide some measure of assurance that the funds are used in good faith as intended. In many rural communities, community foundation assets are often managed at local depository institutions. Everyone knows everyone else in the local community and such community foundations have survived with the expertise of volunteers and lower costs for overhead, professional staff, and facilities.

Requiring deposits in nationally certified community foundations primarily based in Iowa's metropolitan communities potentially pulls matching grant and permanent endowments deposits from local community institutions and places them in narrowly defined, legislatively preferred regional community foundations. There is no guarantee that certified community foundations will provide lower costs or greater performance than that which is provided by the local community foundation or financial institution.

In addition, there is no guarantee of portability in the future should the local affiliate become a nationally certified community foundation or desire to switch from one depository community foundation to another. Over time new community foundations may become nationally certified, expanding the choices. At the same time some community foundations may develop a track record that outperforms others. Thus, the CVC recommends consideration of administrative rules to guarantee portability of deposits without penalty fees for affiliated account holders.

While access to fund raising and project management expertise provided by metro community foundations may improve performance of local philanthropy efforts, some rural community leaders have also expressed concerns about forced partnerships with more dominant metropolitan entities. Others have expressed concerns about sharing strategic information regarding large donors with their would-be affiliates based in metropolitan communities for fear of losing the donor to the affiliated entity.

Recent experience with mergers and consolidations in some rural entities suggests that rural schools and economic development groups often voluntarily prefer to join with entities of similar size rather than merge with larger adjacent districts so as to create new entities with a greater balance in control and interests. In light of the current locations listed for community foundations to be certified, this potential barrier may be sufficient alone so as to create a significant differential performance in rural philanthropy efforts in relation to greater volume of outcomes from Endow Iowa initiatives in metro areas.

Finally, the CVC anticipates that the Department, lead philanthropic entity and policy makers may potentially be subject to two additional types of concerns. First in light of the recent media attention regarding the debate on conflicts of interest for state boards and commissions, Iowans are likely to inquire about the nature of relationships between the “lead philanthropic entity” and the depository community foundations that are certified in accordance with the national standards. For example, if the CVC is to assist one or more community foundations to become nationally certified community foundations with lower fees primarily for serving as depositories for rural community affiliates, some level of uncertainty would likely exist as to whether certified community foundations that are not members of the lead philanthropic entity will be given fair consideration for matching grants by the lead entity's board when going up against other certified community foundation affiliates that are members of the lead philanthropic entity. Advice by the Iowa Ethics Commission regarding potential conflicts of interest may help the Department and lead philanthropic entity to address the potential for conflict of interest problems before they occur.

Second, the Endow Iowa law appears to violate a long-standing principle of public finance regarding horizontal tax equity, “allocating like taxes to people in like positions.” For example, many of Iowa 's 3,000 public charities are special purpose foundations that may hold permanent endowments for the support of local schools, hospitals, libraries, and parks. Under the Endow Iowa legislation, donors who donate to the special purpose entities as they have in the past are not afforded Endow Iowa tax credits. However other donors who donate for the exact same purpose will qualify for Endow Iowa tax credits if they donate to one of the relatively few nationally certified community foundations or to a local affiliate of one of the nationally certified community foundations. The tax equity principle is further supported by Section 6 of Article I of the Iowa Constitution-- which states “the general assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms shall not equally belong to all citizens.” While it appears that the required national certification for becoming a depository community foundation is open and voluntary, it remains to be seen whether the certification and documentation requirements will be viewed as more limiting and troublesome barriers for special purpose and rural community foundations.

To assist in reducing the potential concerns that may arise, the CVC Board and Philanthropy Task Force stand ready to assist in implementing the Endow Iowa legislation and further recommend that the Department develop an administrative rule that would allow for the appointment of a liaison from the Community Philanthropy Service Bureau of the Community Vitality Center to serve as exofficio member or liaison for the board of the “lead philanthropic entity.” This proposed rule would provide the opportunity for enhanced communication between rural interests and the lead philanthropic entity. It would help to inform rural constituencies about the Endow Iowa opportunities, and at the same time it would help to provide insights to the lead philanthropic entity board regarding any potential barriers and limitations to rural community participation in Endow Iowa .

In conclusion, the Community Vitality Center and Philanthropy Task Force see the increased priority for philanthropy that Endow Iowa creates as a positive step for moving Iowa up in national philanthropic rankings. Recent rankings place Iowa at 43 rd from the top among the states in charitable contributions per itemized tax return. The CVC recommendations seek only to address some of the perceived rural-urban imbalances and potential ethical issues that may have inadvertently been created during the policy-making process. Successful philanthropy in Iowa 's communities can only be maximized if the decision-making relationships are beyond reproach, so that all potential donors, benefactors, and other stakeholders in all areas of the state gain and sustain confidence in the philanthropic activities and institutions that are available.