# ONE HUNDREDTH LEGISLATURE - SECOND SESSION - 2008

# COMMITTEE STATEMENT

## LB983

**Hearing Date:** February 21, 2008

**Committee On:** Revenue

**Introducer(s):** (Cornett)

**Title:** Change an income tax credit for planned gifts

**Roll Call Vote - Final Committee Action:**

Placed on General File with Amendments

**Vote Results:**

| | | |
|---|---|---|
| 7 | Yes | Senators Burling, Cornett, Dierks, Janssen, Langemeier, Preister and White |
| 1 | No | Senator Raikes |
| 0 | Absent | |
| 0 | Present, not voting | |

| **Proponents:** | **Representing:** |
|---|---|
| Senator Abbie Cornett | Introducer |
| Maxine Moul | Endow Nebraska |
| Larry Peirce | Butler County Area Foundation |
| Jim Nissen | Himself |
| Barbara Bartle | Foundation for Lincoln Public Schools |
| Jim Wagner | Himself |
| Ron Sedlacek | Nebraska Chamber of Commerce |
| Bob Hallstrom | Nebraska Bankers Association |

| **Opponents:** | **Representing:** |
|---|---|
| None | |

| **Neutral:** | **Representing:** |
|---|---|
| None | |

**Summary of purpose and/or change:**

LB 983 would amend several statutes that currently allow an income tax credit for planned gift or direct contributions to Nebraska based charitable endowments. The bill would 1) increase the calculation of the credit amount and the maximum credit allowed, 2) eliminate subchapter S corporations from receiving the credit, 3) allow any unused credit to be carried forward, 4) extend the sunset date for the program, and 5) cap the amount of credits granted to $5 million per year.

Section by section summary

Section 1 would amend section 77-2701 to incorporate the new sections 5 and 9 into the revenue act.

Section 2 would amend section 77-27,228 to update Internal Revenue Code references in the descriptions of “pooled income funds” and “charitable gift annuities”. These are two types of planned gifts which allow the donor to take an immediate tax credit under current law.

Section 3 would amend section 77-27,229 (the definitions under the endowment tax credit act) to include a cross reference to the definition of “endowment fund” that is found in the new Nebraska Uniform Prudent Management of Institutional Funds Act. This act was adopted last year by LB 136(2007). This section would also clarify that a “tax-exempt organization” means exempt under IRC section 501 (c) (3).

Section 4 would amend section 77-27,230 to increase the credit available to a resident individual from 15 percent of the present value of a planned gift to 50 percent. The maximum credit would also increase from $5,000 to $10,000. Finally, the bill would allow the credit to be carried forward for five years. Currently, no carryforward or carryback is allowed.

Section 5 would be a new section that allows a tax credit of 25 percent for a direct gift by an individual to a qualified endowment. The maximum credit under this section would be $5,000 and it could be carried forward for five years.

Section 6 would amend section 77-27,231 to strike limited liability companies from the list of pass-through entities that are allowed to receive the same credit as individuals. The only pass-through entities eligible under LB 983 would be partnerships and Subchapter S corporations. The maximum credit received by each partner or shareholder would be increased from $5,000 to $10,000 and the credit could be carried forward for five years.

Section 7 would amend section 77-27,232 to increase the amount of the credit for direct contributions by C corporations from 10 percent of the value of the gift to 50 percent. The maximum credit would also be increased from $5,000 to $10,000. Again, the credit may be carried forward for five years.

Section 8 would amend section 77-27,233 to make these same changes with regard to a planned gift by an estate or trust. The maximum amount would be $10,000 and it could be carried forward for five years.

Section 9 would be a new section limiting the total credits for any one year to $5 million. This section allows the beneficiaries of the credit to apply for the credit first. The Department of Revenue would then accept the applications in the order received and assign tentative tax credits to the applications. After the threshold is reached, the Department is to approve no more applications for tentative tax credits for that year. Tentative tax credits are limited to $20,000 for a joint return and $10,000 for all other returns.

This section also states that tentative tax credits are to have priority over those qualifying for the credit without applying first. It should also be noted that the carryover provision means that, even if only five million dollars in credits are granted in any one year, the credits may be carried over and exercised in a later year so the amount of credits taken could be more or less than $5 million in any one year.

Section 10 would amend section 77-27,234 to extend the sunset date for the credits from tax years beginning after 2009 to tax years beginning after 2016. The carry-forward period may extend beyond 2016.

Section 11 would provide an operative date of all tax years beginning on or after January 1, 2008.

Section 12 would repeal the original sections.

**Explanation of amendments, if any:**

The Committee amendments make the application for the tax credit mandatory. As a result, only those tax credits that individuals apply for will be granted. The Committee amendments also reduce the limit from $5 million to $3.5 million.

Senator Ray Janssen, Chairperson