

Electric Cooperative Governance Task Force Report



February 2018

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Introduction

Governance is a critical part of an electric cooperative's operations. In recent years, electric cooperative governance has received increased attention from members, the media, legislators, regulators, and others.

During 2017, an Electric Cooperative Governance Task Force ("Task Force") comprised of 20 electric cooperative leaders studied electric cooperative governance. After its work, the Task Force prepared this Electric Cooperative Governance Task Force Report ("Report"). The Report is for National Rural Electric Cooperative Association ("NRECA") and National Rural Utilities Cooperative Finance Corporation ("CFC") voting members only.¹

The Task Force hopes the Report will facilitate an electric cooperative's continued examination and enhancement of governance. In particular, the Task Force hopes the Report will serve as a catalyst to examine and enhance governance, provide a checklist of practices and issues to examine, and be a resource for examining the practices and issues. To assist with using the Report, an Electric Cooperative Governance Review Guide is included as an appendix.

The Report summarizes the Task Force's observations and comments regarding electric cooperative governance, including specific governance practices. The Report, however, does not provide specific standards, recommendations, or best practices.²

1 The Report is for NRECA, CFC, and NRECA and CFC voting member employees, directors, and consultants only. By accessing or using the Report, you: (1) represent that you are one of these individuals; (2) unless authorized by NRECA or CFC, agree not to disclose or provide the Report to anyone other than these individuals; and (3) agree not to use the Report in a manner adverse to NRECA, CFC, or any NRECA or CFC voting member. If you have questions, please contact the NRECA Office of General Counsel at 703-907-5846.

2 The Task Force hopes this Report will facilitate, and be a catalyst for, electric cooperatives' continued examination of governance. This Report, however, reflects solely the observations and comments of 20 electric cooperative leaders from over 900 electric cooperative members of NRECA and CFC. NRECA and CFC members did not elect or choose these individuals. While the Report reflects the Task Force members' diverse observations and comments, it does not necessarily reflect the views of NRECA or CFC's general membership, or even each Task Force member's own cooperative. This Report, therefore, does not establish, recognize, or recommend de facto or consensus-based standards developed through a formal standards development process. Further, the Report has not been reviewed by other NRECA or CFC members or their legal representatives.

Executive Summary

Recognizing the historic and continuing importance of governance, and consistent with December 2016 recommendations by the National Rural Electric Cooperative Association (“NRECA”) and National Rural Utilities Cooperative Finance Corporation (“CFC”) Boards of Directors, NRECA and CFC created a member task force to study electric cooperative governance. While existing courses, documents, and other materials addressed electric cooperative governance, they did not result from or incorporate a study of governance by electric cooperative leaders themselves.

Appointed in early 2017, the Electric Cooperative Governance Task Force (“Task Force”) was comprised of 20 electric cooperative directors, chief executive officers, and other leaders.

The Task Force met throughout 2017. It heard from guest presenters and solicited comments from NRECA and CFC voting members. The Task Force discussed the following aspects of electric cooperative governance:

- Defining “good governance,”
- Promoting and nurturing good governance,
- Board of directors role,
- Director qualifications,
- Director nominations,
- Director elections,
- Director compensation,
- Board of directors composition,
- Board of directors meetings, and
- Member access to information.

In February 2018, the Task Force released this Electric Cooperative Governance Task Force Report (“Report”). The Report summarizes the Task Force’s observations and comments regard-

ing electric cooperative governance, including specific governance practices. The Report is for NRECA and CFC voting members only.³

The Task Force believes that governance is a critical part of an electric cooperative's operations. Good governance can strengthen the cooperative and facilitate its success. Good governance, however, requires time, energy, and attention.

The Task Force hopes this Report will facilitate an electric cooperative's continued examination and enhancement of governance. In particular, the Task Force hopes the Report will serve as a catalyst to examine and enhance governance, provide a checklist of practices and issues to examine, and be a resource for examining the practices and issues. To assist with using the Report, an Electric Cooperative Governance Review Guide is included. The Report, however, does not provide standards, recommendations, or best practices.⁴

**Good governance
can strengthen the
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facilitate its success.**

The majority of the Report reflects the following summary statements, followed by commentary, regarding the following aspects of electric cooperative governance.

Board of Directors Role

- **Specifying Roles, Responsibilities, and Obligations.** The Task Force supports an electric cooperative specifying and communicating the roles, responsibilities, and obligations of its members, board of directors, board presiding officer and other director officers, chief executive officer, and attorney.
- **Being Responsible for Good Governance.** The Task Force supports an electric cooperative: (1) board of directors being responsible for and educated regarding good governance; (2) board presiding officer raising awareness of and facilitating good governance; and (3) chief executive officer and attorney raising the board's awareness regarding good governance and providing appropriate information and guidance to facilitate good governance.
- **Hiring, Evaluating, and Compensating the CEO.** The Task Force supports an electric cooperative board of directors engaging in a formal search for the cooperative's chief executive officer, evaluating the CEO regularly and annually, and compensating the CEO based upon performance using market and benchmark data.

3 The Report is for NRECA, CFC, and NRECA and CFC voting member employees, directors, and consultants only. By accessing or using the Report, you: (1) represent that you are one of these individuals; (2) unless authorized by NRECA or CFC, agree not to disclose or provide the Report to anyone other than these individuals; and (3) agree not to use the Report in a manner adverse to NRECA, CFC, or any NRECA or CFC voting member. If you have a question, please contact the NRECA Office of General Counsel at 703-907-5846.

4 The Electric Cooperative Governance Task Force hopes this Report will facilitate, and be a catalyst for, electric cooperatives' continued examination of governance. This Report, however, reflects solely the observations and comments of 20 electric cooperative leaders from over 900 electric cooperative members of NRECA and CFC. NRECA and CFC members did not elect or choose these individuals. While the Report reflects the Task Force members' diverse observations and comments, it does not necessarily reflect the views of NRECA or CFC's general membership, or even each Task Force member's own cooperative. This Report, therefore, does not establish, recognize, or recommend de facto or consensus-based standards developed through a formal standards development process. Further, the Report has not been reviewed by other NRECA or CFC members or their legal representatives.

- **Evaluating the Board.** The Task Force supports an electric cooperative board of directors comprehensively evaluating its performance every one to three years, with the evaluation including director peer and self-evaluations. The Task Force supports a board considering the value of using an independent third party to facilitate the evaluation.
- **Preventing, Detecting, and Mitigating Fraud.** The Task Force supports an electric cooperative engaging an independent third party to conduct a fraud risk assessment periodically. The Task Force also supports taking other ongoing actions to help prevent, detect, and mitigate fraud.

Director Qualifications

- **Prescribing Director Qualifications.** The Task Force supports an electric cooperative bylaw prescribing director qualifications, including membership requirements, education and training requirements, conflict of interest prohibitions, legal conviction and judgment prohibitions, and similar requirements and prohibitions.
- **Determining Director Qualification Compliance.** With assistance from an electric cooperative's attorney and designated employees, the Task Force supports a member committee proactively determining whether each director nominee complies with each director qualification, regardless of whether anyone has questioned or challenged a nominee's compliance. To assist the committee, the Task Force supports background checks related to director qualifications for all director nominees, including incumbent directors.
- **Designating Individual to Run on Entity's Behalf.** The Task Force takes no position regarding an electric cooperative entity member designating an individual to run for the cooperative's board of directors on its behalf. The Task Force, however, notes the possibility of including individuals affiliated with entity members on member advisory committees.
- **Disqualifying Directors.** As permitted by state law, the Task Force supports an electric cooperative bylaw authorizing the board of directors to disqualify a director who no longer meets objective director qualifications stated in the cooperative's bylaws, provided the director is provided reasonable notice and opportunity to comment.
- **Seasonal Residents Serving as Directors.** The Task Force takes no position regarding whether an electric cooperative should permit individuals who reside temporarily or seasonally in the cooperative's service area to serve as a director. Membership, load, rate, and other considerations may influence this determination.
- **Considering Substantial and Material Conflicts of Interest.** The Task Force supports limiting conflict of interest director qualifications to substantial and material conflicts of interest, and using percent of income and/or ownership to determine and define substantiality and materiality.
- **Former Employees Becoming Directors.** The Task Force supports prohibiting an individual employed by an electric cooperative during the preceding three years from becoming a cooperative director.

- **Former Employees of other Entities Becoming Directors.** The Task Force supports prohibiting an individual employed, during the preceding three years, by a statewide association of electric cooperatives, an electric generation and transmission cooperative, or other entity in which an electric cooperative is a member, from becoming a cooperative director.
- **Former Directors Becoming Employees.** The Task Force supports prohibiting an individual who served as an electric cooperative director during the preceding three years from becoming a cooperative employee.
- **Publicly Elected Officials Becoming Directors.** The Task Force takes no position whether an electric cooperative should permit a publicly elected official to become or remain a cooperative director.
- **Considering Distributed Energy Resource Interests.** The Task Force takes no position whether an electric cooperative should permit an individual providing, or employed by or owning an entity providing, electric energy efficiency, demand response, storage, generation, or similar goods and services to become or remain a director. The Task Force, however, notes the increasing relevance and importance of this issue, and encourages cooperatives to analyze and discuss it.

Director Nominations

- **Communicating Nomination Information.** The Task Force supports using all reasonably possible methods to communicate scheduled electric cooperative director nomination dates, positions, requirements, and procedures. The information should be communicated often and a reasonable time before nomination deadlines.
- **Soliciting Candidates.** The Task Force supports soliciting interested and qualified electric cooperative director candidates.
- **Nominating by Nominating Committee.** The Task Force supports using an electric cooperative nominating committee to nominate director candidates, provided at least one additional nominating option is available to members.
- **Nominating by Petition.** The Task Force supports permitting electric cooperative director nominations by member petition, and supports requiring between 15 and 50 member signatures. The Task Force takes no position on whether nomination by petition should be the only nomination method.
- **Nominating from the Floor.** The Task Force opposes permitting electric cooperative director nominations from the floor of an annual member meeting.
- **Using Director Districts.** The Task Force supports dividing electric cooperative service areas into director districts and nominating some or all directors “by district.” The Task Force believes that geography and population are helpful criteria for dividing service areas, but are not the only criteria. The Task Force supports reviewing and possibly revising director districts on a basis of at least between five and 10 years.

Director Elections

- **Electing at Large or by District.** The Task Force believes there are potential advantages and disadvantages to electing electric cooperative directors “by district” and “at large.” The Task Force generally supports electing directors “at large,” but believes that certain circumstances and considerations support electing directors “by district.”

- **Voting in Person and Otherwise.** The Task Force supports voting in person at electric cooperative member meetings. As permitted by state law and in addition to voting in person, the Task Force supports voting by mail, electronically, and/or by proxy in director elections.
- **Voting by Proxy.** The Task Force supports permitting voting by proxy in electric cooperative director elections, but supports limiting the number of proxy votes an individual may cast and encourages caution in permitting the board of directors to cast an unlimited number of unrestricted proxy votes. The Task Force also believes that voting by mail or electronically in director elections may provide more flexibility and opportunity than voting by proxy.
- **Communicating Election Information.** The Task Force supports using all reasonably possible methods to communicate electric cooperative director election dates, positions, requirements, and procedures often and within a reasonable time before scheduled elections.
- **Using Credentials and Election Committee.** The Task Force supports using an electric cooperative credentials and election committee to monitor and address director qualification, nomination, election, and similar issues. The Task Force believes the committee should be appointed by the board of directors or elected by the members.
- **Encouraging Attendance and Participation.** The Task Force supports using every reasonably possible method to encourage and promote electric cooperative members to attend member meetings and participate in director elections.
- **Campaigning through Cooperative Employees or Property.** The Task Force opposes permitting electric cooperative employees to campaign for or against director nominees during work hours, while acting within the scope of their employment, or using cooperative property.
- **Campaigning at Election Site.** The Task Force supports limiting electric cooperative director campaigning near election sites in a manner similar to public office elections.
- **Entities or Classes Electing Specific Director Positions.** While all members may vote in electric cooperative director elections, the Task Force takes no position on permitting an entity member, or a class of similarly situated members, to elect or fill one or more specific director positions.

Director Compensation

- **Compensating Directors by Paying Monetary Amount.** The Task Force supports an electric cooperative compensating directors by paying a monetary amount. The Task Force believes the amount should be reasonable, defensible, comparable to amounts paid by other cooperatives or similarly organized entities, and stated in a written policy.
- **Compensating Directors by Providing Insurance and Benefits.** The Task Force opposes an electric cooperative compensating directors by providing medical insurance and other nonmonetary personal benefits.
- **Compensating Former Directors.** The Task Force opposes an electric cooperative compensating former directors.
- **Compensating Director Officers.** The Task Force supports an electric cooperative providing additional reasonable compensation to director officers.

- **Paying Spouse Travel Expenses.** The Task Force opposes an electric cooperative paying travel expenses associated with a director's spouse, unless the board of directors determines, in advance, that special circumstances justify paying the expenses.
- **Tracking Hours Devoted to Cooperative.** The Task Force supports a tax-exempt electric cooperative requiring each director to track his or her hours devoted to the cooperative and any related organization(s).
- **Promoting Compensation to Induce Nominees.** The Task Force supports an electric cooperative informing individuals interested in serving as a director about director compensation, but opposes promoting director compensation to induce director nominees.
- **Being Transparent Regarding Director Compensation.** The Task Force supports an electric cooperative being transparent regarding director compensation beyond filing Internal Revenue Service Form 990.

Board of Directors Composition

- **Electing Director Officers.** The Task Force supports an electric cooperative prescribing qualifications and expectations for director officers. The Task Force supports electing director officers through a democratic process, and opposes electing director officers based upon "automatic" criteria like rotation or length of service as a director.
- **Imposing Term Limits.** The Task Force encourages an electric cooperative to discuss imposing director term limits, but takes no position whether or not to impose term limits.
- **Filling Director Vacancies.** The Task Force supports an electric cooperative board of directors filling vacant director positions with the most qualified individual. The Task Force opposes the board filling a vacancy with a friend or relative of the previous director, unless it informs the membership of the vacancy, provides appropriate time and opportunity for members to express interest in the position, and fills the vacancy objectively and fairly.
- **Encouraging Director Diversity.** The Task Force supports an electric cooperative board of directors that reflects the diversity of the cooperative's membership. Recognizing the practical limitations of obtaining a diverse board, the Task Force encourages cooperatives and boards to solicit diverse individuals to seek election to the board, and to consider diversity when filling vacant director positions.
- **Addressing Directors with Diminished Ability.** The Task Force supports an electric cooperative addressing a director who may be legally competent, but appears to lack the physical, mental, or emotional ability to serve as a director competently.
- **Selecting Members of Federated Entity Board of Directors.** The Task Force supports an electric distribution cooperative formally or informally imposing qualifications when selecting individuals to serve on federated cooperative and association boards of directors. The Task Force also supports explaining and emphasizing the federated director's fiduciary duty to the federated entity, and opposes the distribution cooperative seeking to dictate how the federated director votes while serving as a federated director.

- **Using Standing Committees.** The Task Force takes no position regarding an electric cooperative board of directors using standing committees. If a board uses standing committees, then the Task Force supports using committees comprised of directors with knowledge, experience, or competence regarding the specific issues or areas within the committee's jurisdiction.

Board of Directors Meetings

- **Informing Members of Board Meetings.** The Task Force supports informing electric cooperative members of regular board of directors meeting dates, times, and locations. The Task Force takes no position on informing members of board meeting agenda items.
- **Members Attending Board Meetings.** The Task Force supports permitting electric cooperative members to attend board of directors meetings, other than portions of meetings at which legal, employee, and other confidential matters are addressed, and subject to rules of attendance determined by the board and stated in a board policy.
- **Members Addressing Board.** The Task Force supports permitting electric cooperative members to address the board of directors during board meetings, provided the member complies with notice, time, conduct, and similar requirements determined by the board and stated in a board policy.
- **Attorney Attending Board Meetings.** The Task Force supports electric cooperative attorneys attending all board of director meetings.
- **Senior Management Attending Board Meetings.** The Task Force supports electric cooperative senior management, as appropriate and in addition to the chief executive officer, attending board of directors meetings and addressing the board.
- **Meeting in Executive Session.** As appropriate and consistent with state law, the Task Force supports an electric cooperative board of directors meeting in executive session to discuss confidential matters.
- **Preparing Meeting Minutes.** The Task Force encourages an electric cooperative board of directors to discuss with the cooperative's attorney, and supports the board making an informed decision regarding, the length, format, and style of its meeting minutes.
- **Scheduling Board Meetings.** The Task Force supports scheduling electric cooperative board of directors meetings for days and times that are convenient for directors and not prohibitive for members.
- **Board Meeting Monthly.** The Task Force supports electric cooperative boards of directors meeting monthly, unless business needs or special circumstances justify meeting on a different interval.
- **Participating in Board Meetings Remotely.** The Task Force supports electric cooperative directors participating in board of directors meetings in person, but recognizes that directors may occasionally need to participate in meetings remotely because of health, weather, emergency, logistical, business, family, or other special circumstances.

- **Directors Missing Board Meetings.** The Task Force believes that attending electric cooperative board of directors meetings is a minimum expectation of directors. Depending upon the number of and reasons for meeting absences, and, as allowed by state law and bylaws, the Task Force supports a board of directors sanctioning, disqualifying, or removing a director who misses numerous board meetings.

Member Access to Information

- **Providing General Information to Members.** The Task Force supports an electric cooperative posting on its website or sending all members the following information and documents: (1) articles of incorporation; (2) bylaws; (3) board of directors meeting minutes or summaries; (4) Internal Revenue Service Form 990; (5) general and non-confidential financial and operational information; and (6) strategic plan or plan summary.
- **Providing Membership List to Members.** The Task Force supports an electric cooperative providing its membership list to a member if: (1) the member requests the list in good faith; (2) the list is directly connected to, and used for, a purpose reasonably relevant to the member's interest as a member; and (3) the list is not used for commercial, sale, or similar purposes.
- **Providing Subsidiary Information to Members.** The Task Force supports an electric cooperative providing or making available to its members general and non-confidential financial and operational information regarding a subsidiary in which the cooperative owns an interest.
- **Providing Policies to Members.** The Task Force supports an electric cooperative making available to its members relevant operational, financial, governance, and similar policies directly involving or impacting members, like capital credit, line extension, member attendance at board meeting, director role and responsibility, vegetation management, and similar policies.
- **Providing Employee Information to Members.** The Task Force opposes an electric cooperative providing its members, or others, individual and specific employee salary and benefit information, other than what is legally required.
- **Providing Information at Annual Meeting.** The Task Force supports an electric cooperative presenting annual operations, finance, and similar information and reports at its annual member meeting.
- **Participating in Member Meetings Remotely.** The Task Force supports an electric cooperative permitting members to participate in member meetings remotely, provided the technology is available, and the participation is permitted by state law and is cost effective.
- **Providing Capital Credit Information to Members.** The Task Force supports an electric cooperative notifying each member of their annual capital credit allocation and educating members regarding capital credits. The Task Force, however, takes no position regarding notifying members of their cumulative allocated, but unretired, capital credits.

Electric Cooperative Governance Task Force

Recognizing the historic and continuing importance of governance, in December 2016, the NRECA and CFC boards of directors adopted resolutions recommending that NRECA and CFC create and support a member task force to study electric cooperative governance. Consistent with the resolutions, NRECA and CFC created the Task Force.

The purpose of the Task Force was to study electric cooperative governance. As used by the Task Force, “governance” generally means the board of directors’ role, composition, and meetings; director qualifications, nominations, elections, and compensation; and member access to information. The Task Force’s study includes specific governance practices that have received significant attention and are particularly important.

Task Force members represent a diverse mix of electric cooperatives, including cooperatives with different geography, membership, load, and size.

In early 2017, NRECA Chief Executive Officer Jim Matheson and CFC Chief Executive Officer Sheldon Petersen appointed 20 individuals to the Task Force. They included:

- Eleven electric distribution cooperative (“Distribution”) directors, many of whom also serve, or have served, on electric generation and transmission cooperative (“G&T”) and statewide association of electric cooperatives (“Statewide”) boards of directors;
- Three Distribution chief executive officers;⁵
- One G&T chief executive officer;
- Four Statewide chief executive officers; and
- One G&T attorney with both Distribution and G&T legal experience, who was appointed Task Force chair.

⁵ One Task Force member was a chief executive officer when appointed, but later resigned and became a vice president at another electric cooperative.

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Task Force members represent a diverse mix of electric cooperatives, including cooperatives with different geography, membership, load, and size. Each NRECA region is represented. In addition, Task Force members are diverse regarding their time of service with cooperatives, professional background, and governance experience.

During 2017, the Task Force:

- Met briefly before the NRECA Annual Meeting;
- Held four multiple-day, in-person meetings;
- Participated in, and solicited comments during, panel discussions and presentations at the NRECA Annual Meeting, CFC Forum, Electric Cooperative Bar Association Annual Meeting, and NRECA Regional Meetings;
- Solicited comments through an email address;
- Participated in two conference calls; and
- Communicated through a listserv.

During 2018, the Task Force participated in two conference calls.

During its meetings and calls, the Task Force discussed different aspects of electric cooperative governance, including specific governance practices. The Task Force also reviewed and discussed comments it received, and heard guest presentations from three Statewide chief executive officers, two electric cooperative governance experts, and others.⁶

⁶ Guest presenters are listed alphabetically in Appendix B.

Electric Cooperative Governance Task Force Report

Through this Report, the Task Force is providing an electric cooperative governance resource.⁷

While existing courses, documents, and other materials address electric cooperative governance, they did not result from or incorporate a study of governance by electric cooperative directors and employees. And, they did not reflect the observations of or comments by electric cooperative directors or employees. The Report fills those gaps.

The Task Force, however, recognizes and emphasizes that legal, financial, operational, member, geographic, and other considerations impact an electric cooperative's governance practices. These considerations vary from cooperative to cooperative, from state to state, and from region to region. For electric cooperative governance practices, the Task Force recognizes that "one size does not fit all." Practices that are appropriate for one cooperative may not necessarily be appropriate for another. Each electric cooperative, therefore, should develop and implement governance practices based upon its own considerations.

The Task Force is providing a general resource for electric cooperatives. It is not mandating, and lacks the authority to mandate, governance practices. A cooperative may agree or disagree with the Task Force's observations and comments.

The Task Force did not intend to develop, and did not develop, best practices, recommendations, duties of care, standards, or similar items, whether direct, indirect, express, implied, de facto, or otherwise, regarding electric cooperative governance. Similarly, the Task Force did not intend to create, expand, or otherwise impact, and did not create, expand, or otherwise impact, an electric cooperative's legal duties, obligations, expectations, or liabilities. Working with its attorney, each electric cooperative should use its independent judgment and discretion in developing and implementing governance practices.

⁷ More concisely, the Report is an electric cooperative governance resource representing the observations and comments of a diverse group of electric cooperative directors, chief executive officers, and leaders.

Because the Task Force could not know and consider all electric cooperative governance circumstances and considerations, it did not address all electric cooperative governance issues. Instead, it focused generally on defining and promoting good governance, and specifically on governance practices related to electric distribution cooperatives.

While Task Force members have knowledge and experience regarding electric cooperative governance, they are not “experts” with professional or specialized knowledge regarding governance. Instead, they are “lay persons” regarding governance. Their observations and comments are based upon:

- Their collective knowledge, experience, and wisdom;
- Comments solicited from and provided by electric cooperative directors, employees, and leaders;
- Information provided by individuals with professional or specialized knowledge regarding electric cooperative governance; and
- Informed discussions during Task Force meetings.

While the Task Force included 20 members only, the Task Force hopes its observations and comments will assist electric cooperatives.

The Task Force is not providing legal advice. While the Task Force may reference state law or certain legal considerations, its observations and comments do not address or examine all the legal issues or requirements associated with the governance practices addressed. When addressing governance practices, an electric cooperative should consult with its legal counsel.

NRECA and CFC employees supported the Task Force.⁸ The Task Force, however, discussed observations and comments independently from NRECA and CFC. The observations and comments noted in this Report are from and by the Task Force, and not NRECA or CFC.

NRECA, CFC, and the Task Force lack authority to enforce compliance or agreement with the Task Force’s observations or comments. The Task Force did not intend to create or recognize, and did not create or recognize, any legally enforceable obligation or right on the part of the Task Force, any Task Force member, NRECA, CFC, or any NRECA or CFC employee.

Many, but not all, Task Force observations were unanimous. Observations indicate that a “strong consensus” of Task Force members agreed. Statements that the Task Force took no position regarding an item indicate that a strong consensus of Task Force members believed too many variables existed to take a position, or a strong consensus failed to agree with the position.

To assist with using the Report, an Electric Cooperative Governance Review Guide is included.

As noted earlier, the Task Force hopes the Report will serve as a catalyst to examine and enhance governance, provide a checklist of practices and issues to examine, and be a resource for examining the practices and issues. For example, an electric cooperative could:

- Examine each governance practice addressed by the Task Force;
- Discuss whether the cooperative agrees or disagrees with the Task Force;

⁸ Support staff is listed alphabetically in Appendix B.

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- Discuss any risks associated with the cooperative's current governance practice; and
- As desired or needed, enhance the cooperative's governance practice.

To assist with using the Report to examine, discuss, and enhance electric cooperative governance, an Electric Cooperative Governance Review Guide is included as an appendix.⁹ A list of existing courses, documents, and other materials addressing electric cooperative governance is also included as an appendix.¹⁰

⁹ The Electric Cooperative Governance Review Guide is included as Appendix D and is available on Cooperative.com.

¹⁰ Governance courses, documents, and other resources are listed in Appendix C.

1. Defining Good Governance

Before addressing “good governance,” it is important to define “governance.”

There are many definitions of governance, which is sometimes called corporate governance. For example, Black’s Law Dictionary (10th ed. 2014) defines corporate governance as the “system or framework of rules and standards by which a company is – or companies generally are – managed, controlled, and held accountable, [especially] as regards the integrity, transparency, and responsibility achieved by management and, more specifically, the board of directors.”

While there are many definitions of governance, there are fewer definitions of good governance. And, good governance may vary with the type of entity, organizational structure, goods and services provided, and consumers or members.

The Task Force believes that electric cooperative “good governance” must be current and contemporary, and must evolve with the electric cooperative industry.

The Task Force believes that electric cooperative “good governance” must be current and contemporary, and must evolve with the electric cooperative industry. It should focus on what is best for the cooperative and membership as a whole. While there are general elements of good governance, some elements will be localized and individualized.

In general, the Task Force believes that electric cooperative good governance means having the policies, practices, and culture to facilitate: (1) member engagement in, and democratic member control of, the cooperative; (2) fiduciary oversight of the cooperative’s operations and structure; (3) achieving the cooperative’s vision, mission, and goals; and (4) acting with integrity, transparency, accountability, and courage.

More specifically, the Task Force believes that electric cooperative good governance means, among other things:

General – In general, good governance means:

- Recognizing that governance is different from management, and good governance is different from good management;

- Recognizing and respecting the different roles and responsibilities of members, directors, and employees;
- Acting in a proactive, transparent, open, and trustworthy manner;
- Acting courageously, respectfully, and with integrity;
- Acting consistent with the International Co-operative Alliance's seven cooperative principles;¹¹
- Being familiar with the cooperative business model;
- "Doing the right thing;"
- Complying with the law;
- Working as a team;
- Having the capacity to challenge the status quo;
- Engaging members in director nominations and elections;
- Communicating with and responding to members; and
- Addressing member issues, concerns, and interests.

Directors – Regarding individual directors, good governance means:

- Acting objectively;
- Avoiding actions and decisions that inappropriately favor personal interests over the cooperative's interests;
- Being held accountable;
- Complying with fiduciary duty;
- Committing appropriate time and energy;
- Supporting democratically made decisions;
- Being willing to learn; and
- Understanding and using appropriate information and communications technology.

Boards of Directors – Regarding boards of directors, good governance means:

- Hiring, retaining, evaluating, and compensating a competent chief executive officer;
- Using outside experts as appropriate;
- Using information and communications technology effectively and efficiently;
- Fairly and reasonably compensating directors;
- Periodically evaluating board and director performance;
- Focusing on the cooperative's strategic mission;
- Encouraging continuing director education and training;
- Monitoring, discouraging, and protecting against director entrenchment;
- Seeking to reflect the race, gender, load, service, and other diversity of cooperative members, through diverse representation on the board of directors, member advisory groups, or otherwise;

¹¹ International Co-operative Alliance, *Co-operative identity, values & principles* <https://ica.coop/en/whats-co-op/co-operative-identity-values-principles>.

- Selecting a strong and capable presiding officer;¹²
- Conducting meetings efficiently;
- Encouraging civil discussion, debate, and dissent; and
- Acting confidentially when appropriate.

12 Depending upon state law and its bylaws, an electric cooperative board of directors presiding officer may be the cooperative “president” or the board “chair.” For simplicity, clarity, and consistency, this Report refers to a board of directors “presiding officer.”

2. Promoting and Nurturing Good Governance

Good governance does not occur automatically. It must be promoted and nurtured intentionally, systematically, and continuously at the local, state, regional, and national levels. While tools, programs, and practices exist for promoting and nurturing good governance, they can always be improved upon or added to. The Task Force suggests the following practices for promoting and nurturing good governance. Some of the practices are “new,” and some are “old.”

Local Level – The Task Force suggests the following practices at the “local level” for promoting and nurturing good governance:

- **Culture** – Develop and emphasize a “culture” of good governance;
- **Governance Emphasis** – (1) prioritize and emphasize governance; (2) periodically and systematically assess and address governance, with both internal and external assistance; (3) act proactively regarding governance, instead of acting reactively to the media, state utility commission, litigation, legislation, etc.; (4) create a board of directors governance committee, or empower an existing committee, with governance responsibility; (5) develop and implement an intentional and specific governance plan; (6) consider how members or the media would view specific governance practices; and (7) emphasize the legal and nonlegal consequences of poor governance;
- **Director Candidates** – (1) make serving as a director more attractive, through website descriptions and otherwise; (2) transparently communicate and emphasize director roles, responsibilities, obligations, and expectations; (3) communicate and emphasize director fiduciary duties, including duties of loyalty and confidentiality; and (4) ask director candidates to sign or initial each director expectation, like meeting attendance, technology proficiency, continuing education and training, etc.;

Good governance does not occur automatically. It must be promoted and nurtured intentionally, systematically, and continuously.

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- **New Directors** – (1) administer director oath of office upon election or re-election, or annually; and (2) as a director qualification, require new directors to view or attend a “primer” addressing electric cooperative governance soon after election, and attend a new director orientation within the first year of service;
- **Board of Directors** – (1) hold individual directors accountable; (2) periodically evaluate board of directors performance; and (3) encourage debate, discussion, and dissenting views, but support the majority decision;
- **Attorney** – (1) empower and encourage the cooperative attorney to raise governance concerns and address governance issues without fear of retribution or termination of engagement; (2) encourage the attorney to participate in and join state and national electric cooperative attorney programs and associations; and (3) have the attorney provide annual training for all directors regarding fiduciary duty and governance documents;
- **Officers and Federated Directors** – Select officers and federated organization directors based upon qualifications, and not tenure, rotation, or other factors;
- **Bylaws and Policies** – Periodically and systematically review bylaws and policies;
- **Technology** – Use and embrace technology in communications, meetings, and otherwise;
- **IRS Form 990** – Emphasize consistent and accurate reporting on Internal Revenue Service Form 990, particularly regarding compensation and hours devoted to the cooperative; and
- **Report** – Use this Report as a: (1) catalyst for examining and enhancing governance; (2) checklist of governance issues and practices to examine and enhance; and (3) resource for examining and enhancing governance issues and practices; for example, examine each governance practice addressed by the Task Force, discuss whether the cooperative agrees or disagrees with the Task Force, and, as desired or needed, enhance the cooperative’s governance practice.

State or Regional Level – The Task Force suggests the following practices at the “state or regional level” for promoting and nurturing good governance:

- **State Law** – In collaboration with any Statewide: (1) examine state law implications and impediments related to good governance; and (2) if conditions permit, amend state law to promote and facilitate good governance;
- **Statewide or Regional Programs** – Through any Statewide or regional association of electric cooperatives: (1) focus on governance through a committee, programs, and otherwise; and (2) schedule periodic statewide or regional meetings of board of directors presiding officers, chief executive officers, and attorneys; and
- **Report** – Use this Report as a: (1) catalyst for examining and enhancing governance throughout the state or region; (2) checklist of governance issues and practices to examine and enhance on a state or regional basis; and (3) resource for examining and enhancing governance issues and practices.

National Level – The Task Force suggests the following practices at the “national level” for promoting and nurturing good governance:

- **RESAP-Type Program** – Establish and implement a structured program similar to the Rural Electric Safety Achievement Program™ that: (1) is voluntary; (2) is

continuous; (3) includes a good governance commitment, governance assessment, governance improvement plan, and recognition for participation; and (4) involves peer assessment;

- **Governance Matrix** - Create a governance matrix to assist with assessing governance, including a spectrum for assessing good governance;
- **Presiding Officer** - Develop and offer continuing and focused education and training courses and programs for the board of directors presiding officer;
- **Online Training** - Develop online director fiduciary duty training and a one-hour “primer” addressing electric cooperative governance; and
- **Report** - Use this Report as a: (1) catalyst for examining and enhancing governance nationally; (2) checklist of governance issues and practices to examine and enhance nationally; and (3) resource for examining and enhancing governance issues and practices.

3. Board of Directors Role

An effective electric cooperative board of directors is a critical, if not the most critical, part of the cooperative's governance. Understanding the board's role is important.

- a. **SPECIFYING ROLES, RESPONSIBILITIES, AND OBLIGATIONS.** The Task Force supports an electric cooperative specifying and communicating the roles, responsibilities, and obligations of its members, board of directors, board presiding officer and other director officers, chief executive officer, and attorney.

An electric cooperative's members, board of directors, board presiding officer and other director officers, chief executive officer, and attorney each have important roles, responsibilities, and obligations. For example, the Task Force believes that:

- **Members should, among other things:**
 - Read communications sent from and information provided by the cooperative;
 - Cast informed votes; and
 - Comply with the cooperative's bylaws and other legal requirements.

- **The board of directors should, among other things:**
 - Set policy and approve the budget;
 - Hire, retain, evaluate, compensate, and, if or as necessary, fire the chief executive officer;
 - Delegate authority to, provide feedback to, and not micromanage the chief executive officer;
 - Retain and evaluate the cooperative's outside legal counsel and auditor;
 - Ensure appropriate business practices are implemented, entity risks are minimized, the law is followed, due diligence is exercised, and the cooperative's vision and mission are executed efficiently;
 - Represent the members fairly and equitably, and serve as ambassadors for the cooperative;

- Oversee the cooperative's overall operations, but not manage its daily operations;
- Defer to the chief executive officer, and avoid engaging employees, regarding employment matters;
- Retain appropriate third-parties to periodically assess the cooperative's condition; and
- Be responsible for and educated regarding good governance.

An effective electric cooperative board of directors is a critical, if not the most critical, part of the cooperative's governance.

- **The board of directors presiding officer should, among other things:**
 - Serve as a "sounding board" for the chief executive officer;
 - As necessary, sign contracts and other documents;
 - Help ensure board policies are followed;
 - Inform other directors regarding material issues or information for which they are unaware;
 - Encourage open discussion and debate during board meetings, specifically encouraging the expression of minority or dissenting views;
 - Facilitate efficient board meetings;
 - Know basic parliamentary procedure;
 - Promote director education and training;
 - Lead by example;
 - Address disengaged directors;
 - As appropriate, communicate with the cooperative's attorney; and
 - Raise awareness of and facilitate good governance.
- **The chief executive officer should, among other things:**
 - Manage and oversee the cooperative's daily operations;
 - Delegate authority as appropriate;
 - Develop and propose an annual budget;
 - Prepare appropriate periodic financial and operational reports;
 - Engage with the board of directors in developing and updating the cooperative's strategic plan;
 - Implement the annual budget approved by the board and the periodic strategic plan agreed to by the board;
 - Inform the board when certain acts or omissions are inconsistent with law, the articles of incorporation, the bylaws, board policies, or other requirements;
 - Inform the board when, in his or her opinion, it may be micromanaging; and
 - Raise awareness with the board regarding good governance and provide appropriate information and guidance to facilitate good governance.
- **The attorney should, among other things:**
 - Provide legal advice to, and perform legal services for, the cooperative through

its board of directors, chief executive officer, and employees and consultants designated by the chief executive officer;

- As appropriate and requested, preside over director elections and member meetings, provide the history of board actions and institutional knowledge, and educate directors and employees regarding legal issues and duties;
- Identify legal issues and assist with mitigating legal risk;
- As appropriate, facilitate board discussion regarding certain legal and business issues, but not provide unsolicited nonlegal opinions on substantive issues or otherwise act as a de facto director;
- Address whistleblower communications pursuant to a cooperative policy;
- Become and remain educated and informed regarding electric cooperative and other legal issues; and
- Raise awareness with the board regarding good governance and provide appropriate information and guidance to facilitate good governance.

The Task Force believes that an electric cooperative's board of directors, board presiding officer, or chief executive officer may request and direct the cooperative's attorney to perform legal services for the cooperative. Individual directors, other than the presiding officer, should not request or direct the attorney to perform legal services. Individual directors, however, should not be unreasonably restricted from communicating with the attorney.

The Task Force supports an electric cooperative entering an engagement agreement with its attorney. The agreement should specify the attorney's role, responsibilities, and compensation.

The Task Force believes that communications between electric cooperative directors and employees regarding the cooperative should be limited to matters within the board's oversight responsibility. The cooperative's chief executive officer should be made aware of these communications. Directors should make any specific requests through the chief executive officer. Directors should not communicate with individual employees regarding employment matters. Instead, employees should address employment matters as specified in the cooperative's employment policies.

The roles, responsibilities, and obligations noted by the Task Force are not exhaustive or "all inclusive." The Task Force supports an electric cooperative specifying and communicating the roles, responsibilities, and obligations of its members, board of directors, board presiding officer and other director officers, chief executive officer, and attorney. These roles, responsibilities, and obligations may be similar to, or different from, those noted by the Task Force.

When fulfilling the respective roles, responsibilities, and obligations, the Task Force notes that the below questions sometimes arise.

- Who creates the board of directors meeting agenda? The Task Force supports an electric cooperative chief executive officer and the board presiding officer jointly proposing a meeting agenda. The board, as a whole, adopts or amends the agenda.
- What type, level, and detail of information should be provided to the board of directors? The Task Force believes that a board should receive the information required in the bylaws or board policy, as well as information necessary for the board to make informed and appropriate decisions and exercise sufficient oversight. Admittedly, this is a subjective determination that will vary by board.

- Should the board of directors use a consent agenda? The Task Force supports using a consent agenda for routine or noncontroversial matters that are considered together without debate or amendment, but with any director having the ability to remove a matter from the consent agenda.

b. BEING RESPONSIBLE FOR GOOD GOVERNANCE. The Task Force supports an electric cooperative: (1) board of directors being responsible for and educated regarding good governance; (2) board presiding officer raising awareness of and facilitating good governance; and (3) chief executive officer and attorney raising the board's awareness regarding good governance and providing appropriate information and guidance to facilitate good governance.

Good governance involves many aspects of an electric cooperative's operations. It also involves input and assistance from the cooperative's board of directors, board presiding officer and other director officers, chief executive officer, employees, and attorney. Ultimately, however, an electric cooperative's board is responsible for good governance.

A board, however, may not realize that it should review specific governance practices or issues, or be aware of governance challenges. Likewise, it may not have the knowledge or experience to question, review, or address certain governance practices or issues. For these reasons, the board should educate itself regarding good governance. Likewise, the board presiding officer, chief executive officer, and attorney should raise the board's awareness regarding good governance.

Good governance involves many aspects of an electric cooperative's operations. Ultimately, however, an electric cooperative's board is responsible for good governance.

As a director and leader, the board presiding officer should facilitate good governance. As individuals spending more time on cooperative matters than the typical director, the chief executive officer and attorney should provide the board appropriate information and guidance to facilitate good governance.

To protect against entrenchment, favoritism, and fraud, and to facilitate checks and balances, the Task Force encourages an appropriate separation and regular discussion of duties, roles, and responsibilities regarding the board presiding officer, other director officers, and board committees.

Consistent with the roles noted earlier, the Task Force specifically supports an electric cooperative: (1) board of directors being responsible for and educated regarding good governance; (2) board presiding officer raising awareness of and facilitating good governance; and (3) chief executive officer and attorney raising the board's awareness regarding good governance and providing appropriate information and guidance to facilitate good governance.

c. HIRING, EVALUATING, AND COMPENSATING THE CEO. The Task Force supports an electric cooperative board of directors engaging in a formal search for the cooperative's chief executive officer, evaluating the CEO regularly and annually, and compensating the CEO based upon performance using market and benchmark data.

Hiring, evaluating, and compensating an electric cooperative chief executive officer are critical board of directors responsibilities. For this reason, the Task Force supports an electric cooperative board engaging in a formal search for a CEO, even if an internal candidate has been identified and is expected to become the next CEO. The formal search should include, among other things, background and credit checks.

Some electric cooperatives enter an employment contract with their CEO. The Task Force believes that a CEO employment contract enhances stability in the CEO role, facilitates strategic plan execution, and provides stability during rapid director turnover. The Task Force, however, notes that some electric cooperative CEOs are employed “at will.” The Task Force takes no position regarding an electric cooperative entering an employment contract with its CEO.

The Task Force supports evaluating a CEO’s performance regularly and annually, with immediate or early notice to the CEO of the evaluation criteria. The evaluation process should include individual director assessments of the CEO’s performance, with the assessments being combined to permit the board to “speak with one voice” and provide clear direction. A board committee may evaluate the CEO’s performance.

The Task Force supports compensating the CEO based upon his or her performance, using market and benchmark data to establish the compensation.

d. EVALUATING THE BOARD. The Task Force supports an electric cooperative board of directors comprehensively evaluating its performance every one to three years, with the evaluation including director peer and self-evaluations. The Task Force supports a board considering the value of using an independent third party to facilitate the evaluation.

Effective board of directors performance is critical for good governance. For this reason, the Task Force supports a board comprehensively evaluating its performance every one to three years.

While the board presiding officer or a designated director may facilitate the evaluation, the Task Force supports a board considering the value of using an independent third party to facilitate the evaluation.

The evaluation should include, among other things: (1) director “peer” evaluations, or each director evaluating every other director; (2) director “self” evaluations, or each director evaluating himself or herself;

(3) objective director evaluation criteria like meeting attendance, meeting preparedness, engagement, etc.; and (4) the opportunity for anonymous input by directors.

Effective board of directors performance is critical for good governance.

e. PREVENTING, DETECTING, AND MITIGATING FRAUD. The Task Force supports an electric cooperative engaging an independent third party to conduct a fraud risk assessment periodically. The Task Force also supports taking other ongoing actions to help prevent, detect, and mitigate fraud.

Like any organization, an electric cooperative is subject to its directors, employees, and consultants potentially committing fraud. Contrary to common perception, the cooperative’s annual financial audit does not, and is not intended to, investigate for fraud.

To help prevent, detect, and mitigate fraud, and to strengthen operating practices and procedures, the Task Force supports an electric cooperative engaging an independent third party to conduct a fraud risk assessment periodically. The Task Force also supports a board of directors taking other ongoing actions to help prevent, detect, and mitigate fraud, and to identify operating practices and procedures that may pose risk to the cooperative. These actions could include a board committee reviewing chief executive officer expenses, cooperative procurement policies, and significant cooperative expenditures. The actions could also include an annual fraud audit, which is different from the annual financial audit.

4. Director Qualifications

In most states, an electric cooperative's bylaws may prescribe qualifications for becoming and remaining a director. Director qualifications, therefore, are an important aspect of cooperative governance.

- a. **PRESCRIBING DIRECTOR QUALIFICATIONS.** The Task Force supports an electric cooperative bylaw prescribing director qualifications, including membership requirements, education and training requirements, conflict of interest prohibitions, legal conviction and judgment prohibitions, and similar requirements and prohibitions.

Most electric cooperative bylaws prescribe basic qualifications to become and remain a director. These basic qualifications may include, among other things, cooperative membership requirements; minimum education requirements; conflict of interest prohibitions; criminal conviction or guilty plea prohibitions; civil judgment prohibitions; bankruptcy, foreclosure, or similar prohibitions; length of membership or residency requirements; and director education or certification requirements.

The Task Force believes there is value in prescribing basic director qualifications.

The Task Force believes there is value in prescribing basic director qualifications. The Task Force, therefore, supports electric cooperative bylaws prescribing basic director qualifications, including membership requirements, education and training requirements, conflict of interest prohibitions, legal conviction and judgment prohibitions, and similar qualifications. The Task Force, however, recognizes that the specific requirements and prohibitions will vary.

- b. **DETERMINING DIRECTOR QUALIFICATION COMPLIANCE.** With assistance from an electric cooperative's attorney and designated employees, the Task Force supports a member committee proactively determining whether each director nominee complies with each director qualification, regardless of whether anyone has questioned or challenged a nominee's compliance. To assist the committee, the Task Force supports background checks related to director qualifications for all director nominees, including incumbent directors.

Most electric cooperative bylaws state director qualifications. Cooperatives, however, determine director qualification compliance differently. Some cooperatives proactively determine whether each nominee complies with each qualification. Some proactively determine whether each nominee complies with certain basic and easily determinable qualifications, like cooperative membership. Some cooperatives reactively determine whether a nominee complies with a qualification only upon knowing about potential noncompliance, or upon someone questioning or challenging compliance.

The Task Force supports an electric cooperative proactively determining compliance by all director nominees with all director qualifications, regardless of whether the cooperative knows about potential noncompliance, and regardless of whether someone questions or challenges a nominee's compliance. With assistance from designated cooperative employees and the cooperative attorney, the Task Force supports a committee of members, other than directors or director nominees, determining compliance. To assist in determining compliance, the Task Force supports background checks related to the director qualifications for all director nominees, including incumbent directors.

c. DESIGNATING INDIVIDUAL TO RUN ON ENTITY'S BEHALF. The Task Force takes no position regarding an electric cooperative entity member designating an individual to run for the cooperative's board of directors on its behalf. The Task Force, however, notes the possibility of including individuals affiliated with entity members on member advisory committees.

Electric cooperatives are comprised of "individual" members, who are sometimes called natural person or residential members, and "entity" members, who are sometimes called organization or business members. As a legal and practical matter, a cooperative director must be an individual, and not an entity. Being an individual, therefore, is a basic director qualification. Accordingly, a cooperative member who is an individual may become a director, but a member which is an entity may not.

As permitted by state law, some cooperatives have considered permitting an entity member to designate an individual to be nominated and possibly elected as a director. In essence, the individual would be nominated on the entity's behalf. Importantly, the individual would not automatically become a director. Instead, he or she would need to be nominated and elected like any other director. Historically, most electric cooperatives have not provided this ability.

In most states, an electric cooperative director must be a cooperative member. In these states, an individual designated by an entity would need to be an electric cooperative member. For director nomination and/or election purposes, however, the individual would be considered located in the director district in which the entity was located, regardless of the district in which he or she resides.

A potential advantage of permitting an entity member to designate an individual to run for the board on its behalf is that it provides entity members the same or similar right as individual members. Another potential advantage is the possibility of expanding the experience and background of individuals likely to run for the board. Another potential advantage is having a director with specific knowledge of issues impacting entity members.

A potential disadvantage of permitting an entity member to designate an individual to run for the board on its behalf is the possibility that the individual would be unduly influenced by the entity's interest. While all directors face the possibility of undue influence by personal interests, the possibility of influence may be greater with entities. Another potential disadvantage is that, if the individual does not reside in the director district from which he or she is nominated and/or elected, then he or she may be less effective in knowing and communicating the interests of individual members residing in the district.

Another potential disadvantage is that members employed by or doing business with the entity may feel pressure to vote for an individual running on the entity's behalf. Another potential disadvantage is the possibility that all or a majority of directors would be designated by entity members, to the potential detriment of individual members. A cooperative, however, could mitigate this possibility by limiting the number or percentage of directors designated by entity members.

Noting the potential advantages and disadvantages, the Task Force takes no position regarding an entity member designating an individual to run for the board of directors on its behalf. The Task Force, however, notes the possibility of including individuals affiliated with entity members on member advisory committees.

d. DISQUALIFYING DIRECTORS. As permitted by state law, the Task Force supports an electric cooperative bylaw authorizing the board of directors to disqualify a director who no longer meets objective director qualifications stated in the cooperative's bylaws, provided the director is provided reasonable notice and opportunity to comment.

Before a director election, an electric cooperative may determine whether an individual meets the director qualifications prescribed in the cooperative's bylaws. If the individual does not, then the cooperative may prohibit the individual from running. If, however, an individual meets the qualifications when nominated and elected, but later fails to meet the qualifications, then the cooperative's ability to disqualify or remove the director is less clear. Depending upon state law and a cooperative's bylaws, it is possible that only a court or the members have the legal ability to disqualify or remove the director after election.

In some states, an electric cooperative's bylaws may authorize the board of directors to disqualify a director who no longer complies with the cooperative's director qualifications, provided the director is provided sufficient notice and an opportunity to comment. Historically, most electric cooperative bylaws did not include this disqualification authorization. A disqualification bylaw, however, may increase a cooperative's ability to disqualify directors who no longer comply with director qualifications.

As permitted by state law, the Task Force supports an electric cooperative bylaw authorizing the cooperative's board of directors to disqualify a director who no longer complies with objective director qualifications stated in the cooperative's bylaws, provided the director is provided reasonable notice and an opportunity to comment regarding the disqualification. After disqualification, the individual is no longer a director.

e. SEASONAL RESIDENTS SERVING AS DIRECTORS. The Task Force takes no position regarding whether an electric cooperative should permit individuals who reside temporarily or seasonally in the cooperative's service area to serve as a director. Membership, load, rate, and other considerations may influence this determination.

As noted earlier, in most states, an electric cooperative director must be a member. In addition, many electric cooperative bylaws state that a director must "reside" within the director district from which he or she is nominated and/or elected. Many bylaws state that a director must "permanently or primarily" reside in the district. Some bylaws permit a director to "temporarily, periodically, or seasonally" reside in the district.

If a cooperative's bylaws require a director to reside in the director district permanently or primarily, then a question often arises regarding how to determine a member's permanent or primary residence. Ideally, the bylaw would state the basis for determining permanent or primary residence.

In general, it seems members who reside permanently in a director district spend more time in the district and are better attuned to member needs within the district. In addition, members who reside temporarily may use less electric energy and contribute less to the cooperative's revenue and fixed costs. Members who reside temporarily, however, are still members and prohibiting them from serving as a director may seem unfair and undemocratic.

Many factors may influence whether an electric cooperative permits a director to temporarily or seasonally reside within the cooperative's service area.

Many factors may influence whether an electric cooperative permits a director to temporarily or seasonally reside within the cooperative's service area. For example, if a significant percent of the cooperative's membership or load involves temporary residents, then it may be inclined to permit temporary residence. Similarly, if the cooperative's rate structure imposes significant fixed or other costs on temporary residents, then it may be inclined to permit temporary residence.

The Task Force takes no position whether an electric cooperative should permit temporary or seasonal residents to serve as directors.

f. CONSIDERING SUBSTANTIAL AND MATERIAL CONFLICTS OF INTEREST. The Task Force supports limiting conflict of interest director qualifications to substantial and material conflicts of interest, and using percent of income and/or ownership to determine and define substantiality and materiality.

Many electric cooperative bylaws state that, to become and remain a director, an individual must not have a conflict of interest with the cooperative. These bylaws often prohibit a director – either directly or indirectly through employment by or ownership of another entity – from competing with the cooperative, selling goods or services to the cooperative, and selling goods or services to a significant number of cooperative members. One purpose of these prohibitions is limiting the possibility of a director being unduly influenced, or lacking objectivity, when acting as a director.

With the proliferation of mutual funds, stock ownership, and 401(k) plans, and the increasingly complex financial market, many individuals may arguably and unknowingly own a minimal financial interest in entities competing with, or selling goods or services to, the cooperative or its members. Likewise, in an evolving electric industry, more entities may compete with, or sell similar goods or services to, the cooperative or its members. Minimal, and often unknowing, ownership in these entities seems inconsistent with the purpose of the conflict of interest prohibitions.

To avoid technical and insignificant violations of an electric cooperative's conflict of interest director qualifications, the Task Force supports limiting these qualifications to substantial and material conflicts of interest. The Task Force also supports using an individual's percent of income from a specific activity, or percent of income from or ownership in an entity engaged in a specific activity, in determining and defining substantiality and materiality.

The Task Force notes the importance of directors and director nominees disclosing any income or ownership percentages that could impact compliance with the conflict of interest director qualifications. The Task Force, however, also notes the difficulty of verifying the accuracy of the information disclosed. The Task Force further notes that, even if a director complies with an electric cooperative's conflict of interest director qualification, he or she may still be involved in a specific conflict of interest transaction and must comply with certain procedural requirements regarding the transaction.

g. FORMER EMPLOYEES BECOMING DIRECTORS. The Task Force supports prohibiting an individual employed by an electric cooperative during the preceding three years from becoming a cooperative director.

Most electric cooperative bylaws state that a cooperative employee may not become or remain a cooperative director. Some electric cooperative bylaws state that a former cooperative employee may not become a director. Some bylaws state that an individual employed by the cooperative during a preceding number of years may not become a director.

The Task Force notes that former cooperative employees may have experience and knowledge that could benefit the board of directors, and could facilitate the former employee casting wise and informed votes as a director. The Task Force, however, also notes that some former employees may have experiences, feelings, or beliefs involving the cooperative or cooperative employees that may influence them in a manner contrary to the cooperative's overall best interests.

To balance the possible advantages and disadvantages of former employees serving as directors, the Task Force supports prohibiting any individual employed by the cooperative during the preceding three years from becoming a director.

h. FORMER EMPLOYEES OF OTHER ENTITIES BECOMING DIRECTORS. The Task Force supports prohibiting an individual employed, during the preceding three years, by a statewide association of electric cooperatives, an electric generation and transmission cooperative, or other entity in which an electric cooperative is a member, from becoming a cooperative director.

Similar to former electric cooperative employees, the Task Force notes that former employees of a Statewide, G&T, or other entity in which the cooperative is a member may have experience and knowledge beneficial to the cooperative and its board of directors. The Task Force, however, also notes that these former employees may have experiences, feelings, or beliefs involving the cooperative, entity, or cooperative or entity employees that may influence them in a manner contrary to the cooperative's overall best interests.

To balance the possible advantages and disadvantages of these former employees serving as cooperative directors, the Task Force supports prohibiting any individual employed by one of these entities during the preceding three years from becoming a cooperative director.

i. FORMER DIRECTORS BECOMING EMPLOYEES. The Task Force supports prohibiting an individual who served as an electric cooperative director during the preceding three years from becoming a cooperative employee.

Some electric cooperatives prohibit former directors from becoming employees. These prohibitions involve employment considerations more than director qualification considerations.

Former directors may have knowledge, experience, and perspective that could be beneficial in working as a cooperative employee. They could also be the most qualified applicant for a job. The hiring employee, however, could feel pressured to hire a former director, or fear retribution from current directors for not hiring the former director. In addition, former directors may have experiences or feelings toward other employees that could inhibit fulfilling their job responsibilities.

To balance the possible advantages and disadvantages of former directors becoming employees, the Task Force supports prohibiting any individual who served as a cooperative director during the preceding three years from becoming a cooperative employee. These former directors include directors who resign immediately before applying for or accepting cooperative employment.

- j. **PUBLICLY ELECTED OFFICIALS BECOMING DIRECTORS.** The Task Force takes no position whether an electric cooperative should permit a publicly elected official to become or remain a cooperative director.

Some electric cooperative bylaws prohibit a publicly elected official from becoming or remaining a director.

A potential advantage of a publicly elected official serving as a cooperative director is the official's knowledge of the cooperative and its operations, and his or her ability to understand and communicate the cooperative's positions regarding specific issues. A potential disadvantage is the possibility that the official will act as a cooperative director in a manner that maximizes his or her support in public office or is consistent with his or her political party, but is contrary to the cooperative's best interests. Another potential disadvantage is the possible perception of a conflict of interest, even if one does not exist.

The Task Force notes that state law, community population, and other considerations may impact whether an electric cooperative permits a publicly elected official to become or remain a director. For these reasons, the Task Force takes no position on this issue.

- k. **CONSIDERING DISTRIBUTED ENERGY RESOURCE INTERESTS.** The Task Force takes no position whether an electric cooperative should permit an individual providing, or employed by or owning an entity providing, electric energy efficiency, demand response, storage, generation, or similar goods and services to become or remain a director. The Task Force, however, notes the increasing relevance and importance of this issue, and encourages cooperatives to analyze and discuss it.

An individual or entity providing electric energy efficiency, demand response, storage, generation, or similar goods and services to electric cooperative members may impact the cooperative's sale of electric energy and related goods and services. These goods and services are sometimes collectively called distributed energy resource goods and services.

These individuals, or individuals employed by or owning these entities, may have knowledge and experience that could benefit an electric cooperative board of directors, and could facilitate the individual casting wise and informed votes as a director. In addition, these individuals serving as a cooperative director could evidence the cooperative's openness to, and possibly support of, these goods and services.

On the other hand, these individuals may have business and financial interests that are contrary to the cooperative's best interests. These business and financial interests could unduly influence their votes as a cooperative director. In addition, in their role as a cooperative director, these individuals could acquire confidential information beneficial to their businesses.

The Task Force notes that some electric cooperatives may prohibit these individuals from becoming or remaining a director, and some may permit it. The Task Force takes no position on this issue, but encourages electric cooperatives to analyze and discuss it. As the electric industry continues to evolve, the issue will become increasingly relevant and important. Ideally, a cooperative would develop a framework or system for analyzing these and similar issues.

The Task Force adds that, in general, an individual member using a distributed energy resource good or service, as opposed to a business selling them, does not involve the same issues or potential concerns.

5. Director Nominations

As with most elected positions, electric cooperative directors are nominated, and then elected. Director nominations, therefore, are a critical part of director elections and cooperative governance.

- a. **COMMUNICATING NOMINATION INFORMATION.** The Task Force supports using all reasonably possible methods to communicate scheduled electric cooperative director nomination dates, positions, requirements, and procedures. The information should be communicated often and a reasonable time before nomination deadlines.

To facilitate director nominations, the Task Force believes it is important for electric cooperative members to know when director nominations and elections are scheduled, what director positions are scheduled for nomination and election, and the director nomination procedures and requirements. The Task Force, therefore, supports using all reasonably possible methods to communicate this information to members often and a reasonable time before nomination deadlines.

The Task Force supports proactively sending this information to members, and reactively having the information available when a member seeks it. For example, the Task Force supports using electric cooperative magazines, newsletters, email, social media, websites, annual reports, annual meeting notices, and other appropriate vehicles to communicate the director nomination information.

The Task Force supports using electric cooperative magazines, newsletters, email, social media, websites, annual reports, and annual meeting notices to communicate director nomination information.

- b. **SOLICITING CANDIDATES.** The Task Force supports soliciting interested and qualified electric cooperative director candidates.

The Task Force supports electric cooperatives soliciting interested and qualified director candidates. The manner of soliciting candidates will vary. The Task Force supports increasing awareness of director elections, and using every reasonably possible method to communicate director nomination information.

c. NOMINATING BY NOMINATING COMMITTEE. The Task Force supports using an electric cooperative nominating committee to nominate director candidates, provided at least one additional nominating option is available to members.

Historically, many electric cooperatives have used nominating committees to nominate director candidates. These committees are often appointed by the board of directors, but are sometimes elected by the members.

The Task Force believes that using a nominating committee, even one appointed by the board, to nominate individuals is consistent with the democratic process and cooperative principles. The Task Force, therefore, supports using a nominating committee, provided at least one additional nominating option is available to members. An additional option will increase the openness of the nominations process and facilitate additional nominations. The Task Force opposes any minimum or maximum limits on the number of individuals a nominating committee may nominate.

d. NOMINATING BY PETITION. The Task Force supports permitting electric cooperative director nominations by member petition, and supports requiring between 15 and 50 member signatures. The Task Force takes no position on whether nomination by petition should be the only nomination method.

Many electric cooperatives permit members to nominate director candidates by obtaining one or more petitions signed by a minimum number or percentage of members, and submitting the petition(s) to the cooperative a minimum time before the scheduled director election.

The Task Force supports permitting members to nominate director candidates by petition. The Task Force believes that requiring between 15 and 50 verifiable member signatures is fair and reasonable and supports director nominations in this manner.

The Task Force notes that some electric cooperatives permit director nominations by petition only. That is, nomination by petition is the only method of director nomination – for incumbents and challengers. There is no nominating committee. This process ensures that incumbents and challengers are treated the same. This process, however, could result in no director nominations. The Task Force recognizes the value of nominating committee nominations and takes no position on whether nominations should be by petition only.

e. NOMINATING FROM THE FLOOR. The Task Force opposes permitting electric cooperative director nominations from the floor of an annual member meeting.

Historically, many electric cooperatives permitted an individual member to nominate a director candidate from the “floor” of an annual member meeting. More recently, cooperatives have eliminated nominations from the floor.

The Task Force recognizes that permitting nominations from the floor creates logistical and other concerns, including making it difficult to determine whether a nominee complies with the cooperative’s director qualifications. The Task Force, therefore, opposes director nominations from the floor of an annual member meeting.

f. USING DIRECTOR DISTRICTS. The Task Force supports dividing electric cooperative service areas into director districts and nominating some or all directors “by district.” The Task Force believes that geography and population are helpful criteria for dividing service areas, but are not the only criteria. The Task Force supports reviewing and possibly revising director districts on a basis of at least between five and 10 years.

Most electric cooperatives divide their service area into director districts or regions, and

nominate directors “by district.” That is, they require director nominees to reside or be located within the appropriate district. Districts are usually divided based upon geographic boundaries or features, population, and other criteria. Electric cooperatives periodically review and revise their director districts.

The Task Force believes that nominating directors “by district” helps ensure that the cooperative’s board of directors is geographically dispersed throughout its service area. This facilitates member input from throughout the service area. The Task Force, however, also believes that, depending upon the circumstances, there may be advantages to nominating some directors “at large,” or without requiring residence or location within a specific director district.

The Task Force supports dividing electric cooperative service areas into director districts and nominating most or all directors “by district.” The Task Force recognizes that the criteria used by a cooperative to divide its service area will vary based upon the cooperative’s circumstances and situation. The Task Force, however, believes that geography and population are helpful criteria. Noting that the federal census occurs every 10 years, the Task Force believes that an electric cooperative should review and revise its director districts at least every 10 years. Reviewing and revising the districts more frequently may be helpful. The Task Force, therefore, supports reviewing and revising director districts on a basis of at least every five to 10 years.

Many electric cooperatives have multiple director positions – often three – from each director district or region. These director terms are often staggered. Some electric cooperatives have only one director position from each director district. The Task Force believes there are possible advantages and disadvantages to each approach.

A possible advantage to having multiple director positions from each director district is that, when the director terms are staggered, at least one director position is usually nominated and elected each year. This annual nomination and election helps engage members each year. Conversely, nominating and electing directors in certain years only may decrease member engagement in years with no election. In addition, having multiple director positions from the same director district may facilitate better representation of members within the district.

A possible disadvantage to having multiple director positions from each director district is the potential that all the directors reside in close proximity within the district, which may result in decreased communication with members in other areas of the district. In addition, having multiple director positions from each director district often necessitates larger districts. Larger districts may make it more difficult and less likely for members throughout the district to know or communicate with the directors. Conversely, having one director position from each district often necessitates smaller districts. Smaller districts may make it less difficult and more likely for members throughout the district to know or communicate with the director.

6. Director Elections

After qualified individuals are nominated, director elections are held. Election practices and procedures vary widely among electric cooperatives.

- a. **ELECTING AT LARGE OR BY DISTRICT.** The Task Force believes there are potential advantages and disadvantages to electing electric cooperative directors “by district” and “at large.” The Task Force generally supports electing directors “at large,” but believes that certain circumstances and considerations support electing directors “by district.”

As noted previously, most electric cooperatives nominate directors “by district.” That is, director nominees must reside or be located within the appropriate director district. Many electric cooperatives elect directors “at large.” That is, members throughout the cooperative’s service area, and not just within the district, vote and elect the director. Some electric cooperatives elect directors “by district.” That is, only members residing or located within the district vote and elect the director.

Election practices and procedures vary widely among electric cooperatives.

The Task Force notes that state law may impact whether an electric cooperative elects directors “at large” or “by district.” It notes the importance of carefully reviewing state law regarding a cooperative’s ability to elect directors “by district.” If permitted by state law, the Task Force believes that electing directors “by district” permits members most familiar with the director nominees to elect the director. It also believes that, for electric cooperatives with large service areas, campaigning and communicating with members throughout the service area is difficult. On the other hand, the Task Force recognizes that each director owes a fiduciary duty to the cooperative and all members collectively, and not just to members located in their respective director districts, and that all members may desire to vote when electing the director. The Task Force also believes that electing directors “at large” mitigates legal challenges to a cooperative’s director district boundaries.

The Task Force believes there are potential advantages and disadvantages to electing directors “by district” and “at large.” In addition, legal, geographic, and other considerations may impact whether a cooperative elects directors “by district” or “at large.” The Task Force gener-

ally supports electing directors “at large,” but believes that certain circumstances and considerations support electing directors “by district.” If an electric cooperative elects “by district,” then the Task Force cautions against gerrymandering or determining director district boundaries to favor a particular candidate.

The Task Force believes there are potential advantages and disadvantages to electing directors “by district” and “at large.”

b. VOTING IN PERSON AND OTHERWISE. The Task Force supports voting in person at electric cooperative member meetings. As permitted by state law and in addition to voting in person, the Task Force supports voting by mail, electronically, and/or by proxy in director elections.

Historically, electric cooperative members voted in person at annual member meetings. Over time, and as permitted by state law, cooperatives increasingly permitted members to vote by proxy, by mail, or electronically in director elections.

The Task Force believes that permitting members to vote by mail, electronically, or by proxy in director elections increases members’ ability to vote and facilitates the democratic operation and control of cooperatives. The Task Force, however, recognizes that technical, logistical, and cost considerations may impact a cooperative’s ability to permit voting by mail, electronically, and/or by proxy. In addition, the Task Force believes that permitting members to vote in person at annual member meetings facilitates the democratic nature of cooperatives, and has historic value and significance.

The Task Force supports permitting members to vote in person at member meetings. As permitted by state law, and in addition to voting in person at member meetings, the Task Force also supports permitting members to vote by mail, electronically, and/or by proxy in director elections.

c. VOTING BY PROXY. The Task Force supports permitting voting by proxy in electric cooperative director elections, but supports limiting the number of proxy votes an individual may cast and encourages caution in permitting the board of directors to cast an unlimited number of unrestricted proxy votes. The Task Force also believes that voting by mail or electronically in director elections may provide more flexibility and opportunity than voting by proxy.

Some electric cooperatives permit members to vote by proxy. While some proxies restrict how the proxy vote may be cast, most are unrestricted. To decrease potential abuse of proxy voting, some cooperatives limit the number of proxy votes an individual may cast. As a convenience to members and to assist in complying with quorum requirements, some cooperatives permit the cooperative’s board of directors to receive and cast unlimited and unrestricted proxy votes.

The Task Force believes that, with the increased availability, feasibility, and flexibility of voting by mail and electronically, the importance of voting by proxy has decreased. In many situations, voting by mail and/or electronically offers members more flexibility and opportunity than voting by proxy. Voting by proxy, however, still has merit.

The Task Force also believes that permitting an electric cooperative board of directors to cast an unlimited number of unrestricted proxy votes may give the perception that the board controls or improperly influences director elections. Limiting the number of unrestricted proxy votes that the board may cast helps avoid this perception. Similarly, limiting the number of proxy votes that any individual may cast decreases potential abuse of proxy voting.

If permitted by state law, the Task Force supports members voting by proxy in director elections. If an electric cooperative permits voting by proxy in director elections, then, as permitted by state law, the Task Force supports limiting the number of proxy votes that an individual may cast. The Task Force also encourages caution in permitting a board of directors to cast an unlimited number of unrestricted proxy votes.

If an electric cooperative permits members to vote by proxy in director elections, then the Task Force encourages the cooperative to use proxies that preprint each member's name and/or account number, list the director nominees, permit the member to direct that the vote be cast for a specific nominee, and permit the member to allow the vote to be cast without restriction.

d. COMMUNICATING ELECTION INFORMATION. The Task Force supports using all reasonably possible methods to communicate electric cooperative director election dates, positions, requirements, and procedures often and within a reasonable time before scheduled elections.

To facilitate member participation in electric cooperative director elections, and similar to director nominations, it is important for electric cooperative members to know when director elections are scheduled, what director positions are scheduled for election, and the director election procedures and requirements. The Task Force, therefore, supports using all reasonably possible methods to communicate this information to members often and within a reasonable time before scheduled elections.

State law and electric cooperative bylaws often require sending members certain director election information and documents. In addition to these requirements, the Task Force supports proactively sending director election information to members, and reactively having the information available when members seek it. For example, the Task Force supports using electric cooperative magazines, newsletters, email, social media, websites, annual reports, annual meeting notices, and other appropriate vehicles to communicate this information.

e. USING CREDENTIALS AND ELECTION COMMITTEE. The Task Force supports using an electric cooperative credentials and election committee to monitor and address director qualification, nomination, election, and similar issues. The Task Force believes the committee should be appointed by the board of directors or elected by the members.

Many electric cooperative bylaws provide for a "credentials and election" committee, or a "C&E" committee. These committees are comprised of electric cooperative members. They do not include directors, relatives of incumbent directors or director nominees, or director nominees themselves. They have the responsibility to monitor and address director qualification, nomination, election, and similar issues. Among other things, they usually determine whether a director candidate meets the cooperative's director qualifications, oversee the counting of ballots, and resolve election disputes.

The Task Force believes that credentials and election committees play an important role in director elections.

Often, C&E committees are appointed by the cooperative's board of directors. Sometimes, they are elected by the cooperative's members. Regardless of how committee members are selected, they should act independently from incumbent directors, director nominees, and management.

The Task Force believes that C&E committees play an important role in director elections. Their oversight and dispute resolution roles are critical. The Task Force supports using C&E committees that are appointed by the board of directors or elected by members. The Task Force also supports a C&E committee's decision being the "final" decision.

- f. **ENCOURAGING ATTENDANCE AND PARTICIPATION.** The Task Force supports using every reasonably possible method to encourage and promote electric cooperative members to attend member meetings and participate in director elections.

Historically, electric cooperative annual member meetings were well attended. For various reasons, attendance at some meetings has decreased.

The Task Force believes well-attended member meetings benefit electric cooperatives. The Task Force supports using every reasonably possible method to encourage and promote member attendance at member meetings and member participation in director elections. For example, the Task Force supports using electric cooperative magazines, newsletters, email, social media, websites, annual reports, annual meeting notices, and other appropriate vehicles to encourage and promote member attendance and participation. The Task Force also supports using reasonable incentives, like entertainment and prizes, to encourage and promote attendance and participation.

The Task Force believes a cooperative's target for meeting attendance and election participation should be any number or percent exceeding the quorum. The Task Force, however, recognizes that individual members – and not the cooperative – decide whether to attend meetings or participate in elections. A cooperative cannot compel members to attend meetings or participate in elections.

- g. **CAMPAIGNING THROUGH COOPERATIVE EMPLOYEES OR PROPERTY.** The Task Force opposes permitting electric cooperative employees to campaign for or against director nominees during work hours, while acting within the scope of their employment, or using cooperative property.

Many electric cooperative director nominees actively campaign for election. They often solicit other members to endorse, support, and/or campaign for them. These other members may include electric cooperative employees and other directors.

The Task Force opposes electric cooperative employees campaigning for or against director nominees during work hours, while acting within the scope of their employment, or using electric cooperative property. The Task Force supports a board of directors' policy prohibiting employee participation in director campaigns under these circumstances. The Task Force, however, recognizes that union and other considerations may impact a cooperative's ability to prohibit this employee participation.

The Task Force believes that negative perceptions may surround directors campaigning for or against other directors. The Task Force believes that individual directors may campaign for or against other directors based upon what they believe is ethically appropriate.

The Task Force opposes using electric cooperative equipment, trademarks, and other property in director elections.

- h. **CAMPAIGNING AT ELECTION SITE.** The Task Force supports limiting electric cooperative director campaigning near election sites in a manner similar to public office elections.

As noted previously, many electric cooperative director nominees actively campaign for election. Some campaign at the election site, which is often the annual member meeting location.

The Task Force believes that campaigning at election sites is a fundamental part of the democratic process. The Task Force, however, also believes that some campaigning may interfere with members entering or attending the member meeting. The Task Force supports limiting director campaigning near election sites in a manner similar to campaign limits for public office elections. The Task Force supports a board of directors' policy imposing these limits.

- i. **ENTITIES OR CLASSES ELECTING SPECIFIC DIRECTOR POSITIONS.** While all members may vote in electric cooperative director elections, the Task Force takes no position on permitting an entity member, or a class of similarly situated members, to elect or fill one or more specific director positions.

Historically, and other than director elections by district, electric cooperative directors were elected by members without regard to member class, type, or other characterization. Some members, however, like large entities, may contribute significantly more capital to a cooperative than other members. Other members, like those owning distributed generation, have unique service requirements and considerations. If permitted by state law, other members may purchase more than electric energy from a cooperative. Similarly, if permitted by state law, other members may purchase electric energy from another entity, and pay the cooperative to distribute the electric energy.

Recognizing their different service requirements and capital contributions, some electric cooperatives have considered permitting an entity member, or a class of similarly situated members, to elect or fill one or more director positions on the board of directors. State law may impact this type of election.

While every member – including entity members – may vote in director elections, the Task Force believes there are potential advantages and disadvantages to permitting an entity member, or a class of similarly situated members, to elect or fill one or more specific director positions. For this reason, the Task Force takes no position on this practice. If an electric cooperative considers electing directors in this manner, then it should consult carefully with its attorney.

7. Director Compensation

After an electric cooperative director is elected, he or she may be compensated for serving as a director. Director compensation, therefore, is an important governance issue.

- a. **COMPENSATING DIRECTORS BY PAYING MONETARY AMOUNT.** The Task Force supports an electric cooperative compensating directors by paying a monetary amount. The Task Force believes the amount should be reasonable, defensible, comparable to amounts paid by other cooperatives or similarly organized entities, and stated in a written policy.

Electric cooperative directors spend significant time and energy serving as a director. This includes, among other things, learning about the electric industry and the operation of entities providing electric energy, preparing for and attending board of directors meetings and other cooperative events, reviewing board and cooperative communications, communicating with cooperative members, attending regional and national cooperative meetings, and attending director education and training events. In addition, directors vote on significant issues, owe a fiduciary duty to the cooperative and all cooperative members collectively, and are subject to potential personal liability.

For these reasons, most electric cooperatives compensate directors. The most common compensation is paying a monetary amount, although the amount varies among cooperatives. Some cooperatives pay related to board meeting or other event attendance, and some pay periodically unrelated to attendance.

Electric cooperative directors spend significant time and energy serving as a director.

The Task Force supports an electric cooperative compensating directors by paying a monetary amount. Paying a monetary amount is fair to all directors, transparent, and easy to administer. The Task Force believes the amount should be reasonable, defensible, comparable to amounts paid by other cooperatives or similarly organized entities, and stated in a written policy.

The Task Force, however, takes no position whether the amount should be based upon meeting or other event attendance, or unrelated to attendance. The Task Force notes that state law may impact whether any monetary amount must be related to attendance.

b. COMPENSATING DIRECTORS BY PROVIDING INSURANCE AND BENEFITS. The Task Force opposes an electric cooperative compensating directors by providing medical insurance and other nonmonetary personal benefits.

Some electric cooperatives compensate directors by providing medical insurance or other nonmonetary personal benefits like life insurance.

The Task Force believes that providing directors medical insurance or other nonmonetary personal benefits may be inequitable because: (1) some directors may need the insurance and benefits, but others may not need them because they have employer-provided insurance or benefits; and (2) some directors may have spouses or dependents who are covered, and some may not. In addition, providing directors medical insurance and other nonmonetary personal benefits may: (1) increase the cooperative's cost of providing the insurance and benefits to employees; (2) create adverse member and media perceptions; and (3) encourage individuals to remain directors when they may lack the physical, mental, or emotional ability to serve competently.

For these reasons, the Task Force opposes an electric cooperative compensating directors by providing medical insurance or other nonmonetary personal benefits. The Task Force, however, notes that a cooperative may provide directors and officers liability, business travel, and similar insurance. The Task Force considers these types of insurance to be related directly to service as a director, and not to be "personal."

If an electric cooperative compensates directors by providing medical insurance or other nonmonetary personal benefits, then it could transition away from providing insurance and benefits by: (1) continuing to provide the insurance and benefits to current directors, but not providing them to new directors; and (2) increasing the monetary amount paid to directors not receiving the insurance and benefits.

c. COMPENSATING FORMER DIRECTORS. The Task Force opposes an electric cooperative compensating former directors.

Some electric cooperatives compensate former directors, often by providing medical insurance or other nonmonetary personal benefits. The Task Force opposes an electric cooperative compensating former directors.

d. COMPENSATING DIRECTOR OFFICERS. The Task Force supports an electric cooperative providing additional reasonable compensation to director officers.

As compared to nonofficer directors, electric cooperative director officers – like the president, vice president, and secretary/treasurer – often have additional responsibilities, obligations, and potential personal liabilities. For these reasons, the Task Force supports an electric cooperative providing additional reasonable compensation to director officers to compensate them for the additional responsibilities, obligations, and potential liabilities.

e. PAYING SPOUSE TRAVEL EXPENSES. The Task Force opposes an electric cooperative paying travel expenses associated with a director's spouse, unless the board of directors determines, in advance, that special circumstances justify paying the expenses.

In some situations, electric cooperatives pay travel expenses associated with a director's spouse. The Task Force opposes an electric cooperative paying travel expenses associated with a director's spouse, unless the board of directors determines, in advance, that special circumstances justify paying the expenses.

f. TRACKING HOURS DEVOTED TO COOPERATIVE. The Task Force supports a tax-exempt electric cooperative requiring each director to track his or her hours devoted to the cooperative and any related organization(s).

If an electric cooperative is exempt from federal income taxation, then it must file an Internal Revenue Service Form 990 annually. Among other things, the cooperative must report each director's "average hours per week" devoted to the cooperative. While the cooperative may estimate a director's average hours, it must enter a specific number. It may not include statements like "as needed," "as required," or "40+."

The cooperative must also estimate and report each director's "average hours per week" devoted to related organizations. A cooperative's related organizations include, among others, any subsidiary organization.

To assist a tax-exempt electric cooperative in accurately reporting each director's "average hours per week" on its Form 990, the Task Force supports requiring each director to track his or her hours devoted to the cooperative and any related organization(s). Hours may be tracked by meeting, month, or quarter.

When tracking hours, the Task Force supports including time spent, among other things: (1) preparing for, travelling to and from, and following up from cooperative board of directors meetings; (2) travelling to and from, and attending, education and training events and meetings of state, regional, and national associations of electric cooperatives; (3) communicating with members regarding the cooperative; and (4) reading cooperative communications. When attending an event or meeting away from home, the Task Force opposes including time spent sleeping or engaging in entertainment, recreation, relaxation, or similar activities unrelated to the meeting or event.

g. PROMOTING COMPENSATION TO INDUCE NOMINEES. The Task Force supports an electric cooperative informing individuals interested in serving as a director about director compensation, but opposes promoting director compensation to induce director nominees.

While the Task Force supports compensating electric cooperative directors by paying a monetary amount, it opposes promoting the compensation to induce director nominees. Promoting compensation to induce nominees could result in nominees motivated solely by the compensation. If an individual is interested in serving as a director, then the Task Force supports informing the individual of the compensation.

h. BEING TRANSPARENT REGARDING DIRECTOR COMPENSATION. The Task Force supports an electric cooperative being transparent regarding director compensation beyond filing Internal Revenue Service Form 990.

As noted earlier, an electric cooperative exempt from federal income taxation must file an Internal Revenue Service Form 990 annually. Among other things, the cooperative must report compensation paid or provided to each director. The Form 990 is publicly available upon request.

The Task Force supports an electric cooperative being transparent regarding director compensation – beyond simply filing Form 990. For example, the Task Force supports an electric cooperative posting director compensation on its website, reporting director compensation in its annual report or during its annual member meeting, and/or posting its Form 990 on its website.

8. Board of Directors Composition

In general, electric cooperative director positions are filled by members electing directors and the board filling director vacancies. Board composition, therefore, is a governance consideration.

- a. **ELECTING DIRECTOR OFFICERS.** The Task Force supports an electric cooperative prescribing qualifications and expectations for director officers. The Task Force supports electing director officers through a democratic process, and opposes electing director officers based upon “automatic” criteria like rotation or length of service as a director.

Most electric cooperatives have a president, vice president, and secretary/treasurer. As required by many electric cooperative acts, these officers are often directors. Some electric cooperatives have similar director officers, but with different titles.

The Task Force supports an electric cooperative prescribing qualifications and expectations for director officers. Prescribing these qualifications and expectations will assist potentially interested directors in determining whether to seek election to an office, and will assist the board in electing the most capable and qualified director for each office.

Board composition is a governance consideration.

The Task Force supports electing director officers through a democratic process, like a secret ballot. This process helps ensure that the most capable and qualified directors are elected. The Task Force opposes electing director officers based upon “automatic” criteria, like a predetermined rotation of directors or length of service as a director.

- b. **IMPOSING TERM LIMITS.** The Task Force encourages an electric cooperative to discuss imposing director term limits, but takes no position whether or not to impose term limits.

The Task Force believes there are potential advantages and disadvantages to imposing term limits on electric cooperative directors. For example, term limits protect against inappropriate director entrenchment and directors who lack the physical, mental, or emotional ability to serve competently. They also facilitate and expand member service on the board of directors.

Term limits, however, could also result in the loss of experienced and qualified directors, which is particularly significant because of the extensive time needed to learn about the electric industry and electric cooperative operations. Further, term limits could facilitate unexpected and rapid turnover in a board of directors, resulting in an inexperienced board.

The Task Force believes there are potential advantages and disadvantages to imposing term limits on electric cooperative directors.

Balancing the potential advantages and disadvantages, and considering the complexity of the issue, the Task Force encourages an electric cooperative to discuss imposing term limits, but takes no position whether the cooperative should, or should not, impose term limits.

If an electric cooperative imposes director term limits, then the Task Force believes that limits permitting a director to serve at least 15 consecutive years are reasonable. In addition, the Task Force notes that methods other than term limits exist for protecting against inappropriate director entrenchment, and that term limits are not the single solution for establishing good governance.

c. FILLING DIRECTOR VACANCIES. The Task Force supports an electric cooperative board of directors filling vacant director positions with the most qualified individual. The Task Force opposes the board filling a vacancy with a friend or relative of the previous director, unless it informs the membership of the vacancy, provides appropriate time and opportunity for members to express interest in the position, and fills the vacancy objectively and fairly.

Electric cooperative director positions may become vacant for many reasons, including a director's resignation, retirement, removal, or death. Permitting members to nominate and elect a new director immediately often involves a member meeting and director election, both of which require money, energy, resources, and time. In addition, obtaining a quorum for a special member meeting and director election, as opposed to an annual meeting and election, may be difficult.

To facilitate quickly and smoothly filling a director vacancy, and to conserve money and resources, many electric cooperative bylaws permit the board of directors to fill vacant director positions. The Task Force supports an electric cooperative permitting its board of directors to fill vacant director positions, and supports the board filling the vacancy with the most qualified individual. The Task Force also notes the value of a board policy governing the filling of director vacancies.

When filling a director vacancy, the Task Force supports: (1) informing members of the vacancy, in a manner similar to how the cooperative communicates scheduled director elections; and (2) providing appropriate time and opportunity for members to express interest in, or ask questions regarding, the vacancy.

Sometimes, a friend or relative of the previous director may express interest in filling the vacancy. The Task Force opposes filling a director vacancy with a friend or relative of the previous director, unless the membership is informed of the vacancy and provided appropriate time and opportunity to express interest in the position, and the vacancy is filled objectively and fairly.

d. ENCOURAGING DIRECTOR DIVERSITY. The Task Force supports an electric cooperative board of directors that reflects the diversity of the cooperative's membership. Recognizing the practical limitations of obtaining a diverse board, the Task Force encourages cooperatives and boards to solicit diverse individuals to seek election to the board, and to consider diversity when filling vacant director positions.

Electric cooperative memberships are increasingly diverse, whether based upon gender, education, race, age, vocation, religion, or otherwise. Ideally, a cooperative's board of directors would reflect the membership's diversity. This diversity facilitates the board knowing, understanding, considering, and addressing the issues, perspectives, and concerns of all cooperative members.

As a practical matter, however, board diversity may be difficult to obtain — primarily because members, and not the cooperative or board of directors, nominate and elect directors. Filling director vacancies is often the only manner in which the board may directly impact diversity.

The Task Force supports an electric cooperative board of directors that reflects the membership's diversity. Recognizing the practical limitations of obtaining a diverse board, the Task Force encourages cooperatives and boards to solicit diverse individuals to seek nomination and election as a director. The Task Force also encourages boards to consider diversity when filling vacant director positions.

e. ADDRESSING DIRECTORS WITH DIMINISHED ABILITY. The Task Force supports an electric cooperative addressing a director who may be legally competent, but appears to lack the physical, mental, or emotional ability to serve as a director competently.

At times, an electric cooperative director may be legally competent, but appear to lack the physical, mental, or emotional ability to serve as a director competently. Many times, these individuals have served as a director for many years, and served effectively, competently, and well. They often have strong emotional ties to the cooperative and with other directors. Often, they do not recognize or appreciate the degree to which their ability to serve has diminished.

Addressing these directors can be sensitive and difficult. If the director's diminished ability is caused by a disability, then the cooperative should provide any legally required reasonable accommodation. Beyond any legal requirements, however, the Task Force supports an electric cooperative board of directors addressing whether these directors comply with the cooperative's director qualifications and whether they lack the physical, mental, or emotional ability to serve competently. For legal and other reasons, however, the Task Force opposes a director qualification based upon age.

When addressing the director's ability to serve competently, the board presiding officer could speak privately with the director or, perhaps more importantly, with the director's family. The officer could carefully suggest the director resign or not seek re-election. If needed, the board could ask the cooperative attorney to discuss with the director or family whether the director can fulfill his or her fiduciary duty to the cooperative, and note the potential liability associated with breaching the duty. As appropriate, the board presiding officer or attorney could note the possibility of calling a special member meeting to address the director's ability to serve competently.

f. SELECTING MEMBERS OF FEDERATED ENTITY BOARD OF DIRECTORS. The Task Force supports an electric distribution cooperative formally or informally imposing qualifications when selecting individuals to serve on federated cooperative and association boards of directors. The Task Force also supports explaining and emphasizing the federated director's fiduciary duty to the federated entity, and opposes the distribution cooperative seeking to dictate how the federated director votes while serving as a federated director.

A "federated" cooperative or association is a cooperative or association comprised of cooperatives. That is, its members are cooperatives. Many electric distribution cooperatives are members of one or more federated cooperatives or associations providing goods or services used by

the cooperative. These entities include, among others, G&Ts and Statewides. As members of these federated entities, distribution cooperatives – usually through their boards – often select one or more individuals to serve on the federated entity board of directors. These federated directors are usually a director or chief executive officer of the distribution cooperative.

Because of the nature and size of their business, serving on these federated entity boards may require specific skills, experiences, and knowledge. The Task Force, therefore, supports an electric cooperative board of directors formally or informally imposing specific qualifications for individuals selected to serve on federated entity boards of directors. These qualifications could involve enhanced ability to use technology, understand more complicated financial statements, and comprehend uniquely complex operational issues.

When an electric distribution cooperative director or chief executive officer serves as a director of a federated entity, confusion often arises regarding the federated director's fiduciary duty. Because the distribution cooperative selects the federated director, it may feel the director owes a fiduciary duty to act in its best interests. When serving and acting as a federated director, however, the director owes a duty to act in the federated entity's best interest. On the other hand, when serving and acting as a distribution cooperative director or officer, the individual owes a duty to act in the cooperative's best interest. At times, these duties may involve conflicting obligations of disclosure and confidentiality.

Because of the nature and size of their business, serving on these federated entity boards may require specific skills, experiences, and knowledge.

Because of the confusion and complications involving a federated director's fiduciary duty, the Task Force supports explaining and emphasizing this duty to the federated director, as well as to the distribution cooperative board of directors. While a distribution cooperative board may ask its federated director to communicate its positions to the federated entity board of directors, the Task Force opposes the distribution cooperative board seeking to dictate how its federated director votes when serving as a federated director.

g. USING STANDING COMMITTEES. The Task Force takes no position regarding an electric cooperative board of directors using standing committees. If a board uses standing committees, then the Task Force supports using committees comprised of directors with knowledge, experience, or competence regarding the specific issues or areas within the committee's jurisdiction.

Many electric cooperative boards of directors use standing committees that focus on specific issues or areas within the board's role and responsibility. These committees facilitate more focused attention to and oversight of these issues and areas. Examples of these committees include finance, executive, audit, and governance committees. The number and size of the committees may vary depending upon the board or cooperative's size. The committees are usually comprised of directors only.

Board standing committees may meet monthly, quarterly, annually, or as needed. As compared to the full board, these committees often receive more detailed information and focus more intently on the issues or areas within their jurisdiction. As permitted by state law, the board may delegate certain powers and authority to these committees, or the committees may simply report or make recommendations to the full board.

For some boards, however, using standing committees is less efficient and effective than the board, as a whole, focusing on specific issues and areas.

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The Task Force takes no position regarding an electric cooperative board of directors using standing committees. If a board uses standing committees, then the Task Force supports electing or appointing committee members who possess knowledge, experience, or competence regarding the specific issues and areas considered by the committee.

9. Board of Directors Meetings

Electric cooperative boards of directors meet regularly. Their meetings are an instrumental part of the cooperative's governance.

a. **INFORMING MEMBERS OF BOARD MEETINGS.** The Task Force supports informing electric cooperative members of regular board of directors meeting dates, times, and locations. The Task Force takes no position on informing members of board meeting agenda items.

Most electric cooperative boards of directors meet monthly. The meeting dates, times, and locations vary by cooperative.

The Task Force believes that electric cooperative members should know, or be able to determine, when and where the cooperative's board of directors meets. The Task Force, therefore, supports electric cooperatives informing their members of regular board meeting dates, times, and locations. This information can be communicated through the cooperative's monthly magazine, monthly bill, website, social media, and/or other communication vehicle(s).

The Task Force believes that informing members of board meeting agenda items in advance facilitates member communication with individual directors regarding these items. The Task Force, however, also believes that it limits the board's ability to alter the agenda and may adversely impact members when an item is unexpectedly added or deleted. Because there are potential advantages and disadvantages of informing members of agenda items in advance, the Task Force takes no position on informing members of these items.

b. **MEMBERS ATTENDING BOARD MEETINGS.** The Task Force supports permitting electric cooperative members to attend board of directors meetings, other than portions of meetings at which legal, employee, and other confidential matters are addressed, and subject to rules of attendance determined by the board and stated in a board policy.

In most states, other than directors, members do not have a legal right to attend electric cooperative board of directors meetings. The board, however, may permit members to attend.

The Task Force believes there are potential advantages and disadvantages to permitting members to attend board of directors meetings. Permitting attendance may facilitate transparency and openness, and strengthen the democratic nature of cooperatives. Member attendance, however, may impede candid and open discussion by directors. In addition, without appropriate rules, member attendance may be disruptive. Further, members should not attend board meetings when legal, employee, and other confidential matters are discussed.

The Task Force believes there are potential advantages and disadvantages to permitting members to attend board of directors meetings.

On balance, the Task Force supports permitting members to attend board of directors meetings, other than portions of meetings at which legal, employee, and other confidential matters are addressed. Likewise, the Task Force believes members attending board meetings should be subject to rules of attendance determined by the board and stated in a board policy.

c. MEMBERS ADDRESSING BOARD. The Task Force supports permitting electric cooperative members to address the board of directors during board meetings, provided the member complies with notice, time, conduct, and similar requirements determined by the board and stated in a board policy.

Historically, electric cooperative members did not address the board of directors during board meetings. Increasingly, members want to address the board.

The Task Force believes there are potential advantages and disadvantages to permitting members to address the board during board meetings. Permitting members to address the board may facilitate communication between the board and the membership. It may provide members an opportunity to express their thoughts, opinions, compliments, and complaints to the board, as a group, directly.

If, however, the board is unaware that members will address it, then it cannot plan and schedule its meeting appropriately. Similarly, if the board is unaware of the topic that members wish to address, then it may be unprepared to reply. In addition, if members have unlimited time to address the board, then the board will have less time to address other business. Further, if members address the board in a rude or harsh manner, then board meeting civility is disrupted. In extreme cases, member conduct could endanger the safety of cooperative directors or employees.

On balance, the Task Force supports permitting members to address the board during board meetings. Members, however, must comply with notice, time, conduct, and similar requirements determined by the board and stated in a board policy.

d. ATTORNEY ATTENDING BOARD MEETINGS. The Task Force supports electric cooperative attorneys attending all board of directors meetings.

Many, but not all, electric cooperative attorneys attend all board of directors meetings. Some attorneys attend board meetings only when a legal issue is scheduled to be addressed.

The Task Force believes that having the cooperative attorney attend all board meetings assists the attorney in understanding the cooperative's operations and enhances the attorney's ability to advise the board of directors and management. The attorney's attendance permits the attorney to opine and comment on unscheduled or unexpected legal issues, and to identify and

address legal issues that may be unknown to cooperative employees or directors. In addition, the attorney's attendance facilitates the attorney drafting or reviewing minutes of the meeting.

The Task Force, however, recognizes the cost associated with the attorney attending all board meetings. Further, the Task Force believes it may be less productive for the cooperative attorney to attend certain board events or functions, like strategic planning retreats.

On balance, the Task Force supports electric cooperative attorneys attending all formal and official board of directors meetings.

e. SENIOR MANAGEMENT ATTENDING BOARD MEETINGS. The Task Force supports electric cooperative senior management, as appropriate and in addition to the chief executive officer, attending board of directors meetings and addressing the board.

At some electric cooperatives, the chief executive officer is the only employee to attend board of directors meetings and address the board. At other cooperatives, additional members of senior management also attend meetings and address the board.

The Task Force believes that permitting members of senior management to attend board meetings and address the board facilitates transparency, improves the accuracy of information presented, helps prevent misconduct, assists with employee professional development, and aids with succession planning. The Task Force, however, recognizes that it may not be appropriate for all senior management to attend all board meetings, or for all senior management to attend the entire board meeting.

The Task Force supports an electric cooperative's senior management, as appropriate, and in addition to the chief executive officer, attending board of directors meetings and addressing the board.

f. MEETING IN EXECUTIVE SESSION. As appropriate and consistent with state law, the Task Force supports an electric cooperative board of directors meeting in executive session to discuss confidential matters.

Under Robert's Rules of Order Newly Revised § 9 (11th ed. 2011), an "executive session" means any meeting, or part of a meeting, "at which the proceedings are secret." A meeting enters executive session only when required by rule or custom, or upon an adopted motion. If a board of directors meets in executive session, then all individuals who are not directors, or who are not specifically invited or entitled to attend, are excluded from the meeting.

Also under Robert's Rules of Order Newly Revised § 9, if discussion during executive session was secret, but action taken during the executive session was not secret, then the action may be reported in the minutes of the regular session. If the action taken during the executive session was secret, then the minutes recording the action must be read and acted upon during executive session only.

Many electric cooperative boards of directors meet in executive session, at least for part of their meetings. These sessions provide an important opportunity to discuss confidential matters related to employment, litigation, director discipline, and similar issues. Depending upon the issue discussed, the board may invite the chief executive officer, senior management, attorney, or other individuals to attend the session.

In a few states, state law impacts when an electric cooperative board of directors may meet in executive session, and who may attend.

The Task Force supports an electric cooperative board of directors meeting in executive session as appropriate and consistent with state law. The Task Force, however, cautions against meeting in executive session to hide non-confidential or non-secret information or discussions.

g. PREPARING MEETING MINUTES. The Task Force encourages an electric cooperative board of directors to discuss with the cooperative's attorney, and supports the board making an informed decision regarding, the length, format, and style of its meeting minutes.

For various reasons, electric cooperative boards of directors – like boards of other organizations – prepare different types of meeting minutes. The reasons may relate to legal or parliamentary considerations, or may depend upon whether an attorney or non-attorney prepares the minutes.

Some boards have minutes that are short and include only the actions taken during a meeting. These minutes are consistent with the statement in Robert's Rules of Order Newly Revised § 48 (11th ed. 2011) that “minutes should contain mainly a record of what was done at the meeting, not what was said by the members.” These minutes, however, may not sufficiently document that directors are fulfilling their fiduciary duty.

Other boards have minutes that are long and include the actions taken, as well as much of the debate and discussion during the meeting. These minutes may assist in documenting that directors are fulfilling their fiduciary duty. They may, however, include unnecessary information that could be misrepresented and used adversely against the board or cooperative.

Ideally, minutes of electric cooperative board of directors meetings would record the actions taken, and sufficient information and detail to document that directors are fulfilling their fiduciary duty, but not unnecessary information or detail that could be misrepresented and used adversely. Admittedly, this can be a difficult balance, and boards may disagree.

Similarly, some boards do not include director dissents or abstentions in their minutes. The reason is to encourage all directors to support the board's actions, even if they disagreed with the action. Other boards include dissents or abstentions. One reason may relate to a common state law provision that, unless a director's dissent or abstention is noted in the minutes, the director is deemed to have voted for the action.

The Task Force encourages a board of directors to discuss with the cooperative's attorney the length, format, and style of its meeting minutes. The Task Force supports the board making an informed decision regarding these issues.

h. SCHEDULING BOARD MEETINGS. The Task Force supports scheduling electric cooperative board of directors meetings for days and times that are convenient for directors and not prohibitive for members.

Electric cooperative boards of directors meet at different times and on different days of the week. Some meet during the day, and some meet during the evening. Some meet on weekdays, and some meet on weekends.

The Task Force believes that the most convenient day and time for board of directors meetings vary. Convenience is affected by many factors, including the distance a director must travel, whether the director is retired, the type of business in which the director is engaged, whether the director is self-employed, the age of the director's children if any, the average length of board meetings, and the board's use of committees. For some directors, meeting during the day is more convenient, and for some, meeting during the evening is more convenient. For some directors, meeting on a weekday is more convenient, and for some, meeting on

a weekend is more convenient. No board meeting day or time is convenient for all directors or all members.

To facilitate members' availability to attend board meetings and serve as directors, the Task Force supports scheduling board of directors meetings for days and times that are not prohibitive for members. The Task Force suggests periodically reviewing and evaluating the regular board meeting days and times to assess their prohibitive and exclusionary impact on members.

If a board meets on days and times convenient for directors, but prohibitive for some members, then the board could consider periodically meeting on a different day and time, or rotating its meeting days and times. The Task Force recognizes that determinations regarding board meeting days and times will vary by cooperative.

i. MONTHLY BOARD MEETING. The Task Force supports electric cooperative boards of directors meeting monthly, unless business needs or special circumstances justify meeting on a different interval.

Corporate boards of directors meet at different intervals. The interval depends upon various factors, including the type of business, size of business and board, and location of directors. As noted above, most electric cooperative boards of directors meet monthly.

The Task Force supports electric cooperative boards meeting monthly. The Task Force, however, recognizes that business needs or special circumstances may justify meeting on a different interval.

j. PARTICIPATING IN BOARD MEETINGS REMOTELY. The Task Force supports electric cooperative directors participating in board of directors meetings in person, but recognizes that directors may occasionally need to participate in meetings remotely because of health, weather, emergency, logistical, business, family, or other special circumstances.

Many state laws and electric cooperative bylaws permit directors to participate in board meetings remotely, provided all directors participating in the meeting may simultaneously hear each other. These directors participating remotely are "deemed" to be present in person at the meeting. That is, while they are not physically present in person, they are considered legally present in person. When referencing attendance or participation "in person," the Task Force means being physically present.

The Task Force believes that, optimally, all directors would attend board meetings in person. Attendance in person best facilitates board discussion and action, and strengthens relationships between and among directors and employees.

The Task Force, however, recognizes that, in special circumstances, individual directors may need to participate in board meetings remotely. This participation may be through telephone, webcast, or other communication, provided all directors may simultaneously hear each other. These special circumstances include when a director's health prevents him or her from attending the meeting in person, when weather prevents a director from travelling to or from the board meeting, when a director must address unexpected business or family responsibilities, and when sudden and unexpected events require a director to be in another location.

Similarly, the Task Force recognizes that, in special circumstances, all directors may need to participate in a board meeting remotely. These special circumstances include when board action or guidance is needed before the next regular meeting and there is insufficient time or opportunity to schedule a special meeting in person. Participating remotely, however, whether by

some or all directors, should be the “exception,” and not the “rule.” Ideally, a board of directors would adopt a policy addressing when remote participation in board meetings is acceptable, and when it is not.

The Task Force supports directors participating in board of directors meetings in person. The Task Force, however, recognizes that directors may occasionally need to participate in meetings remotely because of health, weather, emergency, logistical, business, family, or other special circumstances.

k. DIRECTORS MISSING BOARD MEETINGS. The Task Force believes that attending electric cooperative board of directors meetings is a minimum expectation of directors. Depending upon the number of and reasons for meeting absences, and, as allowed by state law and bylaws, the Task Force supports a board of directors sanctioning, disqualifying, or removing a director who misses numerous board meetings.

Some electric cooperative bylaws require directors to attend a minimum number or percentage of board meetings annually. Alternatively, they prohibit directors from missing more than a maximum number or percentage of meetings. When referencing board meeting “attendance,” the Task Force means being physically present or, in special circumstances, participating remotely.

The Task Force believes that board meeting attendance is a minimum expectation of directors. Attendance facilitates a director’s compliance with his or her fiduciary duty, and enables more robust board discussion and action.

The Task Force, however, recognizes that extended health, family, business, or similar circumstances may cause a director to miss multiple board meetings. If a director misses multiple board meetings for legitimate, good faith reasons, then the board should extend leniency, compassion, and understanding to the director. There is, however, a limit. At some point, missing numerous board meetings – even for legitimate, good faith reasons – is detrimental to the director, board, and cooperative.

If a director misses numerous board meetings and anticipates missing additional meetings in the future, then the director should consider resigning from the board. If a director misses numerous board meetings without a legitimate, good faith reason, then, as allowed by state law and the cooperative’s bylaws, the board should consider sanctioning, disqualifying, or removing the director. Similarly, if a director misses a sufficiently significant number of board meetings for any reason, then, as allowed by state law and bylaws, the board should consider sanctioning, disqualifying, or removing the director. Based upon their own circumstances, each cooperative and board should determine the appropriate number of absences requiring action.

Based upon the number of and reasons for absences, and, as allowed by state law and bylaws, the Task Force supports a board of directors sanctioning, disqualifying, or removing a director who misses numerous board meetings.

10. Member Access to Information

As owners of an electric cooperative, members have an interest in reviewing certain documents and information regarding the cooperative, its operations, and its members. As an entity with sensitive and confidential information, an electric cooperative has an interest in protecting certain documents and information. Balancing the competing interest is a governance issue.

a. **PROVIDING GENERAL INFORMATION TO MEMBERS.** The Task Force supports an electric cooperative posting on its website or sending all members the following information and documents: (1) articles of incorporation; (2) bylaws; (3) board of directors meeting minutes or summaries; (4) Internal Revenue Service Form 990; (5) general and non-confidential financial and operational information; and (6) strategic plan or plan summary.

The Task Force recognizes the inherent tension between providing members with information regarding the cooperative, its operations, and its members, and protecting certain sensitive or confidential information. While transparency is important, confidentiality is also important.

The Task Force notes that state and federal law may require certain information be provided or available to electric cooperative members, may permit but not require certain information be provided or available, and may prohibit certain information from being provided or available. These legal requirements may involve proactively sending information to members without request, making the information available to members, or reactively providing the information to members upon request. Absent a legal requirement or prohibition, an electric cooperative has discretion in providing, or not providing, certain information.

While transparency is important, confidentiality is also important.

The Task Force supports transparency with electric cooperative members, but recognizes that transparency has limits. In balancing transparency and confidentiality, the Task Force supports providing or making available to electric cooperative members the following documents and information: (1) articles of incorporation; (2) bylaws; (3) board of directors meeting minutes or summaries; (4) Internal Revenue Service Form 990; (5) general and non-confidential financial

and operational information; and (6) strategic plan or plan summary. A cooperative may send the documents and information to all members, or make them available on the cooperative's website.

b. PROVIDING MEMBERSHIP LIST TO MEMBERS. The Task Force supports an electric cooperative providing its membership list to a member if: (1) the member requests the list in good faith; (2) the list is directly connected to, and used for, a purpose reasonably relevant to the member's interest as a member; and (3) the list is not used for commercial, sale, or similar purposes.

As owners of an electric cooperative, members may need to communicate with each other regarding the cooperative. To facilitate communication, members need the names and contact information for other members. Members, however, should not use this information for commercial or other purposes unrelated to their interest as a cooperative member.

The Task Force notes that, under the American Bar Association Model Nonprofit Corporation Act (2008), a corporation's membership list includes the names and mail addresses of all members. It does not include account information, telephone numbers, email addresses, or similar information. Also under the model act, a corporation must provide a member its membership list if the member requests the list in good faith and the list is directly connected to a purpose reasonably relevant to the member's interest as a member. Without the board of directors' consent, however, the member may not: (1) use the list for a purpose unrelated to the member's interest as a member; (2) use the list to solicit money or property, unless the money or property is used solely to solicit member votes in a corporate election; (3) use the list for a commercial purpose; or (4) sell the list.

To protect against a member obtaining the membership list for a proper purpose, but using it for an improper purpose, a cooperative may ask the member to sign an affidavit stating the proper purpose for which the member will use the list and agreeing not to use the list for an improper purpose, and/or signing an agreement under which the member agrees to pay the cooperative liquidated damages for using the list improperly.

While an electric cooperative may, or may not, be subject to or influenced by statutes based upon the model act, the Task Force believes the model act is a helpful resource. The Task Force, therefore, supports an electric cooperative providing its membership list to a member, provided: (1) the member requests the list in good faith; (2) the list is directly connected to, and used for, a purpose reasonably relevant to the member's interest as a member; and (3) the list is not used for commercial, sale, or similar purposes. The Task Force supports a board of directors adopting a policy addressing this issue.

c. PROVIDING SUBSIDIARY INFORMATION TO MEMBERS. The Task Force supports an electric cooperative providing or making available to its members general and non-confidential financial and operational information regarding a subsidiary in which the cooperative owns an interest.

Depending upon state law and the needs of their members and community, some electric cooperatives own a full or partial ownership interest in subsidiary entities. These subsidiaries may provide goods and services related, or unrelated, to electric energy. While the electric cooperative may own some or all of the subsidiary, the cooperative does not control the subsidiary's operations. The subsidiaries are legally separate entities.

Because electric cooperative members own the cooperative, which owns the subsidiary, the Task Force believes that members have an interest in the subsidiary's operations and financial condition. The Task Force, therefore, supports, as consistent with state law, an electric cooper-

ative providing or making available to its members general and non-confidential financial and operational information regarding a subsidiary in which the cooperative owns an interest.

d. PROVIDING POLICIES TO MEMBERS. The Task Force supports an electric cooperative making available to its members relevant operational, financial, governance, and similar policies directly involving or impacting members, like capital credit, line extension, member attendance at board meeting, director role and responsibility, vegetation management, and similar policies.

Most electric cooperatives have various operational, financial, governance, and similar policies that guide the cooperative. Examples of these policies include capital credit, line extension, member attendance at board meeting, director role and responsibility, and vegetation management policies. Some of these policies are adopted by the cooperative's board of directors, and some are adopted by its management. Some of these policies involve or impact cooperative employees only, some involve or impact members only, and some involve or impact employees and members.

The Task Force supports an electric cooperative making available to its members relevant operational, financial, governance, and similar policies that directly involve or impact members, like capital credit, line extension, member attendance at board meeting, director role and responsibility, vegetation management, and similar policies. Cooperatives can post these policies, or instructions for requesting the policies, on their websites. The Task Force also supports making these policies understandable for the typical member and, if helpful, providing examples.

e. PROVIDING EMPLOYEE INFORMATION TO MEMBERS. The Task Force opposes an electric cooperative providing its members, or others, individual and specific employee salary and benefit information, other than what is legally required.

Occasionally, a member, reporter, or other person will request specific information regarding electric cooperative employee salaries and benefits. The requested information is often more extensive than the information available on an Internal Revenue Service Form 990, and is often tailored to individuals.

Providing individual and specific employee salary and benefit information raises potential legal, privacy, and other concerns. For this reason, the Task Force opposes electric cooperatives providing individual and specific employee salary and benefit information. A cooperative, however, may wish to provide the total amount it budgets for salaries and benefits. If, however, a cooperative is legally required to provide salary and benefit information, through the Internal Revenue Service Form 990 or otherwise, then the cooperative must comply.

f. PROVIDING INFORMATION AT ANNUAL MEETING. The Task Force supports an electric cooperative presenting annual operations, finance, and similar information and reports at its annual member meeting.

One purpose of an electric cooperative annual member meeting is members learning about the cooperative's operational and financial condition. Some state laws require cooperatives to present certain information and reports at these meetings. If state law does not require it, then some cooperatives present this information voluntarily.

Because electric cooperative members own, provide capital to, and receive electric energy from their cooperatives, the Task Force believes members should receive annual reports regarding the cooperative's operations and finances. The Task Force, therefore, supports electric cooperatives presenting annual operations, finance, and similar information and reports at their annual member meetings. This information and these reports should address developments and

activity during the preceding year, as well as the cooperative's overall operational and financial condition. Examples of these reports include an annual treasurer's or financial report and an annual chief executive officer's report. As noted previously, the Task Force also supports posting on its website or sending all members this information and these reports.

g. PARTICIPATING IN MEMBER MEETINGS REMOTELY. The Task Force supports an electric cooperative permitting members to participate in member meetings remotely, provided the technology is available, and the participation is permitted by state law and is cost effective.

Historically, members participated in electric cooperative annual member meetings in person. Today, technology may permit members to participate in meetings remotely, either by viewing the meeting and/or voting during the meeting.

As noted previously, the Task Force supports an electric cooperative encouraging members to attend member meetings and participate in director elections. Permitting members to participate in meetings remotely increases their ability to participate. The Task Force, however, recognizes that there is a cost to permitting members to participate remotely. The Task Force also recognizes that state law may, or may not, permit members to participate remotely. The Task Force supports permitting members to participate in member meetings remotely, provided the technology is available, and the participation is permitted by state law and cost effective.

h. PROVIDING CAPITAL CREDIT INFORMATION TO MEMBERS. The Task Force supports an electric cooperative notifying each member of their annual capital credit allocation and educating members regarding capital credits. The Task Force, however, takes no position regarding notifying members of their cumulative allocated, but unretired, capital credits.

Allocating capital credits is a critical aspect of electric cooperative operations. Cooperatives allocate capital credits annually.

As owners of an electric cooperative, the Task Force believes that members should be informed of their annual capital credit allocation. Providing this notice also facilitates transparency. A cooperative may provide this notice on a member's monthly bill, through a separate communication, or otherwise. The Task Force, however, recognizes that members may misunderstand the nature of a capital credit allocation. For this reason, cooperatives need to educate their members regarding capital credits. Educating members about capital credits also emphasizes a benefit of the cooperative business model.

The Task Force supports notifying individual members of their annual capital credit allocations and educating members regarding capital credits. The Task Force, however, takes no position regarding notifying members of their cumulative allocated, but unretired, capital credits. The Task Force notes that the ability or ease of providing this cumulative information may vary by cooperative or data processor.

Conclusion

The Task Force believes that governance is a critical part of an electric cooperative's operations. Good governance strengthens the cooperative and facilitates its success. It also requires time, energy, and attention.

The Task Force hopes this Report will be a catalyst for an electric cooperative to examine and enhance its governance, and to create or maintain a culture of good governance. The Task Force encourages electric cooperatives to use this Report, including the Electric Cooperative Governance Review Guide, as a resource and tool for examining and enhancing governance.

The Task Force appreciates the opportunity to study electric cooperative governance and prepare this Report.

Appendix A

Task Force Members

Electric Cooperative Governance Task Force member names and titles are listed alphabetically below.

Roger Arthur, President and Director
Allamakee-Clayton Electric Cooperative, Iowa, Region 5

Craig Borr, President and Chief Executive Officer
Michigan Electric Cooperative Association, Michigan, Region 4

Fred Braswell, President and Chief Executive Officer
Alabama Rural Electric Association of Cooperatives, Alabama, Region 3

Jim Doerstler, Assistant Secretary-Treasurer and Director
Whitewater Valley Rural Electric Membership Corporation, Indiana, Region 4

Carrie Durden, President and Director
Talquin Electric Cooperative, Florida, Region 2

Bruce Graham, Chief Executive Officer
Kansas Electric Cooperatives, Kansas, Region 7

Bob Grant, Vice Chair and Director
Mountrail-Williams Electric Cooperative, North Dakota, Region 6

Paul Hawkins, Director
Farmers Rural Electric Cooperative Corporation and East Kentucky Power Cooperative, Kentucky, Region 3

Joseph Herrera, Chief Executive Officer
Socorro Electric Cooperative, New Mexico, Region 10

John Hewa, Vice President, Corporate Services
Rappahannock Electric Cooperative, Virginia, Region 1

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Brenda Hicks Johnson, Director
Southside Electric Cooperative, Virginia, Region 1

Tim Johnson, Chief Executive Officer
Otsego Electric Cooperative, New York, Region 1

Helena Jones, Director
Alaska Village Electric Cooperative, Alaska, Region 9

J. Ingrid Kessler, Director
Lane Electric Cooperative, Oregon, Region 9

Frank Lineberger, Director
Snapping Shoals Electric Membership Corporation, Georgia, Region 2

Chris Meyers, Chief Executive Officer
Oklahoma Association of Electric Cooperatives, Oklahoma, Region 8

Barbara Nick, President and Chief Executive Officer
Dairyland Power Cooperative, Wisconsin, Region 5

Susan Petrocco, Vice President and Director
United Power, Colorado, Region 7

Jenny Scharmer, Director
MiEnergy Cooperative, Minnesota, Region 6

Robert B. Schwentker, Of Counsel
North Carolina Electric Membership Corporation, North Carolina, Region 1
Task Force Chair

Appendix B

Guest Presenters and Support Staff

Guest presenters who addressed the Electric Cooperative Governance Task Force are listed alphabetically below.

Dennis Chastain, President and Chief Executive Officer, Georgia EMC, Georgia

Dave Munk, Chair and Director, Cooperative Leadership Network; Vice Chair and Director, Holy Cross Energy, Colorado

Janet Reiser, Director, Cooperative Leadership Network; Chair and Director, Chugach Electric Association, Alaska; Treasurer and Director, Alaska Railbelt Cooperative Transmission and Electric Company, Alaska

Monica Schmidt, NRECA Vice President, National Consulting Group

Adam Schwartz, Founder and Principal, The Cooperative Way

Kent Singer, Chief Executive Officer, Colorado Rural Electric Association, Colorado

Tom VanParis, Chief Executive Officer, Indiana Electric Cooperatives, Indiana

Bill Verner, Senior Vice President, Georgia EMC, Georgia

NRECA and CFC employees who supported the Electric Cooperative Governance Task Force are listed alphabetically below.

Brad Captain, Senior Vice President, Corporate Relations Group, CFC

Jessica Healy, Assistant General Counsel, NRECA

Pat Mangan, Director, Governance Education, NRECA

Greg Starheim, Senior Vice President, Business and Industry Development, CFC

Ty Thompson, Vice President and Deputy General Counsel for Director and Member Legal Services, NRECA

Appendix C

Governance Resources

Governance courses, documents, and other resources are listed below.

NRECA and CFC Resources

The following resources produced by or for NRECA and/or CFC are available to NRECA and CFC voting members, and their consultants, on [cooperative.com](https://www.cooperative.com).

Bylaw Revision Guide, Revised 2013.

Capital Credits Task Force Report: A Distribution Cooperative's Guide to Making Capital Credits Decisions, NRECA and CFC, 2005.

Commitment to Excellence: A Guide to Developing Board Policies for Financial Best Practices, CFC, Revised February 2018.

NRECA Director Recruiting Toolkit, 2013.

Finding the Balance: Staying Focused on the Local Member, NRECA, 2015.

Sample Electric Cooperative IRS Form 990 Questionnaire, NRECA, Revised January 2018.

NRECA Director Education Courses

NRECA Director Education Courses provide electric cooperative directors a range of competency-based training, governance resources, and information to meet the education needs of directors at any stage in their tenure. More information about the courses, including future dates and locations, is available on [cooperative.com](https://www.cooperative.com).

Credentialed Cooperative Director Certificate (CCD) Courses

[\(2600\) Director Duties and Liabilities](#)

[\(2610\) Understanding the Electric Business](#)

[\(2620\) Board Operations and Process](#)

[\(2630\) Strategic Planning](#)

[\(2640\) Financial Decision Making](#)

Board Leadership Certificate (BLC) Courses

[\(901.1\) Rules and Procedures for Effective Board Meetings](#)

[\(903.1\) The Role of the Board Chair in Conducting Effective Meetings](#)

[\(912.05\) The Power of Cooperatives](#)

[\(913.1\) Cooperative Foundations: Co-op Legacy, Principles & Impact on Communities](#)

[\(914.1\) Cooperative Communications and Public Opinion - The Director's Perspective](#)

[\(918.1\) Maximizing Your Grassroots Strategy](#)

[\(919.1\) Cooperative Structure: A Strategic Advantage](#)

[\(921.1\) Risk Oversight – The Board's Role in Risk Management](#)

[\(924.1\) When Disaster Strikes – Continuity Management and Emergency Response Planning for Directors](#)

[\(925.1\) Co-op Bylaws: Guiding Principles & Current Issues](#)

[\(929.1\) Current Governance Issues in Policy Development](#)

[\(930.1\) Ethics and Governance: Implementing the New Accountability](#)

[\(935.1\) Appraising and Compensating the CEO](#)

[\(941.2\) The Gettysburg Leadership Experience for Directors](#)

[\(943.1\) Conversation Skills Outside the Boardroom](#)

[\(944.1\) Giving and Receiving Effective Feedback](#)

[\(951.2\) Developing Effective Boardroom Decision-Making](#)

[\(955.1\) Your Board's Culture: Its Impact on Effectiveness](#)

[\(956.1\) Crucial Conversations in the Boardroom](#)

[\(957.1\) How to Evaluate and Improve Board Performance](#)

[\(958.1\) Succession Planning: Developing the Purpose-Driven Organization](#)

[\(961.1\) The Evolution of Electric Cooperative Power Supply](#)

[\(963.1\) Strategic Technologies and Their Impact on the Cooperative](#)

[\(964.1\) Communicating the New Energy Landscape](#)

[\(974.1\) Rate Making Strategies and Policy Decisions for Electric Cooperative Boards](#)

[\(975.1\) Capital Credits Issues and Decisions](#)

[\(977.1\) Equity Management and Boardroom Decision Making](#)

NRECA Legal Reporting Service

The NRECA Legal Reporting Service (LRS) is a monthly subscription publication produced by NRECA's Office of General Counsel. LRS includes a monthly editorial featuring key issues for electric cooperatives and timely articles on recent state and federal court decisions, new and proposed regulations, and new statutes that could impact electric cooperatives. The following editorials are available to NRECA and CFC voting members, and their consultants, without charge on cooperative.com. Please contact 703-907-5788 for more information about LRS.

IRS Form 990 and How NRECA's Sample Questionnaire May Help, January 2018.

The Role of the Board in Internal Fraud Prevention, July 2017.

Helping Boards Be Successful – How Co-op Attorneys Can Help, December 2015.

G&T Director Fiduciary Duty, September, October and November 2014 (three-part editorial).

Handling a Rogue Director, March 2012.

CEO Compensation and Evaluation, January and February 2012 (two-part editorial).

Open Board of Director Meetings, May and June 2011(two-part editorial).

The 'New' Imperative for Boards – Risk Oversight, June 2010.

Electronic Voting in Electric Cooperative Director Elections, October 2009.

What a Deal – Perils and Principles of Director Compensation, September 2009.

Today's Co-op Attorney Wears Many Hats, August 2009.

Electric Cooperative Director Qualifications, July 2009.

IRS Revises Draft Form 990 Instructions, September 2008.

That's Easy for You to Say (governance challenges), March 2008.

Nonprofit Panel Releases Principles of Good Governance, December 2007.

Keeping Minutes of Board Meetings: The Devil Really Is In The Details, March 2007.

Hiring the Right CEO: The Board's Number One Job, January 2007.

Member's Right to Inspect and Copy Membership List, July 2006.

Director Fiduciary Duties, October 2005.

Board Succession Planning, December 2004.

NRECA Legal Seminars

The NRECA Legal Seminars provide inside and outside electric cooperative counsel, and electric cooperative employees, with information on legal matters that may affect electric cooperatives. The following seminar materials are available to NRECA and CFC voting members, and their consultants, without charge on cooperative.com. Please contact 703-907-5788 for more information about the seminars.

Detecting Fraud by the CEO or Other Co-op Employees, Legal Seminar 57, 2017.

CEO and Board Compensation Trends and Issues, Legal Seminar 56, 2016.

G&T Director Fiduciary Duty, Legal Seminar 54, 2014.

Role of the Co-op Attorney in Governance, Legal Seminar 54, 2014.

Electric Cooperative Bylaws, Legal Seminar 53, 2013.

Paperless Board of Directors Meeting, Legal Seminar 53, 2013.

Electric Cooperative Bar Association

The Electric Cooperative Bar Association (ECBA) is a professional network of more than 800 attorneys representing the interests of NRECA member cooperatives, and legal support staff. ECBA members have access to sample policies and resources at www.ecba.coop. Please contact 703-907-5788 for more information about ECBA.

BoardSource Reports

BoardSource is a Washington, D.C.-based membership association that provides research, reports, and best practices in support of nonprofit organizations. The reports listed below are available at www.boardsource.org at member and non-member prices.

Exceptional Board Practices, 2008.

Leading with Intent: A National Index of Nonprofit Board Practices, 2017.

Overcoming Hidden Barriers to Board Diversity and Inclusion, BoardSource Research Report, 2013.

National Association of Corporate Directors

National Association of Corporate Directors (NACD) is a Washington, D.C.-based membership association that provides research and reports in support of corporate governance best practices. The reports listed below are available at www.nacdonline.org at member and non-member prices.

Board Evaluation: Improving Director Effectiveness, Blue Ribbon Commission Report, 2010.

Board Leadership, Blue Ribbon Commission Report, 2012.

Building the Strategic Asset-Based Board, Blue Ribbon Commission Report, 2016.

The Diverse Board: Moving From Interest to Action, Blue Ribbon Commission Report, 2012.

Key Agreed Principles, NACD, 2011.

Performance Metrics: Understanding the Board's Role, Blue Ribbon Commission Report, 2010.

Additional Resources

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Bowen, W., *The Board Book: An Insider's Guide for Directors and Trustees*, New York: W.W. Norton & Company, 2008.

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Carver, J., *Boards That Make a Difference*, Second edition, San Francisco: Jossey-Bass, 1995.

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LeBlanc, R., ed. *The Handbook of Board Governance: A Comprehensive Guide for Public, Private, and Not-for-Profit Board Members*, Hoboken: John Wiley & Sons, 2016.

LeBlanc, R., and J. Gillies, *Inside the Boardroom: How Boards Really Work and the Coming Revolution in Corporate Governance*, John Wiley & Sons Canada, 2005.

Nadler, D., B. Behan, and M. Nadler, ed. *Building Better Boards: A Blueprint for Effective Governance*, San Francisco: Jossey-Bass, 2014.

Sale, H., and H. Gregory, *Corporate Director's Guidebook*, Sixth Edition, American Bar Association Corporate Law Committee, 2011.

Steinberg, R., *Governance, Risk Management, and Compliance: It Can't Happen to Us – Avoiding Corporate Disaster While Driving Success*, Hoboken: John Wiley & Sons, 2011.

Ticker, B., *Corporate Governance: Principles, Policies, and Practices*, Oxford: Oxford University Press, 2009.

Electric Cooperative Governance Task Force Report

Trower, C., *The Practitioner's Guide to Governance as Leadership*, San Francisco: Jossey-Bass, 2013.

Williams, D., *Strategic Diversity Leadership: Activating Change and Transformation in Higher Education*, Sterling: Stylus, 2013.

Appendix D

Electric Cooperative Governance Review Guide

What is the Review Guide and Worksheet? The Electric Cooperative Governance Review Guide (“Guide”) and accompanying Worksheet (“Worksheet”) are tools to help facilitate an optional examination and discussion of the Electric Cooperative Governance Task Force Report (“Report”) and your electric cooperative’s governance practices and policies. Each cooperative can independently determine whether to review any or all of their governance practices and policies. There are many ways to conduct a governance review. The Guide and Worksheet offer one option.

Planning a Governance Review. Each cooperative that wants to engage in a review should determine a schedule and process that best suits the cooperative, its board of directors, and its employees, attorneys or other consultants assisting in this process. Some may choose to discuss the complete Report in a one- or two- day retreat, others may choose to schedule periodic meetings over the course of multiple months. For example, you might discuss one section of the Report monthly or quarterly.

Before Discussions. Consider distributing the Report, Worksheet, cooperative bylaws, and relevant policies to each individual involved in the review process in advance of the discussions. If you choose to review over a period of time, prior to each meeting, notify the board and other attendees of the sections that will be examined during that meeting. Reviewing these materials in advance may help facilitate better discussion.

During Discussions. Have the Report, Worksheet, cooperative bylaws and relevant policies, as well as any state law requirements available. As noted in the Report, the cooperative attorney can assist in this process. Ask the appropriate individual to complete the Worksheet as you examine the governance subtopics, your cooperative’s current practices, the Task Force’s observations and comments, whether you agree or disagree with the Task Force, whether you wish to take action, and whether you consider actions (or the subtopic if no action is identified yet) as high, medium, or low priorities for your cooperative. The Worksheet, also available on [coop-erative.com](https://www.cooperative.com)¹³, should be printed or copied so you can complete a separate Worksheet for each governance subtopic addressed.

13 https://www.cooperative.com/topics/leadership-governance/Documents/Secure/Governance-Task-Force/Governance_Task_Force_Report_Feb2018_Worksheet.pdf

The Timeline. For many subtopics, a five-minute discussion may be sufficient time to work through the Worksheet, determine any potential action, and assign a priority. Others may require more time. Completed Worksheets can later be organized by priority. For high priority items, you may need to engage in more extensive discussions on a schedule that best suits the cooperative. Ideally, even low priority items will be further considered at the suitable time, and all governance topics can be examined on a periodic basis. As stated in the Report, the Task Force hopes the Report will facilitate, and be a catalyst for, electric cooperatives' continued examination of governance.

Questions? For questions about the Report or how to use the Worksheet, please contact governance@nreca.coop.

Electric Cooperative Governance Review Worksheet

Print or copy this worksheet in advance. Use it in conjunction with the Electric Cooperative Governance Task Force Report (February 2018) and complete one worksheet for each governance subtopic addressed.

Topic: _____

Subtopic: _____

What is your cooperative's current practice?

Do you agree or disagree with the Task Force's observations and comments? Why?

What are the benefits and risks, if any, of your cooperative's current practice?

What action, if any, will your cooperative take? When?

What are the challenges, if any, to taking action?

Priority: High Medium Low