National Rural Electric Cooperative Association
A Touchstone Energy® Cooperative

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House Ways and Means Committee

Tax Reform Working Groups

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Energy Tax Policies

When tax exempt financing, interest free loans, or other energy incentives exist, or are considered by Congress, cooperatives should be treated equitably with other energy providers. Programs, such as the Clean Renewable Energy Bonds, that provide comparable benefits should be available for electric cooperatives. NRECA opposes tax policy proposals that impose a burden on NRECA member-consumers through increased rates.

Policy Background

If a Production Tax Credit (PTC) is extended beyond 2013, NRECA urges Congress to enact comparable tax benefits for cooperatives and entities that can't benefit from a PTC against income taxes. Congress has previously demonstrated a willingness to provide for tax incentive equity through Clean Renewable Energy Bonds originally authorized in the Energy Policy Act of 2005. If renewable energy incentives are extended or enacted in the future, an equitable policy should be developed.

Cooperatives have used CREBs to develop an array of renewable projects including, among others, wind turbines for Alaska Village Electric Cooperative, which have allowed the towns to reduce their dependence on diesel generators, refurbish carbon neutral hydroelectric facilities, expand landfill gas projects, and install photovoltaic arrays at schools.

Because the Production Tax Credit (PTC) for renewable generation investments such as wind only allows a tax credit to be taken against corporate income or passive income on a personal basis, the PTC effectively does not work for local investment opportunities.

Create tax exempt financing for electric cooperatives

A number of NRECA members are public power systems and are eligible to issue tax-exempt bonds. In addition, generation and transmission cooperatives have utilized billions of dollars in tax-exempt bonds for pollution control facilities. Congress should create tax-exempt financing for electric cooperatives, which can best serve their members by utilizing this alternative.

Oppose tax proposals similar to a "carbon" tax on fossil fuels, or any new "energy" or "BTU" taxes that impose a burden on NRECA member-consumers through increased rates

In the past, members of Congress have discussed a "carbon" tax, a unit tax on fossil fuels. Such a proposal would fall disproportionately upon the energy industry and energy producing states. In particular, such a tax would cause electric rates for member-consumers of electric cooperatives to increase and would have a crippling effect upon the coal industry and other carbon based industries. We oppose any such tax proposals similar to a "carbon" tax on fossil fuels and urge Congress to reject such proposals as a possible source of revenue.

Also discussed in the past has been new "energy" or "BTU" taxes. Such proposals would impose a tax on all energy in the country regardless of form or method or place of production. These tax proposals would also cause electric rates for member-consumers of electric cooperatives to increase. NRECA opposes any such tax proposals which would impose a burden on our member-consumers through increased rates.

Frequently, members of Congress develop plans to achieve environmental goals through tax policies. The approach is to impose a tax on certain individuals, companies, or sectors of the economy with the hope of forcing a change in operations which will achieve the desired environmental result. Using taxation decisions is an ineffective and speculative method to achieve environmental goals.

Oppose all tax proposals to subject not-for-profit cooperatives to a tax on income

A legislative proposal introduced in Congress in prior years would eliminate the tax exemption for not-for-profit cooperatives with revenues in excess of $25 million. Such a change in the Code would impose an inequitable direct cost on member-consumers that is not required of customers of other electric utilities. As not-for-profit corporations, electric cooperatives do not generate "profits" which can be used to pay income taxes. NRECA opposes any change to the Code that would subject electric cooperatives to a tax on income.

In order to continue meeting the credit demands of its member utility systems at the lowest possible cost, it is essential that the National Rural Utilities Cooperative Finance Corporation (CFC) maintain its not-for-profit tax status.

CFC is a not-for-profit cooperatively owned finance organization and returns to its members any margins exceeding the cost of operations. As a cooperative, CFC generates no profit. NRECA supports legislation to maintain CFC's tax-exempt status and oppose any legislation which would endanger it.

If additional taxes are utilized by our nation, we urge Congress to expend all such revenue in American energy independence and energy generation research and technology development.

Charitable/Exempt Organizations Tax Policies

NRECA seeks legislation, interpretation of regulations, judicial decisions, and Administrative rulings to ensure that not-for-profit electric cooperatives, the National Rural Utilities Cooperative Finance Corporation (CFC) and other not-for-profit cooperative partners maintain their tax status.

Enact tax-exempt status for cooperative group self-insured pools

Certain cooperative electric membership corporations have pooled their resources and formed statewide group self-insured pools to collectively insure their workers' compensation insurance needs in an effort to reduce the ultimate incurred workers' compensation costs to those cooperatives. The ultimate objective for these workers' compensation self-insured pools is not a profit motive; rather, the ultimate goal is reducing the overall cost of workers' compensation to an affordable cost. All excess premiums (surplus) generated by the group self-insured pools are returned to members once all claims have been closed out and appropriate reserves and special regulatory funding stipulations are no longer required. Returned premiums (surplus) are either paid out in the form of cash dividends or allocated capital credits.

Pool members, as cooperative electric membership corporations, are non-taxable due to their cooperative status. Cooperatives could, if large enough, set up an employer self-insured program whereby the reserves and earnings on these reserves would be considered non-taxable as they relate to member operations. However, the Internal Revenue Service had deemed group self-insured pools be treated as a taxable entity for federal income tax purposes and taxed accordingly. This creates an adverse distinction between cooperative group self-insured pools and cooperative employer self-insured programs.

The Code should be amended to provide a tax-exempt status for cooperative group self-insured pools by allowing these group self-insured pools to allocate surplus earnings to pool members thereby moving the tax burden, if any, to the cooperative members of the pool rather than the pool itself, thus extending the same privileges to cooperative group self-insured pools that individual self-insured cooperative employers enjoy.

Pensions/Retirement Tax Policies

NRECA supports legislation to protect the ability of co-ops to offer the NRECA Retirement Security Plan (a "multiple-employer" defined-benefit pension plan created under § 413(c) of the Code) and support policies that would provide opportunities and protect our employees' ability to save for their retirement through 401(k) plans and other investment vehicles, while studying alternatives to help reduce the cost pressures faced by electric co-ops participating in the NRECA Retirement Security Plan.

Economic security for working and retired Americans is a leading concern for electric cooperative employees and a national goal that has been supported by both Republicans and Democrats and both the public and private sectors for well over a century. NRECA members are committed to preserving and enhancing the voluntary employer-sponsored retirement system and the tax policies that support it. NRECA is proud that the vast majority of its members offer comprehensive retirement benefits through a traditional defined-benefit plan (the NRECA Retirement Security Plan) and a defined-contribution plan (the NRECA 401(k) Plan).

Both of these critical "multiple-employer" benefit plans (under § 413(c) of the Code) are operated to maximize retirement savings for employees, retirees and their families and provides each co-op employee the financial means to enjoy a comfortable and secure retirement. Voluntary employer-sponsored retirement plans continue to promote economic security for tens of thousands of electric cooperative employees, and tens of millions of our fellow American workers.

Defined-Benefit Plan Policy - Enact policies specifically designed for "multiple-employer" plans, the forgotten child of pension policy defined-benefit plans

Code § 413(c) permits unrelated employers (typically small employers) to pool experience and expenses by maintaining a single plan – a "multiple-employer" plan (MEP). Most importantly, these MEP's *do not* involve a collective bargaining agreement - which differentiates them from "union multiemployer plans" or "Taft-Hartley plans" – and are regulated and operated completely differently.

"True MEP's" like the defined-benefit Retirement Security Plan allow small employers to join together to achieve economies of scale to provide employees with comprehensive benefits, and receive high-level investment and administrative services that they could not afford on their own. For example, out of 883 participating co-ops in the $6 billion NRECA Retirement Security Plan, 86% have less than 100 employees; 61% have less than 50 employees, and 24% have less than 20 employees – unheard of in the single-employer marketplace.

Typically, participating employers are small and very often are tax-exempt organizations. Many form to serve employers structured as cooperatives (agriculture, telecommunications, electricity), and well as charities, civic and educational organizations which are spread across most of the U.S. This creates a high level of diversity in business conditions for all employers within the same plan. Unfortunately, MEP's like ours are often the "forgotten child of pension policy" – that is:

- Rules for single-employer plans are carefully designed for plans maintained by a single company
- Rules for union multi-employer plans are carefully designed to fit the collectively bargained context
- Rules are almost never tailored to MEPs, which are subject to the singles' rules
    - When NRECA asks how a new set of funding rules applies to MEPs, the most common answer is: "We will have to get back to you on that."

The entire premise of the Pension Protection Act of 2006 (PPA) was based on concern that if a single employer goes bankrupt, and their plan terminates with unfunded liabilities, the Pension Benefit Guarantee Corporation (PBGC) would be required to take over that plan, and administer the benefits. For NRECA, we have 883 co-ops in our plan, with 60,000+ participants across 47 states. If 100 go bankrupt, which is hard to even imagine, the plan keeps going and nothing is turned over to the PBGC. This explains why the PPA funding rules do not apply to our plan until 2017; Congress couldn't fit our MEP into its new rules. But it does not explain why rules not designed for us apply to us at all.

Very simply, Congress should finally enact policies specifically designed for MEP defined-benefit plans in comprehensive tax reform, especially in the funding area, to eliminate "Square Peg / Round Hole" rules & regulations.

Ever increasing funding costs and administrative compliance burdens associated with offering and maintaining these plans is a major deterrent to expanding coverage. Simplifying the Code's provisions in this area would do much to make retirement plans accessible to more Americans. This should be done in a thoughtful and informed manner by policymakers, and not in hurried reaction to unusual events, in order to avoid unintended consequences for employees. Eliminating cost volatility and unnecessary administrative compliance burdens in current tax policy would encourage more workers to provide for their economic security through a number of vehicles for personal savings by encouraging expansion of these employer-sponsored benefit plans.

Defined-Contribution Plan Policy – Preserve tax policies that empower employees to save for retirement in 401(k) plans, which simply defer taxation, unlike permanent tax exclusions

Eliminating or diminishing the current tax treatment of employer-sponsored plans like the NRECA 401(k) Plan will jeopardize health and economic security of our 100,000+ employees, retirees and their families, impact the role of retirement assets in the capital markets, and create major challenges in maintaining the quality of life for future generations of retirees.

Permanent tax exclusions are completely different than incentives for retirement savings like 401(k) deferrals, and need to be recognized as such in comprehensive tax reform discussions and in Joint Committee on Taxation scoring in the 10-year budget window. Changing the current tax treatment of 401(k) plan contributions appears to increase tax revenue by "front-loading" the tax impact; however, this does not take into account the eventual taxation at ordinary income rates when withdrawn by a retiree, very often decades after the original contribution.

Even during the financial markets crisis in 2008 and 2009, contributions by employees and employers to retirement plans continued. As Congress and the Administration focuses on reducing budget deficits and the national debt, changing the deferred tax treatment of these retirement plans that provides an economic and social safety net for a secure retirement should be avoided.

As Congress considers comprehensive tax reform and deficit reduction, NRECA urges you to preserve these provisions that both encourage employers to offer and workers to contribute to these retirement plans.

Congress should oppose the Administration's FY 2014 Budget proposal that limits how much Americans can save for retirement in plans like the RS Plan and 401(k) Plan

Allegedly targeted to "prevent millionaires from taking advantage of special provisions," this proposal, in particular, will just end up hurting middle-class electric co-op employees and their families by limiting participation and increasing the costs of their employee benefit plans.

The Administration proposes to limit an individual's total balance today, across tax preferred accounts like the RS Plan, 401(k) Plan, and IRA's, "to an amount sufficient to finance an annuity of not more than $205,000 per year," starting at age 62. The Administration states that a person currently Age 62 would need a total balance of approximately $3.4 million today to be equivalent to such a cap. However, this cap is actually much lower for younger people (about $935,000 for a 35 year old today) and will be even lower when the Nation returns to historically average interest rates (about $291,000 for that same 35 year old), as annuity values are very closely tied to prevailing interest rates.

As demonstrated in the chart below, as interest rates change from year to year, the level of the cap will vary significantly, especially for younger workers, when expressed as a total account balance. The cap is nowhere near the Administration's stated $3.4 million when the Nation returns to historically average interest rates.

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Caps by Current Age to Secure $205,000 Joint and 100% Survivor Annuity Commencing at Age 62 (spouse same age as participant)

Age Today	Total Cap on Current Value of RS Plan, 401(k) Plan, IRA and any other retirement accounts **At Today's Interest Rates***	Total Cap on Current Value of RS Plan, 401(k) Plan, IRA and any other retirement accounts **At Historical Interest Rates****
25	$595,472	$135,098
30	$745,915	$198,110
35	$934,573	$290,564
40	$1,171,300	$426,272
45	$1,525,935	$645,126
50	$1,986,420	$971,800
55	$2,524,207	$1,433,583
60	$3,203,755	$2,111,214
62	$3,496,000	$2,450,055
65	$3,309,135	$2,363,208

* Based on November 2012 PPA minimum lump sum interest rates (.97%, 3.5%, 4.6%) and 2013 PPA Mortality (used for RS Plan lump sums determined in 2013)
** Based on 25 year average interest rates as enacted in Moving Ahead for Progress in the 21st Century Act (MAP-21), (Pub. L. No. 112-141, July 6, 2012). Unadjusted Sept. 30, 2012 rates (5.81%,7.23%, 7.95%) and 2013 PPA Mortality

Many complex and critical questions still remain about the mechanics of the proposal, including the indexing formula, the applicability to different kinds of plans, treatment of non-taxable contributions and numerous other matters, making a full analysis of this very harmful and administratively costly proposal impossible. It is crystal clear, however, that proposals like this directly discourage hard working co-op employees to participate in these plans to save for their retirement, and should be strongly opposed by all members of Congress.

Congress should oppose the Administration's FY 2014 Budget proposal that arbitrarily increase PBGC premiums by $25 billion, and ceding its taxing authority to the Administration to set premium rates paid by plan sponsors

The Administration proposes to increase premiums paid by sponsors of pension plans like the RS Plan to the PBGC over the next 10 years by $25 billion, to set its own premiums, and, annually assess the financial condition of all pension plan sponsors, including charities, small employers, and private companies. That is an alarming expansion of the Federal government and would be an unprecedented delegation of Congressional power to the Executive Branch.

This proposal is a new tax borne solely by employers who have done the right thing – voluntarily sponsoring pension plans to provide retirement security. This would be assessed without regard to the underlying retirement plans, or the PBGC.

Over the last several years, co-ops have had to make some tough decisions on their employee benefit plans due to increased costs. And now, the Administration think it's a good idea to increase fees we and every other pension plan sponsor pay to the PBGC to bail out the bad guys that went bankrupt and broke their promises to their employees.

Making us pay the Federal Government more money to bail out the bad guys is just wrong. This could cost us <u>hundreds of millions of dollars</u> over the next 10 years. We have been fighting all efforts to increase our pension plan costs for years, but with current Federal budget deficits Congress are scouring for money wherever they can find it.

This money has to come from somewhere. Increasing RS Plan costs will force co-ops to either cut some jobs and benefits or increase electricity rates on our consumer-owners. Congress should be looking at ways to keep pension plans affordable for good guys like us, not enacting laws that increase fees we pay the Federal Government to bail out the bad guys that broke their promises to employees.

Education and Family Benefits Tax Policies
Financial Services Tax Policies
Small Business Tax Policies

Health Care

NRECA supports tax policies that ensure all member cooperatives, regardless of their size and location, have access to affordable comprehensive and flexible health care and insurance programs for current and former employees and their dependents. NRECA continues to explore opportunities to contain the rising premium cost of our group medical program, fully recognizing that tradeoffs in the level and quality of service may be necessary. To continue operating its national health insurance program for our membership, NRECA must ensure the continuation of a structure under the Internal Revenue Code that allows for it to provide a nationwide group medical plan.

Policy Background

For decades, NRECA has urged Congress to enact reforms that will create real cost containment, eliminate cost-shifting from government programs and increase access to quality care for all Americans. Electric cooperatives collectively provide health insurance benefits to over 100,000 employees, retirees and their families. Authorized under the Employee Retirement Income Security Act (ERISA), the NRECA Group Benefits Trust is a national plan that allows each member co-op to design a health benefits package tailored to meet the unique needs of its employees and retirees. Whether an electric co-op provides health insurance through NRECA's Group Benefits Trust or from another source, ever-rising health care costs threaten our ability to provide health care. We support all efforts to make health care more affordable, reliable and sustainable so that electric co-ops can afford to maintain these critical employee benefits.

NRECA maintains a trust under section 501(c)(9) of the Code that makes it possible for member cooperatives to obtain group medical and other insurance coverage on a nationwide basis.

Preserve each electric co-op's ability to tailor its employer provided health benefits package as currently allowed under ERISA; Do not tax employer-sponsored benefits in any manner

The Affordable Care Act (ACA) enacted in 2010 created a wide variety of new taxes that impact employers of all sizes, including the 40 percent excise tax on "high cost" plans starting in 2018. Despite the fact that Congress recognized electric cooperatives operate in a "high risk" industry and therefore have a higher threshold before being subject to the 40 percent tax, NRECA estimates that *ALL* electric cooperatives in the United States will be subject to this 40% tax in the first year -- not because we have "Gold-Plated Cadillac Plans," but because our employees live in rural communities where access to high-quality health care is more limited and, as such, the cost of that health care can be disproportionately higher than in more urban or metropolitan areas.

In short, taxing any part of a co-op employee's health care benefits – with the 40 percent excise tax or other tax proposals that change the employee tax exclusion or employer tax deduction – will leave electric cooperative families with less comprehensive health coverage and higher out of pocket costs.

This 40% tax would also unfairly impact plans that "do the right thing" to keep costs down as best they can. For example, NRECA's Group Benefits Trust is a not-for-profit, self-insured/self-administered trust fund that operates "at cost" just like our member cooperatives. It utilizes group purchasing to negotiate the lowest possible expenditures on drugs and PPO provider discounts. All operations are "In-House," which eliminates the waste that may come with a third party processor. And, our constant communication with our provider networks ensures that our employees can access health care where they live. All assets are used only for member employee benefits, and premiums are priced to meet expenses. They are *not* diverted for profits, to pay taxes or commissions, or for any other purpose.

Why should these "at cost" benefits be taxed when the plan is doing all that it can to reduce costs? In short, taxing any part of our employee's health care benefits that do not recognize our unique employee populations and demographic/geographic challenges will leave electric cooperative families with less comprehensive health coverage and/or higher costs.

Preserving each electric cooperative's ability to maintain and tailor its employer-sponsored health benefits package as currently allowed under ERISA, and not taxing employer-sponsored benefits in any manner are fundamental building blocks to ensure the continuation of a structure that allows NRECA to offer a nationwide group medical plan to our membership. To protect and preserve this nationwide program, NRECA continues to review all health care legislative proposals and other opportunities to make health care more affordable, reliable and sustainable so that electric co-ops can afford to maintain these critical employee benefits. Going forward, policymakers should focus on the key goal of strengthening the employment-based system that currently covers over 100,000 electric cooperative employees, retirees and their families and allow them to "keep what they have if they like it."