



**Northern Border
Regional Commission**

Organizational Bylaws (v.2)

Unanimously approved by NBRC Members
Friday, February 16, 2018

Statutory Authority

§15304(a)(4) “[Powers.-In carrying out its duties under this subtitle, a Commission may]...adopt, amend, and repeal bylaws and rules governing the conduct of business and the performance of duties by the Commission”

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1. Authority

Pursuant to 40 U.S.C. §15304(a)(4), the Northern Border Regional Commission (hereinafter referred to as the “Commission” or “NBRC”), establishes these Bylaws as a definitive statement of current NBRC policy, processes, and roles.

The Commission’s authority rests with five representatives of governments (hereinafter referred to as the “Members”): a Federal Co-Chairperson and the governors of Maine, New Hampshire, Vermont, and New York. As reflected in 40 U.S.C. §15301(b)(2), Members may be represented by chosen alternates when they are unable to attend convening or meetings.

Under 40 U.S.C. §15302(a), no decision involving any modification or revision in these bylaws can be made without an affirmative vote of the Federal Co-Chairperson and a majority of the State Members.

In accordance with specific authorizations and delegations made elsewhere in these bylaws, regulations and guidelines implementing Commission policy may be approved, amended and waived, as necessary, for the effective administration of the Commission and its programs.

The Commission may amend, suspend or revoke any Commission policy or interpretation thereof, whether or not incorporated in these bylaws, and may waive the application of such policy with respect to any matter, retroactively or prospectively.

2. A Federal-State Co-Equal Partnership

The NBRC was enacted through Public Law 110-246, the “Food, Conservation, and Energy Act of 2008” and subsequently amended through Public Law 113-79, the “Agricultural Act of 2014”, now 40 U.S.C. Subtitle V. In creating the NBRC, Congress developed a co-equal role by the federal government and the state governments in the formulation of programs and policies. It is recognized that the combined talents, resources and insights of the federal and state governments are required to make maximum use of the programs and funds authorized under the Act.

3. The Federal Member

The Federal Government is represented on the Commission by a Federal Co-Chairperson who is appointed by the President, by and with the advice and consent of the United State Senate.

4. The State Members

The States of Maine, New Hampshire, Vermont, and New York shall be represented on the Commission by their respective Governors (hereinafter referred to as the “State Members”).

4.1. Duties

4.1.1. Economic and Infrastructure Development Plans

Submit to the Commission a five year comprehensive economic and infrastructure development plan for the area of the region represented by the State Member that shall coincide with the term of the NBRC’s Five Year Strategic Plan.

Each plan shall reflect the goals, objectives, and priorities identified in any applicable economic and infrastructure development plan developed by a Commission and maximize public participation in the development, revision, and implementation of the plans. The plans will be made in consultation with local development districts, local units of government, and local colleges and universities and take into consideration the goals, objective, priorities, and recommendations of those entities.

4.1.2. Certifying Applications

That in the process of certifying for Commission funding approval, the State Member ensures that the following conditions are met by each applicant: that the applicant references ways in which their project complies with an applicable State economic and infrastructure development plan; that the applicant provides adequate assurances that their project will be properly administered, operated, and maintained; that there are reasonable assurances that the project will not be used to assist a person or entity relocate from one area to another; and that the applicant provides reasonable assurance that the project makes maximum use of all available federal and non-federal funds.

4.1.3. Prioritizing Applications

That in the process of priority ranking applications for assistance, the following criteria is considered by the State Member: that the projects have a positive and enduring role in a region's overall development; that these projects help raise the per capita income and lower poverty in a region; that the projects help lower regional unemployment; that these projects help lower regional outmigration rates; that each applicant has sufficient financial resources available to carry out the project and that each project is adequately financed to maximize the probability of successful economic development; that each project rises in importance in relation to the other projects that may be in competition for the same funds; that the projects improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income, or the economic development of a region; and that the applicants provided detailed outcome measurements by which their grant expenditures and the results of the expenditures may be evaluated.

4.1.4. Conflict of Interest.

Adhere to conflict of interest provisions within 40 U.S.C. §15306.

4.2. States Alternates

State Members may appoint an Alternate from among the members of the his/her cabinet or personal staff who shall vote in the case of the absence, death, disability, removal, or resignation of the Member. Each Member desiring to designate an alternate shall file with the Executive Director the name of the person appointed by him/her as his/her Alternate by certifying that the Alternate is a Member of the Governor's cabinet or of the Governor's personal staff. In the event of any change, the governor shall furnish written notice thereof to the Executive Director and such notice shall take effect upon or after such filing in accordance with its terms.

5. The Federal Co-Chairperson

Along with the State Co-Chairperson, the NBRC will be led by a Federal Co-Chairperson.

5.1. Duties

5.1.1. Preside

Preside over Commission meetings, alternately with the State Co-Chairperson.

5.1.2. Oversight

Ensure that Commission acts, policies, procedures, conduct, financial affairs, agreements, and funding programs are reflective and in adherence to appropriate federal laws, regulations, and policies.

5.1.3. Congressional Relations

Develop legislative and budgetary proposals for the Executive branch, and for presenting the legislative programs and budgetary proposals of the Executive branch to Congress. As State Co-Chair here.

5.1.4. Agenda Role

Review and approve, in coordination with the State Co-Chairperson and Executive Director, the formulation of Commission meeting agendas.

5.1.5. Coordination

Shall, to the extent practicable, consult with Federal departments and agencies having an interest in matters before the Commission.

5.2. Alternate Federal Co-Chairperson

Appointed by the President, an Alternate Federal Co-Chairperson, when not actively serving as an alternate for the Federal Co-Chairperson, shall perform such functions and duties as are delegated by the Federal Co-Chairperson.

6. The State Co-Chairperson

Along with the Federal Co-Chairperson, the NBRC will be led by a State Co-Chairperson. The State Co-Chairperson shall be a governor of a Commission Member State.

6.1. Duties

6.1.1. Preside

Preside over Commission meetings, alternately with the Federal Co-Chairperson. Preside over meetings of the State Members.

6.1.2. Agenda Role

Review and approve, in coordination with the Federal Co-Chairperson and Executive Director, the formulation of Commission meeting agendas.

6.1.1. Share responsibility for Congressional Relations with Federal Co-Chair

6.2. Election

Prior to August 30 of each year, the NBRC state governors shall elect a States Co-Chairperson of the Commission from among their number to serve for the next fiscal year starting October 1. To be elected, a State Member must receive the votes of a majority of the states.

6.3. Term

The State Co-Chairperson shall be elected for a term of not less than 1 year and for no more than two consecutive terms.

6.4. Assignment of Duties

A State Member elected as State Co-Chairperson may assign his/her duties as State Co-Chairperson to his/her chosen State Alternate.

7. Commission Decisions

7.1. Voting

Unless otherwise indicated within these bylaws, any modification or revision of these bylaws, the approval of actions, the approval of grants, or the rescission of any past action, shall require the affirmative vote of the Federal Co-chairperson and of a majority of non-delinquent State Members.

7.2. Quorum

A quorum is only attained with the presence of the Federal Co-Chairperson or his/her alternate.

8. Committees

The Commission may, from time to time, establish permanent committees, ad hoc committees, or task forces it deems advisable in order to assist it in carrying out its functions. The Commission shall make available appropriate professional and supporting personnel as required to assist such committees or task forces in performing their functions.

8.1. Co-Chair's Committee

The Commission establishes a Co-Chair's Committee composed of the Federal Co-Chairperson and the State Co-Chairperson, each of whom shall have one vote in the Committee.

8.1.1. Functions

- 8.1.1.1. Provide a continuing overview of program implementation and administration to ensure conformance with Commission policies;
- 8.1.1.2. Provide general program and policy advice for the Executive Director;
- 8.1.1.3. Interpret Commission policy;
- 8.1.1.4. Take such other actions and perform other functions as the Commission may delegate.

8.2. States' Committee

State Members shall convene themselves from time to time to discuss and approve Commission issues relevant and exclusive to the States. Their activities may, but not exclusively, include:

8.2.1. Functions

- 8.2.1.1. To annually choose from among the State Members a Commission State Co-Chairperson who, in addition to his/her Commission duties, will convene, create agendas for, and preside over States' Committee meetings.

- 8.2.1.2. To develop a consensus among the States on budgets, policies, agreements, and other situations requiring the approval of the State Members.

9. Executive Director

The Commission shall appoint an Executive Director who shall be responsible for carrying out the administrative functions of the Commission, for direction of Commission staff, and for such other duties as the Commission may assign.

9.1. Appointment

With the occurrence of a vacancy in the position of Executive Director, the Commission shall, by formal notice, declare the vacancy and establish a deadline for submission of applications for the position.

Using procedures it determines to be appropriate, the Co-Chair's Committee shall administer the process of advertising the position, accepting applications, and referring them to the Members. The Members shall appoint and employ an Executive Director through an affirmative vote.

Nothing herein shall preclude the Commission from appointing an Executive Director in an acting or temporary capacity.

9.2. Compensation

The Executive Director's compensation may not exceed the maximum rate of basic pay established for the Senior Executive Service under §5382 of Title 5, including any applicable locality-based comparability payment that may be authorized under §5304(h)(2)(C) of that title

9.3. General Duties

The Executive Director, under the general direction of, and subject to policies and procedures prescribed by, the Commission, is responsible for the administrative, programmatic, and fiscal operations of the Commission.

9.3.1. Establish rules and procedures, take action and delegate powers, duties, and responsibilities as he/she deems necessary for efficient administration;

9.3.2. Effectuate and enforce all policies and resolutions adopted by the Commission;

- 9.3.3. Perform such other functions vested in the Commission by 40 U.S.C. Subtitle V, as may be delegated or assigned to him/her by the Commission or the Co-Chairmen's Committee.

9.4. Personnel Management Duties

- 9.4.1. Exercise sole responsibility for assigning functions and duties to the Commission staff and for modifying assignments;
- 9.4.2. Administer and supervise the administration of the Commission staff and prescribe and enforce rules and procedures for efficient management;
- 9.4.3. Establish position qualifications and appoint, employ, remove, and provide for the compensation of the Commission staff;
- 9.4.4. Shall establish and maintain a system of personnel management in accordance with the principles and requirements set forth in this section and in accordance with the provisions of 40 U.S.C. Subtitle V and other applicable federal and local laws. The Executive Director shall consolidate all personnel policies and procedures into a NBRC Personnel Manual which shall be maintained and kept current and made readily available to Commission staff.

9.5. Ethics Duties

- 9.5.1. Shall take actions to require that all staff responsible for making decisions or taking actions that have economic impact disclose financial interests, outside employment, or other potential conflicts of interest affecting such decisions or actions.
- 9.5.2. Shall file with the Federal Co-Chairperson a statement of financial interest and other employment, using the confidential financial disclosure form prescribed by the U.S. Office of Government Ethics.
- 9.5.3. Shall ensure that Commission staff is fully informed about the prohibitions and requirements of Hatch Act found in Chapter 15 of Title 5 of the United States Code, "Political Activity of Certain State and Local Employees."

9.6. Contracting Duties

- 9.6.1. Appoint, or otherwise obtain the services of, experts, consultants or other necessary personnel, whether individuals or organizations, for the purpose of providing expert advice, technical or research assistance, or other necessary assistance for the Commission or its Member states.
- 9.6.2. Negotiate, execute and administer contracts, leases, and interagency and intergovernmental arrangements;

9.7. Reporting and Clerical Duties

- 9.7.1. Report to the Commission at each meeting on activities of the Commission including the performance of funding recipients and other communications as desired by the Commission.
- 9.7.2. Serve as the sole conduit for the submission of staff papers, materials, and reports to the Members; provided that he/she will provide equal access to information to the Federal Member and State Members;
- 9.7.3. Submit, not later than 90 days after the close of each fiscal year, a report of Commission activities during the preceding fiscal year for Commission approval prior to transmission to the President, Congress, and the Governors of Member States;
- 9.7.4. Serve as Secretary to the Commission, ensure the recording and maintaining of minutes of its proceedings, maintain an official list of Commission Members and State Member Alternates, serve as the official repository of Commission documents, and, with the consent of the Federal Co-Chairperson and State Co-Chairperson, create editorial revisions to these bylaws following approval of bylaw changes by the Members.
- 9.7.5. Shall, upon request of any Member, make available to the greatest extent practicable, technical assistance and information that will further the purposes of the NBRC program.

9.8. Fiscal Duties

- 9.8.1. Be responsible for wise and proper management of Commission funds;

- 9.8.2. Maintain, in writing, financial management policies and procedures including, at least, policies and procedures relating to the following: administration expenses, programmatic expenses, budget, payments, imprest funds, travel management, purchasing and procurement, and property management.
- 9.8.3. Annually create and submit an operating budget containing administrative and programmatic expenses for consideration and approval by the Members.
- 9.8.4. Maintain complete and appropriate records and documentation of all obligations, expenditures, administrative expenses, and other transactions in accordance with current federal standards and requirements.
- 9.8.5. When and as required by General Accounting Office procedures, recommend to the Commission, qualified certified public accountants to make an audit of the financial accounts of the Commission.

10. NBRC Staff

The Commission staff is responsible for the service activity of the Commission. The proper execution of its responsibilities requires the staff to give the Commission and each Member its best judgment on matters under consideration. At the same time, the staff is expected to undertake assigned activities with due regard for the federal-state partnership concept that underlies the Commission, and for the Co-Chairmen's Committee's responsibility to interpret Commission policy.

10.1. Program Functions

Under the direction of, and as assigned by, the Executive Director, Commission staff functions may include activities such as development and administration of the NBRC's programs; policy review and analysis; technical assistance to the States in the development of State plans and the preparation or refinement of program, project and grant proposals; technical assistance to local development districts; and training of personnel engaged in NBRC development programs.

10.2. Project Oversight

Under the direction of, and as assigned by, the Executive Director, Members of the staff, working closely with the states, shall analyze program, project and grant proposals for conformity to Commission criteria, and ascertain from appropriate sources that such proposals are not incompatible with the applicable requirements of basic federal grant programs.

10.3. Performance Monitoring and Reports

Under the direction of, and as assigned by, the Executive Director, members of the staff will regularly monitor grant funded projects for conformity to recipient agreements and requirements as well as review unexpended recipient fund balances to identify excess or unneeded funds for de-obligation.

11. Office of Inspector General

The purpose of the Office of Inspector General is (1) to conduct and supervise annual audits and investigations relating to programs and operations of the NBRC; (2) to provide leadership, coordination and recommendations for promoting economy, efficiency and effectiveness in the administration of NBRC programs and to detect and prevent fraud, waste and abuse in such programs and operations; and (3) to keep the Federal Co-Chairperson and Congress fully and currently informed about problems and deficiencies in the administration of NBRC's programs and operations. The inspector general shall carry out all activities and responsibilities required under the Inspector General Act of 1978, as amended.

12. Meetings, Conduct of Meetings

12.1. Public Notice

Commission meetings will be open to the public and all Commission votes will be on the open record. The Executive Director shall ensure that adequate notice is given to the public of all meetings. The Commission may, however, hold closed sessions to consider privileged and confidential matters.

12.2. Meetings

The Commission will hold at least one meeting each year with the presence of the Federal Co-Chair (or his/her Alternate) at least a majority of the Governors (or their Alternates) and may hold as many such meetings as necessary to conduct its business. The Executive Director shall, with the concurrence of the Co-Chairmen's Committee, arrange specific times and places for each meeting.

12.3. Teleconferencing

Upon agreement by the Federal and State Co-Chairpersons, meetings of the Commission may be conducted by conference call, teleconferencing, or similar means. Commission action may be taken at such meeting if an appropriate quorum is participating. All such meetings shall be open to the public and the Executive Director shall ensure that adequate notice is given to the public of such meetings and that public attendance is not unreasonably restricted.

12.4. Presiding Officer

The Federal Co-Chairperson and State Co-Chairperson shall rotate the duties of presiding officer by turns at Commission meetings.

12.5. Quorum

A valid quorum for Commission meetings shall required the attendance of the Federal Co-Chairperson or his/her Alternate.

12.6. Agenda

The Executive Director shall prepare a proposed agenda for each meeting after consultation with the Federal and State Co-Chairpersons. The agenda shall include items deemed appropriate by the Executive Director and any item requested by a Commission Member or Alternate. The Executive Director shall transmit the agenda and appropriate information and data concerning agenda

items to Commission Members and Alternates at least seven calendar days prior to each meeting, unless otherwise provided, and any matter not on the agenda shall not be considered except by the affirmative vote of the federal co-chairman and two states to do so. The Executive Director shall furnish informational copies of the agenda and related materials to other interested persons, in order to ensure adequate public notice, and shall furnish same to any person upon request of any Commission Member or alternate.

12.7. Order of Business

Unless otherwise provided by the Commission, the order business at each NBRC meeting shall be as follows: roll call by the secretary; review of real or potential conflicts of interest; review and approval of minutes of previous meetings; adoption of agenda; reports; consideration of policy resolutions; old business; new business; and adjournment.

12.8. Rules of Proceedings

The presiding officer at any meeting may move, second, and debate from the chair, and he or she shall not be deprived of any right to vote or of any other right, power, or duty of a Commission Member by virtue of occupying the chair.

The Commission Member who has made a motion shall be entitled to the privilege of closing debate. This privilege can be exercised when Members no longer desire recognition to speak on the motion, or when a motion for the previous question has passed, or upon reaching the limit of debate.

A motion to reconsider may be made only by a Commission Member on the prevailing side, and such a motion may be made only at the meeting at which the action is taken, or at the next succeeding meeting of the Commission.

Except as otherwise specifically provided herein, the proceedings of the Commission shall be governed by Robert's Rules of Order.

12.9. Recording Votes by the Commission

The vote upon every motion, resolution or action at a meeting of the Commission shall be entered in the minutes. The usual procedure will be to record the consensus of a majority of the states and the federal co-chairman. Any voting Member may demand a recorded roll call on any vote.

12.10. Minutes

The Executive Director shall prepare and distribute to the Commission Members the minutes of each meeting as soon as practicable after the meeting. The minutes of any meeting may be approved without reading if they have been distributed prior to the time of approval, or by unanimous consent if they were not so distributed.

12.11. Certification of Resolutions

As soon as practicable after voting by the Commission, the Executive Director shall, after providing the co-chairperson an opportunity for review, certify resolutions adopted by the Commission and distribute them to the Commission Members.

A copy of each resolution shall be provided for each Member of the Commission prior to consideration at any meeting.

13. Hearings

The Commission may conduct public hearings as it deems appropriate for carrying out its functions.

13.1. Hearing Procedures

For each hearing, the Executive Director shall prepare a notice that shall: state the date, time, place and business of the hearing; and be mailed or otherwise distributed, by the Executive Director, at least seven days before the hearing, to each Member of the Commission, all persons who have made written request of the Executive Director for notice of NBRC hearings, relevant media services, and any other person, group, organization, public bodies or agencies which the Executive Director or any Member of NBRC deem appropriate.

13.1. Public Access to Documents

At least seven days prior to such hearings there shall be available to the public at the Commission offices such budgets, plans, summaries, maps, findings, statements, orders, or other documents to explain, detail, amplify, describe, or otherwise indicate the action which the Commission is considering and with respect to which the hearing is being held.

13.2. Witnesses

The Commission may invite the general public and/or specific persons, organizations, agencies, or other bodies to appear and testify at such hearings. Commission Members and alternates may question witnesses under policies and guidelines established by the Commission.

13.3. Oaths

Any Commission Member is authorized to administer oaths for the purpose of conducting Commission hearings.

14. Fiscal Matters

14.1. The Fiscal Year

The Commission's fiscal year will be from October 1 to September 30.

14.2. Budget Preparation

Not later than one year and two months preceding the beginning of each fiscal year, the Executive Director shall prepare, and submit to the Co-Chair's Committee for approval, an operating budget containing administrative and programmatic expenses for the fiscal year.

14.3. Budget Approval

Following the recommendation for approval by the Co-Chair's Committee, the Members shall meet, discuss, and approve the budget only through a unanimous vote.

14.4. Breakdown of Responsibility

The programmatic expenses of the Commission shall be paid by the Federal Government.

The administrative expenses of the Commission shall be paid by the Federal Government, in an amount equal to 50 percent of the administrative expenses, and by the State Members, in an amount equal to 50 percent of the administrative expenses (hereafter referred to as the "States' Contribution").

14.5. Cap on Expenses

No more than 10% of Federal appropriations for the NBRC in any single fiscal year may be used for NBRC administrative expenses. The effect of this cap includes any administrative expenses approved for the Commission as well as any administrative expenses approved for the Office of the Federal Co-Chair. The Executive Director will be responsible for providing current and projected administrative expense reports to the Members on a regular basis.

14.1. State Share

The State Members have the responsibility to unanimously determine the share of the States' Contribution to be paid by each State. For each fiscal year, the states' contributions shall be determined on the basis of the Commission's approved budget and a method of apportionment of costs to be determined by

the states. The Federal Co-Chairperson shall not participate or vote in any decision regarding the State Contribution.

14.2. State Delinquency

During any period in which a State is more than 1 year delinquent in payment of their share of the Commission's administrative expenses, they shall be considered delinquent. The Commission shall not provide assistance to any project in a delinquent State and a delinquent State Member shall not participate or vote in any action by the Commission.

15. A State Capacity Grant Program

15.1. Purpose

Funds shall be allocated annually to the States for a grant program, the purpose of which will:

- 15.1.1. Prepare economic and infrastructure plans for NBRC counties
- 15.1.2. To supplement the State's in kind donation of time and resources by the State Program Managers for their NBRC related work
- 15.1.3. Create programs that encourage job creation
- 15.1.4. Implement new or innovative State economic development practices
- 15.1.5. Create programs to increase the effectiveness of local or regional economic developers

15.2. General parameters

- 15.2.1. Funds can only be used to support State projects, programs, or expenses within the NBRC's statutorily specified counties.
- 15.2.2. The grant period for each State Capacity Grant will coincide with the Federal fiscal year.
- 15.2.3. States will provide an annual work plan for approval by the NBRC Members before the beginning of each grant period.
- 15.2.4. Grants will not be awarded as a reimbursement for previously recorded expenses but rather awarded as a lump sum or in regular installments.
- 15.2.5. States will provide an annual report describing the impact of their State Capacity Grant Program following the end of each grant period.
- 15.2.6. State Capacity Grant Program funds cannot be used for construction expenses; the purchase of furniture, fixtures, or equipment; or the compensation of any State Member or State Alternate.
- 15.2.7. Each State's Capacity Grant will be an amount equal or greater to the States' share of NBRC administrative costs and will be authorized by the NBRC Members concurrent with NBRC budget approval.

- 15.2.8. States that do not contribute to the NBRC administrative expenses as described in Section 14 shall not be eligible for State Capacity Grant funds.

16. Re-allocation of Grant Funds

A situation may arise in which programmatic funds that have been obligated for a project within a particular State are deemed to be unneeded or in excess. This chapter provides special contingency procedures for the re-allocation of the resulting unused, recovered, or de-obligated funds.

16.1. Determination of Re-allocation

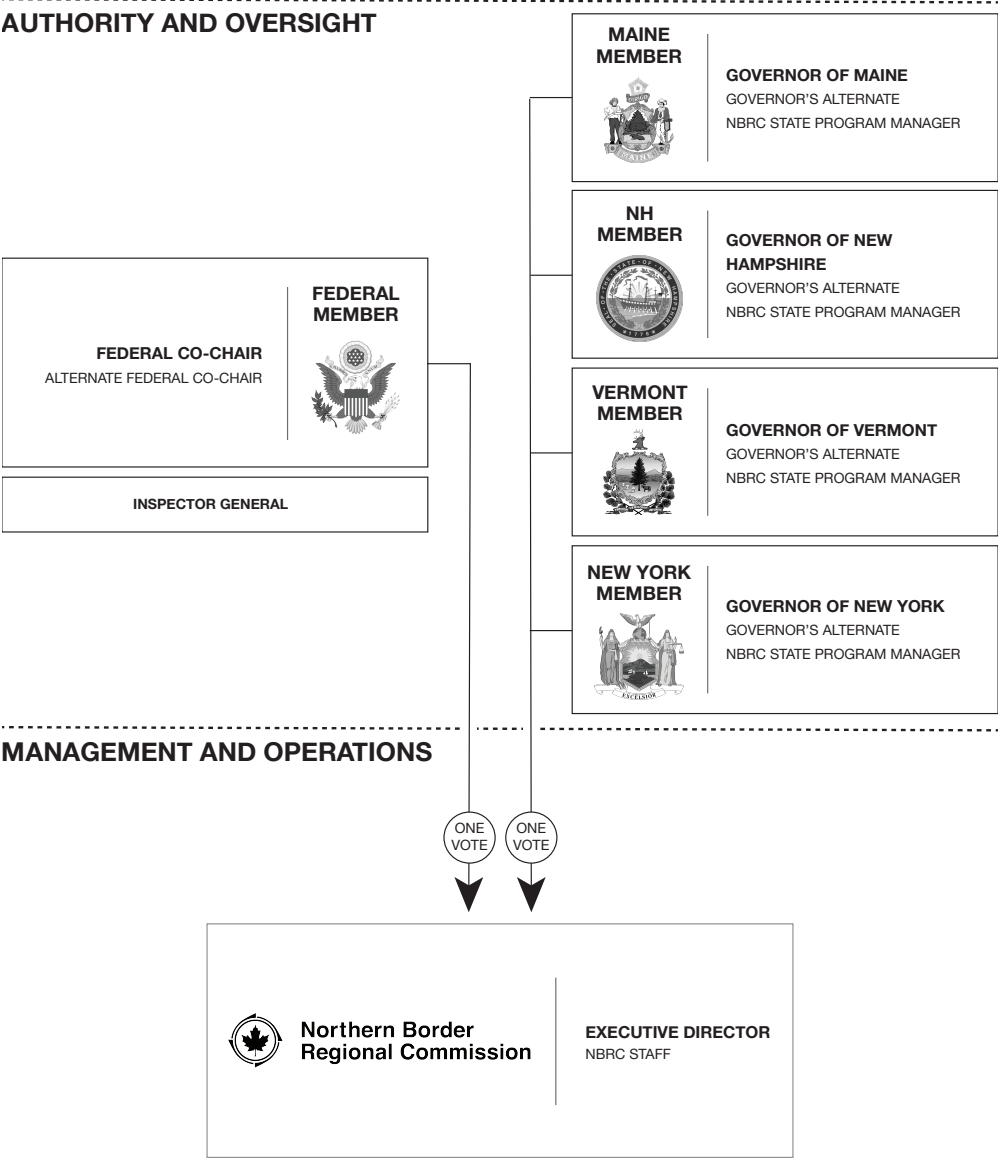
Upon the recommendation by the Executive Director, the Federal Co-Chairperson and the State Member(s) from the particular State(s) in which the funds have been obligated, shall determine whether unliquidated funds are deemed in excess, unneeded, in default of the original agreement which has expired, or in which performance has not been met.

16.2. Re-allocation

After funds have been de-obligated, those funds will be set aside for subsequently scheduled grant rounds in the same State in which they were originally obligated.

NBRC Organizational Charts

HOW NBRC FUNCTIONS



HOW THE NBRC IS FUNDED

