

SENATE FILE 377
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 261)

Passed Senate, Date 3/23/95 (p.844) Passed House, Date 4/12/95 (p.1490)
Vote: Ayes 49 Nays 0 Vote: Ayes 96 Nays 0
Approved April 26, 1995

A BILL FOR

1 An Act relating to the payment of patronage dividends by
2 cooperative associations which are public utilities.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SENATE FILE 377

S-3200

1 Amend Senate File 377 as follows:
2 1. Page 1, line 18, by inserting after the word
3 "outstanding." the following: "Notwithstanding the
4 twenty percent allocation limitation, the directors of
5 a cooperative association or the articles of
6 incorporation or bylaws of the association may specify
7 any percentage or amount to be currently paid in cash
8 to the estates of deceased natural persons who were
9 members."

By BERL E. PRIEBE
JOHN P. KIBBIE

(p.844) adopted 3/23/95

S-3200 FILED MARCH 22, 1995

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S.F. 377

1 Section 1. Section 499.30, subsection 5, Code 1995, is
2 amended to read as follows:

3 5. Notwithstanding an association's articles of
4 incorporation, for each taxable year of the association, the
5 association shall allocate all remaining net earnings to the
6 account of each member, including subscribers described in
7 section 499.16, ratably in proportion to the business the
8 member did with the association during that year. The
9 directors shall determine, or the articles of incorporation or
10 bylaws of the association may specify, the percentage or the
11 amount of the allocation that to be currently shall-be paid in
12 cash. However, ~~so long as there are unpaid local deferred~~
13 ~~patronage dividends of deceased members for prior years~~ for a
14 cooperative association other than a public utility as defined
15 in section 476.1, the amount to be currently payable in cash
16 shall not exceed twenty percent of the allocation during any
17 period when unpaid local deferred patronage dividends of
18 deceased members for prior years are outstanding. All the
19 remaining allocation not paid in cash shall be transferred to
20 a revolving fund as provided in section 499.33 and credited to
21 the members and subscribers. The credits in the revolving
22 fund are referred to in this chapter as deferred patronage
23 dividends.

24 Sec. 2. Section 499.33, Code 1995, is amended to read as
25 follows:

26 499.33 USE OF REVOLVING FUND.

27 1. The directors may use the a revolving fund to pay the
28 obligations or add to the capital of the association or retire
29 its preferred stock. In that event the deferred patronage
30 dividends credited to members constitute a charge on the
31 revolving fund, on future additions to the revolving fund, and
32 on the corporate assets, subordinate to existing or future
33 creditors and preferred stockholders. Deferred Except as
34 otherwise provided in subsection 2, deferred patronage
35 dividends for any year have priority over those for subsequent

1 years. However, prior

2 2. a. Prior to other payments of deferred patronage
 3 dividends or redemption of preferred stock held by members,
 4 the directors of ~~cooperative-associations~~ a cooperative
 5 association, other than ~~those-cooperative-associations~~ a
 6 cooperative association which ~~are~~ is a public utilities
 7 utility as defined in section 476.1, shall pay local deferred
 8 patronage dividends and redeem local deferred patronage
 9 preferred stock of deceased natural persons who were members,
 10 and may pay deferred patronage dividends or may redeem
 11 preferred stock of deceased natural persons who were members
 12 or of members who become ineligible, without reference to the
 13 order of priority. Directors

14 b. The directors of ~~cooperative-associations~~ a cooperative
 15 association which ~~are~~ is a public utilities utility as defined
 16 in section 476.1 may pay deferred patronage dividends and
 17 redeem preferred stock of deceased natural persons who were
 18 members, and may pay all other deferred patronage dividends or
 19 redeem preferred stock of members ~~who-become-ineligible~~
 20 without reference to priority.

21 3. Payment of deferred patronage dividends or the
 22 redemption of preferred stock ~~of-ineligible-members~~ shall be
 23 carried out to the extent and in the manner specified in the
 24 bylaws of the association.

25

EXPLANATION

26 This bill amends several provisions in chapter 499 which
 27 regulates the organization and administration of cooperative
 28 associations, which are utilities which furnish gas,
 29 electricity, water, or telephone service.

30 Section 499.30 provides for the annual distribution of
 31 earnings. After earnings are distributed for purposes of
 32 building or maintaining reserves, paying debts and expenses,
 33 special purposes and the payment of dividends, remaining
 34 earnings are deposited into the account of each member,
 35 ratably in proportion to the business the member did with the

1 association during that year. The section provides that the
2 board of directors determine, or the articles of incorporation
3 or bylaws of the association may specify, the percentage or
4 the amount of the allocation to be paid in cash. However, so
5 long as there are unpaid local deferred patronage dividends of
6 deceased members for prior years, the amount payable in cash
7 cannot exceed 20 percent of the allocation. The bill provides
8 that the 20 percent requirement does not apply to cooperative
9 associations which are utilities.

10 Section 499.30 provides that the remaining allocation not
11 paid in cash must be transferred to a revolving fund and
12 credited to the members and subscribers. The credits in the
13 revolving fund are referred to as deferred patronage
14 dividends. Section 499.33 provides for the use of the
15 revolving fund. The section provides that deferred patronage
16 dividends for a current year have priority over those for
17 subsequent years. The section also provides for cases where
18 the priority rule does not apply. In cases not involving
19 public utilities, prior to other payments of deferred
20 patronage dividends or redemption of preferred stock held by
21 members, the directors of a cooperative association must pay
22 local deferred patronage dividends and redeem local deferred
23 patronage preferred stock of deceased natural persons who were
24 members, and may pay deferred patronage dividends or may
25 redeem preferred stock of deceased natural persons who were
26 members or of members who become ineligible. In cases
27 involving a cooperative association which is a utility, the
28 directors may set aside the rule of priority to pay deferred
29 patronage dividends and redeem preferred stock of deceased
30 natural persons who were members, and may pay deferred
31 patronage dividends or redeem preferred stock of members who
32 become ineligible without reference to priority. This bill
33 provides that the directors may pay all deferred patronage
34 dividends or redeem preferred stock of members without
35 reference to priority.

H. 3/24/95 Passed on file

Substitute for
HF 503 (p. 1304)
4-6-95

SENATE FILE 377
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 261)

(AS AMENDED AND PASSED BY THE SENATE MARCH 23, 1995)

_____ - New Language by the Senate

Passed Senate, Date ^(p.844) 3/23/95 Passed House, Date 4/12/95(p.1490)
Vote: Ayes 49 Nays 0 Vote: Ayes 96 Nays 0
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2 cooperative associations which are public utilities.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 377

1 Section 1. Section 499.30, subsection 5, Code 1995, is
2 amended to read as follows:

3 5. Notwithstanding an association's articles of
4 incorporation, for each taxable year of the association, the
5 association shall allocate all remaining net earnings to the
6 account of each member, including subscribers described in
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8 member did with the association during that year. The
9 directors shall determine, or the articles of incorporation or
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12 cash. However, ~~so long as there are unpaid local deferred~~
13 ~~patronage dividends of deceased members for prior years~~ for a
14 cooperative association other than a public utility as defined
15 in section 476.1, the amount to be currently payable in cash
16 shall not exceed twenty percent of the allocation during any
17 period when unpaid local deferred patronage dividends of
18 deceased members for prior years are outstanding.

19 Notwithstanding the twenty percent allocation limitation, the
20 ~~directors of a cooperative association or the articles of~~
21 ~~incorporation or bylaws of the association may specify any~~
22 ~~percentage or amount to be currently paid in cash to the~~
23 ~~estates of deceased natural persons who were members.~~ All the
24 remaining allocation not paid in cash shall be transferred to
25 a revolving fund as provided in section 499.33 and credited to
26 the members and subscribers. The credits in the revolving
27 fund are referred to in this chapter as deferred patronage
28 dividends.

29 Sec. 2. Section 499.33, Code 1995, is amended to read as
30 follows:

31 499.33 USE OF REVOLVING FUND.

32 1. The directors may use the a revolving fund to pay the
33 obligations or add to the capital of the association or retire
34 its preferred stock. In that event the deferred patronage
35 dividends credited to members constitute a charge on the

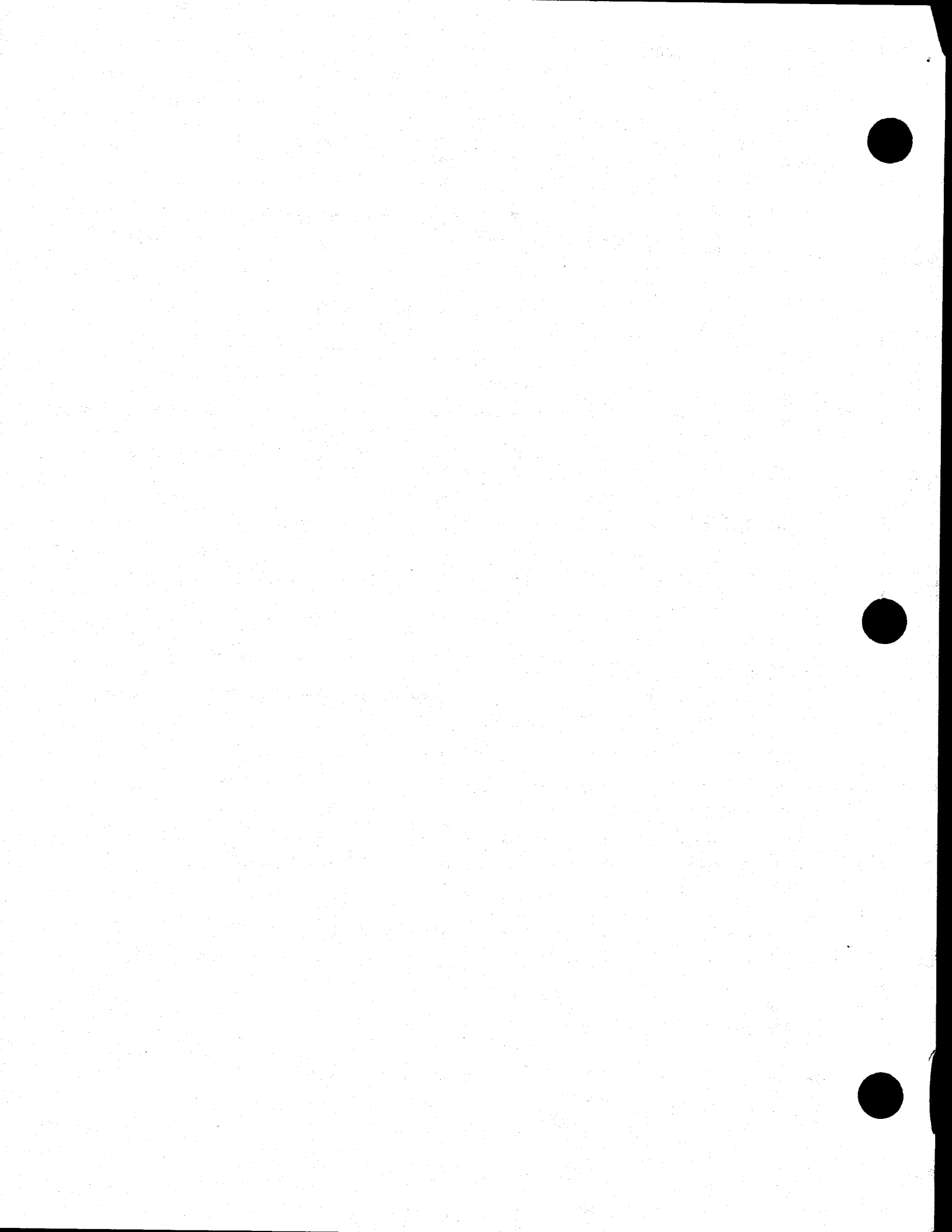
1 revolving fund, on future additions to the revolving fund, and
2 on the corporate assets, subordinate to existing or future
3 creditors and preferred stockholders. ~~Deferred~~ Except as
4 otherwise provided in subsection 2, deferred patronage
5 dividends for any year have priority over those for subsequent
6 years. ~~However,~~ ~~7-prior~~

7 2. a. Prior to other payments of deferred patronage
8 dividends or redemption of preferred stock held by members,
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10 association, other than ~~those-cooperative-associations a~~
11 cooperative association which ~~are~~ is a public utilities
12 utility as defined in section 476.1, shall pay local deferred
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14 preferred stock of deceased natural persons who were members,
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16 preferred stock of deceased natural persons who were members
17 or of members who become ineligible, without reference to the
18 order of priority. ~~Directors~~

19 b. The directors of cooperative-associations a cooperative
20 association which ~~are~~ is a public utilities utility as defined
21 in section 476.1 may pay deferred patronage dividends and
22 redeem preferred stock of deceased natural persons who were
23 members, and may pay all other deferred patronage dividends or
24 redeem preferred stock of members ~~who-become-ineligible~~
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26 3. Payment of deferred patronage dividends or the
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28 carried out to the extent and in the manner specified in the
29 bylaws of the association.

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Deluhery
Douglas
Priebe

SSB-261
Commerce

Succeeded By
SENATE FILE 377 (377)
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY
CHAIRPERSON DELUHERY)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

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 8 patronage dividends and redeem local deferred patronage
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30 natural persons who were members, and may pay deferred
31 patronage dividends or redeem preferred stock of members who
32 become ineligible without reference to priority. This bill
33 provides that the directors may pay all deferred patronage
34 dividends or redeem preferred stock of members without
35 reference to priority.

SENATE FILE 377

AN ACT

RELATING TO THE PAYMENT OF PATRONAGE DIVIDENDS BY COOPERATIVE ASSOCIATIONS WHICH ARE PUBLIC UTILITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 499.30, subsection 5, Code 1995, is amended to read as follows:

5. Notwithstanding an association's articles of incorporation, for each taxable year of the association, the association shall allocate all remaining net earnings to the account of each member, including subscribers described in section 499.16, ratably in proportion to the business the member did with the association during that year. The directors shall determine, or the articles of incorporation or bylaws of the association may specify, the percentage or the amount of the allocation that to be currently shall be paid in cash. However, so long as there are unpaid local deferred patronage dividends of deceased members for prior years for a cooperative association other than a public utility as defined in section 476.1, the amount to be currently payable in cash shall not exceed twenty percent of the allocation during any period when unpaid local deferred patronage dividends of deceased members for prior years are outstanding. Notwithstanding the twenty percent allocation limitation, the directors of a cooperative association or the articles of incorporation or bylaws of the association may specify any percentage or amount to be currently paid in cash to the estates of deceased natural persons who were members. All the remaining allocation not paid in cash shall be transferred to a revolving fund as provided in section 499.33 and credited to the members and subscribers. The credits in the revolving fund are referred to in this chapter as deferred patronage

dividends.

Sec. 2. Section 499.33, Code 1995, is amended to read as follows:

499.33 USE OF REVOLVING FUND.

1. The directors may use the a revolving fund to pay the obligations or add to the capital of the association or retire its preferred stock. In that event the deferred patronage dividends credited to members constitute a charge on the revolving fund, on future additions to the revolving fund, and on the corporate assets, subordinate to existing or future creditors and preferred stockholders. Deferred Except as otherwise provided in subsection 2, deferred patronage dividends for any year have priority over those for subsequent years. ~~However, prior~~

2. a. Prior to other payments of deferred patronage dividends or redemption of preferred stock held by members, the directors of ~~cooperative associations a cooperative association, other than those cooperative associations a cooperative association~~ which are is a public utilities utility as defined in section 476.1, shall pay local deferred patronage dividends and redeem local deferred patronage preferred stock of deceased natural persons who were members, and may pay deferred patronage dividends or may redeem preferred stock of deceased natural persons who were members or of members who become ineligible, without reference to the order of priority. ~~Directors~~

b. The directors of cooperative associations a cooperative association which are is a public utilities utility as defined in section 476.1 may pay deferred patronage dividends and redeem preferred stock of deceased natural persons who were members, and may pay all other deferred patronage dividends or redeem preferred stock of members ~~who become ineligible~~ without reference to priority.

3. Payment of deferred patronage dividends or the redemption of preferred stock ~~of ineligible members~~ shall be

carried out to the extent and in the manner specified in the bylaws of the association.

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 377, Seventy-sixth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 26, 1995

TERRY E. BRANSTAD
Governor