

# Senate Study Bill 261

## Conference Committee Text

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1 1 Section 1. Section [499.30](#), subsection 5, Code 1995, is  
1 2 amended to read as follows:  
1 3 5. Notwithstanding an association's articles of  
1 4 incorporation, for each taxable year of the association, the  
1 5 association shall allocate all remaining net earnings to the  
1 6 account of each member, including subscribers described in  
1 7 section 499.16, ratably in proportion to the business the  
1 8 member did with the association during that year. The  
1 9 directors shall determine, or the articles of incorporation or  
1 10 bylaws of the association may specify, the percentage or the  
1 11 amount of the allocation

~~that~~

~~- to be currently~~

~~shall be~~

~~- paid in~~

1 12 cash. However,

~~so long as there are unpaid local deferred~~

1 13

~~patronage dividends of deceased members for prior years~~

~~- for a~~

1 14 cooperative association other than a public utility as defined  
1 15 in section 476.1, the amount to be currently payable in cash  
1 16 shall not exceed twenty percent of the allocation during any  
1 17 period when unpaid local deferred patronage dividends of  
1 18 deceased members for prior years are outstanding. All the  
1 19 remaining allocation not paid in cash shall be transferred to  
1 20 a revolving fund as provided in section 499.33 and credited to  
1 21 the members and subscribers. The credits in the revolving  
1 22 fund are referred to in this chapter as deferred patronage  
1 23 dividends.

1 24 Sec. 2. Section [499.33](#), Code 1995, is amended to read as  
1 25 follows:

1 26 499.33 USE OF REVOLVING FUND.

1 27 1. The directors may use

~~the~~

~~- a revolving fund to pay the~~

1 28 obligations or add to the capital of the association or retire  
1 29 its preferred stock. In that event the deferred patronage  
1 30 dividends credited to members constitute a charge on the  
1 31 revolving fund, on future additions to the revolving fund, and  
1 32 on the corporate assets, subordinate to existing or future  
1 33 creditors and preferred stockholders.

~~Deferred~~

~~- Except as~~

1 34 otherwise provided in subsection 2, deferred patronage  
1 35 dividends for any year have priority over those for subsequent  
2 1 years.

~~However, prior~~

-  
2 2 2. a. Prior to other payments of deferred patronage  
2 3 dividends or redemption of preferred stock held by members,  
2 4 the directors of

~~cooperative associations~~

- a cooperative

2 5 association, other than

~~those cooperative associations~~

- a

2 6 cooperative association which

~~are~~

- is a public

~~utilities~~

-  
2 7 utility as defined in section 476.1, shall pay local deferred  
2 8 patronage dividends and redeem local deferred patronage  
2 9 preferred stock of deceased natural persons who were members,  
2 10 and may pay deferred patronage dividends or may redeem  
2 11 preferred stock of deceased natural persons who were members  
2 12 or of members who become ineligible, without reference to the  
2 13 order of priority.

~~Directors~~

-  
2 14 b. The directors of

~~cooperative associations~~

- a cooperative

2 15 association which

~~are~~

- is a public

~~utilities~~

- utility as defined

2 16 in section 476.1 may pay deferred patronage dividends and  
2 17 redeem preferred stock of deceased natural persons who were  
2 18 members, and may pay all other deferred patronage dividends or  
2 19 redeem preferred stock of members

~~who become ineligible~~

-  
2 20 without reference to priority.  
2 21 3. Payment of deferred patronage dividends or the  
2 22 redemption of preferred stock

~~of ineligible members~~

- shall be

2 23 carried out to the extent and in the manner specified in the  
2 24 bylaws of the association.

2 25

EXPLANATION

2 26 This bill amends several provisions in chapter 499 which  
2 27 regulates the organization and administration of cooperative  
2 28 associations, which are utilities which furnish gas,  
2 29 electricity, water, or telephone service.

2 30 Section 499.30 provides for the annual distribution of  
2 31 earnings. After earnings are distributed for purposes of  
2 32 building or maintaining reserves, paying debts and expenses,  
2 33 special purposes and the payment of dividends, remaining  
2 34 earnings are deposited into the account of each member,  
2 35 ratably in proportion to the business the member did with the  
3 1 association during that year. The section provides that the  
3 2 board of directors determine, or the articles of incorporation

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

3 10 Section 499.30 provides that the remaining allocation not  
3 11 paid in cash must be transferred to a revolving fund and  
3 12 credited to the members and subscribers. The credits in the  
3 13 revolving fund are referred to as deferred patronage  
3 14 dividends. Section 499.33 provides for the use of the  
3 15 revolving fund. The section provides that deferred patronage  
3 16 dividends for a current year have priority over those for  
3 17 subsequent years. The section also provides for cases where  
3 18 the priority rule does not apply. In cases not involving  
3 19 public utilities, prior to other payments of deferred  
3 20 patronage dividends or redemption of preferred stock held by  
3 21 members, the directors of a cooperative association must pay  
3 22 local deferred patronage dividends and redeem local deferred  
3 23 patronage preferred stock of deceased natural persons who were  
3 24 members, and may pay deferred patronage dividends or may  
3 25 redeem preferred stock of deceased natural persons who were  
3 26 members or of members who become ineligible. In cases  
3 27 involving a cooperative association which is a utility, the  
3 28 directors may set aside the rule of priority to pay deferred  
3 29 patronage dividends and redeem preferred stock of deceased  
3 30 natural persons who were members, and may pay deferred  
3 31 patronage dividends or redeem preferred stock of members who  
3 32 become ineligible without reference to priority. This bill  
3 33 provides that the directors may pay all deferred patronage  
3 34 dividends or redeem preferred stock of members without  
3 35 reference to priority.

4 1 LSB 2193SC 76

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