

Substituted for by SF 2404  
4-6-98 (P. 1299)

3/19/98 Unfinished Business  
Calendar

MAR 2 1998

Place On Calendar

HOUSE FILE **2497**  
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HSB 665)

**WITHDRAWN** 4-6-97  
(P. 1300)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to cooperatives organized under Code chapter 501.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

3  
4

**HOUSE FILE 2497**

**H-8283**

1 Amend House File 2497 as follows:  
2 1. Page 4, by striking lines 6 through 11 and  
3 inserting the following:  
4 "c. The cooperative does not, either directly or  
5 indirectly, acquire or otherwise obtain or lease  
6 agricultural land, if the total agricultural land  
7 either directly or indirectly owned or leased by the  
8 cooperative would then exceed six hundred forty  
9 acres."

**H-8283 FILED MARCH 10, 1998**

By WEIGEL of Chickasaw

*Adapted 4-6-98  
(P. 1299)*

**HF 2497**

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1 Section 1. Section 501.101, subsection 1, Code 1997, is  
2 amended to read as follows:

3 1. "Articles" means the cooperative's articles of  
4 incorporation association.

5 Sec. 2. Section 501.101, subsection 2, paragraph b, Code  
6 1997, is amended to read as follows:

7 ~~b. An individual or general partnership that~~ A person who  
8 owns at least one hundred fifty acres of agricultural land and  
9 receives as rent a share of the crops or the animals raised on  
10 the land if those crops or animals are a significant component  
11 of the cooperative's business operations that person is a  
12 natural person or a general partnership as organized under  
13 chapter 486 in which all partners are natural persons.

14 Sec. 3. Section 501.101, subsection 4, Code 1997, is  
15 amended to read as follows:

16 4. "Cooperative" means a cooperative ~~corporation~~  
17 association organized under this chapter or converted to this  
18 chapter pursuant to section 501.601.

19 Sec. 4. Section 501.101, subsection 6, Code 1997, is  
20 amended by adding the following new paragraph:

21 NEW PARAGRAPH. c. A general partnership as organized  
22 under chapter 486 in which all the partners are natural  
23 persons actively engaged in farming as provided in section  
24 9H.1.

25 Sec. 5. Section 501.101, subsections 7 through 9, Code  
26 1997, are amended to read as follows:

27 7. "Member" means a person who owns a voting stock  
28 interest in a cooperative.

29 8. "~~Shareholder~~" "Interest holder" means a person who owns  
30 stock an interest in a cooperative, whether or not that stock  
31 interest has voting rights.

32 9. "Voting stock interest" means stock an interest in a  
33 cooperative that has voting rights.

34 Sec. 6. Section 501.101, Code 1997, is amended by adding  
35 the following new subsections:

1 NEW SUBSECTION. 6A. "Interest" means a voting interest or  
2 other interest in a cooperative as described in the  
3 cooperative's articles of association.

4 NEW SUBSECTION. 7A. "Membership" means the interest  
5 established by a member owning a voting interest.

6 Sec. 7. Section 501.102, subsection 2, Code 1997, is  
7 amended to read as follows:

8 2. Unless its articles provide otherwise, a cooperative  
9 has perpetual duration and succession in its corporate  
10 cooperative name and has the same powers as an individual to  
11 do all things necessary or convenient to carry out its  
12 business and affairs, including, ~~without limitation, all of~~  
13 ~~the powers enumerated in sections 490-302 and 490-303~~ but not  
14 limited to, all of the following:

15 a. Sue and be sued, complain, and defend in its name.

16 b. Have a seal, which may be altered at will, and use it,  
17 or a facsimile of it, by impressing or affixing it or in any  
18 other manner reproducing it.

19 c. Make and amend bylaws, not inconsistent with its  
20 articles of association or with the laws of this state, for  
21 managing the business and regulating the affairs of the  
22 cooperative.

23 d. Purchase, receive, lease, or otherwise acquire, and  
24 own, hold, improve, use, and otherwise deal with, real or  
25 personal property, or any legal or equitable interest in  
26 property, wherever located.

27 e. Sell, convey, mortgage, pledge, lease, exchange, and  
28 otherwise dispose of all or any part of its property.

29 f. Purchase, receive, subscribe for, or otherwise acquire,  
30 own, hold, vote, use, sell, mortgage, lend, pledge, or  
31 otherwise dispose of, and deal in and with shares or other  
32 interests in, or obligations of, any other entity.

33 g. Make contracts and guarantees, incur liabilities,  
34 borrow money, issue its notes, bonds, and other obligations,  
35 which may be convertible into or include the option to

1 purchase other interests of the cooperative, and secure any of  
2 its obligations by mortgage or pledge of any of its property,  
3 franchises, or income.

4 h. Lend money, invest and reinvest its funds, and receive  
5 and hold real and personal property as security for repayment.

6 i. Be a promoter, partner, member, associate, or manager  
7 of any partnership, joint venture, trust, or other entity.

8 j. Conduct its business, locate offices, and exercise the  
9 powers granted by this chapter within or without this state.

10 k. Elect directors and appoint officers, employees, and  
11 agents of the cooperative, define their duties, fix their  
12 compensation, and lend them money and credit.

13 l. Pay pensions and establish pension plans, pension  
14 trusts, profit-sharing plans, bonus plans, and benefit or  
15 incentive plans for any or all of its current or former  
16 directors, officers, employees, and agents.

17 m. Make donations for the public welfare or for  
18 charitable, scientific, or educational purposes.

19 n. Transact any lawful business that will aid governmental  
20 policy.

21 o. Make payments or donations, or do any other act, not  
22 inconsistent with law, that furthers the business and affairs  
23 of the cooperative.

24 Sec. 8. Section 501.103, subsections 1, 2, and 5, Code  
25 Supplement 1997, are amended to read as follows:

26 1. Notwithstanding section 9H.4, any person or entity,  
27 subject to the limitations set forth in section 501.305, and  
28 subject to the cooperative's articles and bylaws, is permitted  
29 to own stock interests, including voting stock interests, in a  
30 cooperative.

31 2. Notwithstanding section 9H.4, a cooperative may,  
32 directly or indirectly, acquire or otherwise obtain or lease  
33 agricultural land in this state, for as long as the  
34 cooperative continues to meet the following requirements:

35 a. Farming entities own sixty percent of the stock

1 interests and are eligible to cast sixty percent of the votes  
2 at member meetings.

3 b. Authorized persons own at least seventy-five percent of  
4 the stock interests and are eligible to cast at least seventy-  
5 five percent of the votes at member meetings.

6 c. The cooperative does not, either directly or  
7 indirectly, acquire or otherwise obtain or lease agricultural  
8 ~~land, if the total agricultural land either directly or~~  
9 ~~indirectly owned or leased by the cooperative would then~~  
10 ~~exceed six hundred forty~~ in this state in excess of one  
11 thousand five hundred acres.

12 5. In the event of a transfer of stock an interest in a  
13 cooperative by operation of law as a result of death, divorce,  
14 bankruptcy, or pursuant to a security interest, the  
15 cooperative may disregard the transfer for purposes of  
16 determining compliance with subsection 2 for a period of two  
17 years after the transfer.

18 Sec. 9. Section 501.105, subsection 2, Code 1997, is  
19 amended to read as follows:

20 2. Articles must be signed by all of the incorporators  
21 organizers; and all other documents filed with the secretary  
22 of state must be signed by one of the cooperative's officers.  
23 The printed name and capacity of each signatory must appear in  
24 proximity to the signatory's signature. The secretary of  
25 state may accept a document containing a copy of the  
26 signature. A document is not required to contain a corporate  
27 seal, an acknowledgment, or a verification.

28 Sec. 10. Section 501.106, subsection 2, unnumbered  
29 paragraph 1, Code 1997, is amended to read as follows:

30 A ~~corporation~~ cooperative may change its registered office  
31 or registered agent by delivering to the secretary of state  
32 for filing a statement of change that sets forth all of the  
33 following:

34 Sec. 11. Section 501.106, Code 1997, is amended by adding  
35 the following new subsections:

1 NEW SUBSECTION. 5. a. A registered agent may resign the  
2 agent's agency appointment by signing and delivering to the  
3 secretary of state for filing the signed original statement of  
4 resignation. The statement may include a statement that the  
5 registered office is also discontinued. The registered agent  
6 shall send a copy of the statement of resignation by certified  
7 mail to the cooperative at its principal office and to the  
8 registered office, if not discontinued. The registered agent  
9 shall certify to the secretary of state that the copies have  
10 been sent to the cooperative, including the date the copies  
11 were sent.

12 b. The agency appointment is terminated, and the  
13 registered office discontinued if so provided, on the date on  
14 which the statement was filed.

15 NEW SUBSECTION. 6. a. A cooperative's registered agent  
16 is the cooperative's agent for service of process, notice, or  
17 demand required or permitted by law to be served on the  
18 cooperative.

19 b. If a cooperative has no registered agent, or the agent  
20 cannot with reasonable diligence be served, the cooperative  
21 may be served by registered or certified mail, return receipt  
22 requested, addressed to the secretary of the cooperative at  
23 its principal office. Service is perfected under this  
24 paragraph at the earliest of any of the following:

25 (1) The date that the cooperative receives the mail.

26 (2) The date shown on the return receipt, if signed on  
27 behalf of the cooperative.

28 (3) Five days after its deposit in the United States mail,  
29 as evidenced by the postmark, if mailed postpaid and correctly  
30 addressed.

31 c. A cooperative may be served pursuant to this section or  
32 as provided in other provisions of this chapter, unless the  
33 manner of service is otherwise specifically provided for by  
34 statute.

35 Sec. 12. Section 501.202, subsection 1, paragraph a, Code

1 1997, is amended to read as follows:

2 a. The name, address, and occupation of each incorporator  
3 organizer.

4 Sec. 13. Section 501.202, subsection 2, paragraph d, Code  
5 1997, is amended to read as follows:

6 d. The classes of stock interests and the authorized  
7 number of shares interests of each class.

8 Sec. 14. Section 501.306, Code 1997, is amended to read as  
9 follows:

10 501.306 NUMBER OF VOTES.

11 A person who is a member ~~or-shareholder~~ shall not own more  
12 than one membership ~~or-share-of-voting-stock~~. The person  
13 shall be entitled to cast not more than one vote regarding any  
14 matter in which a vote is conducted, including any matter  
15 subject to a vote during a cooperative meeting.

16 Sec. 15. Section 501.403, subsection 2, paragraph e, Code  
17 1997, is amended to read as follows:

18 e. Action required or permitted by this chapter to be  
19 taken at a board meeting may be taken without a meeting if the  
20 action is taken by all members of the board. The action must  
21 be evidenced by one or more written consents describing the  
22 action taken, signed by each director, and included in the  
23 minutes or filed with the corporate cooperative's records  
24 reflecting the action taken. Action taken under this section  
25 is effective when the last director signs the consent, unless  
26 the consent specifies a different effective date. A consent  
27 signed under this section has the effect of a meeting vote and  
28 may be described as such in any document.

29 Sec. 16. Section 501.403, subsection 3, Code 1997, is  
30 amended to read as follows:

31 3. A director may waive any notice required by this  
32 chapter, the articles, or the bylaws before or after the date  
33 and time stated in the notice. The waiver must be in writing,  
34 signed by the director entitled to the notice, and filed with  
35 the minutes or corporate records of the cooperative. A

1 director's attendance at or participation in a meeting waives  
2 any required notice to that director of the meeting unless the  
3 director at the beginning of the meeting or promptly upon the  
4 director's arrival objects to holding the meeting or  
5 transacting business at the meeting and does not thereafter  
6 vote for or assent to action taken at the meeting.

7 Sec. 17. Section 501.404, subsection 1, paragraph b, Code  
8 Supplement 1997, is amended to read as follows:

9 b. The material facts of the transaction and the  
10 director's interest were disclosed or known to the  
11 ~~shareholders~~ members entitled to vote and they authorized,  
12 approved, or ratified the transaction. For purposes of this  
13 paragraph, a conflict of interest transaction is authorized,  
14 approved, or ratified if it receives a majority of the votes  
15 entitled to be counted under this paragraph. Shares Voting  
16 interests owned by or voted under the control of a director  
17 who has a direct or indirect interest in the transaction, and  
18 shares voting interests owned by or voted under the control of  
19 an entity described in subsection 2, paragraph "a", shall not  
20 be counted in a vote of members to determine whether to  
21 authorize, approve, or ratify a conflict of interest  
22 transaction under this paragraph. The vote of those shares  
23 voting interests, however, is counted in determining whether  
24 the transaction is approved under other sections of this  
25 chapter. A majority of the votes, whether or not the  
26 ~~shareholders~~ members are present, that are entitled to be  
27 counted in a vote on the transaction under this paragraph  
28 constitutes a quorum for the purpose of taking action under  
29 this paragraph.

30 Sec. 18. Section 501.407, unnumbered paragraph 1, Code  
31 1997, is amended to read as follows:

32 The articles may contain a provision eliminating or  
33 limiting the personal liability of a director, officer, or  
34 shareholder interest holder of the cooperative for monetary  
35 damages for breach of a fiduciary duty as a director, officer,

1 or ~~shareholder~~ interest holder, provided that the provision  
2 does not eliminate or limit liability for any of the  
3 following:

4 Sec. 19. Section 501.407, subsections 1 and 3, Code 1997,  
5 are amended to read as follows:

6 1. A breach of the duty of loyalty to the cooperative or  
7 its shareholders interest holders.

8 3. A transaction from which the director, officer, or  
9 shareholder interest holder derives an improper personal  
10 benefit.

11 PART B

12 INDEMNIFICATION

13 Sec. 20. NEW SECTION. 501.411 DEFINITIONS.

14 As used in this part, unless the context otherwise  
15 requires:

16 1. "Cooperative" includes any domestic or foreign  
17 predecessor entity of a cooperative in a merger or other  
18 transaction in which the predecessor's existence ceased upon  
19 consummation of the transaction.

20 2. "Director" means an individual who is or was a director  
21 of a cooperative or an individual who, while a director of a  
22 cooperative, is or was serving at the cooperative's request as  
23 a director, officer, partner, trustee, employee, or agent of  
24 another foreign or domestic cooperative, corporation,  
25 partnership, joint venture, trust, employee benefit plan, or  
26 other enterprise. A director is considered to be serving an  
27 employee benefit plan at the cooperative's request if the  
28 director's duties to the cooperative also impose duties on, or  
29 otherwise involve services by, that director to the plan or to  
30 participants in or beneficiaries of the plan. "Director"  
31 includes, unless the context requires otherwise, the estate or  
32 personal representative of a director.

33 3. "Expenses" include counsel fees.

34 4. "Liability" means the obligation to pay a judgment,  
35 settlement, penalty, fine, including an excise tax assessed

1 with respect to an employee benefit plan, or reasonable  
2 expenses incurred with respect to a proceeding.

3 5. "Official capacity" means:

4 a. When used with respect to a director, the office of  
5 director in a cooperative.

6 b. When used with respect to an individual other than a  
7 director, as contemplated in section 501.417, the office in a  
8 cooperative held by the officer or the employment or agency  
9 relationship undertaken by the employee or agent on behalf of  
10 the cooperative.

11 "Official capacity" does not include service for any other  
12 foreign or domestic cooperative or any corporation,  
13 partnership, joint venture, trust, employee benefit plan, or  
14 other enterprise.

15 6. "Party" includes an individual who was, is, or is  
16 threatened to be made a named defendant or respondent in a  
17 proceeding.

18 7. "Proceeding" means any threatened, pending, or  
19 completed action, suit, or proceeding, whether civil,  
20 criminal, administrative, or investigative and whether formal  
21 or informal.

22 Sec. 21. NEW SECTION. 501.412 AUTHORITY TO INDEMNIFY.

23 1. Except as provided in subsection 4, a cooperative may  
24 indemnify an individual made a party to a proceeding because  
25 the individual is or was a director against liability incurred  
26 in the proceeding if all of the following apply:

27 a. The individual acted in good faith.

28 b. The individual reasonably believed either of the  
29 following:

30 (1) In the case of conduct in the individual's official  
31 capacity with the cooperative, that the individual's conduct  
32 was in the cooperative's best interests.

33 (2) In all other cases, that the individual's conduct was  
34 at least not opposed to the cooperative's best interests.

35 c. In the case of any criminal proceeding, the individual

1 had no reasonable cause to believe the individual's conduct  
2 was unlawful.

3 2. A director's conduct with respect to an employee  
4 benefit plan for a purpose the director reasonably believed to  
5 be in the interests of the participants in and beneficiaries  
6 of the plan is conduct that satisfies the requirement of  
7 subsection 1, paragraph "b", subparagraph (2).

8 3. The termination of a proceeding by judgment, order,  
9 settlement, conviction, or upon a plea of nolo contendere or  
10 its equivalent is not, of itself, determinative that the  
11 director did not meet the standard of conduct described in  
12 this section.

13 4. A cooperative shall not indemnify a director under this  
14 section in either of the following circumstances:

15 a. In connection with a proceeding by or in the right of  
16 the cooperative in which the director was adjudged liable to  
17 the cooperative.

18 b. In connection with any other proceeding charging  
19 improper personal benefit to the director, whether or not  
20 involving action in the director's official capacity, in which  
21 the director was adjudged liable on the basis that personal  
22 benefit was improperly received by the director.

23 5. Indemnification permitted under this section in  
24 connection with a proceeding by or in the right of the  
25 cooperative is limited to reasonable expenses incurred in  
26 connection with the proceeding.

27 Sec. 22. NEW SECTION. 501.413 MANDATORY INDEMNIFICATION.

28 Unless limited by its articles of association, a  
29 cooperative shall indemnify a director who was wholly  
30 successful, on the merits or otherwise, in the defense of any  
31 proceeding to which the director was a party because the  
32 director is or was a director of the cooperative against  
33 reasonable expenses incurred by the director in connection  
the proceeding.

. 23. NEW SECTION. 501.414 ADVANCE FOR EXPENSES.

1 1. A cooperative may pay for or reimburse the reasonable  
2 expenses incurred by a director who is a party to a proceeding  
3 in advance of final disposition of the proceeding if any of  
4 the following apply:

5 a. The director furnishes the cooperative a written  
6 affirmation of the director's good faith belief that the  
7 director has met the standard of conduct described in section  
8 501.412.

9 b. The director furnishes the cooperative a written  
10 undertaking, executed personally or on the director's behalf,  
11 to repay the advance if it is ultimately determined that the  
12 director did not meet the standard of conduct described in  
13 section 501.412.

14 c. A determination is made pursuant to section 501.416  
15 that the facts then known to those making the determination  
16 would not preclude indemnification under this part.

17 2. The undertaking required by subsection 1, paragraph  
18 "b", must be an unlimited general obligation of the director  
19 but need not be secured and may be accepted without reference  
20 to financial ability to make repayment.

21 3. Determinations and authorizations of payments under  
22 this section shall be made in the manner specified in section  
23 501.416.

24 Sec. 24. NEW SECTION. 501.415 COURT-ORDERED  
25 INDEMNIFICATION.

26 Unless a cooperative's articles of association provide  
27 otherwise, a director of the cooperative who is a party to a  
28 proceeding may apply for indemnification to the court  
29 conducting the proceeding or to another court of competent  
30 jurisdiction. On receipt of an application, the court after  
31 giving any notice the court considers necessary may order  
32 indemnification if it determines either of the following:

33 1. The director is entitled to mandatory indemnification  
34 under section 501.413, in which case the court shall also  
35 order the cooperative to pay the director's reasonable

1 expenses incurred to obtain court-ordered indemnification.

2 2. The director is fairly and reasonably entitled to  
3 indemnification in view of all the relevant circumstances,  
4 whether or not the director met the standard of conduct set  
5 forth in section 501.412 or was adjudged liable as described  
6 in section 501.412, subsection 4, but if the director was  
7 adjudged so liable the director's indemnification is limited  
8 to reasonable expenses incurred.

9 Sec. 25. NEW SECTION. 501.416 DETERMINATION AND  
10 AUTHORIZATION OF INDEMNIFICATION.

11 1. A cooperative shall not indemnify a director under  
12 section 501.412 unless authorized in the specific case after a  
13 determination has been made that indemnification of the  
14 director is permissible in the circumstances because the  
15 director has met the standard of conduct set forth in section  
16 501.412.

17 2. The determination shall be made by any of the  
18 following:

19 a. By the board of directors by majority vote of a quorum  
20 consisting of directors not at the time parties to the  
21 proceeding.

22 b. If a quorum cannot be obtained under paragraph "a", by  
23 majority vote of a committee duly designated by the board of  
24 directors, in which designation directors who are parties may  
25 participate, consisting solely of two or more directors not at  
26 the time parties to the proceeding.

27 c. By special legal counsel.

28 (1) The special legal counsel shall be selected by the  
29 board of directors or its committee in the manner prescribed  
30 in paragraph "a" or "b".

31 (2) If a quorum of the board of directors cannot be  
32 obtained under paragraph "a" and a committee cannot be  
33 designated under paragraph "b", the special legal counsel  
34 shall be selected by majority vote of the full board of  
35 directors, in which selection directors who are parties may

1 participate.

2 d. By the members, but voting interests owned by or voted  
3 under the control of directors who are at the time parties to  
4 the proceeding shall not be voted on the determination.

5 3. Authorization of indemnification and evaluation as to  
6 reasonableness of expenses shall be made in the same manner as  
7 the determination that indemnification is permissible, except  
8 that if the determination is made by special legal counsel,  
9 authorization of indemnification and evaluation as to  
10 reasonableness of expenses shall be made by those entitled  
11 under subsection 2, paragraph "c", to select counsel.

12 Sec. 26. NEW SECTION. 501.417 INDEMNIFICATION OF  
13 OFFICERS, EMPLOYEES, AND AGENTS.

14 Unless a cooperative's articles of association provide  
15 otherwise, all of the following apply:

16 1. An officer of the cooperative who is not a director is  
17 entitled to mandatory indemnification under section 501.413,  
18 and is entitled to apply for court-ordered indemnification  
19 under section 501.415, in each case to the same extent as a  
20 director.

21 2. The cooperative may indemnify and advance expenses  
22 under this part to an officer, employee, or agent of the  
23 cooperative who is not a director to the same extent as to a  
24 director.

25 3. A cooperative may also indemnify and advance expenses  
26 to an officer, employee, or agent who is not a director to the  
27 extent consistent with law that may be provided by its  
28 articles of association, bylaws, general or specific action of  
29 its board of directors, or contract.

30 Sec. 27. NEW SECTION. 501.418 INSURANCE.

31 A cooperative may purchase and maintain insurance on behalf  
32 of an individual who is or was a director, officer, employee,  
33 or agent of the cooperative, or who, while a director,  
34 officer, employee, or agent of the cooperative, is or was  
35 serving at the request of the cooperative as a director,

1 officer, partner, trustee, employee, or agent of another  
2 foreign or domestic cooperative, corporation, partnership,  
3 joint venture, trust, employee benefit plan, or other  
4 enterprise, against liability asserted against or incurred by  
5 that individual in that capacity or arising from the  
6 individual's status as a director, officer, employee, or  
7 agent, whether or not the cooperative would have power to  
8 indemnify that individual against the same liability under  
9 section 501.412 or 501.413.

10 Sec. 28. NEW SECTION. 501.419 APPLICATION OF THIS PART.

11 Except as limited in section 501.412, subsection 4,  
12 paragraph "a", and subsection 5 with respect to proceedings by  
13 or in the right of the cooperative, the indemnification and  
14 advancement of expenses provided by, or granted pursuant to,  
15 sections 501.411 through 501.418 are not exclusive of any  
16 other rights to which persons seeking indemnification or  
17 advancement of expenses are entitled under a provision in the  
18 articles of association or bylaws, agreements, vote of the  
19 members or disinterested directors, or otherwise, both as to  
20 action in a person's official capacity and as to action in  
21 another capacity while holding the office. However, such  
22 provisions, agreements, votes, or other actions shall not  
23 provide indemnification for a breach of a director's duty of  
24 loyalty to the cooperative or its interest holders, for acts  
25 or omissions not in good faith or which involve intentional  
26 misconduct or knowing violation of the law, or for a  
27 transaction from which the person seeking indemnification  
28 derives an improper personal benefit.

29 Sec. 29. Section 501.501, Code Supplement 1997, is amended  
30 to read as follows:

31 501.501 ISSUANCE AND TRANSFER OF STOCK INTERESTS.

32 1. A cooperative may issue the number of shares interests  
33 of each class authorized by its articles. A cooperative may  
34 issue fractional shares interests. Stock Interests may be  
35 represented by certificates or by entry on the cooperative's

1 stock interest record books.

2 2. A member shall not sell or otherwise transfer voting  
3 stock interests to any person. A member may be restricted or  
4 limited from selling or otherwise transferring any other class  
5 of stock interests of the cooperative as provided by the  
6 cooperative's articles of incorporation association or bylaws  
7 or an agreement executed between the cooperative and the  
8 member.

9 3. A cooperative may acquire its own stock interests, and  
10 shares interests so acquired constitute authorized but  
11 unissued shares interests.

12 Sec. 30. Section 501.502, subsection 2, paragraph a, Code  
13 Supplement 1997, is amended to read as follows:

14 a. The member has attempted to transfer stock any interest  
15 to a person who is not a member and has not been approved for  
16 membership.

17 Sec. 31. Section 501.502, subsection 4, Code Supplement  
18 1997, is amended to read as follows:

19 4. The cooperative shall redeem, without interest, the  
20 voting stock interest of a terminated member within one year  
21 after the termination of the membership for the fair market  
22 value of the stock interest. If the amount originally paid by  
23 the member for the voting stock interest was less than ten  
24 percent of the total amount the member paid for all classes of  
25 stock interests, the cooperative may redeem the voting stock  
26 interest for its issue price if the cooperative's articles of  
27 incorporation association grant the cooperative this  
28 authority.

29 Sec. 32. Section 501.502, subsection 5, unnumbered  
30 paragraph 1, Code Supplement 1997, is amended to read as  
31 follows:

32 The cooperative shall redeem, without interest, all of the  
33 terminated member's allocated patronage refunds and preferred  
34 stock interests originally issued as allocated patronage  
35 refunds for the issue price as follows:

1       Sec. 33. Section 501.503, subsections 1 and 4, Code 1997,  
2 are amended to read as follows:

3       1. If the articles authorize the payment of dividends  
4 distributions on a class of stock interests, then the  
5 directors may declare dividends a distribution pursuant to the  
6 articles. Dividends-may Distributions shall not exceed eight  
7 percent of the value of the stock interest in each fiscal  
8 year. The members may control the amount that is allocated  
9 under this subsection.

10       4. The cooperative shall have an unconditional binding  
11 obligation to distribute to the members all remaining net  
12 savings as determined under the United States Internal Revenue  
13 Code. These net savings shall be allocated to each member in  
14 proportion to the business the member did with the cooperative  
15 during the preceding fiscal year. The net savings may be  
16 separately calculated for two or more categories of business,  
17 and allocated to the members on the basis of business done  
18 within each of these categories. Net savings shall be  
19 distributed in the form of cash or stock interests, or a  
20 combination of cash and stock interests, as determined by the  
21 board.

22       Sec. 34. Section 501.603, subsection 2, Code 1997, is  
23 amended to read as follows:

24       2. A cooperative may sell, lease, exchange, or otherwise  
25 dispose of all, or substantially all, of its property, with or  
26 without the good will, on the terms and conditions and for the  
27 consideration determined by the board, which consideration may  
28 include the preferred-stock interests of another cooperative,  
29 if the board recommends the proposed transaction to the  
30 members, and the members approve it by the vote of two-thirds  
31 of the votes cast on a ballot in which a majority of all votes  
32 are cast. The board may condition its submission of the  
33 proposed transaction on any basis.

34

PART B

35

MERGER AND CONSOLIDATION BETWEEN COOPERATIVES

## 1 ORGANIZED UNDER THIS CHAPTER

2 Sec. 35. NEW SECTION. 501.611 DEFINITIONS.

3 When used in this part, unless the context otherwise  
4 requires:

5 1. "Consolidation" means the uniting of two or more  
6 cooperatives organized under this chapter into one cooperative  
7 organized under this chapter, in such manner that a new  
8 cooperative is formed, and the new cooperative absorbs the  
9 others, which cease to exist as separate entities.

10 2. "Dissenting member" means a voting member who votes in  
11 opposition to the plan of merger or consolidation and who  
12 makes a demand for payment of the fair value under section  
13 501.615.

14 3. "Fair value" means the cash price that would be paid by  
15 a willing buyer to a willing seller, neither being under any  
16 compulsion to buy or sell.

17 4. "Issue price" means the amount paid for an interest in  
18 the old cooperative or the amount stated in a notice of  
19 allocation of patronage distributions.

20 5. "Merger" means the uniting of two or more cooperatives  
21 organized under this chapter into one cooperative organized  
22 under this chapter, in such manner that one of the merging  
23 associations continues to exist and absorbs the others, which  
24 cease to exist as entities. "Merger" does not include the  
25 acquisition, by purchase or otherwise, of the assets of one  
26 cooperative by another, unless the acquisition only becomes  
27 effective by the filing of articles of merger by the  
28 cooperatives and the issuance of a certificate of merger  
29 pursuant to sections 501.617 and 501.618.

30 6. "New cooperative" is the cooperative resulting from the  
31 consolidation of two or more cooperatives organized under this  
32 chapter.

33 7. "Old cooperative" means the cooperative in which the  
34 member owns or owned a membership prior to merger or  
35 consolidation.

1 8. "Surviving cooperative" is the cooperative resulting  
2 from the merger of two or more cooperatives organized under  
3 this chapter.

4 Sec. 36. NEW SECTION. 501.612 MERGER.

5 Any two or more cooperatives may merge into one cooperative  
6 in the manner provided in this section. The board of  
7 directors of each cooperative shall, by resolution adopted by  
8 a majority vote of all members of each board, approve a plan  
9 of merger which shall set forth all of the following:

10 1. The names of the cooperatives proposing to merge and  
11 the name of the surviving cooperative.

12 2. The terms and conditions of the proposed merger.

13 3. A statement of any changes in the articles of  
14 association of the surviving cooperative.

15 4. Other provisions deemed necessary or desirable.

16 Sec. 37. NEW SECTION. 501.613 CONSOLIDATION.

17 Any two or more cooperatives may be consolidated into a new  
18 cooperative as provided in this section. The board of  
19 directors of each cooperative shall, by resolution adopted by  
20 a majority vote of all members of each board, approve a plan  
21 of consolidation setting forth:

22 1. The names of the cooperatives proposing to consolidate  
23 and the name of the new cooperative.

24 2. The terms and conditions of the proposed consolidation.

25 3. With respect to the new cooperative, all of the  
26 statements required to be set forth in articles of association  
27 for cooperatives.

28 4. Other provisions deemed necessary or desirable.

29 Sec. 38. NEW SECTION. 501.614 VOTE OF MEMBERS.

30 1. The board of directors of a cooperative, upon approving  
31 a plan of merger or consolidation, shall, by motion or  
32 resolution, direct that the plan be submitted to a vote at a  
33 meeting of members, which may be either an annual or special  
34 meeting. Written notice shall be given not less than twenty  
35 days prior to the meeting, either personally or by mail, to

1 each voting member of record. The notice shall state the  
2 time, place, and purpose of the meeting, and a summary of the  
3 plan of merger or consolidation shall be included in or  
4 enclosed with the notice.

5 2. At the meeting, a ballot of the members who are  
6 entitled to vote in the affairs of the association shall be  
7 taken on the proposed plan of merger or consolidation. The  
8 plan of merger or consolidation shall be approved if two-  
9 thirds of the members vote affirmatively on a ballot in which  
10 a majority of all voting members participate. Voting may be  
11 by mail ballot notwithstanding any contrary provision in the  
12 articles of association or bylaws.

13 Sec. 39. NEW SECTION. 501.615 OBJECTION OF MEMBERS --  
14 PURCHASE OF INTERESTS UPON DEMAND.

15 1. If a member of a cooperative which is a party to a  
16 merger or consolidation files with the cooperative, prior to  
17 or at the meeting of members at which the plan is submitted to  
18 a vote, a written objection to the plan of merger or  
19 consolidation, and votes in opposition to the plan, and the  
20 member, within twenty days after the merger or consolidation  
21 is approved by the other members, makes written demand on the  
22 surviving or new cooperative for payment of the fair value of  
23 that member's interest as of the day prior to the date on  
24 which the vote was taken approving the merger or  
25 consolidation, the surviving or new cooperative shall pay to  
26 the member, upon surrender of that person's certificate of  
27 membership or interests in the cooperative, the fair value of  
28 that person's interest as provided in section 501.616. A  
29 member who fails to make demand within the twenty-day period  
30 is conclusively presumed to have consented to the merger or  
31 consolidation and is bound by its terms.

32 2. In the event that a dissenting member does business  
33 with the surviving or new cooperative before payment has been  
34 made for that person's membership, the dissenting member is  
35 deemed to have consented to the merger or consolidation and to  
§

1 have waived all further rights as a dissenting member.

2 Sec. 40. NEW SECTION. 501.616 VALUE DETERMINED.

3 1. Within twenty days after the merger or consolidation is  
4 effected, the surviving or new cooperative shall make a  
5 written offer to each dissenting member to pay a specified sum  
6 deemed by the surviving or new cooperative to be the fair  
7 value of that dissenting member's interest in the old  
8 cooperative. This offer shall be accompanied by a balance  
9 sheet of the old cooperative as of the latest available date,  
10 a profit and loss statement of the old cooperative for the  
11 twelve-month period ending on the date of the balance sheet,  
12 and a list of the dissenting member's interests in the old  
13 cooperative. If the dissenting member does not agree that the  
14 sum stated in the notice represents the fair value of the  
15 member's interest, then the member may file a written  
16 objection with the surviving or new cooperative within twenty  
17 days after receiving the notice. A dissenting member who  
18 fails to file the objection within the twenty-day period is  
19 conclusively presumed to have consented to the fair value  
20 stated in the notice.

21 2. If the surviving or new cooperative receives any  
22 objections to fair values, then within ninety days after the  
23 merger or consolidation is effected, the surviving or new  
24 cooperative shall file a petition in district court asking for  
25 a finding and determination of the fair value of each type of  
26 equity. The action shall be tried as an equitable action.

27 3. The fair value of a dissenting member's interest in the  
28 old cooperative shall be determined as of the day preceding  
29 the merger or consolidation by taking the lesser of either the  
30 issue price of the dissenting member's membership, deferred  
31 patronage, and any other interests in the cooperative, or the  
32 amount determined by subtracting the old cooperative's debts  
33 from the fair market value of the old cooperative's assets,  
34 dividing the remainder by the total issue price of all  
35 memberships, deferred patronage and all other interests, and

1 then multiplying the quotient from this division by the total  
2 issue price of a dissenting member's membership, deferred  
3 patronage, and other interests.

4 4. The surviving or new cooperative shall pay to each  
5 dissenting member in cash within sixty days after the merger  
6 or consolidation the amount paid in cash by the dissenting  
7 member for that member's interest in the old cooperative. The  
8 surviving or new cooperative shall pay the remainder of each  
9 dissenting member's fair value in ten annual equal payments.  
10 The final payment must be made not later than fifteen years  
11 after the merger or consolidation. The value of the deferred  
12 patronage or interests issued to evidence deferred patronage  
13 shall be considered a liability of the surviving or new  
14 cooperative as reflected in the accounts of the surviving or  
15 new cooperative until the value of the deferred patronage or  
16 interests issued to evidence deferred patronage is paid in  
17 full to the dissenting member. A dissenting member who is a  
18 natural person who dies before receiving the fair value shall  
19 have all of the person's fair value paid with the same  
20 priority as if the person was a member at the time of death.

21 Sec. 41. NEW SECTION. 501.617 ARTICLES OF MERGER OR  
22 CONSOLIDATION.

23 Upon approval, articles of merger or articles of  
24 consolidation shall be executed by each cooperative as  
25 provided in section 501.105. The articles must include the  
26 following:

- 27 1. The plan of merger or the plan of consolidation.
- 28 2. As to each cooperative, the number of members.
- 29 3. As to each cooperative, the number of members who voted  
30 for and against the plan at the meeting called for that  
31 purpose.

32 The articles of merger or articles of consolidation shall  
33 be delivered to the secretary of state for filing.

34 The secretary of state, upon the filing of articles of  
35 merger or articles of consolidation, shall issue a certificate

1 of merger or a certificate of consolidation and send the  
2 certificate to the surviving or new cooperative, or to its  
3 representative.

4 Sec. 42. NEW SECTION. 501.618 WHEN EFFECTIVE -- EFFECT.

5 A merger or consolidation shall become effective upon the  
6 date that the certificate of merger or the certificate of  
7 consolidation is issued by the secretary of state, or the  
8 effective date specified in the articles of merger or articles  
9 of consolidation, whichever is later.

10 When a merger or consolidation has become effective:

11 1. The several cooperatives which are parties to the plan  
12 of merger or consolidation shall be a single cooperative,  
13 which, in the case of a merger, shall be that cooperative  
14 designated in the plan of merger as the surviving cooperative,  
15 and, in the case of consolidation, shall be that cooperative  
16 designated in the plan of consolidation as the new  
17 cooperative.

18 2. The separate existence of all cooperatives which are  
19 parties to the plan of merger or consolidation, except the  
20 surviving or new cooperative, shall cease.

21 3. The surviving or new cooperative shall have all the  
22 rights, privileges, immunities, and powers and shall be  
23 subject to all the duties and liabilities of a cooperative  
24 organized under this chapter.

25 4. The surviving or new cooperative shall possess all the  
26 rights, privileges, immunities, and franchises, public as well  
27 as private, of each of the merging or consolidating  
28 cooperatives.

29 5. All property, real, personal, and mixed, and all debts  
30 due on whatever account, including all choses in action, and  
31 all and every other interest, of or belonging to or due to  
32 each of the cooperatives merged or consolidated, shall be  
33 transferred to and vested in the surviving or new cooperative  
34 without further act or deed. The title to any real estate, or  
35 any interest in real estate vested in any of the cooperatives

1 merged or consolidated, shall not revert or be in any way  
2 impaired by reason of the merger or consolidation.

3 6. A surviving or new cooperative shall be responsible and  
4 liable for all obligations and liabilities of each of the  
5 cooperatives merged or consolidated.

6 7. Any claim existing or action or proceeding pending by  
7 or against any of the cooperatives merged or consolidated may  
8 be prosecuted as if the merger or consolidation had not taken  
9 place, or the surviving or new cooperative may be substituted  
10 for the merged or consolidated cooperative. Neither the  
11 rights of creditors nor any liens upon the property of any  
12 cooperative shall be impaired by a merger or consolidation.

13 8. In the case of a merger, the articles of association of  
14 the surviving cooperative shall be deemed to be amended to the  
15 extent that changes in its articles of association are stated  
16 in the plan of merger. In the case of a consolidation, the  
17 statements set forth in the articles of consolidation which  
18 are required or permitted to be set forth in the articles of  
19 association of a cooperative shall be deemed to be the  
20 original articles of association of the new cooperative.

21 9. The aggregate amount of the net assets of the merging  
22 or consolidating cooperative which was available for the  
23 payment of distributions immediately prior to the merger or  
24 consolidation, to the extent that the amount is not  
25 transferred to stated capital by the issuance of interests or  
26 otherwise, shall continue to be available for the payment of  
27 distributions by the surviving or new cooperative.

28 Sec. 43. NEW SECTION. 501.619 ABANDONMENT BEFORE FILING.

29 At any time prior to the filing of the articles of merger  
30 or consolidation, the merger or consolidation may be abandoned  
31 pursuant to provisions set forth in the plan of merger or  
32 consolidation.

33 SUBCHAPTER VII  
34 RECORDS AND REPORTS  
35 PART A

## 1 RECORDS

2 Sec. 44. NEW SECTION. 501.701 RECORDS.

3 1. A cooperative shall keep as permanent records minutes  
4 of all meetings of its members and board of directors, a  
5 record of all actions taken by the members or board of  
6 directors without a meeting, and a record of all actions taken  
7 by a committee of the board of directors in place of the board  
8 of directors on behalf of the cooperative.

9 2. A cooperative shall maintain appropriate accounting  
10 records.

11 3. A cooperative or its agent shall maintain a record of  
12 its interest holders in a form that permits preparation of a  
13 list of the names and addresses of all interest holders in  
14 alphabetical order by class of interests showing the number  
15 and class of interests held by each.

16 4. A cooperative shall maintain its records in written  
17 form or in another form capable of conversion into written  
18 form within a reasonable time.

19 5. A cooperative shall keep a copy of the following  
20 records:

21 a. Its articles or restated articles of association and  
22 all amendments to them currently in effect.

23 b. Its bylaws or restated bylaws and all amendments to  
24 them currently in effect.

25 c. Resolutions adopted by its board of directors creating  
26 one or more classes or series of interests, and fixing their  
27 relative rights, preferences, and limitations, if the  
28 interests issued pursuant to those resolutions are  
29 outstanding.

30 d. The minutes of all members' meetings, and records of  
31 all action taken by members without a meeting, for the past  
32 three years.

33 e. All written communications to interest holders  
34 generally within the past three years, including the financial  
35 statements furnished for the past three years under section

1 501.711.

2 f. A list of the names and business addresses of its  
3 current directors and officers.

4 g. Its most recent biennial report delivered to the  
5 secretary of state under section 501.713.

6 Sec. 45. NEW SECTION. 501.702 INSPECTION OF RECORDS BY  
7 INTEREST HOLDERS.

8 1. An interest holder of a cooperative is entitled to  
9 inspect and copy, during regular business hours at the  
10 cooperative's principal office, any of the records of the  
11 cooperative described in section 501.701, subsection 5, if the  
12 interest holder gives the cooperative written notice of the  
13 interest holder's demand at least five business days before  
14 the date on which the interest holder wishes to inspect and  
15 copy.

16 2. An interest holder of a cooperative is entitled to  
17 inspect and copy, during regular business hours at a  
18 reasonable location specified by the cooperative, any of the  
19 following records of the cooperative if the interest holder  
20 meets the requirements of subsection 3 and gives the  
21 cooperative written notice of the interest holder's demand at  
22 least five business days before the date on which the interest  
23 holder wishes to inspect and copy any of the following:

24 a. Excerpts from minutes of any meeting of the board of  
25 directors, records of any action of a committee of the board  
26 of directors while acting in place of the board of directors  
27 on behalf of the cooperative, minutes of any meeting of the  
28 members, and records of action taken by the members or board  
29 of directors without a meeting, to the extent not subject to  
30 inspection under subsection 1 of this section.

31 b. Accounting records of the cooperative.

32 c. The record of interest holders.

33 3. An interest holder may inspect and copy the records  
34 described in subsection 2 only if:

35 a. The interest holder's demand is made in good faith and

1 for a proper purpose.

2 b. The interest holder describes with reasonable  
3 particularity the interest holder's purpose and the records  
4 the interest holder desires to inspect.

5 c. The records are directly connected with the interest  
6 holder's purpose.

7 4. The right of inspection granted by this section shall  
8 not be abolished or limited by a cooperative's articles of  
9 association or bylaws.

10 5. This section does not affect either of the following:

11 a. The right of a member to obtain information under  
12 section 501.702 or the right of an interest holder to obtain  
13 information, if the interest holder is in litigation with the  
14 cooperative, to the same extent as any other litigant.

15 b. The power of a court, independently of this chapter, to  
16 compel the production of cooperative records for examination.

17 Sec. 46. NEW SECTION. 501.703 SCOPE OF INSPECTION RIGHT.

18 1. An interest holder's agent or attorney has the same  
19 inspection and copying rights as the interest holder the agent  
20 or attorney represents.

21 2. The right to copy records under section 501.702  
22 includes, if reasonable, the right to receive copies made by  
23 photographic, xerographic, or other technological means.

24 3. The cooperative may impose a reasonable charge,  
25 covering the costs of labor and material, for copies of any  
26 documents provided to the interest holder. The charge shall  
27 not exceed the estimated cost of production or reproduction of  
28 the records.

29 4. The cooperative may comply with an interest holder's  
30 demand to inspect the record of interest holders under section  
31 501.702, subsection 2, paragraph "c", by providing the  
32 interest holder with a list of its interest holders that was  
33 compiled no earlier than the date of the interest holder's  
34 demand.

35 Sec. 47. NEW SECTION. 501.704 COURT-ORDERED INSPECTION.

1 1. If a cooperative does not allow an interest holder who  
2 complies with section 501.702, subsection 1, to inspect and  
3 copy any records required by that subsection to be available  
4 for inspection, the district court of the county where the  
5 cooperative's principal office or, if none in this state, its  
6 registered office is located may summarily order inspection  
7 and copying of the records demanded at the cooperative's  
8 expense upon application of the interest holder.

9 2. If a cooperative does not within a reasonable time  
10 allow an interest holder to inspect and copy any other  
11 records, the interest holder who complies with section  
12 501.702, subsections 2 and 3, may apply to the district court  
13 in the county where the cooperative's principal office or, if  
14 not in this state, its registered office is located for an  
15 order to permit inspection and copying of the records  
16 demanded. The court shall dispose of an application under  
17 this subsection on an expedited basis.

18 3. If the court orders inspection and copying of the  
19 records demanded, it shall also order the cooperative to pay  
20 the interest holder's costs, including reasonable counsel  
21 fees, incurred to obtain the order unless the cooperative  
22 proves that it refused inspection in good faith because it had  
23 a reasonable basis for doubt about the right of the interest  
24 holder to inspect the records demanded.

25 4. If the court orders inspection and copying of the  
26 records demanded, it may impose reasonable restrictions on the  
27 use or distribution of the records by the demanding interest  
28 holder.

29 PART B

30 REPORTS

31 Sec. 48. NEW SECTION. 501.711 FINANCIAL STATEMENTS FOR  
32 INTEREST HOLDERS.

33 A cooperative shall prepare annual financial statements,  
34 which may be consolidated or combined statements of the  
35 cooperative and one or more of its subsidiaries, as

1 appropriate, that include a balance sheet as of the end of the  
2 fiscal year and an income statement for that year. Upon  
3 written request from an interest holder, a cooperative, at its  
4 expense, shall furnish to that interest holder the financial  
5 statements requested. If the annual financial statements are  
6 reported upon by a public accountant, the report must  
7 accompany the financial statements.

8 Sec. 49. NEW SECTION. 501.712 OTHER REPORTS TO INTEREST  
9 HOLDERS.

10 1. If a cooperative indemnifies or advances expenses to a  
11 director under sections 501.412 through 501.415 in connection  
12 with a proceeding by or in the right of the cooperative, the  
13 cooperative shall report the indemnification or advance in  
14 writing to the members with or before the notice of the next  
15 members' meeting.

16 2. If a cooperative issues or authorizes the issuance of  
17 interests for promissory notes or for promises to render  
18 services in the future, the cooperative shall report in  
19 writing to the members the number of interests authorized or  
20 issued, and the consideration received by the cooperative,  
21 with or before the notice of the next members' meeting.

22 Sec. 50. NEW SECTION. 501.713 ANNUAL REPORT FOR  
23 SECRETARY OF STATE.

24 1. Each cooperative authorized to transact business in  
25 this state shall deliver to the secretary of state for filing  
26 an annual report that sets forth all of the following:

- 27 a. The name of the cooperative.
- 28 b. The address of its registered office and the name of  
29 its registered agent at that office in this state, together  
30 with the consent of any new registered agent.
- 31 c. The address of its principal office.
- 32 d. The names and addresses of the president, secretary,  
33 treasurer, and one member of the board of directors.

34 2. Information in the annual report must be current as of  
35 the first day of January of the year in which the report is

1 due. The report shall be executed on behalf of the  
2 cooperative and signed as provided in section 501.105 or by  
3 any other person authorized by the board of directors of the  
4 cooperative.

5 3. The first annual report shall be delivered to the  
6 secretary of state between January 1 and April 1 of the first  
7 even-numbered year following the calendar year in which a  
8 cooperative was organized. Subsequent annual reports must be  
9 delivered to the secretary of state between January 1 and  
10 April 1 of the following calendar years. A filing fee for the  
11 annual report shall be determined by the secretary of state.

12 4. If an annual report does not contain the information  
13 required by this section, the secretary of state shall  
14 promptly notify the reporting cooperative in writing and  
15 return the report to the cooperative for correction.

16 5. The secretary of state may provide for the change of  
17 registered office or registered agent on the form prescribed  
18 by the secretary of state for the annual report, provided that  
19 the form contains the information required in section 501.106.  
20 If the secretary of state determines that an annual report  
21 does not contain the information required by this section but  
22 otherwise meets the requirements of section 501.106 for the  
23 purpose of changing the registered office or registered agent,  
24 the secretary of state shall file the statement of change of  
25 registered office or registered agent, effective as provided  
26 in section 501.105, before returning the biennial report to  
27 the cooperative as provided in this section. A statement of  
28 change of registered office or agent pursuant to this  
29 subsection shall be executed by a person authorized to execute  
30 the annual report.

31 DIVISION VIII  
32 DISSOLUTION  
33 PART A  
34 GENERAL  
35 Sec. 51. NEW SECTION. 501.801 DISSOLUTION BY ORGANIZERS

1 OR INITIAL DIRECTORS.

2 A majority of the organizers or initial directors of a  
3 cooperative that has not issued interests or has not commenced  
4 business may dissolve the cooperative by delivering to the  
5 secretary of state for filing articles of dissolution that set  
6 forth all of the following:

7 1. The name of the cooperative.

8 2. The date of its organization.

9 3. Either of the following:

10 a. That none of the cooperative's interests have been  
11 issued.

12 b. That the cooperative has not commenced business.

13 4. That no debt of the cooperative remains unpaid.

14 5. That the net assets of the cooperative remaining after  
15 winding up have been distributed in accordance with this  
16 chapter and the articles of association of the cooperative.

17 6. That a majority of the organizers or initial directors  
18 authorized the dissolution.

19 Sec. 52. NEW SECTION. 501.802 DISSOLUTION BY BOARD OF  
20 DIRECTORS AND MEMBERS.

21 1. A cooperative's board of directors may propose  
22 dissolution for submission to the members.

23 2. For a proposal to dissolve to be adopted both of the  
24 following must apply:

25 a. The board of directors must recommend dissolution to  
26 the members unless the board of directors determines that  
27 because of conflict of interest or other special circumstances  
28 it should make no recommendation and communicates the basis  
29 for its determination to the members.

30 b. The members entitled to vote must approve the proposal  
31 to dissolve as provided in subsection 5.

32 3. The board of directors may condition its submission of  
33 the proposal for dissolution on any basis.

34 4. The cooperative shall notify each member of a meeting  
35 to consider dissolution in accordance with section 501.302.

1 The notice must also state that the purpose, or one of the  
2 purposes, of the meeting is to consider dissolving the  
3 cooperative.

4 5. Unless the articles of association or the board of  
5 directors acting pursuant to subsection 3 require a greater  
6 vote or a vote by voting groups, the proposal to dissolve must  
7 be approved by a majority of all the votes entitled to be cast  
8 on that proposal in order to be adopted.

9 Sec. 53. NEW SECTION. 501.803 ARTICLES OF DISSOLUTION.

10 1. At any time after dissolution is authorized, the  
11 cooperative may dissolve by delivering to the secretary of  
12 state for filing articles of dissolution setting forth all of  
13 the following:

14 a. The name of the cooperative.

15 b. The date dissolution was authorized.

16 c. If dissolution was approved by the members, both of the  
17 following:

18 (1) The number of votes entitled to be cast on the  
19 proposal to dissolve.

20 (2) Either the total number of votes cast for and against  
21 dissolution or the total number of undisputed votes cast for  
22 dissolution and a statement that the number cast for  
23 dissolution was sufficient for approval.

24 2. A cooperative is dissolved upon the effective date of  
25 its articles of dissolution.

26 Sec. 54. NEW SECTION. 501.804 REVOCATION OF DISSOLUTION.

27 1. A cooperative may revoke its dissolution within one  
28 hundred twenty days of the effective date of the dissolution.

29 2. Revocation of dissolution must be authorized in the  
30 same manner as the dissolution was authorized unless that  
31 authorization permitted revocation by action of the board of  
32 directors alone, in which event the board of directors may  
33 revoke the dissolution without member action.

34 3. After the revocation of dissolution is authorized, the  
35 cooperative may revoke the dissolution by delivering to the

1 secretary of state for filing articles of revocation of  
2 dissolution, together with a copy of its articles of  
3 dissolution, that set forth all of the following:

4 a. The name of the cooperative.

5 b. The effective date of the dissolution that was revoked.

6 c. The date that the revocation of dissolution was  
7 authorized.

8 d. If the cooperative's board of directors or organizers  
9 revoked the dissolution, a statement to that effect.

10 e. If the cooperative's board of directors revoked a  
11 dissolution authorized by the members, a statement that  
12 revocation was permitted by action by the board of directors  
13 alone pursuant to that authorization.

14 f. If member action was required to revoke the  
15 dissolution, the information required by section 501.803,  
16 subsection 1, paragraph "c".

17 4. Revocation of dissolution is effective upon the  
18 effective date of the articles of revocation of dissolution.

19 5. When the revocation of dissolution is effective, it  
20 relates back to and takes effect as of the effective date of  
21 the dissolution as if the dissolution had never occurred.

22 Sec. 55. NEW SECTION. 501.805 EFFECT OF DISSOLUTION.

23 1. A dissolved cooperative continues its existence but  
24 shall not carry on any business except that appropriate to  
25 wind up and liquidate its business and affairs, including any  
26 of the following:

27 a. Collecting its assets.

28 b. Disposing of its properties that will not be  
29 distributed in kind in accordance with this chapter and the  
30 cooperative's articles of association.

31 c. Discharging or making provision for discharging its  
32 liabilities.

33 d. Distributing its remaining property in accordance with  
34 this chapter and the cooperative's articles of association.

35 e. Doing every other act necessary to wind up and

1 liquidate its business and affairs.

2 2. Dissolution of a cooperative does not do any of the  
3 following:

4 a. Transfer title to the cooperative's property.

5 b. Prevent transfer of its interests, although the  
6 authorization to dissolve may provide for closing the  
7 cooperative's interest transfer records.

8 c. Subject its directors or officers to standards of  
9 conduct different from those prescribed in section 501.406.

10 d. Change quorum or voting requirements for its board of  
11 directors or members; change provisions for selection,  
12 resignation, or removal of its directors or officers or both;  
13 or change provisions for amending its bylaws.

14 e. Prevent commencement of a proceeding by or against the  
15 cooperative in its name.

16 f. Abate or suspend a proceeding pending by or against the  
17 cooperative on the effective date of dissolution.

18 g. Terminate the authority of the registered agent of the  
19 cooperative.

20 Sec. 56. NEW SECTION. 501.805A DISTRIBUTION OF ASSETS.

21 Upon the cooperative's dissolution, the cooperative's  
22 assets shall first be used to pay expenses necessary to carry  
23 out the dissolution and liquidation of assets, then be used to  
24 pay the cooperative's obligations other than the payment of  
25 deferred patronage or interests issued as deferred patronage,  
26 and the remainder shall be paid in the manner set forth in the  
27 cooperative's articles of association.

28 Sec. 57. NEW SECTION. 501.806 KNOWN CLAIMS AGAINST  
29 DISSOLVED COOPERATIVE.

30 1. A dissolved cooperative may dispose of the known claims  
31 against it by following the procedure described in this  
32 section.

33 2. The dissolved cooperative shall notify its known  
34 claimants in writing of the dissolution at any time after the  
35 effective date of the dissolution. The written notice must do

1 all of the following:

2 a. Describe information that must be included in a claim.

3 b. Provide a mailing address where a claim may be sent.

4 c. State the deadline, which shall not be fewer than one  
5 hundred twenty days from the effective date of the written  
6 notice, by which the dissolved cooperative must receive the  
7 claim.

8 d. State that the claim will be barred if not received by  
9 the deadline.

10 3. A claim against the dissolved cooperative is barred if  
11 either of the following occur:

12 a. A claimant who was given written notice under  
13 subsection 2 does not deliver the claim to the dissolved  
14 cooperative by the deadline.

15 b. A claimant whose claim was rejected by the dissolved  
16 cooperative does not commence a proceeding to enforce the  
17 claim within ninety days from the effective date of the  
18 rejection notice.

19 4. For purposes of this section, "claim" does not include  
20 a contingent liability or a claim based on an event occurring  
21 after the effective date of dissolution.

22 Sec. 58. NEW SECTION. 501.807 UNKNOWN CLAIMS AGAINST  
23 DISSOLVED COOPERATIVE.

24 1. A dissolved cooperative may also publish notice of its  
25 dissolution and request that persons with claims against the  
26 cooperative present them in accordance with the notice.

27 2. The notice must meet all of the following requirements:

28 a. Be published one time in a newspaper of general  
29 circulation in the county where the dissolved cooperative's  
30 principal office or, if not in this state, its registered  
31 office is or was last located.

32 b. Describe the information that must be included in a  
33 claim and provide a mailing address where the claim may be  
34 sent.

35 c. State that a claim against the cooperative will be

1 barred unless a proceeding to enforce the claim is commenced  
2 within five years after the publication of the notice.

3 3. If the dissolved cooperative publishes a newspaper  
4 notice in accordance with subsection 2, the claim of each of  
5 the following claimants is barred unless the claimant  
6 commences a proceeding to enforce the claim against the  
7 dissolved cooperative within five years after the publication  
8 date of the newspaper notice:

9 a. A claimant who did not receive written notice under  
10 section 501.806.

11 b. A claimant whose claim was timely sent to the dissolved  
12 cooperative but not acted on.

13 c. A claimant whose claim is contingent or based on an  
14 event occurring after the effective date of dissolution.

15 4. A claim may be enforced under this section in either of  
16 the following ways:

17 a. Against the dissolved cooperative, to the extent of its  
18 undistributed assets.

19 b. If the assets have been distributed in liquidation,  
20 against an interest holder of the dissolved cooperative to the  
21 extent of the interest holder's pro rata share of the claim or  
22 the cooperative assets distributed to the interest holder in  
23 liquidation, whichever is less, but an interest holder's total  
24 liability for all claims under this section shall not exceed  
25 the total amount of assets distributed to the interest holder  
26 in liquidation.

27 PART B

28 ADMINISTRATIVE DISSOLUTION

29 Sec. 59. NEW SECTION. 501.811 GROUNDS FOR ADMINISTRATIVE  
30 DISSOLUTION.

31 The secretary of state may commence a proceeding under  
32 section 501.812 to administratively dissolve a cooperative if  
33 any of the following apply:

34 1. The cooperative has not delivered an annual report to  
35 the secretary of state in a form that meets the requirements

1 of section 501.713, within sixty days after it is due, or has  
2 not paid the filing fee as determined by the secretary of  
3 state, within sixty days after it is due.

4 2. The cooperative is without a registered agent or  
5 registered office in this state for sixty days or more.

6 3. The cooperative does not notify the secretary of state  
7 within sixty days that its registered agent or registered  
8 office has been changed, that its registered agent has  
9 resigned, or that its registered office has been discontinued.

10 4. The cooperative's period of duration stated in its  
11 articles of association expires.

12 Sec. 60. NEW SECTION. 501.812 PROCEDURE FOR AND EFFECT  
13 OF ADMINISTRATIVE DISSOLUTION.

14 1. If the secretary of state determines that one or more  
15 grounds exist under section 501.811 for dissolving a  
16 cooperative, the secretary of state shall serve the  
17 cooperative with written notice of the secretary of state's  
18 determination under section 501.106.

19 2. If the cooperative does not correct each ground for  
20 dissolution or demonstrate to the reasonable satisfaction of  
21 the secretary of state that each ground determined by the  
22 secretary of state does not exist within sixty days after  
23 service of the notice is perfected under section 501.106, the  
24 secretary of state shall administratively dissolve the  
25 cooperative by signing a certificate of dissolution that  
26 recites the ground or grounds for dissolution and its  
27 effective date. The secretary of state shall file the  
28 original of the certificate and serve a copy on the  
29 cooperative under section 501.106.

30 3. A cooperative administratively dissolved continues its  
31 existence but shall not carry on any business except that  
32 necessary to wind up and liquidate its business and affairs  
33 under section 501.805 and notify claimants under sections  
34 501.806 and 501.807.

35 4. The administrative dissolution of a cooperative does

1 not terminate the authority of its registered agent.

2 5. The secretary of state's administrative dissolution of  
3 a cooperative pursuant to this section appoints the secretary  
4 of state the cooperative's agent for service of process in any  
5 proceeding based on a cause of action which arose during the  
6 time the cooperative was authorized to transact business in  
7 this state. Service of process on the secretary of state  
8 under this subsection is service on the cooperative. Upon  
9 receipt of process, the secretary of state shall serve a copy  
10 of the process on the cooperative as provided in section  
11 501.106. This subsection does not preclude service on the  
12 cooperative's registered agent, if any.

13 Sec. 61. NEW SECTION. 501.813 REINSTATEMENT FOLLOWING  
14 ADMINISTRATIVE DISSOLUTION.

15 1. A cooperative administratively dissolved under section  
16 501.812 may apply to the secretary of state for reinstatement  
17 within two years after the effective date of dissolution. The  
18 application must meet all of the following requirements:

19 a. Recite the name of the cooperative at its date of  
20 dissolution and the effective date of its administrative  
21 dissolution.

22 b. State that the ground or grounds for dissolution have  
23 been eliminated.

24 c. State a name that satisfies the requirements of section  
25 501.104.

26 d. State the federal tax identification number of the  
27 cooperative.

28 2. a. The secretary of state shall refer the federal tax  
29 identification number contained in the application for  
30 reinstatement to the department of revenue and finance. The  
31 department of revenue and finance shall report to the  
32 secretary of state the tax status of the cooperative. If the  
33 department reports to the secretary of state that a filing  
34 delinquency or liability exists against the cooperative, the  
35 secretary of state shall not cancel the certificate of

1 dissolution until the filing delinquency or liability is  
2 satisfied.

3 b. If the secretary of state determines that the  
4 application contains the information required by subsection 1,  
5 and that a delinquency or liability reported pursuant to  
6 paragraph "a" has been satisfied, and that the information is  
7 correct, the secretary of state shall cancel the certificate  
8 of dissolution and prepare a certificate of reinstatement that  
9 recites the secretary of state's determination and the  
10 effective date of reinstatement, file the original of the  
11 certificate, and serve a copy on the cooperative under section  
12 501.106. If the name of the cooperative as provided in  
13 subsection 1, paragraph "c", is different than the name in  
14 subsection 1, paragraph "a", the certificate of reinstatement  
15 shall constitute an amendment to the articles of association  
16 insofar as it pertains to the name.

17 3. When the reinstatement is effective, it relates back to  
18 and takes effect as of the effective date of the  
19 administrative dissolution as if the administrative  
20 dissolution had never occurred.

21 Sec. 62. NEW SECTION. 501.814 APPEAL FROM DENIAL OF  
22 REINSTATEMENT.

23 1. If the secretary of state denies a cooperative's  
24 application for reinstatement following administrative  
25 dissolution, the secretary of state shall serve the  
26 cooperative under section 501.106 with a written notice that  
27 explains the reason or reasons for denial.

28 2. The cooperative may appeal the denial of reinstatement  
29 to the district court within thirty days after service of the  
30 notice of denial is perfected. The cooperative appeals by  
31 petitioning the court to set aside the dissolution and  
32 attaching to the petition copies of the secretary of state's  
33 certificate of dissolution, the cooperative's application for  
34 reinstatement, and the secretary of state's notice of denial.

35 3. The court may summarily order the secretary of state to

1 reinstate the dissolved cooperative or may take other action  
2 the court considers appropriate.

3 4. The court's final decision may be appealed as in other  
4 civil proceedings.

5 PART C

6 JUDICIAL DISSOLUTION

7 Sec. 63. NEW SECTION. 501.821 GROUNDS FOR JUDICIAL  
8 DISSOLUTION.

9 The district court may dissolve a cooperative in any of the  
10 following ways:

11 1. A proceeding by the attorney general, if it is  
12 established that either of the following apply:

13 a. The cooperative obtained its articles of association  
14 through fraud.

15 b. The cooperative has continued to exceed or abuse the  
16 authority conferred upon it by law.

17 2. A proceeding by a member if it is established that any  
18 of the following conditions exist:

19 a. The directors are deadlocked in the management of the  
20 cooperative's affairs, the members are unable to break the  
21 deadlock, and either irreparable injury to the cooperative is  
22 threatened or being suffered, or the business and affairs of  
23 the cooperative can no longer be conducted to the advantage of  
24 the interest holders generally, because of the deadlock.

25 b. The directors or those in control of the cooperative  
26 have acted, are acting, or will act in a manner that is  
27 illegal, oppressive, or fraudulent.

28 c. The members are deadlocked in voting power and have  
29 failed, for a period that includes at least two consecutive  
30 annual meeting dates, to elect successors to directors whose  
31 terms have expired.

32 d. The cooperative's assets are being misapplied or  
33 wasted.

34 3. A proceeding by a creditor if it is established that  
35 either of the following apply:

1 a. The creditor's claim has been reduced to judgment, the  
2 execution on the judgment returned unsatisfied, and the  
3 cooperative is insolvent.

4 b. The cooperative has admitted in writing that the  
5 creditor's claim is due and owing and the cooperative is  
6 insolvent.

7 4. A proceeding by the cooperative to have its voluntary  
8 dissolution continued under court supervision.

9 Sec. 64. NEW SECTION. 501.822 PROCEDURE FOR JUDICIAL  
10 DISSOLUTION.

11 1. Venue for a proceeding by the attorney general to  
12 dissolve a cooperative lies in Polk county district court.  
13 Venue for a proceeding brought by any other party named in  
14 section 501.821 lies in the county where a cooperative's  
15 principal office or, if not in this state, its registered  
16 office is or was last located.

17 2. It is not necessary to make interest holders parties to  
18 a proceeding to dissolve a cooperative unless relief is sought  
19 against them individually.

20 3. A court in a proceeding brought to dissolve a  
21 cooperative may issue injunctions, appoint a receiver or  
22 custodian pendente lite with all powers and duties the court  
23 directs, take other action required to preserve the  
24 cooperative's assets wherever located, and carry on the  
25 business of the cooperative until a full hearing can be held.

26 Sec. 65. NEW SECTION. 501.823 RECEIVERSHIP OR  
27 CUSTODIANSHIP.

28 1. A court in a judicial proceeding brought to dissolve a  
29 cooperative may appoint one or more receivers to wind up and  
30 liquidate, or one or more custodians to manage, the business  
31 and affairs of the cooperative. The court shall hold a  
32 hearing, after notifying all parties to the proceeding and any  
33 interested persons designated by the court, before appointing  
34 a receiver or custodian. The court appointing a receiver or  
35 custodian has exclusive jurisdiction over the cooperative and

1 all its property wherever located.

2 2. The court may appoint an individual or a domestic or  
3 foreign corporation authorized to transact business in this  
4 state as a receiver or custodian. The court may require the  
5 receiver or custodian to post bond, with or without sureties,  
6 in an amount the court directs.

7 3. The court shall describe the powers and duties of the  
8 receiver or custodian in its appointing order, which may be  
9 amended from time to time.

10 a. Among other powers, the receiver may do any of the  
11 following:

12 (1) Dispose of all or any part of the assets of the  
13 cooperative wherever located, at a public or private sale, if  
14 authorized by the court.

15 (2) Sue and defend in the receiver's own name as receiver  
16 of the cooperative in all courts of this state.

17 b. The custodian may exercise all of the powers of the  
18 cooperative, through or in place of its board of directors or  
19 officers, to the extent necessary to manage the affairs of the  
20 cooperative in the best interests of its interest holders and  
21 creditors.

22 4. The court during a receivership may redesignate the  
23 receiver a custodian, and during a custodianship may  
24 redesignate the custodian a receiver, if doing so is in the  
25 best interests of the cooperative, its interest holders, and  
26 creditors.

27 5. The court from time to time during the receivership or  
28 custodianship may order compensation paid and expense  
29 disbursements or reimbursements made to the receiver or  
30 custodian and the receiver's or custodian's counsel from the  
31 assets of the cooperative or proceeds from the sale of the  
32 assets.

33 Sec. 66. NEW SECTION. 501.824 DECREE OF DISSOLUTION.

34 1. If after a hearing the court determines that one or  
35 more grounds for judicial dissolution described in section

1 501.821 exist, it may enter a decree dissolving the  
2 cooperative and specifying the effective date of the  
3 dissolution, and the clerk of the district court shall deliver  
4 a certified copy of the decree to the secretary of state, who  
5 shall file it.

6 2. After entering the decree of dissolution, the court  
7 shall direct the winding up and liquidation of the  
8 cooperative's business and affairs in accordance with section  
9 501.805 and the notification of claimants in accordance with  
10 sections 501.806 and 501.807.

11 PART D

12 STATE TREASURER

13 Sec. 67. NEW SECTION. 501.831 DEPOSIT WITH STATE  
14 TREASURER.

15 Assets of a dissolved cooperative that should be  
16 transferred to a creditor, claimant, or interest holder of the  
17 cooperative who cannot be found or who is not competent to  
18 receive them shall be reduced to cash and deposited with the  
19 treasurer of state or other appropriate state official for  
20 safekeeping. When the creditor, claimant, or interest holder  
21 furnishes satisfactory proof of entitlement to the amount  
22 deposited, the treasurer of state or other appropriate state  
23 official shall pay the creditor, claimant, or interest holder  
24 or that person's representative the amount.

25 Sec. 68. Sections 501.107 and 501.602, Code 1997, are  
26 repealed. Sections 501.408 and 501.604, Code Supplement 1997,  
27 are repealed.

28 EXPLANATION

29 This bill amends Code chapter 501 which provides for  
30 cooperative corporations which may hold agricultural land in  
31 this state. This type of entity is a hybrid between a  
32 cooperative association organized under Code chapter 499 and a  
33 corporation organized under Code chapter 490. The bill amends  
34 a number of provisions.

35 First, the bill changes a number of terms used in the

1 chapter. The bill changes "cooperative corporations" to  
2 "cooperatives". It changes a number of other terms to more  
3 closely resemble terms describing the business activities of  
4 cooperative associations rather than corporations. For  
5 example, a cooperative must be organized as an association  
6 rather than a corporation. The bill changes "articles of  
7 incorporation" to "articles of association". The bill changes  
8 "shareholders" to "interest holders" or "members" in the  
9 cooperatives. It changes "voting stock" to "voting interest".  
10 An "interest holder" is defined to mean a person who holds a  
11 voting or nonvoting interest in a cooperative. A "member" is  
12 a person who holds a voting interest in the cooperative.  
13 References to "dividends" are changed to "distributions".

14 Second, the bill provides that a general partner that is  
15 authorized to hold an interest in a cooperative must include  
16 all natural persons.

17 Third, the bill increases the number of acres of  
18 agricultural land that a cooperative may hold from 640 to  
19 1,500.

20 Fourth, the bill amends Code section 501.106 which provides  
21 for maintaining a registered office or registered agent in  
22 this state for purpose of service. The bill adds provisions  
23 taken from Code sections 490.503 and 490.504 which provide  
24 procedures for the resignation of a registered agent and  
25 delivery of service when a registered agent is not available.  
26 The bill changes the term "corporation" to "cooperative".

27 Fifth, the bill incorporates a number of provisions that  
28 were included by reference in the chapter. These sections  
29 refer to provisions in both Code chapter 490 governing  
30 corporations and Code chapter 499 governing cooperative  
31 associations. The bill redrafts these provisions expressly as  
32 part of Code chapter 501 and changes references to  
33 "corporation" or "association" to "cooperative" and corrects  
34 internal references.

35 Code section 501.102 provides that a cooperative has the

1 same powers as a corporation as provided in Code sections  
2 490.302 and 490.303. Those powers include the power to sue  
3 and be sued, have a seal, make and amend bylaws, acquire  
4 property, sell or dispose of property, enter into purchase  
5 security arrangements, make contracts, incur liabilities,  
6 issue notes and bonds, lend money, invest money, become an  
7 investor in another enterprise, conduct business, elect  
8 directors, appoint officers and hire employees, pay pensions,  
9 and make donations. This bill repeals Code section 501.102  
10 and provides those same powers expressly to cooperatives.

11 Code section 501.107 provides that Code sections 499.1601  
12 through 499.1622 apply to cooperatives organized under Code  
13 chapter 501. The sections provide for keeping corporate  
14 records, the right of shareholders to inspect those records,  
15 the authority of courts to order inspections, the preparation  
16 of financial statements for shareholders, and the submission  
17 of reports to the secretary of state. This bill repeals Code  
18 section 501.107 and rewrites those provisions into new Code  
19 sections in Code chapter 501.

20 Code section 501.408 provides that a cooperative may  
21 indemnify an officer, employee, or agent who is a party to a  
22 legal proceeding in the same way that a corporation may  
23 indemnify a director in the same circumstances. The section  
24 provides for definitions, grants authority to a corporation to  
25 indemnify a director under circumstances, requires  
26 indemnification in certain circumstances, allows for advancing  
27 a director moneys for legal expenses, allows for  
28 indemnification pursuant to court order, provides procedures  
29 for indemnification, provides for indemnification of officers,  
30 employees, and agents, and allows a corporation to purchase  
31 insurance. The bill repeals Code section 501.408 and  
32 expressly drafts those provisions into Code chapter 501.

33 Code section 501.602 provides for mergers and  
34 consolidations among cooperatives organized under Code chapter  
35 501. The section provides that Code sections 499.51 through

1 499.70 apply to the mergers or consolidations. Those sections  
2 provide for definitions, allow for merger and consolidation,  
3 require a vote of the membership, provide for objections by  
4 members and the payment of fair market value to dissenters,  
5 provide for articles of merger or consolidation and the  
6 issuance of a certificate of merger or consolidation, and  
7 authorize abandonment prior to filing the articles of merger  
8 or consolidation. This bill repeals Code section 501.602 and,  
9 with some exceptions, rewrites the same provisions in Code  
10 chapter 501. Code section 499.66 provides that in the case of  
11 a cooperative association, a dissenting member who is a  
12 natural person and who dies before receiving the fair value  
13 must be paid the fair value with the same priority as if the  
14 person was a member at the time of death. The bill does not  
15 include this provision.

16 Code section 501.604 provides for the dissolution of a  
17 cooperative based on the same provisions which apply to  
18 corporations under Code sections 490.1401 through 490.1440.  
19 Those sections provide for dissolution by incorporators,  
20 initial directors who have not issued stock, or a board of  
21 directors operating a functioning corporation; the filing of  
22 articles of dissolution, a revocation of a dissolution, and  
23 the effect of the dissolution; procedures for disposing of  
24 known and unknown claims against the corporation; grounds for  
25 administrative dissolution, procedures for and the effect of  
26 an administrative dissolution, and reinstatement, including  
27 appeal from a denial of reinstatement; grounds for judicial  
28 dissolution, procedures for judicial dissolution, and  
29 procedures for appointing a receiver or custodian; entering a  
30 decree of dissolution; and depositing creditor assets with the  
31 treasurer of state. This bill repeals Code section 501.604  
32 and rewrites those provisions expressly for cooperatives as  
33 part of Code chapter 501 with limited exceptions. The bill  
34 does not include a provision requiring information in the  
35 articles to be separately provided for each voting group

1 entitled to vote separately on the plan to dissolve.

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HSB 665

Agriculture

SF/HF 2497

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
AGRICULTURE BILL BY  
CHAIRPERSON EDDIE)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to cooperatives organized under Code chapter 501.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 501.101, subsection 1, Code 1997, is  
2 amended to read as follows:

3 1. "Articles" means the cooperative's articles of  
4 incorporation association.

5 Sec. 2. Section 501.101, subsection 2, paragraph b, Code  
6 1997, is amended to read as follows:

7 b. ~~An individual or general partnership that~~ A person who  
8 owns at least one hundred fifty acres of agricultural land and  
9 receives as rent a share of the crops or the animals raised on  
10 the land if those crops or animals are a significant component  
11 of the cooperative's business operations that person is a  
12 natural person or a general partnership as organized under  
13 chapter 486 in which all persons are natural persons.

14 Sec. 3. Section 501.101, subsection 4, Code 1997, is  
15 amended to read as follows:

16 4. "Cooperative" means a cooperative corporation  
17 association organized under this chapter or converted to this  
18 chapter pursuant to section 501.601.

19 Sec. 4. Section 501.101, subsection 6, Code 1997, is  
20 amended by adding the following new paragraph:

21 NEW PARAGRAPH. c. A general partnership as organized  
22 under chapter 486 in which all the partners are natural  
23 persons actively engaged in farming as provided in section  
24 9H.1.

25 Sec. 5. Section 501.101, subsections 7 through 9, Code  
26 1997, are amended to read as follows:

27 7. "Member" means a person who owns a voting stock  
28 interest in a cooperative.

29 8. "Shareholder" "Interest holder" means a person who owns  
30 stock an interest in a cooperative, whether or not that stock  
31 interest has voting rights.

32 9. "Voting stock interest" means stock an interest in a  
33 cooperative that has voting rights.

34 Sec. 6. Section 501.102, subsection 2, Code 1997, is  
35 amended to read as follows:

- 1 2. Unless its articles provide otherwise, a cooperative  
2 has perpetual duration and succession in its corporate  
3 cooperative name and has the same powers as an individual to  
4 do all things necessary or convenient to carry out its  
5 business and affairs, including, ~~without limitation, all of~~  
6 ~~the powers enumerated in sections 490-302 and 490-303~~ but not  
7 limited to, all of the following:
- 8 a. Sue and be sued, complain, and defend in its name.  
9 b. Have a seal, which may be altered at will, and use it,  
10 or a facsimile of it, by impressing or affixing it or in any  
11 other manner reproducing it.
- 12 c. Make and amend bylaws, not inconsistent with its  
13 articles of association or with the laws of this state, for  
14 managing the business and regulating the affairs of the  
15 cooperative.
- 16 d. Purchase, receive, lease, or otherwise acquire, and  
17 own, hold, improve, use, and otherwise deal with, real or  
18 personal property, or any legal or equitable interest in  
19 property, wherever located.
- 20 e. Sell, convey, mortgage, pledge, lease, exchange, and  
21 otherwise dispose of all or any part of its property.
- 22 f. Purchase, receive, subscribe for, or otherwise acquire,  
23 own, hold, vote, use, sell, mortgage, lend, pledge, or  
24 otherwise dispose of, and deal in and with shares or other  
25 interests in, or obligations of, any other entity.
- 26 g. Make contracts and guarantees, incur liabilities,  
27 borrow money, issue its notes, bonds, and other obligations,  
28 which may be convertible into or include the option to  
29 purchase other interests of the cooperative, and secure any of  
30 its obligations by mortgage or pledge of any of its property,  
31 franchises, or income.
- 32 h. Lend money, invest and reinvest its funds, and receive  
33 and hold real and personal property as security for repayment.
- 34 i. Be a promoter, partner, member, associate, or manager  
35 of any partnership, joint venture, trust, or other entity.

- 1     j. Conduct its business, locate offices, and exercise the  
2 powers granted by this chapter within or without this state.
- 3     k. Elect directors and appoint officers, employees, and  
4 agents of the cooperative, define their duties, fix their  
5 compensation, and lend them money and credit.
- 6     l. Pay pensions and establish pension plans, pension  
7 trusts, profit sharing plans, share bonus plans, share option  
8 plans, and benefit or incentive plans for any or all of its  
9 current or former directors, officers, employees, and agents.
- 10    m. Make donations for the public welfare or for  
11 charitable, scientific, or educational purposes.
- 12    n. Transact any lawful business that will aid governmental  
13 policy.
- 14    o. Make payments or donations, or do any other act, not  
15 inconsistent with law, that furthers the business and affairs  
16 of the cooperative.
- 17    Sec. 7. Section 501.103, subsections 1, 2, and 5, Code  
18 Supplement 1997, are amended to read as follows:
- 19    1. Notwithstanding section 9H.4, any person or entity,  
20 subject to the limitations set forth in section 501.305, and  
21 subject to the cooperative's articles and bylaws, is permitted  
22 to own stock interests, including voting stock interests, in a  
23 cooperative.
- 24    2. Notwithstanding section 9H.4, a cooperative may,  
25 directly or indirectly, acquire or otherwise obtain or lease  
26 agricultural land in this state, for as long as the  
27 cooperative continues to meet the following requirements:
- 28    a. Farming entities own sixty percent of the stock  
29 interests and are eligible to cast sixty percent of the votes  
30 at member meetings.
- 31    b. Authorized persons own at least seventy-five percent of  
32 the stock interests and are eligible to cast at least seventy-  
33 five percent of the votes at member meetings.
- 34    c. The cooperative does not, either directly or  
35 indirectly, acquire or otherwise obtain or lease agricultural

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1 ~~land-if-the-total-agricultural-land-either-directly-or~~  
2 ~~indirectly-owned-or-leased-by-the-cooperative-would-then~~  
3 ~~exceed-six-hundred-forty in this state in excess of one~~  
4 ~~thousand five hundred~~ acres.

5 5. In the event of a transfer of stock an interest in a  
6 cooperative by operation of law as a result of death, divorce,  
7 bankruptcy, or pursuant to a security interest, the  
8 cooperative may disregard the transfer for purposes of  
9 determining compliance with subsection 2 for a period of two  
10 years after the transfer.

11 Sec. 8. Section 501.105, subsection 2, Code 1997, is  
12 amended to read as follows:

13 2. Articles must be signed by all of the incorporators  
14 organizers; and all other documents filed with the secretary  
15 of state must be signed by one of the cooperative's officers.  
16 The printed name and capacity of each signatory must appear in  
17 proximity to the signatory's signature. The secretary of  
18 state may accept a document containing a copy of the  
19 signature. A document is not required to contain a corporate  
20 seal, an acknowledgment, or a verification.

21 Sec. 9. Section 501.106, subsection 2, unnumbered  
22 paragraph 1, Code 1997, is amended to read as follows:

23 A corporation cooperative may change its registered office  
24 or registered agent by delivering to the secretary of state  
25 for filing a statement of change that sets forth all of the  
26 following:

27 Sec. 10. Section 501.106, Code 1997, is amended by adding  
28 the following new subsections:

29 NEW SUBSECTION. 5. a. A registered agent may resign the  
30 agent's agency appointment by signing and delivering to the  
31 secretary of state for filing the signed original statement of  
32 resignation. The statement may include a statement that the  
33 registered office is also discontinued. The registered agent  
34 shall send a copy of the statement of resignation by certified  
35 mail to the cooperative at its principal office and to the

1 registered office, if not discontinued. The registered agent  
2 shall certify to the secretary of state that the copies have  
3 been sent to the cooperative, including the date the copies  
4 were sent.

5 b. The agency appointment is terminated, and the  
6 registered office discontinued if so provided, on the date on  
7 which the statement was filed.

8 NEW SUBSECTION. 6. a. A cooperative's registered agent  
9 is the cooperative's agent for service of process, notice, or  
10 demand required or permitted by law to be served on the  
11 cooperative.

12 b. If a cooperative has no registered agent, or the agent  
13 cannot with reasonable diligence be served, the cooperative  
14 may be served by registered or certified mail, return receipt  
15 requested, addressed to the secretary of the cooperative at  
16 its principal office. Service is perfected under this  
17 paragraph at the earliest of any of the following:

18 (1) The date that the cooperative receives the mail.

19 (2) The date shown on the return receipt, if signed on  
20 behalf of the cooperative.

21 (3) Five days after its deposit in the United States mail,  
22 as evidenced by the postmark, if mailed postpaid and correctly  
23 addressed.

24 c. A cooperative may be served pursuant to this section or  
25 as provided in other provisions of this chapter, unless the  
26 manner of service is otherwise specifically provided for by  
27 statute.

28 Sec. 11. Section 501.202, subsection 1, paragraph a, Code  
29 1997, is amended to read as follows:

30 a. The name, address, and occupation of each incorporator  
31 organizer.

32 Sec. 12. Section 501.202, subsection 2, paragraph d, Code  
33 1997, is amended to read as follows:

34 d. The classes of stock interests and the authorized  
35 number of shares interests of each class.

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1 Sec. 13. Section 501.306, Code 1997, is amended to read as  
2 follows:

3 501.306 NUMBER OF VOTES.

4 A person who is a member ~~or-shareholder~~ shall not own more  
5 than one membership ~~or-share-of-voting-stock~~. The person  
6 shall be entitled to cast not more than one vote regarding any  
7 matter in which a vote is conducted, including any matter  
8 subject to a vote during a cooperative meeting.

9 Sec. 14. Section 501.403, subsection 2, paragraph e, Code  
10 1997, is amended to read as follows:

11 e. Action required or permitted by this chapter to be  
12 taken at a board meeting may be taken without a meeting if the  
13 action is taken by all members of the board. The action must  
14 be evidenced by one or more written consents describing the  
15 action taken, signed by each director, and included in the  
16 minutes or filed with the corporate cooperative's records  
17 reflecting the action taken. Action taken under this section  
18 is effective when the last director signs the consent, unless  
19 the consent specifies a different effective date. A consent  
20 signed under this section has the effect of a meeting vote and  
21 may be described as such in any document.

22 Sec. 15. Section 501.403, subsection 3, Code 1997, is  
23 amended to read as follows:

24 3. A director may waive any notice required by this  
25 chapter, the articles, or the bylaws before or after the date  
26 and time stated in the notice. The waiver must be in writing,  
27 signed by the director entitled to the notice, and filed with  
28 the minutes or corporate records of the cooperative. A  
29 director's attendance at or participation in a meeting waives  
30 any required notice to that director of the meeting unless the  
31 director at the beginning of the meeting or promptly upon the  
32 director's arrival objects to holding the meeting or  
33 transacting business at the meeting and does not thereafter  
34 vote for or assent to action taken at the meeting.

35 Sec. 16. Section 501.404, subsection 1, paragraph b, Code

1 Supplement 1997, is amended to read as follows:

2 b. The material facts of the transaction and the  
3 director's interest were disclosed or known to the  
4 ~~shareholders~~ members entitled to vote and they authorized,  
5 approved, or ratified the transaction. For purposes of this  
6 paragraph, a conflict of interest transaction is authorized,  
7 approved, or ratified if it receives a majority of the votes  
8 entitled to be counted under this paragraph. Shares Voting  
9 interests owned by or voted under the control of a director  
10 who has a direct or indirect interest in the transaction, and  
11 shares voting interests owned by or voted under the control of  
12 an entity described in subsection 2, paragraph "a", shall not  
13 be counted in a vote of members to determine whether to  
14 authorize, approve, or ratify a conflict of interest  
15 transaction under this paragraph. The vote of those shares  
16 voting interests, however, is counted in determining whether  
17 the transaction is approved under other sections of this  
18 chapter. A majority of the votes, whether or not the  
19 ~~shareholders~~ members are present, that are entitled to be  
20 counted in a vote on the transaction under this paragraph  
21 constitutes a quorum for the purpose of taking action under  
22 this paragraph.

23 Sec. 17. Section 501.407, unnumbered paragraph 1, Code  
24 1997, is amended to read as follows:

25 The articles may contain a provision eliminating or  
26 limiting the personal liability of a director, officer, or  
27 ~~shareholder~~ interest holder of the cooperative for monetary  
28 damages for breach of a fiduciary duty as a director, officer,  
29 or ~~shareholder~~ interest holder, provided that the provision  
30 does not eliminate or limit liability for any of the  
31 following:

32 Sec. 18. Section 501.407, subsections 1 and 3, Code 1997,  
33 are amended to read as follows:

34 1. A breach of the duty of loyalty to the cooperative or  
35 its ~~shareholders~~ interest holders.

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1 3. A transaction from which the director, officer, or  
2 shareholder interest holder derives an improper personal  
3 benefit.

4 PART B  
5 INDEMNIFICATION

6 Sec. 19. NEW SECTION. 501.411 DEFINITIONS.

7 As used in this part, unless the context otherwise  
8 requires:

9 1. "Cooperative" includes any domestic or foreign  
10 predecessor entity of a cooperative in a merger or other  
11 transaction in which the predecessor's existence ceased upon  
12 consummation of the transaction.

13 2. "Director" means an individual who is or was a director  
14 of a cooperative or an individual who, while a director of a  
15 cooperative, is or was serving at the cooperative's request as  
16 a director, officer, partner, trustee, employee, or agent of  
17 another foreign or domestic cooperative, partnership, joint  
18 venture, trust, employee benefit plan, or other enterprise. A  
19 director is considered to be serving an employee benefit plan  
20 at the cooperative's request if the director's duties to the  
21 cooperative also impose duties on, or otherwise involve  
22 services by, that director to the plan or to participants in  
23 or beneficiaries of the plan. "Director" includes, unless the  
24 context requires otherwise, the estate or personal  
25 representative of a director.

26 3. "Expenses" include counsel fees.

27 4. "Liability" means the obligation to pay a judgment,  
28 settlement, penalty, fine, including an excise tax assessed  
29 with respect to an employee benefit plan, or reasonable  
30 expenses incurred with respect to a proceeding.

31 5. "Official capacity" means:

32 a. When used with respect to a director, the office of  
33 director in a cooperative.

34 b. When used with respect to an individual other than a  
35 director, as contemplated in section 501.417, the office in a

1 cooperative held by the officer or the employment or agency  
2 relationship undertaken by the employee or agent on behalf of  
3 the cooperative.

4 "Official capacity" does not include service for any other  
5 foreign or domestic cooperative or any partnership, joint  
6 venture, trust, employee benefit plan, or other enterprise.

7 6. "Party" includes an individual who was, is, or is  
8 threatened to be made a named defendant or respondent in a  
9 proceeding.

10 7. "Proceeding" means any threatened, pending, or  
11 completed action, suit, or proceeding, whether civil,  
12 criminal, administrative, or investigative and whether formal  
13 or informal.

14 Sec. 20. NEW SECTION. 501.412 AUTHORITY TO INDEMNIFY.

15 1. Except as provided in subsection 4, a cooperative may  
16 indemnify an individual made a party to a proceeding because  
17 the individual is or was a director against liability incurred  
18 in the proceeding if all of the following apply:

19 a. The individual acted in good faith.

20 b. The individual reasonably believed either of the  
21 following:

22 (1) In the case of conduct in the individual's official  
23 capacity with the cooperative, that the individual's conduct  
24 was in the cooperative's best interests.

25 (2) In all other cases, that the individual's conduct was  
26 at least not opposed to the cooperative's best interests.

27 c. In the case of any criminal proceeding, the individual  
28 had no reasonable cause to believe the individual's conduct  
29 was unlawful.

30 2. A director's conduct with respect to an employee  
31 benefit plan for a purpose the director reasonably believed to  
32 be in the interests of the participants in and beneficiaries  
33 of the plan is conduct that satisfies the requirement of  
34 subsection 1, paragraph "b", subparagraph (2).

35 3. The termination of a proceeding by judgment, order,

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1 settlement, conviction, or upon a plea of nolo contendere or  
2 its equivalent is not, of itself, determinative that the  
3 director did not meet the standard of conduct described in  
4 this section.

5 4. A cooperative shall not indemnify a director under this  
6 section in either of the following circumstances:

7 a. In connection with a proceeding by or in the right of  
8 the cooperative in which the director was adjudged liable to  
9 the cooperative.

10 b. In connection with any other proceeding charging  
11 improper personal benefit to the director, whether or not  
12 involving action in the director's official capacity, in which  
13 the director was adjudged liable on the basis that personal  
14 benefit was improperly received by the director.

15 5. Indemnification permitted under this section in  
16 connection with a proceeding by or in the right of the  
17 cooperative is limited to reasonable expenses incurred in  
18 connection with the proceeding.

19 Sec. 21. NEW SECTION. 501.413 MANDATORY INDEMNIFICATION.

20 Unless limited by its articles of association, a  
21 cooperative shall indemnify a director who was wholly  
22 successful, on the merits or otherwise, in the defense of any  
23 proceeding to which the director was a party because the  
24 director is or was a director of the cooperative against  
25 reasonable expenses incurred by the director in connection  
26 with the proceeding.

27 Sec. 22. NEW SECTION. 501.414 ADVANCE FOR EXPENSES.

28 1. A cooperative may pay for or reimburse the reasonable  
29 expenses incurred by a director who is a party to a proceeding  
30 in advance of final disposition of the proceeding if any of  
31 the following apply:

32 a. The director furnishes the cooperative a written  
33 affirmation of the director's good faith belief that the  
34 director has met the standard of conduct described in section  
35 501.412.

1 b. The director furnishes the cooperative a written  
2 undertaking, executed personally or on the director's behalf,  
3 to repay the advance if it is ultimately determined that the  
4 director did not meet the standard of conduct described in  
5 section 501.412.

6 c. A determination is made pursuant to section 501.416  
7 that the facts then known to those making the determination  
8 would not preclude indemnification under this part.

9 2. The undertaking required by subsection 1, paragraph  
10 "b", must be an unlimited general obligation of the director  
11 but need not be secured and may be accepted without reference  
12 to financial ability to make repayment.

13 3. Determinations and authorizations of payments under  
14 this section shall be made in the manner specified in section  
15 501.416.

16 Sec. 23. NEW SECTION. 501.415 COURT-ORDERED  
17 INDEMNIFICATION.

18 Unless a cooperative's articles of association provide  
19 otherwise, a director of the cooperative who is a party to a  
20 proceeding may apply for indemnification to the court  
21 conducting the proceeding or to another court of competent  
22 jurisdiction. On receipt of an application, the court after  
23 giving any notice the court considers necessary may order  
24 indemnification if it determines either of the following:

25 1. The director is entitled to mandatory indemnification  
26 under section 501.413, in which case the court shall also  
27 order the cooperative to pay the director's reasonable  
28 expenses incurred to obtain court-ordered indemnification.

29 2. The director is fairly and reasonably entitled to  
30 indemnification in view of all the relevant circumstances,  
31 whether or not the director met the standard of conduct set  
32 forth in section 501.412 or was adjudged liable as described  
33 in section 501.412, subsection 4, but if the director was  
34 adjudged so liable the director's indemnification is limited  
35 to reasonable expenses incurred.

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1 Sec. 24. NEW SECTION. 501.416 DETERMINATION AND  
2 AUTHORIZATION OF INDEMNIFICATION.

3 1. A cooperative shall not indemnify a director under  
4 section 501.412 unless authorized in the specific case after a  
5 determination has been made that indemnification of the  
6 director is permissible in the circumstances because the  
7 director has met the standard of conduct set forth in section  
8 501.412.

9 2. The determination shall be made by any of the  
10 following:

11 a. By the board of directors by majority vote of a quorum  
12 consisting of directors not at the time parties to the  
13 proceeding.

14 b. If a quorum cannot be obtained under paragraph "a", by  
15 majority vote of a committee duly designated by the board of  
16 directors, in which designation directors who are parties may  
17 participate, consisting solely of two or more directors not at  
18 the time parties to the proceeding.

19 c. By special legal counsel.

20 (1) The special legal counsel shall be selected by the  
21 board of directors or its committee in the manner prescribed  
22 in paragraph "a" or "b".

23 (2) If a quorum of the board of directors cannot be  
24 obtained under paragraph "a" and a committee cannot be  
25 designated under paragraph "b", the special legal counsel  
26 shall be selected by majority vote of the full board of  
27 directors, in which selection directors who are parties may  
28 participate.

29 d. By the members, but voting interests owned by or voted  
30 under the control of directors who are at the time parties to  
31 the proceeding shall not be voted on the determination.

32 3. Authorization of indemnification and evaluation as to  
33 reasonableness of expenses shall be made in the same manner as  
34 the determination that indemnification is permissible, except  
35 that if the determination is made by special legal counsel,

1 authorization of indemnification and evaluation as to  
2 reasonableness of expenses shall be made by those entitled  
3 under subsection 2, paragraph "c", to select counsel.

4 Sec. 25. NEW SECTION. 501.417 INDEMNIFICATION OF  
5 OFFICERS, EMPLOYEES, AND AGENTS.

6 Unless a cooperative's articles of association provide  
7 otherwise, all of the following apply:

8 1. An officer of the cooperative who is not a director is  
9 entitled to mandatory indemnification under section 501.413,  
10 and is entitled to apply for court-ordered indemnification  
11 under section 501.415, in each case to the same extent as a  
12 director.

13 2. The cooperative may indemnify and advance expenses  
14 under this part to an officer, employee, or agent of the  
15 cooperative who is not a director to the same extent as to a  
16 director.

17 3. A cooperative may also indemnify and advance expenses  
18 to an officer, employee, or agent who is not a director to the  
19 extent permitted by law and provided by its articles of  
20 association, bylaws, general or specific action of its board  
21 of directors, or contract.

22 Sec. 26. NEW SECTION. 501.418 INSURANCE.

23 A cooperative may purchase and maintain insurance on behalf  
24 of an individual who is or was a director, officer, employee,  
25 or agent of the cooperative, or who, while a director,  
26 officer, employee, or agent of the cooperative, is or was  
27 serving at the request of the cooperative as a director,  
28 officer, partner, trustee, employee, or agent of another  
29 foreign or domestic cooperative, partnership, joint venture,  
30 trust, employee benefit plan, or other enterprise, against  
31 liability asserted against or incurred by that individual in  
32 that capacity or arising from the individual's status as a  
33 director, officer, employee, or agent, whether or not the  
34 cooperative would have power to indemnify that individual  
35 against the same liability under section 501.412 or 501.413.

1     Sec. 27. NEW SECTION. 501.419 APPLICATION OF THIS PART.

2     Except as limited in section 501.412, subsection 4,  
3 paragraph "a", and subsection 5 with respect to proceedings by  
4 or in the right of the cooperative, the indemnification and  
5 advancement of expenses provided by, or granted pursuant to,  
6 sections 501.411 through 501.418 are not exclusive of any  
7 other rights to which persons seeking indemnification or  
8 advancement of expenses are entitled under a provision in the  
9 articles of association or bylaws, agreements, vote of the  
10 members or disinterested directors, or otherwise, both as to  
11 action in a person's official capacity and as to action in  
12 another capacity while holding the office. However, such  
13 provisions, agreements, votes, or other actions shall not  
14 provide indemnification for a breach of a director's duty of  
15 loyalty to the cooperative or its interest holders, for acts  
16 or omissions not in good faith or which involve intentional  
17 misconduct or knowing violation of the law, for a transaction  
18 from which the person seeking indemnification derives an  
19 improper personal benefit, or for liability under section  
20 501.407.

21     Sec. 28. Section 501.501, Code Supplement 1997, is amended  
22 to read as follows:

23     501.501 ISSUANCE AND TRANSFER OF STOCK INTERESTS.

24     1. A cooperative may issue the number of shares interests  
25 of each class authorized by its articles. A cooperative may  
26 issue fractional shares interests. Stock Interests may be  
27 represented by certificates or by entry on the cooperative's  
28 stock interest record books.

29     2. A member shall not sell or otherwise transfer voting  
30 stock interests to any person. A member may be restricted or  
31 limited from selling or otherwise transferring any other class  
32 of stock interests of the cooperative as provided by the  
33 cooperative's articles of incorporation association or bylaws  
34 or an agreement executed between the cooperative and the  
35 member.

1 3. A cooperative may acquire its own stock interests, and  
2 shares interests so acquired constitute authorized but  
3 unissued shares interests.

4 Sec. 29. Section 501.502, subsection 2, paragraph a, Code  
5 Supplement 1997, is amended to read as follows:

6 a. The member has attempted to transfer stock any interest  
7 to a person who is not a member and has not been approved for  
8 membership.

9 Sec. 30. Section 501.502, subsection 4, Code Supplement  
10 1997, is amended to read as follows:

11 4. The cooperative shall redeem, without interest, the  
12 voting stock interest of a terminated member within one year  
13 after the termination of the membership for the fair market  
14 value of the stock interest. If the amount originally paid by  
15 the member for the voting stock interest was less than ten  
16 percent of the total amount the member paid for all classes of  
17 stock interests, the cooperative may redeem the voting stock  
18 interest for its issue price if the cooperative's articles of  
19 incorporation association grant the cooperative this  
20 authority.

21 Sec. 31. Section 501.502, subsection 5, unnumbered  
22 paragraph 1, Code Supplement 1997, is amended to read as  
23 follows:

24 The cooperative shall redeem, without interest, all of the  
25 terminated member's allocated patronage refunds and preferred  
26 stock interests originally issued as allocated patronage  
27 refunds for the issue price as follows:

28 Sec. 32. Section 501.503, subsections 1 and 4, Code 1997,  
29 are amended to read as follows:

30 1. If the articles authorize the payment of dividends  
31 distributions on a class of stock interests, then the  
32 directors may declare dividends a distribution pursuant to the  
33 articles. Dividends-may Distributions shall not exceed eight  
34 percent of the value of the stock interest in each fiscal  
35 year. The members may control the amount that is allocated

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1 under this subsection.

2 4. The cooperative shall have an unconditional binding  
3 obligation to distribute to the members all remaining net  
4 savings as determined under the United States Internal Revenue  
5 Code. These net savings shall be allocated to each member in  
6 proportion to the business the member did with the cooperative  
7 during the preceding fiscal year. The net savings may be  
8 separately calculated for two or more categories of business,  
9 and allocated to the members on the basis of business done  
10 within each of these categories. Net savings shall be  
11 distributed in the form of cash or stock interests, or a  
12 combination of cash and stock interests, as determined by the  
13 board.

14 Sec. 33. Section 501.603, subsection 2, Code 1997, is  
15 amended to read as follows:

16 2. A cooperative may sell, lease, exchange, or otherwise  
17 dispose of all, or substantially all, of its property, with or  
18 without the good will, on the terms and conditions and for the  
19 consideration determined by the board, which consideration may  
20 include the preferred-stock interests of another cooperative,  
21 if the board recommends the proposed transaction to the  
22 members, and the members approve it by the vote of two-thirds  
23 of the votes cast on a ballot in which a majority of all votes  
24 are cast. The board may condition its submission of the  
25 proposed transaction on any basis.

26 PART B

27 MERGER AND CONSOLIDATION BETWEEN COOPERATIVES  
28 ORGANIZED UNDER THIS CHAPTER

29 Sec. 34. NEW SECTION. 501.611 DEFINITIONS.

30 When used in this part, unless the context otherwise  
31 requires:

32 1. "Consolidation" means the uniting of two or more  
33 cooperatives organized under this chapter into one cooperative  
34 organized under this chapter, in such manner that a new  
35 cooperative is formed, and the new cooperative absorbs the

1 others, which cease to exist as separate entities.

2 2. "Dissenting member" means a voting member who votes in  
3 opposition to the plan of merger or consolidation and who  
4 makes a demand for payment of the fair value under section  
5 501.615.

6 3. "Fair value" means the cash price that would be paid by  
7 a willing buyer to a willing seller, neither being under any  
8 compulsion to buy or sell.

9 4. "Issue price" means the amount paid for an interest in  
10 the old cooperative or the amount stated in a notice of  
11 allocation of patronage dividends.

12 5. "Merger" means the uniting of two or more cooperatives  
13 organized under this chapter into one cooperative organized  
14 under this chapter, in such manner that one of the merging  
15 associations continues to exist and absorbs the others, which  
16 cease to exist as entities. "Merger" does not include the  
17 acquisition, by purchase or otherwise, of the assets of one  
18 cooperative by another, unless the acquisition only becomes  
19 effective by the filing of articles of merger by the  
20 cooperatives and the issuance of a certificate of merger  
21 pursuant to sections 501.617 and 501.618.

22 6. "New cooperative" is the cooperative resulting from the  
23 consolidation of two or more cooperatives organized under this  
24 chapter.

25 7. "Old cooperative" means the cooperative in which the  
26 member owns or owned a membership prior to merger or  
27 consolidation.

28 8. "Surviving cooperative" is the cooperative resulting  
29 from the merger of two or more cooperatives organized under  
30 this chapter.

31 Sec. 35. NEW SECTION. 501.612 MERGER.

32 Any two or more cooperatives may merge into one cooperative  
33 in the manner provided in this section. The board of  
34 directors of each cooperative shall, by resolution adopted by  
35 a majority vote of all members of each board, approve a plan

1 of merger which shall set forth all of the following:

2 1. The names of the cooperatives proposing to merge and  
3 the name of the surviving cooperative.

4 2. The terms and conditions of the proposed merger.

5 3. A statement of any changes in the articles of  
6 association of the surviving cooperative.

7 4. Other provisions deemed necessary or desirable.

8 Sec. 36. NEW SECTION. 501.613 CONSOLIDATION.

9 Any two or more cooperatives may be consolidated into a new  
10 cooperative as provided in this section. The board of  
11 directors of each cooperative shall, by resolution adopted by  
12 a majority vote of all members of each board, approve a plan  
13 of consolidation setting forth:

14 1. The names of the cooperatives proposing to consolidate  
15 and the name of the new cooperative.

16 2. The terms and conditions of the proposed consolidation.

17 3. With respect to the new cooperative, all of the  
18 statements required to be set forth in articles of association  
19 for cooperatives.

20 4. Other provisions deemed necessary or desirable.

21 Sec. 37. NEW SECTION. 501.614 VOTE OF MEMBERS.

22 1. The board of directors of a cooperative, upon approving  
23 a plan of merger or consolidation, shall, by motion or  
24 resolution, direct that the plan be submitted to a vote at a  
25 meeting of members, which may be either an annual or special  
26 meeting. Written notice shall be given not less than twenty  
27 days prior to the meeting, either personally or by mail, to  
28 each voting member of record. The notice shall state the  
29 time, place, and purpose of the meeting, and a summary of the  
30 plan of merger or consolidation shall be included in or  
31 enclosed with the notice.

32 2. At the meeting, a ballot of the members who are  
33 entitled to vote in the affairs of the association shall be  
34 taken on the proposed plan of merger or consolidation. The  
35 plan of merger or consolidation shall be approved if two-

1 thirds of the members vote affirmatively on a ballot in which  
2 a majority of all voting members participate. Voting may be  
3 by mail ballot notwithstanding any contrary provision in the  
4 articles of association or bylaws.

5 Sec. 38. NEW SECTION. 501.615 OBJECTION OF MEMBERS --  
6 PURCHASE OF INTERESTS UPON DEMAND.

7 1. If a member of a cooperative which is a party to a  
8 merger or consolidation files with the cooperative, prior to  
9 or at the meeting of members at which the plan is submitted to  
10 a vote, a written objection to the plan of merger or  
11 consolidation, and votes in opposition to the plan, and the  
12 member, within twenty days after the merger or consolidation  
13 is approved by the other members, makes written demand on the  
14 surviving or new cooperative for payment of the fair value of  
15 that member's interest as of the day prior to the date on  
16 which the vote was taken approving the merger or  
17 consolidation, the surviving or new cooperative shall pay to  
18 the member, upon surrender of that person's certificate of  
19 membership or interests in the cooperative, the fair value of  
20 that person's interest as provided in section 501.616. A  
21 member who fails to make demand within the twenty-day period  
22 is conclusively presumed to have consented to the merger or  
23 consolidation and is bound by its terms.

24 2. In the event that a dissenting member does business  
25 with the surviving or new cooperative before payment has been  
26 made for that person's membership, the dissenting member is  
27 deemed to have consented to the merger or consolidation and to  
28 have waived all further rights as a dissenting member.

29 Sec. 39. NEW SECTION. 501.616 VALUE DETERMINED.

30 1. Within twenty days after the merger or consolidation is  
31 effected, the surviving or new cooperative shall make a  
32 written offer to each dissenting member to pay a specified sum  
33 deemed by the surviving or new cooperative to be the fair  
34 value of that dissenting member's interest in the old  
35 cooperative. This offer shall be accompanied by a balance

1 sheet of the old cooperative as of the latest available date,  
2 a profit and loss statement of the old cooperative for the  
3 twelve-month period ending on the date of the balance sheet,  
4 and a list of the dissenting member's interests in the old  
5 cooperative. If the dissenting member does not agree that the  
6 sum stated in the notice represents the fair value of the  
7 member's interest, then the member may file a written  
8 objection with the surviving or new cooperative within twenty  
9 days after receiving the notice. A dissenting member who  
10 fails to file the objection within the twenty-day period is  
11 conclusively presumed to have consented to the fair value  
12 stated in the notice.

13 2. If the surviving or new cooperative receives any  
14 objections to fair values, then within ninety days after the  
15 merger or consolidation is effected, the surviving or new  
16 cooperative shall file a petition in district court asking for  
17 a finding and determination of the fair value of each type of  
18 equity. The action shall be tried as an equitable action.

19 3. The fair value of a dissenting member's interest in the  
20 old cooperative shall be determined as of the day preceding  
21 the merger or consolidation by taking the lesser of either the  
22 issue price of the dissenting member's membership, deferred  
23 patronage dividends, and any other interests in the  
24 cooperative, or the amount determined by subtracting the old  
25 cooperative's debts from the fair market value of the old  
26 cooperative's assets, dividing the remainder by the total  
27 issue price of all memberships, deferred patronage dividends  
28 and all other interests, and then multiplying the quotient  
29 from this division by the total issue price of a dissenting  
30 member's membership, deferred patronage, and other interests.

31 4. The surviving or new cooperative shall pay to each  
32 dissenting member in cash within sixty days after the merger  
33 or consolidation the amount paid in cash by the dissenting  
34 member for that member's interest in the old cooperative. The  
35 surviving or new cooperative shall pay the remainder of each

1 dissenting member's fair value in ten annual equal payments.  
2 The final payment must be made not later than fifteen years  
3 after the merger or consolidation. The value of the deferred  
4 patronage dividends or interests issued to evidence deferred  
5 patronage dividends shall be considered a liability of the  
6 surviving or new cooperative as reflected in the accounts of  
7 the surviving or new cooperative until the value of the  
8 patronage dividends or interests issued to evidence deferred  
9 patronage dividends is paid in full to the dissenting member.

10 Sec. 40. NEW SECTION. 501.617 ARTICLES OF MERGER OR  
11 CONSOLIDATION.

12 Upon approval, articles of merger or articles of  
13 consolidation shall be executed by each cooperative as  
14 provided in section 501.105. The articles must include the  
15 following:

- 16 1. The plan of merger or the plan of consolidation.
- 17 2. As to each cooperative, the number of individuals or  
18 cooperatives entitled to vote.
- 19 3. As to each cooperative, the number of individuals or  
20 cooperatives who voted for and against the plan at the meeting  
21 called for that purpose.

22 The articles of merger or articles of consolidation shall  
23 be delivered to the secretary of state for filing.

24 The secretary of state, upon the filing of articles of  
25 merger or articles of consolidation, shall issue a certificate  
26 of merger or a certificate of consolidation and send the  
27 certificate to the surviving or new cooperative, or to its  
28 representative.

29 Sec. 41. NEW SECTION. 501.618 WHEN EFFECTIVE -- EFFECT.

30 A merger or consolidation shall become effective upon the  
31 date that the certificate of merger or the certificate of  
32 consolidation is issued by the secretary of state, or the  
33 effective date specified in the articles of merger or articles  
34 of consolidation, whichever is later.

35 When a merger or consolidation has become effective:

1     1. The several cooperatives which are parties to the plan  
2 of merger or consolidation shall be a single cooperative,  
3 which, in the case of a merger, shall be that cooperative  
4 designated in the plan of merger as the surviving cooperative,  
5 and, in the case of consolidation, shall be that cooperative  
6 designated in the plan of consolidation as the new  
7 cooperative.

8     2. The separate existence of all cooperatives which are  
9 parties to the plan of merger or consolidation, except the  
10 surviving or new cooperative, shall cease.

11    3. The surviving or new cooperative shall have all the  
12 rights, privileges, immunities, and powers and shall be  
13 subject to all the duties and liabilities of a cooperative  
14 organized under this chapter.

15    4. The surviving or new cooperative shall possess all the  
16 rights, privileges, immunities, and franchises, public as well  
17 as private, of each of the merging or consolidating  
18 cooperatives.

19    5. All property, real, personal, and mixed, and all debts  
20 due on whatever account, including all choses in action, and  
21 all and every other interest, of or belonging to or due to  
22 each of the cooperatives merged or consolidated, shall be  
23 transferred to and vested in the surviving or new cooperative  
24 without further act or deed. The title to any real estate, or  
25 any interest in real estate vested in any of the cooperatives  
26 merged or consolidated, shall not revert or be in any way  
27 impaired by reason of the merger or consolidation.

28    6. A surviving or new cooperative shall be responsible and  
29 liable for all obligations and liabilities of each of the  
30 cooperatives merged or consolidated.

31    7. Any claim existing or action or proceeding pending by  
32 or against any of the cooperatives merged or consolidated may  
33 be prosecuted as if the merger or consolidation had not taken  
34 place, or the surviving or new cooperative may be substituted  
35 for the merged or consolidated cooperative. Neither the

1 rights of creditors nor any liens upon the property of any  
2 cooperative shall be impaired by a merger or consolidation.

3 8. In the case of a merger, the articles of association of  
4 the surviving cooperative shall be deemed to be amended to the  
5 extent that changes in its articles of association are stated  
6 in the plan of merger. In the case of a consolidation, the  
7 statements set forth in the articles of consolidation which  
8 are required or permitted to be set forth in the articles of  
9 association of a cooperative shall be deemed to be the  
10 original articles of association of the new cooperative.

11 9. The aggregate amount of the net assets of the merging  
12 or consolidating cooperative which was available for the  
13 payment of distributions immediately prior to the merger or  
14 consolidation, to the extent that the amount is not  
15 transferred to stated capital by the issuance of interests or  
16 otherwise, shall continue to be available for the payment of  
17 dividends by the surviving or new cooperative.

18 Sec. 42. NEW SECTION. 501.619 ABANDONMENT BEFORE FILING.

19 At any time prior to the filing of the articles of merger  
20 or consolidation, the merger or consolidation may be abandoned  
21 pursuant to provisions set forth in the plan of merger or  
22 consolidation.

23 SUBCHAPTER VII  
24 RECORDS AND REPORTS

25 PART A

26 RECORDS

27 Sec. 43. NEW SECTION. 501.701 RECORDS.

28 1. A cooperative shall keep as permanent records minutes  
29 of all meetings of its members and board of directors, a  
30 record of all actions taken by the members or board of  
31 directors without a meeting, and a record of all actions taken  
32 by a committee of the board of directors in place of the board  
33 of directors on behalf of the cooperative.

34 2. A cooperative shall maintain appropriate accounting  
35 records.

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1 3. A cooperative or its agent shall maintain a record of  
2 its interest holders in a form that permits preparation of a  
3 list of the names and addresses of all interest holders in  
4 alphabetical order by class of shares showing the number and  
5 class of interests held by each.

6 4. A cooperative shall maintain its records in written  
7 form or in another form capable of conversion into written  
8 form within a reasonable time.

9 5. A cooperative shall keep a copy of the following  
10 records:

11 a. Its articles or restated articles of association and  
12 all amendments to them currently in effect.

13 b. Its bylaws or restated bylaws and all amendments to  
14 them currently in effect.

15 c. Resolutions adopted by its board of directors creating  
16 one or more classes or series of interests, and fixing their  
17 relative rights, preferences, and limitations, if the  
18 interests issued pursuant to those resolutions are  
19 outstanding.

20 d. The minutes of all members' meetings, and records of  
21 all action taken by members without a meeting, for the past  
22 three years.

23 e. All written communications to interest holders  
24 generally within the past three years, including the financial  
25 statements furnished for the past three years under section  
26 501.711.

27 f. A list of the names and business addresses of its  
28 current directors and officers.

29 g. Its most recent biennial report delivered to the  
30 secretary of state under section 501.713.

31 Sec. 44. NEW SECTION. 501.702 INSPECTION OF RECORDS BY  
32 INTEREST HOLDERS.

33 1. An interest holder of a cooperative is entitled to  
34 inspect and copy, during regular business hours at the  
35 cooperative's principal office, any of the records of the

1 cooperative described in section 501.701, subsection 5, if the  
2 interest holder gives the cooperative written notice of the  
3 interest holder's demand at least five business days before  
4 the date on which the interest holder wishes to inspect and  
5 copy.

6 2. An interest holder of a cooperative is entitled to  
7 inspect and copy, during regular business hours at a  
8 reasonable location specified by the cooperative, any of the  
9 following records of the cooperative if the interest holder  
10 meets the requirements of subsection 3 and gives the  
11 cooperative written notice of the interest holder's demand at  
12 least five business days before the date on which the interest  
13 holder wishes to inspect and copy any of the following:

14 a. Excerpts from minutes of any meeting of the board of  
15 directors, records of any action of a committee of the board  
16 of directors while acting in place of the board of directors  
17 on behalf of the cooperative, minutes of any meeting of the  
18 members, and records of action taken by the members or board  
19 of directors without a meeting, to the extent not subject to  
20 inspection under subsection 1 of this section.

21 b. Accounting records of the cooperative.

22 c. The record of interest holders.

23 3. An interest holder may inspect and copy the records  
24 described in subsection 2 only if:

25 a. The interest holder's demand is made in good faith and  
26 for a proper purpose.

27 b. The interest holder describes with reasonable  
28 particularity the interest holder's purpose and the records  
29 the interest holder desires to inspect.

30 c. The records are directly connected with the interest  
31 holder's purpose.

32 4. The right of inspection granted by this section shall  
33 not be abolished or limited by a cooperative's articles of  
34 association or bylaws.

35 5. This section does not affect either of the following:

1 a. The right of an interest holder to obtain information  
2 under section 501.702 or the right of an interest holder to  
3 obtain information, if the interest holder is in litigation  
4 with the cooperative, to the same extent as any other  
5 litigant.

6 b. The power of a court, independently of this chapter, to  
7 compel the production of cooperative records for examination.

8 Sec. 45. NEW SECTION. 501.703 SCOPE OF INSPECTION RIGHT.

9 1. An interest holder's agent or attorney has the same  
10 inspection and copying rights as the interest holder the agent  
11 or attorney represents.

12 2. The right to copy records under section 501.702  
13 includes, if reasonable, the right to receive copies made by  
14 photographic, xerographic, or other technological means.

15 3. The cooperative may impose a reasonable charge,  
16 covering the costs of labor and material, for copies of any  
17 documents provided to the interest holder. The charge shall  
18 not exceed the estimated cost of production or reproduction of  
19 the records.

20 4. The cooperative may comply with an interest holder's  
21 demand to inspect the record of interest holders under section  
22 501.702, subsection 2, paragraph "c", by providing the  
23 interest holder with a list of its interest holders that was  
24 compiled no earlier than the date of the interest holder's  
25 demand.

26 Sec. 46. NEW SECTION. 501.704 COURT-ORDERED INSPECTION.

27 1. If a cooperative does not allow an interest holder who  
28 complies with section 501.702, subsection 1, to inspect and  
29 copy any records required by that subsection to be available  
30 for inspection, the district court of the county where the  
31 cooperative's principal office or, if none in this state, its  
32 registered office is located may summarily order inspection  
33 and copying of the records demanded at the cooperative's  
34 expense upon application of the interest holder.

35 2. If a cooperative does not within a reasonable time

1 allow an interest holder to inspect and copy any other  
2 records, the interest holder who complies with section  
3 501.702, subsections 2 and 3, may apply to the district court  
4 in the county where the cooperative's principal office or, if  
5 not in this state, its registered office is located for an  
6 order to permit inspection and copying of the records  
7 demanded. The court shall dispose of an application under  
8 this subsection on an expedited basis.

9 3. If the court orders inspection and copying of the  
10 records demanded, it shall also order the cooperative to pay  
11 the interest holder's costs, including reasonable counsel  
12 fees, incurred to obtain the order unless the cooperative  
13 proves that it refused inspection in good faith because it had  
14 a reasonable basis for doubt about the right of the interest  
15 holder to inspect the records demanded.

16 4. If the court orders inspection and copying of the  
17 records demanded, it may impose reasonable restrictions on the  
18 use or distribution of the records by the demanding interest  
19 holder.

20 PART B

21 REPORTS

22 Sec. 47. NEW SECTION. 501.711 FINANCIAL STATEMENTS FOR  
23 INTEREST HOLDERS.

24 A cooperative shall prepare annual financial statements,  
25 which may be consolidated or combined statements of the  
26 cooperative and one or more of its subsidiaries, as  
27 appropriate, that include a balance sheet as of the end of the  
28 fiscal year and an income statement for that year. Upon  
29 written request from an interest holder, a cooperative, at its  
30 expense, shall furnish to that interest holder the financial  
31 statements requested. If the annual financial statements are  
32 reported upon by a public accountant, the report must  
33 accompany the financial statements.

34 Sec. 48. NEW SECTION. 501.712 OTHER REPORTS TO INTEREST  
35 HOLDERS.

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1 1. If a cooperative indemnifies or advances expenses to a  
2 director under sections 501.412 through 501.415 in connection  
3 with a proceeding by or in the right of the cooperative, the  
4 cooperative shall report the indemnification or advance in  
5 writing to the members with or before the notice of the next  
6 members' meeting.

7 2. If a cooperative issues or authorizes the issuance of  
8 interests for promissory notes or for promises to render  
9 services in the future, the cooperative shall report in  
10 writing to the members the number of interests authorized or  
11 issued, and the consideration received by the cooperative,  
12 with or before the notice of the next members' meeting.

13 Sec. 49. NEW SECTION. 501.713 BIENNIAL REPORT FOR  
14 SECRETARY OF STATE.

15 1. Each cooperative authorized to transact business in  
16 this state shall deliver to the secretary of state for filing  
17 a biennial report that sets forth all of the following:

18 a. The name of the cooperative and under the laws of what  
19 state or country organized.

20 b. The address of its registered office and the name of  
21 its registered agent at that office in this state, together  
22 with the consent of any new registered agent.

23 c. The address of its principal office.

24 d. The names and addresses of the president, secretary,  
25 treasurer, and one member of the board of directors.

26 2. Information in the biennial report must be current as  
27 of the first day of January of the year in which the report is  
28 due. The report shall be executed on behalf of the  
29 cooperative and signed as provided in section 501.105 or by  
30 any other person authorized by the board of directors of the  
31 cooperative.

32 3. The first biennial report shall be delivered to the  
33 secretary of state between January 1 and April 1 of the first  
34 even-numbered year following the calendar year in which a  
35 cooperative was organized. Subsequent biennial reports must

1 be delivered to the secretary of state between January 1 and  
2 April 1 of the following even-numbered calendar years. A  
3 filing fee for the biennial report shall be determined by the  
4 secretary of state. Each biennial report shall contain  
5 information related to the two-year period immediately  
6 preceding the calendar year in which the report is filed.

7 4. If a biennial report does not contain the information  
8 required by this section, the secretary of state shall  
9 promptly notify the reporting cooperative in writing and  
10 return the report to the cooperative for correction.

11 5. The secretary of state may provide for the change of  
12 registered office or registered agent on the form prescribed  
13 by the secretary of state for the biennial report, provided  
14 that the form contains the information required in section  
15 501.106. If the secretary of state determines that a biennial  
16 report does not contain the information required by this  
17 section but otherwise meets the requirements of section  
18 501.106 for the purpose of changing the registered office or  
19 registered agent, the secretary of state shall file the  
20 statement of change of registered office or registered agent,  
21 effective as provided in section 501.105, before returning the  
22 biennial report to the cooperative as provided in this  
23 section. A statement of change of registered office or agent  
24 pursuant to this subsection shall be executed by a person  
25 authorized to execute the biennial report.

26 DIVISION VIII

27 DISSOLUTION

28 PART A

29 GENERAL

30 Sec. 50. NEW SECTION. 501.801 DISSOLUTION BY ORGANIZERS  
31 OR INITIAL DIRECTORS.

32 A majority of the organizers or initial directors of a  
33 cooperative that has not issued interests or has not commenced  
34 business may dissolve the cooperative by delivering to the  
35 secretary of state for filing articles of dissolution that set

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1 forth all of the following:

- 2 1. The name of the cooperative.
- 3 2. The date of its organization.
- 4 3. Either of the following:
- 5 a. That none of the cooperative's interests have been
- 6 issued.
- 7 b. That the cooperative has not commenced business.
- 8 4. That no debt of the cooperative remains unpaid.
- 9 5. That the net assets of the cooperative remaining after
- 10 winding up have been distributed in accordance with this
- 11 chapter and the articles of association of the cooperative.
- 12 6. That a majority of the organizers or initial directors
- 13 authorized the dissolution.

14 Sec. 51. NEW SECTION. 501.802 DISSOLUTION BY BOARD OF  
15 DIRECTORS AND MEMBERS.

- 16 1. A cooperative's board of directors may propose
- 17 dissolution for submission to the members.
- 18 2. For a proposal to dissolve to be adopted both of the
- 19 following must apply:
- 20 a. The board of directors must recommend dissolution to
- 21 the members unless the board of directors determines that
- 22 because of conflict of interest or other special circumstances
- 23 it should make no recommendation and communicates the basis
- 24 for its determination to the members.
- 25 b. The members entitled to vote must approve the proposal
- 26 to dissolve as provided in subsection 5.
- 27 3. The board of directors may condition its submission of
- 28 the proposal for dissolution on any basis.
- 29 4. The cooperative shall notify each member of a meeting
- 30 to consider dissolution in accordance with section 501.302.
- 31 The notice must also state that the purpose, or one of the
- 32 purposes, of the meeting is to consider dissolving the
- 33 cooperative.
- 34 5. Unless the articles of association or the board of
- 35 directors acting pursuant to subsection 3 require a greater

1 vote or a vote by voting groups, the proposal to dissolve must  
2 be approved by a majority of all the votes entitled to be cast  
3 on that proposal in order to be adopted.

4 Sec. 52. NEW SECTION. 501.803 ARTICLES OF DISSOLUTION.

5 1. At any time after dissolution is authorized, the  
6 cooperative may dissolve by delivering to the secretary of  
7 state for filing articles of dissolution setting forth all of  
8 the following:

9 a. The name of the cooperative.

10 b. The date dissolution was authorized.

11 c. If dissolution was approved by the members, both of the  
12 following:

13 (1) The number of votes entitled to be cast on the  
14 proposal to dissolve.

15 (2) Either the total number of votes cast for and against  
16 dissolution or the total number of undisputed votes cast for  
17 dissolution and a statement that the number cast for  
18 dissolution was sufficient for approval.

19 2. A cooperative is dissolved upon the effective date of  
20 its articles of dissolution.

21 Sec. 53. NEW SECTION. 501.804 REVOCATION OF DISSOLUTION.

22 1. A cooperative may revoke its dissolution within one  
23 hundred twenty days of the effective date of the dissolution.

24 2. Revocation of dissolution must be authorized in the  
25 same manner as the dissolution was authorized unless that  
26 authorization permitted revocation by action of the board of  
27 directors alone, in which event the board of directors may  
28 revoke the dissolution without member action.

29 3. After the revocation of dissolution is authorized, the  
30 cooperative may revoke the dissolution by delivering to the  
31 secretary of state for filing articles of revocation of  
32 dissolution, together with a copy of its articles of  
33 dissolution, that set forth all of the following:

34 a. The name of the cooperative.

35 b. The effective date of the dissolution that was revoked.

1 c. The date that the revocation of dissolution was  
2 authorized.

3 d. If the cooperative's board of directors or organizers  
4 revoked the dissolution, a statement to that effect.

5 e. If the cooperative's board of directors revoked a  
6 dissolution authorized by the members, a statement that  
7 revocation was permitted by action by the board of directors  
8 alone pursuant to that authorization.

9 f. If membership action was required to revoke the  
10 dissolution, the information required by section 501.803,  
11 subsection 1, paragraph "c".

12 4. Revocation of dissolution is effective upon the  
13 effective date of the articles of revocation of dissolution.

14 5. When the revocation of dissolution is effective, it  
15 relates back to and takes effect as of the effective date of  
16 the dissolution as if the dissolution had never occurred.

17 Sec. 54. NEW SECTION. 501.805 EFFECT OF DISSOLUTION.

18 1. A dissolved cooperative continues its existence but  
19 shall not carry on any business except that appropriate to  
20 wind up and liquidate its business and affairs, including any  
21 of the following:

22 a. Collecting its assets.

23 b. Disposing of its properties that will not be  
24 distributed in kind in accordance with this chapter and the  
25 cooperative's articles of association.

26 c. Discharging or making provision for discharging its  
27 liabilities.

28 d. Distributing its remaining property in accordance with  
29 this chapter and the cooperative's articles of association.

30 e. Doing every other act necessary to wind up and  
31 liquidate its business and affairs.

32 2. Dissolution of a cooperative does not do any of the  
33 following:

34 a. Transfer title to the cooperative's property.

35 b. Prevent transfer of its interests, although the

1 authorization to dissolve may provide for closing the  
2 cooperative's interest transfer records.

3 c. Subject its directors or officers to standards of  
4 conduct different from those prescribed in section 501.406.

5 d. Change quorum or voting requirements for its board of  
6 directors or members; change provisions for selection,  
7 resignation, or removal of its directors or officers or both;  
8 or change provisions for amending its bylaws.

9 e. Prevent commencement of a proceeding by or against the  
10 cooperative in its name.

11 f. Abate or suspend a proceeding pending by or against the  
12 cooperative on the effective date of dissolution.

13 g. Terminate the authority of the registered agent of the  
14 cooperative.

15 Sec. 55. NEW SECTION. 501.805A DISSOLUTION OF ASSETS.

16 Upon the cooperative's dissolution, the cooperative's  
17 assets shall first be used to pay expenses necessary to carry  
18 out the dissolution and liquidation of assets, then be used to  
19 pay the cooperative's obligations other than the payment of  
20 patronage dividends or interests issued as patronage  
21 dividends, and the remainder shall be paid in the manner set  
22 forth in the cooperative's articles of association.

23 Sec. 56. NEW SECTION. 501.806 KNOWN CLAIMS AGAINST  
24 DISSOLVED COOPERATIVE.

25 1. A dissolved cooperative may dispose of the known claims  
26 against it by following the procedure described in this  
27 section.

28 2. The dissolved cooperative shall notify its known  
29 claimants in writing of the dissolution at any time after the  
30 effective date of the dissolution. The written notice must do  
31 all of the following:

32 a. Describe information that must be included in a claim.

33 b. Provide a mailing address where a claim may be sent.

34 c. State the deadline, which shall not be fewer than one  
35 hundred twenty days from the effective date of the written

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1 notice, by which the dissolved cooperative must receive the  
2 claim.

3 d. State that the claim will be barred if not received by  
4 the deadline.

5 3. A claim against the dissolved cooperative is barred if  
6 either of the following occur:

7 a. A claimant who was given written notice under  
8 subsection 2 does not deliver the claim to the dissolved  
9 cooperative by the deadline.

10 b. A claimant whose claim was rejected by the dissolved  
11 cooperative does not commence a proceeding to enforce the  
12 claim within ninety days from the effective date of the  
13 rejection notice.

14 4. For purposes of this section, "claim" does not include  
15 a contingent liability or a claim based on an event occurring  
16 after the effective date of dissolution.

17 Sec. 57. NEW SECTION. 501.807 UNKNOWN CLAIMS AGAINST  
18 DISSOLVED COOPERATIVE.

19 1. A dissolved cooperative may also publish notice of its  
20 dissolution and request that persons with claims against the  
21 cooperative present them in accordance with the notice.

22 2. The notice must meet all of the following requirements:

23 a. Be published one time in a newspaper of general  
24 circulation in the county where the dissolved cooperative's  
25 principal office or, if not in this state, its registered  
26 office is or was last located.

27 b. Describe the information that must be included in a  
28 claim and provide a mailing address where the claim may be  
29 sent.

30 c. State that a claim against the cooperative will be  
31 barred unless a proceeding to enforce the claim is commenced  
32 within five years after the publication of the notice.

33 3. If the dissolved cooperative publishes a newspaper  
34 notice in accordance with subsection 2, the claim of each of  
35 the following claimants is barred unless the claimant

1 commences a proceeding to enforce the claim against the  
2 dissolved cooperative within five years after the publication  
3 date of the newspaper notice:

4 a. A claimant who did not receive written notice under  
5 section 501.806.

6 b. A claimant whose claim was timely sent to the dissolved  
7 cooperative but not acted on.

8 c. A claimant whose claim is contingent or based on an  
9 event occurring after the effective date of dissolution.

10 4. A claim may be enforced under this section in either of  
11 the following ways:

12 a. Against the dissolved cooperative, to the extent of its  
13 undistributed assets.

14 b. If the assets have been distributed in liquidation,  
15 against an interest holder of the dissolved cooperative to the  
16 extent of the interest holder's pro rata share of the claim or  
17 the cooperative assets distributed to the interest holder in  
18 liquidation, whichever is less, but an interest holder's total  
19 liability for all claims under this section shall not exceed  
20 the total amount of assets distributed to the interest holder  
21 in liquidation.

22 PART B

23 ADMINISTRATIVE DISSOLUTION

24 Sec. 58. NEW SECTION. 501.811 GROUNDS FOR ADMINISTRATIVE  
25 DISSOLUTION.

26 The secretary of state may commence a proceeding under  
27 section 501.812 to administratively dissolve a cooperative if  
28 any of the following apply:

29 1. The cooperative has not delivered a biennial report to  
30 the secretary of state in a form that meets the requirements  
31 of section 501.713, within sixty days after it is due, or has  
32 not paid the filing fee as determined by the secretary of  
33 state, within sixty days after it is due.

34 2. The cooperative is without a registered agent or  
35 registered office in this state for sixty days or more.

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1 3. The cooperative does not notify the secretary of state  
2 within sixty days that its registered agent or registered  
3 office has been changed, that its registered agent has  
4 resigned, or that its registered office has been discontinued.

5 4. The cooperative's period of duration stated in its  
6 articles of association expires.

7 Sec. 59. NEW SECTION. 501.812 PROCEDURE FOR AND EFFECT  
8 OF ADMINISTRATIVE DISSOLUTION.

9 1. If the secretary of state determines that one or more  
10 grounds exist under section 501.811 for dissolving a  
11 cooperative, the secretary of state shall serve the  
12 cooperative with written notice of the secretary of state's  
13 determination under section 501.106.

14 2. If the cooperative does not correct each ground for  
15 dissolution or demonstrate to the reasonable satisfaction of  
16 the secretary of state that each ground determined by the  
17 secretary of state does not exist within sixty days after  
18 service of the notice is perfected under section 501.106, the  
19 secretary of state shall administratively dissolve the  
20 cooperative by signing a certificate of dissolution that  
21 recites the ground or grounds for dissolution and its  
22 effective date. The secretary of state shall file the  
23 original of the certificate and serve a copy on the  
24 cooperative under section 501.106.

25 3. A cooperative administratively dissolved continues its  
26 existence but shall not carry on any business except that  
27 necessary to wind up and liquidate its business and affairs  
28 under section 501.805 and notify claimants under sections  
29 501.806 and 501.807.

30 4. The administrative dissolution of a cooperative does  
31 not terminate the authority of its registered agent.

32 5. The secretary of state's administrative dissolution of  
33 a cooperative pursuant to this section appoints the secretary  
34 of state the cooperative's agent for service of process in any  
35 proceeding based on a cause of action which arose during the

1 time the cooperative was authorized to transact business in  
2 this state. Service of process on the secretary of state  
3 under this subsection is service on the cooperative. Upon  
4 receipt of process, the secretary of state shall serve a copy  
5 of the process on the cooperative as provided in section  
6 501.106. This subsection does not preclude service on the  
7 cooperative's registered agent, if any.

8 Sec. 60. NEW SECTION. 501.813 REINSTATEMENT FOLLOWING  
9 ADMINISTRATIVE DISSOLUTION.

10 1. A cooperative administratively dissolved under section  
11 501.812 may apply to the secretary of state for reinstatement  
12 within two years after the effective date of dissolution. The  
13 application must meet all of the following requirements:

14 a. Recite the name of the cooperative at its date of  
15 dissolution and the effective date of its administrative  
16 dissolution.

17 b. State that the ground or grounds for dissolution have  
18 been eliminated.

19 c. State a name that satisfies the requirements of section  
20 501.103.

21 d. State the federal tax identification number of the  
22 cooperative.

23 2. a. The secretary of state shall refer the federal tax  
24 identification number contained in the application for  
25 reinstatement to the department of revenue and finance. The  
26 department of revenue and finance shall report to the  
27 secretary of state the tax status of the cooperative. If the  
28 department reports to the secretary of state that a filing  
29 delinquency or liability exists against the cooperative, the  
30 secretary of state shall not cancel the certificate of  
31 dissolution until the filing delinquency or liability is  
32 satisfied.

33 b. If the secretary of state determines that the  
34 application contains the information required by subsection 1,  
35 and that a delinquency or liability reported pursuant to

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1 paragraph "a" has been satisfied, and that the information is  
 2 correct, the secretary of state shall cancel the certificate  
 3 of dissolution and prepare a certificate of reinstatement that  
 4 recites the secretary of state's determination and the  
 5 effective date of reinstatement, file the original of the  
 6 certificate, and serve a copy on the cooperative under section  
 7 501.106. If the name of the cooperative as provided in  
 8 subsection 1, paragraph "c", is different than the name in  
 9 subsection 1, paragraph "a", the certificate of reinstatement  
 10 shall constitute an amendment to the articles of association  
 11 insofar as it pertains to the name.

12 3. When the reinstatement is effective, it relates back to  
 13 and takes effect as of the effective date of the  
 14 administrative dissolution as if the administrative  
 15 dissolution had never occurred.

16 Sec. 61. NEW SECTION. 501.814 APPEAL FROM DENIAL OF  
 17 REINSTATEMENT.

18 1. If the secretary of state denies a cooperative's  
 19 application for reinstatement following administrative  
 20 dissolution, the secretary of state shall serve the  
 21 cooperative under section 501.106 with a written notice that  
 22 explains the reason or reasons for denial.

23 2. The cooperative may appeal the denial of reinstatement  
 24 to the district court within thirty days after service of the  
 25 notice of denial is perfected. The cooperative appeals by  
 26 petitioning the court to set aside the dissolution and  
 27 attaching to the petition copies of the secretary of state's  
 28 certificate of dissolution, the cooperative's application for  
 29 reinstatement, and the secretary of state's notice of denial.

30 3. The court may summarily order the secretary of state to  
 31 reinstate the dissolved cooperative or may take other action  
 32 the court considers appropriate.

33 4. The court's final decision may be appealed as in other  
 34 civil proceedings.

35

PART C

1 JUDICIAL DISSOLUTION

2 Sec. 62. NEW SECTION. 501.821 GROUNDS FOR JUDICIAL  
3 DISSOLUTION.

4 The district court may dissolve a cooperative in any of the  
5 following ways:

6 1. A proceeding by the attorney general, if it is  
7 established that either of the following apply:

8 a. The cooperative obtained its articles of association  
9 through fraud.

10 b. The cooperative has continued to exceed or abuse the  
11 authority conferred upon it by law.

12 2. A proceeding by a member if it is established that any  
13 of the following conditions exist:

14 a. The directors are deadlocked in the management of the  
15 cooperative's affairs, the members are unable to break the  
16 deadlock, and either irreparable injury to the cooperative is  
17 threatened or being suffered, or the business and affairs of  
18 the cooperative can no longer be conducted to the advantage of  
19 the interest holders generally, because of the deadlock.

20 b. The directors or those in control of the cooperative  
21 have acted, are acting, or will act in a manner that is  
22 illegal, oppressive, or fraudulent.

23 c. The members are deadlocked in voting power and have  
24 failed, for a period that includes at least two consecutive  
25 annual meeting dates, to elect successors to directors whose  
26 terms have expired.

27 d. The cooperative's assets are being misapplied or  
28 wasted.

29 3. A proceeding by a creditor if it is established that  
30 either of the following apply:

31 a. The creditor's claim has been reduced to judgment, the  
32 execution on the judgment returned unsatisfied, and the  
33 cooperative is insolvent.

34 b. The cooperative has admitted in writing that the  
35 creditor's claim is due and owing and the cooperative is

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1 insolvent.

2 4. A proceeding by the cooperative to have its voluntary  
3 dissolution continued under court supervision.

4 Sec. 63. NEW SECTION. 501.822 PROCEDURE FOR JUDICIAL  
5 DISSOLUTION.

6 1. Venue for a proceeding by the attorney general to  
7 dissolve a cooperative lies in Polk county district court.  
8 Venue for a proceeding brought by any other party named in  
9 section 501.821 lies in the county where a cooperative's  
10 principal office or, if not in this state, its registered  
11 office is or was last located.

12 2. It is not necessary to make interest holders parties to  
13 a proceeding to dissolve a cooperative unless relief is sought  
14 against them individually.

15 3. A court in a proceeding brought to dissolve a  
16 cooperative may issue injunctions, appoint a receiver or  
17 custodian pendente lite with all powers and duties the court  
18 directs, take other action required to preserve the  
19 cooperative's assets wherever located, and carry on the  
20 business of the cooperative until a full hearing can be held.

21 Sec. 64. NEW SECTION. 501.823 RECEIVERSHIP OR  
22 CUSTODIANSHIP.

23 1. A court in a judicial proceeding brought to dissolve a  
24 cooperative may appoint one or more receivers to wind up and  
25 liquidate, or one or more custodians to manage, the business  
26 and affairs of the cooperative. The court shall hold a  
27 hearing, after notifying all parties to the proceeding and any  
28 interested persons designated by the court, before appointing  
29 a receiver or custodian. The court appointing a receiver or  
30 custodian has exclusive jurisdiction over the cooperative and  
31 all its property wherever located.

32 2. The court may appoint an individual or a domestic or  
33 foreign corporation authorized to transact business in this  
34 state as a receiver or custodian. The court may require the  
35 receiver or custodian to post bond, with or without sureties,

1 in an amount the court directs.

2 3. The court shall describe the powers and duties of the  
3 receiver or custodian in its appointing order, which may be  
4 amended from time to time.

5 a. The receiver may do any of the following:

6 (1) Dispose of all or any part of the assets of the  
7 cooperative wherever located, at a public or private sale, if  
8 authorized by the court.

9 (2) Sue and defend in the receiver's own name as receiver  
10 of the cooperative in all courts of this state.

11 b. The custodian may exercise all of the powers of the  
12 cooperative, through or in place of its board of directors or  
13 officers, to the extent necessary to manage the affairs of the  
14 cooperative in the best interests of its interest holders and  
15 creditors.

16 4. The court during a receivership may redesignate the  
17 receiver a custodian, and during a custodianship may  
18 redesignate the custodian a receiver, if doing so is in the  
19 best interests of the cooperative, its interest holders, and  
20 creditors.

21 5. The court from time to time during the receivership or  
22 custodianship may order compensation paid and expense  
23 disbursements or reimbursements made to the receiver or  
24 custodian and the receiver's or custodian's counsel from the  
25 assets of the cooperative or proceeds from the sale of the  
26 assets.

27 Sec. 65. NEW SECTION. 501.824 DECREE OF DISSOLUTION.

28 1. If after a hearing the court determines that one or  
29 more grounds for judicial dissolution described in section  
30 501.821 exist, it may enter a decree dissolving the  
31 cooperative and specifying the effective date of the  
32 dissolution, and the clerk of the district court shall deliver  
33 a certified copy of the decree to the secretary of state, who  
34 shall file it.

35 2. After entering the decree of dissolution, the court

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1 shall direct the winding up and liquidation of the  
2 cooperative's business and affairs in accordance with section  
3 501.805 and the notification of claimants in accordance with  
4 sections 501.806 and 501.807.

5 PART D

6 STATE TREASURER

7 Sec. 66. NEW SECTION. 501.831 DEPOSIT WITH STATE  
8 TREASURER.

9 Assets of a dissolved cooperative that should be  
10 transferred to a creditor, claimant, or interest holder of the  
11 cooperative who cannot be found or who is not competent to  
12 receive them shall be reduced to cash and deposited with the  
13 treasurer of state or other appropriate state official for  
14 safekeeping. When the creditor, claimant, or interest holder  
15 furnishes satisfactory proof of entitlement to the amount  
16 deposited, the treasurer of state or other appropriate state  
17 official shall pay the creditor, claimant, or interest holder  
18 or that person's representative the amount.

19 Sec. 67. Sections 501.107 and 501.602, Code 1997, are  
20 repealed. Sections 501.408 and 501.604, Code Supplement 1997,  
21 are repealed.

22 EXPLANATION

23 This bill amends Code chapter 501 which provides for  
24 cooperative corporations which may hold agricultural land in  
25 this state. This type of entity is a hybrid between a  
26 cooperative association organized under Code chapter 499 and a  
27 corporation organized under Code chapter 490. The bill amends  
28 a number of provisions.

29 First, the bill changes a number of terms used in the  
30 chapter. The bill changes "cooperative corporations" to  
31 "cooperatives". It changes a number of other terms to more  
32 closely resemble terms describing the business activities of  
33 cooperative associations rather than corporations. For  
34 example, a cooperative must be organized as an association  
35 rather than a corporation. The bill changes "articles of

1 incorporation" to "articles of association". The bill changes  
2 "shareholders" to "interest holders" or "members" in the  
3 cooperatives. It changes "voting stock" to "voting interest".  
4 An "interest holder" is defined to mean a person who holds a  
5 voting or nonvoting interest in a cooperative. A "member" is  
6 a person who holds a voting interest in the cooperative.  
7 References to "dividends" are changed to "distributions".

8 Second, the bill provides that a general partner that is  
9 authorized to hold an interest in a cooperative must include  
10 all natural persons.

11 Third, the bill increases the number of acres of  
12 agricultural land that a cooperative may hold from 640 to  
13 1,500.

14 Fourth, the bill amends Code section 501.106 which provides  
15 for maintaining a registered office or registered agent in  
16 this state for purpose of service. The bill adds provisions  
17 taken from Code sections 490.503 and 490.504 which provide  
18 procedures for the resignation of a registered agent and  
19 delivery of service when a registered agent is not available.  
20 The bill changes the term "corporation" to "cooperative".

21 Fifth, the bill incorporates a number of provisions that  
22 were included by reference in the chapter. These sections  
23 refer to provisions in both Code chapter 490 governing  
24 corporations and Code chapter 499 governing cooperative  
25 associations. The bill redrafts these provisions expressly as  
26 part of Code chapter 501 and changes references to  
27 "corporation" or "association" to "cooperative" and corrects  
28 internal references.

29 Code section 501.102 provides that a cooperative has the  
30 same powers as a corporation as provided in Code sections  
31 490.302 and 490.303. Those powers include the power to sue  
32 and be sued, have a seal, make and amend bylaws, acquire  
33 property, sell or dispose of property, enter into purchase  
34 security arrangements, make contracts, incur liabilities,  
35 issue notes and bonds, lend money, invest money, become an

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1 investor in another enterprise, conduct business, elect  
2 directors, appoint officers and hire employees, pay pensions,  
3 and make donations. This bill repeals Code section 501.102  
4 and provides those same powers expressly to cooperatives.

5 Code section 501.107 provides that Code sections 499.1601  
6 through 499.1622 apply to cooperatives organized under Code  
7 chapter 501. The sections provide for keeping corporate  
8 records, the right of shareholders to inspect those records,  
9 the authority of courts to order inspections, the preparation  
10 of financial statements for shareholders, and the submission  
11 of reports to the secretary of state. This bill repeals Code  
12 section 501.107 and rewrites those provisions into new Code  
13 sections in Code chapter 501.

14 Code section 501.408 provides that a cooperative may  
15 indemnify an officer, employee, or agent who is a party to a  
16 legal proceeding in the same way that a corporation may  
17 indemnify a director in the same circumstances. The section  
18 provides for definitions, grants authority to a corporation to  
19 indemnify a director under circumstances, requires  
20 indemnification in certain circumstances, allows for advancing  
21 a director moneys for legal expenses, allows for  
22 indemnification pursuant to court order, provides procedures  
23 for indemnification, provides for indemnification of officers,  
24 employees, and agents, and allows a corporation to purchase  
25 insurance. The bill repeals Code section 501.408 and  
26 expressly drafts those provisions into Code chapter 501.

27 Code section 501.602 provides for mergers and  
28 consolidations among cooperatives organized under Code chapter  
29 501. The section provides that Code sections 499.61 through  
30 499.70 apply to the mergers or consolidations. Those sections  
31 provide for definitions, allow for merger and consolidation,  
32 require a vote of the membership, provide for objections by  
33 members and the payment of fair market value to dissenters,  
34 provide for articles of merger or consolidation and the  
35 issuance of a certificate of merger or consolidation, and

1 authorize abandonment prior to filing the articles of merger  
2 or consolidation. This bill repeals Code section 501.602 and,  
3 with some exceptions, rewrites the same provisions in Code  
4 chapter 501. Code section 499.66 provides that in the case of  
5 a cooperative association, a dissenting member who is a  
6 natural person and who dies before receiving the fair value  
7 must be paid the fair value with the same priority as if the  
8 person was a member at the time of death. The bill does not  
9 include this provision.

10 Code section 501.604 provides for the dissolution of a  
11 cooperative based on the same provisions which apply to  
12 corporations under Code sections 490.1401 through 490.1440.  
13 Those sections provide for dissolution by incorporators,  
14 initial directors who have not issued stock, or a board of  
15 directors operating a functioning corporation; the filing of  
16 articles of dissolution, a revocation of a dissolution, and  
17 the effect of the dissolution; procedures for disposing of  
18 known and unknown claims against the corporation; grounds for  
19 administrative dissolution, procedures for and the effect of  
20 an administrative dissolution, and reinstatement, including  
21 appeal from a denial of reinstatement; grounds for judicial  
22 dissolution, procedures for judicial dissolution, and  
23 procedures for appointing a receiver or custodian; entering a  
24 decree of dissolution; and depositing creditor assets with the  
25 treasurer of state. This bill repeals Code section 501.604  
26 and rewrites those provisions expressly for cooperatives as  
27 part of Code chapter 501 with limited exceptions. The bill  
28 does not include a provision requiring information in the  
29 articles to be separately provided for each voting group  
30 entitled to vote separately on the plan to dissolve.

31  
32  
33  
34  
35

Substituted for by SF 2404  
4-6-98 (P. 1299)

3/19/98 Unfinished Business  
Calendar

MAR 2 1998

Place On Calendar

HOUSE FILE

2497

BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HSB 665)

**WITHDRAWN** 4-6-97  
(P. 1300)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to cooperatives organized under Code chapter 501.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

3  
4

**HOUSE FILE 2497**

**H-8283**

1 Amend House File 2497 as follows:  
2 1. Page 4, by striking lines 6 through 11 and  
3 inserting the following:  
4 "c. The cooperative does not, either directly or  
5 indirectly, acquire or otherwise obtain or lease  
6 agricultural land, if the total agricultural land  
7 either directly or indirectly owned or leased by the  
8 cooperative would then exceed six hundred forty  
9 acres."

H-8283 FILED MARCH 10, 1998

By WEIGEL of Chickasaw

Adapted 4-6-98  
(P. 1299)

16  
17  
18  
19  
20  
21  
22  
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HF  
2497

1 Section 1. Section 501.101, subsection 1, Code 1997, is  
2 amended to read as follows:

3 1. "Articles" means the cooperative's articles of  
4 incorporation association.

5 Sec. 2. Section 501.101, subsection 2, paragraph b, Code  
6 1997, is amended to read as follows:

7 b. ~~An individual or general partnership that~~ A person who  
8 owns at least one hundred fifty acres of agricultural land and  
9 receives as rent a share of the crops or the animals raised on  
10 the land if those crops or animals are a significant component  
11 of the cooperative's business operations that person is a  
12 natural person or a general partnership as organized under  
13 chapter 486 in which all partners are natural persons.

14 Sec. 3. Section 501.101, subsection 4, Code 1997, is  
15 amended to read as follows:

16 4. "Cooperative" means a cooperative corporation  
17 association organized under this chapter or converted to this  
18 chapter pursuant to section 501.601.

19 Sec. 4. Section 501.101, subsection 6, Code 1997, is  
20 amended by adding the following new paragraph:

21 NEW PARAGRAPH. c. A general partnership as organized  
22 under chapter 486 in which all the partners are natural  
23 persons actively engaged in farming as provided in section  
24 9H.1.

25 Sec. 5. Section 501.101, subsections 7 through 9, Code  
26 1997, are amended to read as follows:

27 7. "Member" means a person who owns a voting stock  
28 interest in a cooperative.

29 8. "~~Shareholder~~" "Interest holder" means a person who owns  
30 stock an interest in a cooperative, whether or not that stock  
31 interest has voting rights.

32 9. "Voting stock interest" means stock an interest in a  
33 cooperative that has voting rights.

34 Sec. 6. Section 501.101, Code 1997, is amended by adding  
35 the following new subsections:

1 NEW SUBSECTION. 6A. "Interest" means a voting interest or  
2 other interest in a cooperative as described in the  
3 cooperative's articles of association.

4 NEW SUBSECTION. 7A. "Membership" means the interest  
5 established by a member owning a voting interest.

6 Sec. 7. Section 501.102, subsection 2, Code 1997, is  
7 amended to read as follows:

8 2. Unless its articles provide otherwise, a cooperative  
9 has perpetual duration and succession in its corporate  
10 cooperative name and has the same powers as an individual to  
11 do all things necessary or convenient to carry out its  
12 business and affairs, including, ~~without limitation, all of~~  
13 ~~the powers enumerated in sections 490.302 and 490.303~~ but not  
14 limited to, all of the following:

15 a. Sue and be sued, complain, and defend in its name.

16 b. Have a seal, which may be altered at will, and use it,  
17 or a facsimile of it, by impressing or affixing it or in any  
18 other manner reproducing it.

19 c. Make and amend bylaws, not inconsistent with its  
20 articles of association or with the laws of this state, for  
21 managing the business and regulating the affairs of the  
22 cooperative.

23 d. Purchase, receive, lease, or otherwise acquire, and  
24 own, hold, improve, use, and otherwise deal with, real or  
25 personal property, or any legal or equitable interest in  
26 property, wherever located.

27 e. Sell, convey, mortgage, pledge, lease, exchange, and  
28 otherwise dispose of all or any part of its property.

29 f. Purchase, receive, subscribe for, or otherwise acquire,  
30 own, hold, vote, use, sell, mortgage, lend, pledge, or  
31 otherwise dispose of, and deal in and with shares or other  
32 interests in, or obligations of, any other entity.

33 g. Make contracts and guarantees, incur liabilities,  
34 borrow money, issue its notes, bonds, and other obligations,  
35 which may be convertible into or include the option to

1 purchase other interests of the cooperative, and secure any of  
2 its obligations by mortgage or pledge of any of its property,  
3 franchises, or income.

4 h. Lend money, invest and reinvest its funds, and receive  
5 and hold real and personal property as security for repayment.

6 i. Be a promoter, partner, member, associate, or manager  
7 of any partnership, joint venture, trust, or other entity.

8 j. Conduct its business, locate offices, and exercise the  
9 powers granted by this chapter within or without this state.

10 k. Elect directors and appoint officers, employees, and  
11 agents of the cooperative, define their duties, fix their  
12 compensation, and lend them money and credit.

13 l. Pay pensions and establish pension plans, pension  
14 trusts, profit-sharing plans, bonus plans, and benefit or  
15 incentive plans for any or all of its current or former  
16 directors, officers, employees, and agents.

17 m. Make donations for the public welfare or for  
18 charitable, scientific, or educational purposes.

19 n. Transact any lawful business that will aid governmental  
20 policy.

21 o. Make payments or donations, or do any other act, not  
22 inconsistent with law, that furthers the business and affairs  
23 of the cooperative.

24 Sec. 8. Section 501.103, subsections 1, 2, and 5, Code  
25 Supplement 1997, are amended to read as follows:

26 1. Notwithstanding section 9H.4, any person or entity,  
27 subject to the limitations set forth in section 501.305, and  
28 subject to the cooperative's articles and bylaws, is permitted  
29 to own stock interests, including voting stock interests, in a  
30 cooperative.

31 2. Notwithstanding section 9H.4, a cooperative may,  
32 directly or indirectly, acquire or otherwise obtain or lease  
33 agricultural land in this state, for as long as the  
34 cooperative continues to meet the following requirements:

35 a. Farming entities own sixty percent of the stock

1 interests and are eligible to cast sixty percent of the votes  
2 at member meetings.

3 b. Authorized persons own at least seventy-five percent of  
4 the stock interests and are eligible to cast at least seventy-  
5 five percent of the votes at member meetings.

6 c. The cooperative does not, either directly or  
7 indirectly, acquire or otherwise obtain or lease agricultural  
8 land ~~if the total agricultural land either directly or~~  
9 ~~indirectly owned or leased by the cooperative would then~~  
10 exceed six hundred forty in this state in excess of one  
11 thousand five hundred acres.

12 5. In the event of a transfer of stock an interest in a  
13 cooperative by operation of law as a result of death, divorce,  
14 bankruptcy, or pursuant to a security interest, the  
15 cooperative may disregard the transfer for purposes of  
16 determining compliance with subsection 2 for a period of two  
17 years after the transfer.

18 Sec. 9. Section 501.105, subsection 2, Code 1997, is  
19 amended to read as follows:

20 2. Articles must be signed by all of the incorporators  
21 organizers; and all other documents filed with the secretary  
22 of state must be signed by one of the cooperative's officers.  
23 The printed name and capacity of each signatory must appear in  
24 proximity to the signatory's signature. The secretary of  
25 state may accept a document containing a copy of the  
26 signature. A document is not required to contain a corporate  
27 seal, an acknowledgment, or a verification.

28 Sec. 10. Section 501.106, subsection 2, unnumbered  
29 paragraph 1, Code 1997, is amended to read as follows:

30 A corporation cooperative may change its registered office  
31 or registered agent by delivering to the secretary of state  
32 for filing a statement of change that sets forth all of the  
33 following:

34 Sec. 11. Section 501.106, Code 1997, is amended by adding  
35 the following new subsections:

1 NEW SUBSECTION. 5. a. A registered agent may resign the  
2 agent's agency appointment by signing and delivering to the  
3 secretary of state for filing the signed original statement of  
4 resignation. The statement may include a statement that the  
5 registered office is also discontinued. The registered agent  
6 shall send a copy of the statement of resignation by certified  
7 mail to the cooperative at its principal office and to the  
8 registered office, if not discontinued. The registered agent  
9 shall certify to the secretary of state that the copies have  
10 been sent to the cooperative, including the date the copies  
11 were sent.

12 b. The agency appointment is terminated, and the  
13 registered office discontinued if so provided, on the date on  
14 which the statement was filed.

15 NEW SUBSECTION. 6. a. A cooperative's registered agent  
16 is the cooperative's agent for service of process, notice, or  
17 demand required or permitted by law to be served on the  
18 cooperative.

19 b. If a cooperative has no registered agent, or the agent  
20 cannot with reasonable diligence be served, the cooperative  
21 may be served by registered or certified mail, return receipt  
22 requested, addressed to the secretary of the cooperative at  
23 its principal office. Service is perfected under this  
24 paragraph at the earliest of any of the following:

25 (1) The date that the cooperative receives the mail.

26 (2) The date shown on the return receipt, if signed on  
27 behalf of the cooperative.

28 (3) Five days after its deposit in the United States mail,  
29 as evidenced by the postmark, if mailed postpaid and correctly  
30 addressed.

31 c. A cooperative may be served pursuant to this section or  
32 as provided in other provisions of this chapter, unless the  
33 manner of service is otherwise specifically provided for by  
34 statute.

35 Sec. 12. Section 501.202, subsection 1, paragraph a, Code

1 1997, is amended to read as follows:

2 a. The name, address, and occupation of each incorporator  
3 organizer.

4 Sec. 13. Section 501.202, subsection 2, paragraph d, Code  
5 1997, is amended to read as follows:

6 d. The classes of stock interests and the authorized  
7 number of shares interests of each class.

8 Sec. 14. Section 501.306, Code 1997, is amended to read as  
9 follows:

10 501.306 NUMBER OF VOTES.

11 A person who is a member ~~or-shareholder~~ shall not own more  
12 than one membership ~~or-share-of-voting-stock~~. The person  
13 shall be entitled to cast not more than one vote regarding any  
14 matter in which a vote is conducted, including any matter  
15 subject to a vote during a cooperative meeting.

16 Sec. 15. Section 501.403, subsection 2, paragraph e, Code  
17 1997, is amended to read as follows:

18 e. Action required or permitted by this chapter to be  
19 taken at a board meeting may be taken without a meeting if the  
20 action is taken by all members of the board. The action must  
21 be evidenced by one or more written consents describing the  
22 action taken, signed by each director, and included in the  
23 minutes or filed with the corporate cooperative's records  
24 reflecting the action taken. Action taken under this section  
25 is effective when the last director signs the consent, unless  
26 the consent specifies a different effective date. A consent  
27 signed under this section has the effect of a meeting vote and  
28 may be described as such in any document.

29 Sec. 16. Section 501.403, subsection 3, Code 1997, is  
30 amended to read as follows:

31 3. A director may waive any notice required by this  
32 chapter, the articles, or the bylaws before or after the date  
33 and time stated in the notice. The waiver must be in writing,  
34 signed by the director entitled to the notice, and filed with  
35 the minutes or corporate records of the cooperative. A

1 director's attendance at or participation in a meeting waives  
2 any required notice to that director of the meeting unless the  
3 director at the beginning of the meeting or promptly upon the  
4 director's arrival objects to holding the meeting or  
5 transacting business at the meeting and does not thereafter  
6 vote for or assent to action taken at the meeting.

7 Sec. 17. Section 501.404, subsection 1, paragraph b, Code  
8 Supplement 1997, is amended to read as follows:

9 b. The material facts of the transaction and the  
10 director's interest were disclosed or known to the  
11 ~~shareholders~~ members entitled to vote and they authorized,  
12 approved, or ratified the transaction. For purposes of this  
13 paragraph, a conflict of interest transaction is authorized,  
14 approved, or ratified if it receives a majority of the votes  
15 entitled to be counted under this paragraph. Shares Voting  
16 interests owned by or voted under the control of a director  
17 who has a direct or indirect interest in the transaction, and  
18 shares voting interests owned by or voted under the control of  
19 an entity described in subsection 2, paragraph "a", shall not  
20 be counted in a vote of members to determine whether to  
21 authorize, approve, or ratify a conflict of interest  
22 transaction under this paragraph. The vote of those shares  
23 voting interests, however, is counted in determining whether  
24 the transaction is approved under other sections of this  
25 chapter. A majority of the votes, whether or not the  
26 ~~shareholders~~ members are present, that are entitled to be  
27 counted in a vote on the transaction under this paragraph  
28 constitutes a quorum for the purpose of taking action under  
29 this paragraph.

30 Sec. 18. Section 501.407, unnumbered paragraph 1, Code  
31 1997, is amended to read as follows:

32 The articles may contain a provision eliminating or  
33 limiting the personal liability of a director, officer, or  
34 ~~shareholder~~ interest holder of the cooperative for monetary  
35 damages for breach of a fiduciary duty as a director, officer,

1 or shareholder interest holder, provided that the provision  
2 does not eliminate or limit liability for any of the  
3 following:

4 Sec. 19. Section 501.407, subsections 1 and 3, Code 1997,  
5 are amended to read as follows:

6 1. A breach of the duty of loyalty to the cooperative or  
7 its shareholders interest holders.

8 3. A transaction from which the director, officer, or  
9 shareholder interest holder derives an improper personal  
10 benefit.

11 PART B

12 INDEMNIFICATION

13 Sec. 20. NEW SECTION. 501.411 DEFINITIONS.

14 As used in this part, unless the context otherwise  
15 requires:

16 1. "Cooperative" includes any domestic or foreign  
17 predecessor entity of a cooperative in a merger or other  
18 transaction in which the predecessor's existence ceased upon  
19 consummation of the transaction.

20 2. "Director" means an individual who is or was a director  
21 of a cooperative or an individual who, while a director of a  
22 cooperative, is or was serving at the cooperative's request as  
23 a director, officer, partner, trustee, employee, or agent of  
24 another foreign or domestic cooperative, corporation,  
25 partnership, joint venture, trust, employee benefit plan, or  
26 other enterprise. A director is considered to be serving an  
27 employee benefit plan at the cooperative's request if the  
28 director's duties to the cooperative also impose duties on, or  
29 otherwise involve services by, that director to the plan or to  
30 participants in or beneficiaries of the plan. "Director"  
31 includes, unless the context requires otherwise, the estate or  
32 personal representative of a director.

33 3. "Expenses" include counsel fees.

34 4. "Liability" means the obligation to pay a judgment,  
35 settlement, penalty, fine, including an excise tax assessed

1 with respect to an employee benefit plan, or reasonable  
2 expenses incurred with respect to a proceeding.

3 5. "Official capacity" means:

4 a. When used with respect to a director, the office of  
5 director in a cooperative.

6 b. When used with respect to an individual other than a  
7 director, as contemplated in section 501.417, the office in a  
8 cooperative held by the officer or the employment or agency  
9 relationship undertaken by the employee or agent on behalf of  
10 the cooperative.

11 "Official capacity" does not include service for any other  
12 foreign or domestic cooperative or any corporation,  
13 partnership, joint venture, trust, employee benefit plan, or  
14 other enterprise.

15 6. "Party" includes an individual who was, is, or is  
16 threatened to be made a named defendant or respondent in a  
17 proceeding.

18 7. "Proceeding" means any threatened, pending, or  
19 completed action, suit, or proceeding, whether civil,  
20 criminal, administrative, or investigative and whether formal  
21 or informal.

22 Sec. 21. NEW SECTION. 501.412 AUTHORITY TO INDEMNIFY.

23 1. Except as provided in subsection 4, a cooperative may  
24 indemnify an individual made a party to a proceeding because  
25 the individual is or was a director against liability incurred  
26 in the proceeding if all of the following apply:

27 a. The individual acted in good faith.

28 b. The individual reasonably believed either of the  
29 following:

30 (1) In the case of conduct in the individual's official  
31 capacity with the cooperative, that the individual's conduct  
32 was in the cooperative's best interests.

33 (2) In all other cases, that the individual's conduct was  
34 at least not opposed to the cooperative's best interests.

35 c. In the case of any criminal proceeding, the individual

1 had no reasonable cause to believe the individual's conduct  
2 was unlawful.

3 2. A director's conduct with respect to an employee  
4 benefit plan for a purpose the director reasonably believed to  
5 be in the interests of the participants in and beneficiaries  
6 of the plan is conduct that satisfies the requirement of  
7 subsection 1, paragraph "b", subparagraph (2).

8 3. The termination of a proceeding by judgment, order,  
9 settlement, conviction, or upon a plea of nolo contendere or  
10 its equivalent is not, of itself, determinative that the  
11 director did not meet the standard of conduct described in  
12 this section.

13 4. A cooperative shall not indemnify a director under this  
14 section in either of the following circumstances:

15 a. In connection with a proceeding by or in the right of  
16 the cooperative in which the director was adjudged liable to  
17 the cooperative.

18 b. In connection with any other proceeding charging  
19 improper personal benefit to the director, whether or not  
20 involving action in the director's official capacity, in which  
21 the director was adjudged liable on the basis that personal  
22 benefit was improperly received by the director.

23 5. Indemnification permitted under this section in  
24 connection with a proceeding by or in the right of the  
25 cooperative is limited to reasonable expenses incurred in  
26 connection with the proceeding.

27 Sec. 22. NEW SECTION. 501.413 MANDATORY INDEMNIFICATION.

28 Unless limited by its articles of association, a  
29 cooperative shall indemnify a director who was wholly  
30 successful, on the merits or otherwise, in the defense of any  
31 proceeding to which the director was a party because the  
32 director is or was a director of the cooperative against  
33 reasonable expenses incurred by the director in connection  
34 with the proceeding.

35 Sec. 23. NEW SECTION. 501.414 ADVANCE FOR EXPENSES.

1 1. A cooperative may pay for or reimburse the reasonable  
2 expenses incurred by a director who is a party to a proceeding  
3 in advance of final disposition of the proceeding if any of  
4 the following apply:

5 a. The director furnishes the cooperative a written  
6 affirmation of the director's good faith belief that the  
7 director has met the standard of conduct described in section  
8 501.412.

9 b. The director furnishes the cooperative a written  
10 undertaking, executed personally or on the director's behalf,  
11 to repay the advance if it is ultimately determined that the  
12 director did not meet the standard of conduct described in  
13 section 501.412.

14 c. A determination is made pursuant to section 501.416  
15 that the facts then known to those making the determination  
16 would not preclude indemnification under this part.

17 2. The undertaking required by subsection 1, paragraph  
18 "b", must be an unlimited general obligation of the director  
19 but need not be secured and may be accepted without reference  
20 to financial ability to make repayment.

21 3. Determinations and authorizations of payments under  
22 this section shall be made in the manner specified in section  
23 501.416.

24 **Sec. 24. NEW SECTION. 501.415 COURT-ORDERED**  
25 **INDEMNIFICATION.**

26 Unless a cooperative's articles of association provide  
27 otherwise, a director of the cooperative who is a party to a  
28 proceeding may apply for indemnification to the court  
29 conducting the proceeding or to another court of competent  
30 jurisdiction. On receipt of an application, the court after  
31 giving any notice the court considers necessary may order  
32 indemnification if it determines either of the following:

33 1. The director is entitled to mandatory indemnification  
34 under section 501.413, in which case the court shall also  
35 order the cooperative to pay the director's reasonable

1 expenses incurred to obtain court-ordered indemnification.

2 2. The director is fairly and reasonably entitled to  
3 indemnification in view of all the relevant circumstances,  
4 whether or not the director met the standard of conduct set  
5 forth in section 501.412 or was adjudged liable as described  
6 in section 501.412, subsection 4, but if the director was  
7 adjudged so liable the director's indemnification is limited  
8 to reasonable expenses incurred.

9 Sec. 25. NEW SECTION. 501.416 DETERMINATION AND  
10 AUTHORIZATION OF INDEMNIFICATION.

11 1. A cooperative shall not indemnify a director under  
12 section 501.412 unless authorized in the specific case after a  
13 determination has been made that indemnification of the  
14 director is permissible in the circumstances because the  
15 director has met the standard of conduct set forth in section  
16 501.412.

17 2. The determination shall be made by any of the  
18 following:

19 a. By the board of directors by majority vote of a quorum  
20 consisting of directors not at the time parties to the  
21 proceeding.

22 b. If a quorum cannot be obtained under paragraph "a", by  
23 majority vote of a committee duly designated by the board of  
24 directors, in which designation directors who are parties may  
25 participate, consisting solely of two or more directors not at  
26 the time parties to the proceeding.

27 c. By special legal counsel.

28 (1) The special legal counsel shall be selected by the  
29 board of directors or its committee in the manner prescribed  
30 in paragraph "a" or "b".

31 (2) If a quorum of the board of directors cannot be  
32 obtained under paragraph "a" and a committee cannot be  
33 designated under paragraph "b", the special legal counsel  
34 shall be selected by majority vote of the full board of  
35 directors, in which selection directors who are parties may

1 participate.

2 d. By the members, but voting interests owned by or voted  
3 under the control of directors who are at the time parties to  
4 the proceeding shall not be voted on the determination.

5 3. Authorization of indemnification and evaluation as to  
6 reasonableness of expenses shall be made in the same manner as  
7 the determination that indemnification is permissible, except  
8 that if the determination is made by special legal counsel,  
9 authorization of indemnification and evaluation as to  
10 reasonableness of expenses shall be made by those entitled  
11 under subsection 2, paragraph "c", to select counsel.

12 Sec. 26. NEW SECTION. 501.417 INDEMNIFICATION OF  
13 OFFICERS, EMPLOYEES, AND AGENTS.

14 Unless a cooperative's articles of association provide  
15 otherwise, all of the following apply:

16 1. An officer of the cooperative who is not a director is  
17 entitled to mandatory indemnification under section 501.413,  
18 and is entitled to apply for court-ordered indemnification  
19 under section 501.415, in each case to the same extent as a  
20 director.

21 2. The cooperative may indemnify and advance expenses  
22 under this part to an officer, employee, or agent of the  
23 cooperative who is not a director to the same extent as to a  
24 director.

25 3. A cooperative may also indemnify and advance expenses  
26 to an officer, employee, or agent who is not a director to the  
27 extent consistent with law that may be provided by its  
28 articles of association, bylaws, general or specific action of  
29 its board of directors, or contract.

30 Sec. 27. NEW SECTION. 501.418 INSURANCE.

31 A cooperative may purchase and maintain insurance on behalf  
32 of an individual who is or was a director, officer, employee,  
33 or agent of the cooperative, or who, while a director,  
34 officer, employee, or agent of the cooperative, is or was  
35 serving at the request of the cooperative as a director,

1 officer, partner, trustee, employee, or agent of another  
2 foreign or domestic cooperative, corporation, partnership,  
3 joint venture, trust, employee benefit plan, or other  
4 enterprise, against liability asserted against or incurred by  
5 that individual in that capacity or arising from the  
6 individual's status as a director, officer, employee, or  
7 agent, whether or not the cooperative would have power to  
8 indemnify that individual against the same liability under  
9 section 501.412 or 501.413.

10 Sec. 28. NEW SECTION. 501.419 APPLICATION OF THIS PART.

11 Except as limited in section 501.412, subsection 4,  
12 paragraph "a", and subsection 5 with respect to proceedings by  
13 or in the right of the cooperative, the indemnification and  
14 advancement of expenses provided by, or granted pursuant to,  
15 sections 501.411 through 501.418 are not exclusive of any  
16 other rights to which persons seeking indemnification or  
17 advancement of expenses are entitled under a provision in the  
18 articles of association or bylaws, agreements, vote of the  
19 members or disinterested directors, or otherwise, both as to  
20 action in a person's official capacity and as to action in  
21 another capacity while holding the office. However, such  
22 provisions, agreements, votes, or other actions shall not  
23 provide indemnification for a breach of a director's duty of  
24 loyalty to the cooperative or its interest holders, for acts  
25 or omissions not in good faith or which involve intentional  
26 misconduct or knowing violation of the law, or for a  
27 transaction from which the person seeking indemnification  
28 derives an improper personal benefit.

29 Sec. 29. Section 501.501, Code Supplement 1997, is amended  
30 to read as follows:

31 501.501 ISSUANCE AND TRANSFER OF STOCK INTERESTS.

32 1. A cooperative may issue the number of shares interests  
33 of each class authorized by its articles. A cooperative may  
34 issue fractional shares interests. Stock Interests may be  
35 represented by certificates or by entry on the cooperative's

1 stock interest record books.

2 2. A member shall not sell or otherwise transfer voting  
3 stock interests to any person. A member may be restricted or  
4 limited from selling or otherwise transferring any other class  
5 of stock interests of the cooperative as provided by the  
6 cooperative's articles of incorporation association or bylaws  
7 or an agreement executed between the cooperative and the  
8 member.

9 3. A cooperative may acquire its own stock interests, and  
10 shares interests so acquired constitute authorized but  
11 unissued shares interests.

12 Sec. 30. Section 501.502, subsection 2, paragraph a, Code  
13 Supplement 1997, is amended to read as follows:

14 a. The member has attempted to transfer stock any interest  
15 to a person who is not a member and has not been approved for  
16 membership.

17 Sec. 31. Section 501.502, subsection 4, Code Supplement  
18 1997, is amended to read as follows:

19 4. The cooperative shall redeem, without interest, the  
20 voting stock interest of a terminated member within one year  
21 after the termination of the membership for the fair market  
22 value of the stock interest. If the amount originally paid by  
23 the member for the voting stock interest was less than ten  
24 percent of the total amount the member paid for all classes of  
25 stock interests, the cooperative may redeem the voting stock  
26 interest for its issue price if the cooperative's articles of  
27 incorporation association grant the cooperative this  
28 authority.

29 Sec. 32. Section 501.502, subsection 5, unnumbered  
30 paragraph 1, Code Supplement 1997, is amended to read as  
31 follows:

32 The cooperative shall redeem, without interest, all of the  
33 terminated member's allocated patronage refunds and preferred  
34 stock interests originally issued as allocated patronage  
35 refunds for the issue price as follows:



## 1 ORGANIZED UNDER THIS CHAPTER

2 Sec. 35. NEW SECTION. 501.611 DEFINITIONS.

3 When used in this part, unless the context otherwise  
4 requires:

5 1. "Consolidation" means the uniting of two or more  
6 cooperatives organized under this chapter into one cooperative  
7 organized under this chapter, in such manner that a new  
8 cooperative is formed, and the new cooperative absorbs the  
9 others, which cease to exist as separate entities.

10 2. "Dissenting member" means a voting member who votes in  
11 opposition to the plan of merger or consolidation and who  
12 makes a demand for payment of the fair value under section  
13 501.615.

14 3. "Fair value" means the cash price that would be paid by  
15 a willing buyer to a willing seller, neither being under any  
16 compulsion to buy or sell.

17 4. "Issue price" means the amount paid for an interest in  
18 the old cooperative or the amount stated in a notice of  
19 allocation of patronage distributions.

20 5. "Merger" means the uniting of two or more cooperatives  
21 organized under this chapter into one cooperative organized  
22 under this chapter, in such manner that one of the merging  
23 associations continues to exist and absorbs the others, which  
24 cease to exist as entities. "Merger" does not include the  
25 acquisition, by purchase or otherwise, of the assets of one  
26 cooperative by another, unless the acquisition only becomes  
27 effective by the filing of articles of merger by the  
28 cooperatives and the issuance of a certificate of merger  
29 pursuant to sections 501.617 and 501.618.

30 6. "New cooperative" is the cooperative resulting from the  
31 consolidation of two or more cooperatives organized under this  
32 chapter.

33 7. "Old cooperative" means the cooperative in which the  
34 member owns or owned a membership prior to merger or  
35 consolidation.

1 8. "Surviving cooperative" is the cooperative resulting  
2 from the merger of two or more cooperatives organized under  
3 this chapter.

4 Sec. 36. NEW SECTION. 501.612 MERGER.

5 Any two or more cooperatives may merge into one cooperative  
6 in the manner provided in this section. The board of  
7 directors of each cooperative shall, by resolution adopted by  
8 a majority vote of all members of each board, approve a plan  
9 of merger which shall set forth all of the following:

10 1. The names of the cooperatives proposing to merge and  
11 the name of the surviving cooperative.

12 2. The terms and conditions of the proposed merger.

13 3. A statement of any changes in the articles of  
14 association of the surviving cooperative.

15 4. Other provisions deemed necessary or desirable.

16 Sec. 37. NEW SECTION. 501.613 CONSOLIDATION.

17 Any two or more cooperatives may be consolidated into a new  
18 cooperative as provided in this section. The board of  
19 directors of each cooperative shall, by resolution adopted by  
20 a majority vote of all members of each board, approve a plan  
21 of consolidation setting forth:

22 1. The names of the cooperatives proposing to consolidate  
23 and the name of the new cooperative.

24 2. The terms and conditions of the proposed consolidation.

25 3. With respect to the new cooperative, all of the  
26 statements required to be set forth in articles of association  
27 for cooperatives.

28 4. Other provisions deemed necessary or desirable.

29 Sec. 38. NEW SECTION. 501.614 VOTE OF MEMBERS.

30 1. The board of directors of a cooperative, upon approving  
31 a plan of merger or consolidation, shall, by motion or  
32 resolution, direct that the plan be submitted to a vote at a  
33 meeting of members, which may be either an annual or special  
34 meeting. Written notice shall be given not less than twenty  
35 days prior to the meeting, either personally or by mail, to

1 each voting member of record. The notice shall state the  
2 time, place, and purpose of the meeting, and a summary of the  
3 plan of merger or consolidation shall be included in or  
4 enclosed with the notice.

5 2. At the meeting, a ballot of the members who are  
6 entitled to vote in the affairs of the association shall be  
7 taken on the proposed plan of merger or consolidation. The  
8 plan of merger or consolidation shall be approved if two-  
9 thirds of the members vote affirmatively on a ballot in which  
10 a majority of all voting members participate. Voting may be  
11 by mail ballot notwithstanding any contrary provision in the  
12 articles of association or bylaws.

13 Sec. 39. NEW SECTION. 501.615 OBJECTION OF MEMBERS --  
14 PURCHASE OF INTERESTS UPON DEMAND.

15 1. If a member of a cooperative which is a party to a  
16 merger or consolidation files with the cooperative, prior to  
17 or at the meeting of members at which the plan is submitted to  
18 a vote, a written objection to the plan of merger or  
19 consolidation, and votes in opposition to the plan, and the  
20 member, within twenty days after the merger or consolidation  
21 is approved by the other members, makes written demand on the  
22 surviving or new cooperative for payment of the fair value of  
23 that member's interest as of the day prior to the date on  
24 which the vote was taken approving the merger or  
25 consolidation, the surviving or new cooperative shall pay to  
26 the member, upon surrender of that person's certificate of  
27 membership or interests in the cooperative, the fair value of  
28 that person's interest as provided in section 501.616. A  
29 member who fails to make demand within the twenty-day period  
30 is conclusively presumed to have consented to the merger or  
31 consolidation and is bound by its terms.

32 2. In the event that a dissenting member does business  
33 with the surviving or new cooperative before payment has been  
34 made for that person's membership, the dissenting member is  
35 deemed to have consented to the merger or consolidation and to

1 have waived all further rights as a dissenting member.

2 Sec. 40. NEW SECTION. 501.616 VALUE DETERMINED.

3 1. Within twenty days after the merger or consolidation is  
4 effected, the surviving or new cooperative shall make a  
5 written offer to each dissenting member to pay a specified sum  
6 deemed by the surviving or new cooperative to be the fair  
7 value of that dissenting member's interest in the old  
8 cooperative. This offer shall be accompanied by a balance  
9 sheet of the old cooperative as of the latest available date,  
10 a profit and loss statement of the old cooperative for the  
11 twelve-month period ending on the date of the balance sheet,  
12 and a list of the dissenting member's interests in the old  
13 cooperative. If the dissenting member does not agree that the  
14 sum stated in the notice represents the fair value of the  
15 member's interest, then the member may file a written  
16 objection with the surviving or new cooperative within twenty  
17 days after receiving the notice. A dissenting member who  
18 fails to file the objection within the twenty-day period is  
19 conclusively presumed to have consented to the fair value  
20 stated in the notice.

21 2. If the surviving or new cooperative receives any  
22 objections to fair values, then within ninety days after the  
23 merger or consolidation is effected, the surviving or new  
24 cooperative shall file a petition in district court asking for  
25 a finding and determination of the fair value of each type of  
26 equity. The action shall be tried as an equitable action.

27 3. The fair value of a dissenting member's interest in the  
28 old cooperative shall be determined as of the day preceding  
29 the merger or consolidation by taking the lesser of either the  
30 issue price of the dissenting member's membership, deferred  
31 patronage, and any other interests in the cooperative, or the  
32 amount determined by subtracting the old cooperative's debts  
33 from the fair market value of the old cooperative's assets,  
34 dividing the remainder by the total issue price of all  
35 memberships, deferred patronage and all other interests, and

1 then multiplying the quotient from this division by the total  
2 issue price of a dissenting member's membership, deferred  
3 patronage, and other interests.

4 4. The surviving or new cooperative shall pay to each  
5 dissenting member in cash within sixty days after the merger  
6 or consolidation the amount paid in cash by the dissenting  
7 member for that member's interest in the old cooperative. The  
8 surviving or new cooperative shall pay the remainder of each  
9 dissenting member's fair value in ten annual equal payments.  
10 The final payment must be made not later than fifteen years  
11 after the merger or consolidation. The value of the deferred  
12 patronage or interests issued to evidence deferred patronage  
13 shall be considered a liability of the surviving or new  
14 cooperative as reflected in the accounts of the surviving or  
15 new cooperative until the value of the deferred patronage or  
16 interests issued to evidence deferred patronage is paid in  
17 full to the dissenting member. A dissenting member who is a  
18 natural person who dies before receiving the fair value shall  
19 have all of the person's fair value paid with the same  
20 priority as if the person was a member at the time of death.

21 Sec. 41. NEW SECTION. 501.617 ARTICLES OF MERGER OR  
22 CONSOLIDATION.

23 Upon approval, articles of merger or articles of  
24 consolidation shall be executed by each cooperative as  
25 provided in section 501.105. The articles must include the  
26 following:

- 27 1. The plan of merger or the plan of consolidation.
- 28 2. As to each cooperative, the number of members.
- 29 3. As to each cooperative, the number of members who voted  
30 for and against the plan at the meeting called for that  
31 purpose.

32 The articles of merger or articles of consolidation shall  
33 be delivered to the secretary of state for filing.

34 The secretary of state, upon the filing of articles of  
35 merger or articles of consolidation, shall issue a certificate

1 of merger or a certificate of consolidation and send the  
2 certificate to the surviving or new cooperative, or to its  
3 representative.

4 Sec. 42. NEW SECTION. 501.618 WHEN EFFECTIVE -- EFFECT.

5 A merger or consolidation shall become effective upon the  
6 date that the certificate of merger or the certificate of  
7 consolidation is issued by the secretary of state, or the  
8 effective date specified in the articles of merger or articles  
9 of consolidation, whichever is later.

10 When a merger or consolidation has become effective:

11 1. The several cooperatives which are parties to the plan  
12 of merger or consolidation shall be a single cooperative,  
13 which, in the case of a merger, shall be that cooperative  
14 designated in the plan of merger as the surviving cooperative,  
15 and, in the case of consolidation, shall be that cooperative  
16 designated in the plan of consolidation as the new  
17 cooperative.

18 2. The separate existence of all cooperatives which are  
19 parties to the plan of merger or consolidation, except the  
20 surviving or new cooperative, shall cease.

21 3. The surviving or new cooperative shall have all the  
22 rights, privileges, immunities, and powers and shall be  
23 subject to all the duties and liabilities of a cooperative  
24 organized under this chapter.

25 4. The surviving or new cooperative shall possess all the  
26 rights, privileges, immunities, and franchises, public as well  
27 as private, of each of the merging or consolidating  
28 cooperatives.

29 5. All property, real, personal, and mixed, and all debts  
30 due on whatever account, including all choses in action, and  
31 all and every other interest, of or belonging to or due to  
32 each of the cooperatives merged or consolidated, shall be  
33 transferred to and vested in the surviving or new cooperative  
34 without further act or deed. The title to any real estate, or  
35 any interest in real estate vested in any of the cooperatives

1 merged or consolidated, shall not revert or be in any way  
2 impaired by reason of the merger or consolidation.

3 6. A surviving or new cooperative shall be responsible and  
4 liable for all obligations and liabilities of each of the  
5 cooperatives merged or consolidated.

6 7. Any claim existing or action or proceeding pending by  
7 or against any of the cooperatives merged or consolidated may  
8 be prosecuted as if the merger or consolidation had not taken  
9 place, or the surviving or new cooperative may be substituted  
10 for the merged or consolidated cooperative. Neither the  
11 rights of creditors nor any liens upon the property of any  
12 cooperative shall be impaired by a merger or consolidation.

13 8. In the case of a merger, the articles of association of  
14 the surviving cooperative shall be deemed to be amended to the  
15 extent that changes in its articles of association are stated  
16 in the plan of merger. In the case of a consolidation, the  
17 statements set forth in the articles of consolidation which  
18 are required or permitted to be set forth in the articles of  
19 association of a cooperative shall be deemed to be the  
20 original articles of association of the new cooperative.

21 9. The aggregate amount of the net assets of the merging  
22 or consolidating cooperative which was available for the  
23 payment of distributions immediately prior to the merger or  
24 consolidation, to the extent that the amount is not  
25 transferred to stated capital by the issuance of interests or  
26 otherwise, shall continue to be available for the payment of  
27 distributions by the surviving or new cooperative.

28 Sec. 43. NEW SECTION. 501.619 ABANDONMENT BEFORE FILING.

29 At any time prior to the filing of the articles of merger  
30 or consolidation, the merger or consolidation may be abandoned  
31 pursuant to provisions set forth in the plan of merger or  
32 consolidation.

33 SUBCHAPTER VII

34 RECORDS AND REPORTS

35 PART A

## RECORDS

1  
2 Sec. 44. NEW SECTION. 501.701 RECORDS.

3 1. A cooperative shall keep as permanent records minutes  
4 of all meetings of its members and board of directors, a  
5 record of all actions taken by the members or board of  
6 directors without a meeting, and a record of all actions taken  
7 by a committee of the board of directors in place of the board  
8 of directors on behalf of the cooperative.

9 2. A cooperative shall maintain appropriate accounting  
10 records.

11 3. A cooperative or its agent shall maintain a record of  
12 its interest holders in a form that permits preparation of a  
13 list of the names and addresses of all interest holders in  
14 alphabetical order by class of interests showing the number  
15 and class of interests held by each.

16 4. A cooperative shall maintain its records in written  
17 form or in another form capable of conversion into written  
18 form within a reasonable time.

19 5. A cooperative shall keep a copy of the following  
20 records:

21 a. Its articles or restated articles of association and  
22 all amendments to them currently in effect.

23 b. Its bylaws or restated bylaws and all amendments to  
24 them currently in effect.

25 c. Resolutions adopted by its board of directors creating  
26 one or more classes or series of interests, and fixing their  
27 relative rights, preferences, and limitations, if the  
28 interests issued pursuant to those resolutions are  
29 outstanding.

30 d. The minutes of all members' meetings, and records of  
31 all action taken by members without a meeting, for the past  
32 three years.

33 e. All written communications to interest holders  
34 generally within the past three years, including the financial  
35 statements furnished for the past three years under section

1 501.711.

2 f. A list of the names and business addresses of its  
3 current directors and officers.

4 g. Its most recent biennial report delivered to the  
5 secretary of state under section 501.713.

6 Sec. 45. NEW SECTION. 501.702 INSPECTION OF RECORDS BY  
7 INTEREST HOLDERS.

8 1. An interest holder of a cooperative is entitled to  
9 inspect and copy, during regular business hours at the  
10 cooperative's principal office, any of the records of the  
11 cooperative described in section 501.701, subsection 5, if the  
12 interest holder gives the cooperative written notice of the  
13 interest holder's demand at least five business days before  
14 the date on which the interest holder wishes to inspect and  
15 copy.

16 2. An interest holder of a cooperative is entitled to  
17 inspect and copy, during regular business hours at a  
18 reasonable location specified by the cooperative, any of the  
19 following records of the cooperative if the interest holder  
20 meets the requirements of subsection 3 and gives the  
21 cooperative written notice of the interest holder's demand at  
22 least five business days before the date on which the interest  
23 holder wishes to inspect and copy any of the following:

24 a. Excerpts from minutes of any meeting of the board of  
25 directors, records of any action of a committee of the board  
26 of directors while acting in place of the board of directors  
27 on behalf of the cooperative, minutes of any meeting of the  
28 members, and records of action taken by the members or board  
29 of directors without a meeting, to the extent not subject to  
30 inspection under subsection 1 of this section.

31 b. Accounting records of the cooperative.

32 c. The record of interest holders.

33 3. An interest holder may inspect and copy the records  
34 described in subsection 2 only if:

35 a. The interest holder's demand is made in good faith and

1 for a proper purpose.

2 b. The interest holder describes with reasonable  
3 particularity the interest holder's purpose and the records  
4 the interest holder desires to inspect.

5 c. The records are directly connected with the interest  
6 holder's purpose.

7 4. The right of inspection granted by this section shall  
8 not be abolished or limited by a cooperative's articles of  
9 association or bylaws.

10 5. This section does not affect either of the following:

11 a. The right of a member to obtain information under  
12 section 501.702 or the right of an interest holder to obtain  
13 information, if the interest holder is in litigation with the  
14 cooperative, to the same extent as any other litigant.

15 b. The power of a court, independently of this chapter, to  
16 compel the production of cooperative records for examination.

17 Sec. 46. NEW SECTION. 501.703 SCOPE OF INSPECTION RIGHT.

18 1. An interest holder's agent or attorney has the same  
19 inspection and copying rights as the interest holder the agent  
20 or attorney represents.

21 2. The right to copy records under section 501.702  
22 includes, if reasonable, the right to receive copies made by  
23 photographic, xerographic, or other technological means.

24 3. The cooperative may impose a reasonable charge,  
25 covering the costs of labor and material, for copies of any  
26 documents provided to the interest holder. The charge shall  
27 not exceed the estimated cost of production or reproduction of  
28 the records.

29 4. The cooperative may comply with an interest holder's  
30 demand to inspect the record of interest holders under section  
31 501.702, subsection 2, paragraph "c", by providing the  
32 interest holder with a list of its interest holders that was  
33 compiled no earlier than the date of the interest holder's  
34 demand.

35 Sec. 47. NEW SECTION. 501.704 COURT-ORDERED INSPECTION.

1 1. If a cooperative does not allow an interest holder who  
2 complies with section 501.702, subsection 1, to inspect and  
3 copy any records required by that subsection to be available  
4 for inspection, the district court of the county where the  
5 cooperative's principal office or, if none in this state, its  
6 registered office is located may summarily order inspection  
7 and copying of the records demanded at the cooperative's  
8 expense upon application of the interest holder.

9 2. If a cooperative does not within a reasonable time  
10 allow an interest holder to inspect and copy any other  
11 records, the interest holder who complies with section  
12 501.702, subsections 2 and 3, may apply to the district court  
13 in the county where the cooperative's principal office or, if  
14 not in this state, its registered office is located for an  
15 order to permit inspection and copying of the records  
16 demanded. The court shall dispose of an application under  
17 this subsection on an expedited basis.

18 3. If the court orders inspection and copying of the  
19 records demanded, it shall also order the cooperative to pay  
20 the interest holder's costs, including reasonable counsel  
21 fees, incurred to obtain the order unless the cooperative  
22 proves that it refused inspection in good faith because it had  
23 a reasonable basis for doubt about the right of the interest  
24 holder to inspect the records demanded.

25 4. If the court orders inspection and copying of the  
26 records demanded, it may impose reasonable restrictions on the  
27 use or distribution of the records by the demanding interest  
28 holder.

29 PART B

30 REPORTS

31 Sec. 48. NEW SECTION. 501.711 FINANCIAL STATEMENTS FOR  
32 INTEREST HOLDERS.

33 A cooperative shall prepare annual financial statements,  
34 which may be consolidated or combined statements of the  
35 cooperative and one or more of its subsidiaries, as

1 appropriate, that include a balance sheet as of the end of the  
2 fiscal year and an income statement for that year. Upon  
3 written request from an interest holder, a cooperative, at its  
4 expense, shall furnish to that interest holder the financial  
5 statements requested. If the annual financial statements are  
6 reported upon by a public accountant, the report must  
7 accompany the financial statements.

8 Sec. 49. NEW SECTION. 501.712 OTHER REPORTS TO INTEREST  
9 HOLDERS.

10 1. If a cooperative indemnifies or advances expenses to a  
11 director under sections 501.412 through 501.415 in connection  
12 with a proceeding by or in the right of the cooperative, the  
13 cooperative shall report the indemnification or advance in  
14 writing to the members with or before the notice of the next  
15 members' meeting.

16 2. If a cooperative issues or authorizes the issuance of  
17 interests for promissory notes or for promises to render  
18 services in the future, the cooperative shall report in  
19 writing to the members the number of interests authorized or  
20 issued, and the consideration received by the cooperative,  
21 with or before the notice of the next members' meeting.

22 Sec. 50. NEW SECTION. 501.713 ANNUAL REPORT FOR  
23 SECRETARY OF STATE.

24 1. Each cooperative authorized to transact business in  
25 this state shall deliver to the secretary of state for filing  
26 an annual report that sets forth all of the following:

- 27 a. The name of the cooperative.
- 28 b. The address of its registered office and the name of  
29 its registered agent at that office in this state, together  
30 with the consent of any new registered agent.
- 31 c. The address of its principal office.
- 32 d. The names and addresses of the president, secretary,  
33 treasurer, and one member of the board of directors.

34 2. Information in the annual report must be current as of  
35 the first day of January of the year in which the report is

1 due. The report shall be executed on behalf of the  
2 cooperative and signed as provided in section 501.105 or by  
3 any other person authorized by the board of directors of the  
4 cooperative.

5 3. The first annual report shall be delivered to the  
6 secretary of state between January 1 and April 1 of the first  
7 even-numbered year following the calendar year in which a  
8 cooperative was organized. Subsequent annual reports must be  
9 delivered to the secretary of state between January 1 and  
10 April 1 of the following calendar years. A filing fee for the  
11 annual report shall be determined by the secretary of state.

12 4. If an annual report does not contain the information  
13 required by this section, the secretary of state shall  
14 promptly notify the reporting cooperative in writing and  
15 return the report to the cooperative for correction.

16 5. The secretary of state may provide for the change of  
17 registered office or registered agent on the form prescribed  
18 by the secretary of state for the annual report, provided that  
19 the form contains the information required in section 501.106.  
20 If the secretary of state determines that an annual report  
21 does not contain the information required by this section but  
22 otherwise meets the requirements of section 501.106 for the  
23 purpose of changing the registered office or registered agent,  
24 the secretary of state shall file the statement of change of  
25 registered office or registered agent, effective as provided  
26 in section 501.105, before returning the biennial report to  
27 the cooperative as provided in this section. A statement of  
28 change of registered office or agent pursuant to this  
29 subsection shall be executed by a person authorized to execute  
30 the annual report.

31 DIVISION VIII

32 DISSOLUTION

33 PART A

34 GENERAL

35 Sec. 51. NEW SECTION. 501.801 DISSOLUTION BY ORGANIZERS

1 OR INITIAL DIRECTORS.

2 A majority of the organizers or initial directors of a  
3 cooperative that has not issued interests or has not commenced  
4 business may dissolve the cooperative by delivering to the  
5 secretary of state for filing articles of dissolution that set  
6 forth all of the following:

7 1. The name of the cooperative.

8 2. The date of its organization.

9 3. Either of the following:

10 a. That none of the cooperative's interests have been  
11 issued.

12 b. That the cooperative has not commenced business.

13 4. That no debt of the cooperative remains unpaid.

14 5. That the net assets of the cooperative remaining after  
15 winding up have been distributed in accordance with this  
16 chapter and the articles of association of the cooperative.

17 6. That a majority of the organizers or initial directors  
18 authorized the dissolution.

19 Sec. 52. NEW SECTION. 501.802 DISSOLUTION BY BOARD OF  
20 DIRECTORS AND MEMBERS.

21 1. A cooperative's board of directors may propose  
22 dissolution for submission to the members.

23 2. For a proposal to dissolve to be adopted both of the  
24 following must apply:

25 a. The board of directors must recommend dissolution to  
26 the members unless the board of directors determines that  
27 because of conflict of interest or other special circumstances  
28 it should make no recommendation and communicates the basis  
29 for its determination to the members.

30 b. The members entitled to vote must approve the proposal  
31 to dissolve as provided in subsection 5.

32 3. The board of directors may condition its submission of  
33 the proposal for dissolution on any basis.

34 4. The cooperative shall notify each member of a meeting  
35 to consider dissolution in accordance with section 501.302.

1 The notice must also state that the purpose, or one of the  
2 purposes, of the meeting is to consider dissolving the  
3 cooperative.

4 5. Unless the articles of association or the board of  
5 directors acting pursuant to subsection 3 require a greater  
6 vote or a vote by voting groups, the proposal to dissolve must  
7 be approved by a majority of all the votes entitled to be cast  
8 on that proposal in order to be adopted.

9 Sec. 53. NEW SECTION. 501.803 ARTICLES OF DISSOLUTION.

10 1. At any time after dissolution is authorized, the  
11 cooperative may dissolve by delivering to the secretary of  
12 state for filing articles of dissolution setting forth all of  
13 the following:

14 a. The name of the cooperative.

15 b. The date dissolution was authorized.

16 c. If dissolution was approved by the members, both of the  
17 following:

18 (1) The number of votes entitled to be cast on the  
19 proposal to dissolve.

20 (2) Either the total number of votes cast for and against  
21 dissolution or the total number of undisputed votes cast for  
22 dissolution and a statement that the number cast for  
23 dissolution was sufficient for approval.

24 2. A cooperative is dissolved upon the effective date of  
25 its articles of dissolution.

26 Sec. 54. NEW SECTION. 501.804 REVOCATION OF DISSOLUTION.

27 1. A cooperative may revoke its dissolution within one  
28 hundred twenty days of the effective date of the dissolution.

29 2. Revocation of dissolution must be authorized in the  
30 same manner as the dissolution was authorized unless that  
31 authorization permitted revocation by action of the board of  
32 directors alone, in which event the board of directors may  
33 revoke the dissolution without member action.

34 3. After the revocation of dissolution is authorized, the  
35 cooperative may revoke the dissolution by delivering to the

1 secretary of state for filing articles of revocation of  
2 dissolution, together with a copy of its articles of  
3 dissolution, that set forth all of the following:

4 a. The name of the cooperative.

5 b. The effective date of the dissolution that was revoked.

6 c. The date that the revocation of dissolution was  
7 authorized.

8 d. If the cooperative's board of directors or organizers  
9 revoked the dissolution, a statement to that effect.

10 e. If the cooperative's board of directors revoked a  
11 dissolution authorized by the members, a statement that  
12 revocation was permitted by action by the board of directors  
13 alone pursuant to that authorization.

14 f. If member action was required to revoke the  
15 dissolution, the information required by section 501.803,  
16 subsection 1, paragraph "c".

17 4. Revocation of dissolution is effective upon the  
18 effective date of the articles of revocation of dissolution.

19 5. When the revocation of dissolution is effective, it  
20 relates back to and takes effect as of the effective date of  
21 the dissolution as if the dissolution had never occurred.

22 Sec. 55. NEW SECTION. 501.805 EFFECT OF DISSOLUTION.

23 1. A dissolved cooperative continues its existence but  
24 shall not carry on any business except that appropriate to  
25 wind up and liquidate its business and affairs, including any  
26 of the following:

27 a. Collecting its assets.

28 b. Disposing of its properties that will not be  
29 distributed in kind in accordance with this chapter and the  
30 cooperative's articles of association.

31 c. Discharging or making provision for discharging its  
32 liabilities.

33 d. Distributing its remaining property in accordance with  
34 this chapter and the cooperative's articles of association.

35 e. Doing every other act necessary to wind up and

1 liquidate its business and affairs.

2 2. Dissolution of a cooperative does not do any of the  
3 following:

4 a. Transfer title to the cooperative's property.

5 b. Prevent transfer of its interests, although the  
6 authorization to dissolve may provide for closing the  
7 cooperative's interest transfer records.

8 c. Subject its directors or officers to standards of  
9 conduct different from those prescribed in section 501.406.

10 d. Change quorum or voting requirements for its board of  
11 directors or members; change provisions for selection,  
12 resignation, or removal of its directors or officers or both;  
13 or change provisions for amending its bylaws.

14 e. Prevent commencement of a proceeding by or against the  
15 cooperative in its name.

16 f. Abate or suspend a proceeding pending by or against the  
17 cooperative on the effective date of dissolution.

18 g. Terminate the authority of the registered agent of the  
19 cooperative.

20 Sec. 56. NEW SECTION. 501.805A DISTRIBUTION OF ASSETS.

21 Upon the cooperative's dissolution, the cooperative's  
22 assets shall first be used to pay expenses necessary to carry  
23 out the dissolution and liquidation of assets, then be used to  
24 pay the cooperative's obligations other than the payment of  
25 deferred patronage or interests issued as deferred patronage,  
26 and the remainder shall be paid in the manner set forth in the  
27 cooperative's articles of association.

28 Sec. 57. NEW SECTION. 501.806 KNOWN CLAIMS AGAINST  
29 DISSOLVED COOPERATIVE.

30 1. A dissolved cooperative may dispose of the known claims  
31 against it by following the procedure described in this  
32 section.

33 2. The dissolved cooperative shall notify its known  
34 claimants in writing of the dissolution at any time after the  
35 effective date of the dissolution. The written notice must do

1 all of the following:

2 a. Describe information that must be included in a claim.

3 b. Provide a mailing address where a claim may be sent.

4 c. State the deadline, which shall not be fewer than one  
5 hundred twenty days from the effective date of the written  
6 notice, by which the dissolved cooperative must receive the  
7 claim.

8 d. State that the claim will be barred if not received by  
9 the deadline.

10 3. A claim against the dissolved cooperative is barred if  
11 either of the following occur:

12 a. A claimant who was given written notice under  
13 subsection 2 does not deliver the claim to the dissolved  
14 cooperative by the deadline.

15 b. A claimant whose claim was rejected by the dissolved  
16 cooperative does not commence a proceeding to enforce the  
17 claim within ninety days from the effective date of the  
18 rejection notice.

19 4. For purposes of this section, "claim" does not include  
20 a contingent liability or a claim based on an event occurring  
21 after the effective date of dissolution.

22 Sec. 58. NEW SECTION. 501.807 UNKNOWN CLAIMS AGAINST  
23 DISSOLVED COOPERATIVE.

24 1. A dissolved cooperative may also publish notice of its  
25 dissolution and request that persons with claims against the  
26 cooperative present them in accordance with the notice.

27 2. The notice must meet all of the following requirements:

28 a. Be published one time in a newspaper of general  
29 circulation in the county where the dissolved cooperative's  
30 principal office or, if not in this state, its registered  
31 office is or was last located.

32 b. Describe the information that must be included in a  
33 claim and provide a mailing address where the claim may be  
34 sent.

35 c. State that a claim against the cooperative will be

1 barred unless a proceeding to enforce the claim is commenced  
2 within five years after the publication of the notice.

3 3. If the dissolved cooperative publishes a newspaper  
4 notice in accordance with subsection 2, the claim of each of  
5 the following claimants is barred unless the claimant  
6 commences a proceeding to enforce the claim against the  
7 dissolved cooperative within five years after the publication  
8 date of the newspaper notice:

9 a. A claimant who did not receive written notice under  
10 section 501.806.

11 b. A claimant whose claim was timely sent to the dissolved  
12 cooperative but not acted on.

13 c. A claimant whose claim is contingent or based on an  
14 event occurring after the effective date of dissolution.

15 4. A claim may be enforced under this section in either of  
16 the following ways:

17 a. Against the dissolved cooperative, to the extent of its  
18 undistributed assets.

19 b. If the assets have been distributed in liquidation,  
20 against an interest holder of the dissolved cooperative to the  
21 extent of the interest holder's pro rata share of the claim or  
22 the cooperative assets distributed to the interest holder in  
23 liquidation, whichever is less, but an interest holder's total  
24 liability for all claims under this section shall not exceed  
25 the total amount of assets distributed to the interest holder  
26 in liquidation.

27 PART B

28 ADMINISTRATIVE DISSOLUTION

29 Sec. 59. NEW SECTION. 501.811 GROUNDS FOR ADMINISTRATIVE  
30 DISSOLUTION.

31 The secretary of state may commence a proceeding under  
32 section 501.812 to administratively dissolve a cooperative if  
33 any of the following apply:

34 1. The cooperative has not delivered an annual report to  
35 the secretary of state in a form that meets the requirements

1 of section 501.713, within sixty days after it is due, or has  
2 not paid the filing fee as determined by the secretary of  
3 state, within sixty days after it is due.

4 2. The cooperative is without a registered agent or  
5 registered office in this state for sixty days or more.

6 3. The cooperative does not notify the secretary of state  
7 within sixty days that its registered agent or registered  
8 office has been changed, that its registered agent has  
9 resigned, or that its registered office has been discontinued.

10 4. The cooperative's period of duration stated in its  
11 articles of association expires.

12 Sec. 60. NEW SECTION. 501.812 PROCEDURE FOR AND EFFECT  
13 OF ADMINISTRATIVE DISSOLUTION.

14 1. If the secretary of state determines that one or more  
15 grounds exist under section 501.811 for dissolving a  
16 cooperative, the secretary of state shall serve the  
17 cooperative with written notice of the secretary of state's  
18 determination under section 501.106.

19 2. If the cooperative does not correct each ground for  
20 dissolution or demonstrate to the reasonable satisfaction of  
21 the secretary of state that each ground determined by the  
22 secretary of state does not exist within sixty days after  
23 service of the notice is perfected under section 501.106, the  
24 secretary of state shall administratively dissolve the  
25 cooperative by signing a certificate of dissolution that  
26 recites the ground or grounds for dissolution and its  
27 effective date. The secretary of state shall file the  
28 original of the certificate and serve a copy on the  
29 cooperative under section 501.106.

30 3. A cooperative administratively dissolved continues its  
31 existence but shall not carry on any business except that  
32 necessary to wind up and liquidate its business and affairs  
33 under section 501.805 and notify claimants under sections  
34 501.806 and 501.807.

35 4. The administrative dissolution of a cooperative does

1 not terminate the authority of its registered agent.

2 5. The secretary of state's administrative dissolution of  
3 a cooperative pursuant to this section appoints the secretary  
4 of state the cooperative's agent for service of process in any  
5 proceeding based on a cause of action which arose during the  
6 time the cooperative was authorized to transact business in  
7 this state. Service of process on the secretary of state  
8 under this subsection is service on the cooperative. Upon  
9 receipt of process, the secretary of state shall serve a copy  
10 of the process on the cooperative as provided in section  
11 501.106. This subsection does not preclude service on the  
12 cooperative's registered agent, if any.

13 Sec. 61. NEW SECTION. 501.813 REINSTATEMENT FOLLOWING  
14 ADMINISTRATIVE DISSOLUTION.

15 1. A cooperative administratively dissolved under section  
16 501.812 may apply to the secretary of state for reinstatement  
17 within two years after the effective date of dissolution. The  
18 application must meet all of the following requirements:

19 a. Recite the name of the cooperative at its date of  
20 dissolution and the effective date of its administrative  
21 dissolution.

22 b. State that the ground or grounds for dissolution have  
23 been eliminated.

24 c. State a name that satisfies the requirements of section  
25 501.104.

26 d. State the federal tax identification number of the  
27 cooperative.

28 2. a. The secretary of state shall refer the federal tax  
29 identification number contained in the application for  
30 reinstatement to the department of revenue and finance. The  
31 department of revenue and finance shall report to the  
32 secretary of state the tax status of the cooperative. If the  
33 department reports to the secretary of state that a filing  
34 delinquency or liability exists against the cooperative, the  
35 secretary of state shall not cancel the certificate of

1 dissolution until the filing delinquency or liability is  
2 satisfied.

3     b. If the secretary of state determines that the  
4 application contains the information required by subsection 1,  
5 and that a delinquency or liability reported pursuant to  
6 paragraph "a" has been satisfied, and that the information is  
7 correct, the secretary of state shall cancel the certificate  
8 of dissolution and prepare a certificate of reinstatement that  
9 recites the secretary of state's determination and the  
10 effective date of reinstatement, file the original of the  
11 certificate, and serve a copy on the cooperative under section  
12 501.106. If the name of the cooperative as provided in  
13 subsection 1, paragraph "c", is different than the name in  
14 subsection 1, paragraph "a", the certificate of reinstatement  
15 shall constitute an amendment to the articles of association  
16 insofar as it pertains to the name.

17     3. When the reinstatement is effective, it relates back to  
18 and takes effect as of the effective date of the  
19 administrative dissolution as if the administrative  
20 dissolution had never occurred.

21     Sec. 62. NEW SECTION. 501.814 APPEAL FROM DENIAL OF  
22 REINSTATEMENT.

23     1. If the secretary of state denies a cooperative's  
24 application for reinstatement following administrative  
25 dissolution, the secretary of state shall serve the  
26 cooperative under section 501.106 with a written notice that  
27 explains the reason or reasons for denial.

28     2. The cooperative may appeal the denial of reinstatement  
29 to the district court within thirty days after service of the  
30 notice of denial is perfected. The cooperative appeals by  
31 petitioning the court to set aside the dissolution and  
32 attaching to the petition copies of the secretary of state's  
33 certificate of dissolution, the cooperative's application for  
34 reinstatement, and the secretary of state's notice of denial.

35     3. The court may summarily order the secretary of state to

1 reinstate the dissolved cooperative or may take other action  
2 the court considers appropriate.

3 4. The court's final decision may be appealed as in other  
4 civil proceedings.

5 PART C

6 JUDICIAL DISSOLUTION

7 Sec. 63. NEW SECTION. 501.821 GROUNDS FOR JUDICIAL  
8 DISSOLUTION.

9 The district court may dissolve a cooperative in any of the  
10 following ways:

11 1. A proceeding by the attorney general, if it is  
12 established that either of the following apply:

13 a. The cooperative obtained its articles of association  
14 through fraud.

15 b. The cooperative has continued to exceed or abuse the  
16 authority conferred upon it by law.

17 2. A proceeding by a member if it is established that any  
18 of the following conditions exist:

19 a. The directors are deadlocked in the management of the  
20 cooperative's affairs, the members are unable to break the  
21 deadlock, and either irreparable injury to the cooperative is  
22 threatened or being suffered, or the business and affairs of  
23 the cooperative can no longer be conducted to the advantage of  
24 the interest holders generally, because of the deadlock.

25 b. The directors or those in control of the cooperative  
26 have acted, are acting, or will act in a manner that is  
27 illegal, oppressive, or fraudulent.

28 c. The members are deadlocked in voting power and have  
29 failed, for a period that includes at least two consecutive  
30 annual meeting dates, to elect successors to directors whose  
31 terms have expired.

32 d. The cooperative's assets are being misapplied or  
33 wasted.

34 3. A proceeding by a creditor if it is established that  
35 either of the following apply:

1 a. The creditor's claim has been reduced to judgment, the  
2 execution on the judgment returned unsatisfied, and the  
3 cooperative is insolvent.

4 b. The cooperative has admitted in writing that the  
5 creditor's claim is due and owing and the cooperative is  
6 insolvent.

7 4. A proceeding by the cooperative to have its voluntary  
8 dissolution continued under court supervision.

9 Sec. 64. NEW SECTION. 501.822 PROCEDURE FOR JUDICIAL  
10 DISSOLUTION.

11 1. Venue for a proceeding by the attorney general to  
12 dissolve a cooperative lies in Polk county district court.  
13 Venue for a proceeding brought by any other party named in  
14 section 501.821 lies in the county where a cooperative's  
15 principal office or, if not in this state, its registered  
16 office is or was last located.

17 2. It is not necessary to make interest holders parties to  
18 a proceeding to dissolve a cooperative unless relief is sought  
19 against them individually.

20 3. A court in a proceeding brought to dissolve a  
21 cooperative may issue injunctions, appoint a receiver or  
22 custodian pendente lite with all powers and duties the court  
23 directs, take other action required to preserve the  
24 cooperative's assets wherever located, and carry on the  
25 business of the cooperative until a full hearing can be held.

26 Sec. 65. NEW SECTION. 501.823 RECEIVERSHIP OR  
27 CUSTODIANSHIP.

28 1. A court in a judicial proceeding brought to dissolve a  
29 cooperative may appoint one or more receivers to wind up and  
30 liquidate, or one or more custodians to manage, the business  
31 and affairs of the cooperative. The court shall hold a  
32 hearing, after notifying all parties to the proceeding and any  
33 interested persons designated by the court, before appointing  
34 a receiver or custodian. The court appointing a receiver or  
35 custodian has exclusive jurisdiction over the cooperative and

1 all its property wherever located.

2 2. The court may appoint an individual or a domestic or  
3 foreign corporation authorized to transact business in this  
4 state as a receiver or custodian. The court may require the  
5 receiver or custodian to post bond, with or without sureties,  
6 in an amount the court directs.

7 3. The court shall describe the powers and duties of the  
8 receiver or custodian in its appointing order, which may be  
9 amended from time to time.

10 a. Among other powers, the receiver may do any of the  
11 following:

12 (1) Dispose of all or any part of the assets of the  
13 cooperative wherever located, at a public or private sale, if  
14 authorized by the court.

15 (2) Sue and defend in the receiver's own name as receiver  
16 of the cooperative in all courts of this state.

17 b. The custodian may exercise all of the powers of the  
18 cooperative, through or in place of its board of directors or  
19 officers, to the extent necessary to manage the affairs of the  
20 cooperative in the best interests of its interest holders and  
21 creditors.

22 4. The court during a receivership may redesignate the  
23 receiver a custodian, and during a custodianship may  
24 redesignate the custodian a receiver, if doing so is in the  
25 best interests of the cooperative, its interest holders, and  
26 creditors.

27 5. The court from time to time during the receivership or  
28 custodianship may order compensation paid and expense  
29 disbursements or reimbursements made to the receiver or  
30 custodian and the receiver's or custodian's counsel from the  
31 assets of the cooperative or proceeds from the sale of the  
32 assets.

33 Sec. 66. NEW SECTION. 501.824 DECREE OF DISSOLUTION.

34 1. If after a hearing the court determines that one or  
35 more grounds for judicial dissolution described in section

1 501.821 exist, it may enter a decree dissolving the  
2 cooperative and specifying the effective date of the  
3 dissolution, and the clerk of the district court shall deliver  
4 a certified copy of the decree to the secretary of state, who  
5 shall file it.

6 2. After entering the decree of dissolution, the court  
7 shall direct the winding up and liquidation of the  
8 cooperative's business and affairs in accordance with section  
9 501.805 and the notification of claimants in accordance with  
10 sections 501.806 and 501.807.

11 PART D

12 STATE TREASURER

13 Sec. 67. NEW SECTION. 501.831 DEPOSIT WITH STATE  
14 TREASURER.

15 Assets of a dissolved cooperative that should be  
16 transferred to a creditor, claimant, or interest holder of the  
17 cooperative who cannot be found or who is not competent to  
18 receive them shall be reduced to cash and deposited with the  
19 treasurer of state or other appropriate state official for  
20 safekeeping. When the creditor, claimant, or interest holder  
21 furnishes satisfactory proof of entitlement to the amount  
22 deposited, the treasurer of state or other appropriate state  
23 official shall pay the creditor, claimant, or interest holder  
24 or that person's representative the amount.

25 Sec. 68. Sections 501.107 and 501.602, Code 1997, are  
26 repealed. Sections 501.408 and 501.604, Code Supplement 1997,  
27 are repealed.

28 EXPLANATION

29 This bill amends Code chapter 501 which provides for  
30 cooperative corporations which may hold agricultural land in  
31 this state. This type of entity is a hybrid between a  
32 cooperative association organized under Code chapter 499 and a  
33 corporation organized under Code chapter 490. The bill amends  
34 a number of provisions.

35 First, the bill changes a number of terms used in the

1 chapter. The bill changes "cooperative corporations" to  
2 "cooperatives". It changes a number of other terms to more  
3 closely resemble terms describing the business activities of  
4 cooperative associations rather than corporations. For  
5 example, a cooperative must be organized as an association  
6 rather than a corporation. The bill changes "articles of  
7 incorporation" to "articles of association". The bill changes  
8 "shareholders" to "interest holders" or "members" in the  
9 cooperatives. It changes "voting stock" to "voting interest".

10 An "interest holder" is defined to mean a person who holds a  
11 voting or nonvoting interest in a cooperative. A "member" is  
12 a person who holds a voting interest in the cooperative.

13 References to "dividends" are changed to "distributions".

14 Second, the bill provides that a general partner that is  
15 authorized to hold an interest in a cooperative must include  
16 all natural persons.

17 Third, the bill increases the number of acres of  
18 agricultural land that a cooperative may hold from 640 to  
19 1,500.

20 Fourth, the bill amends Code section 501.106 which provides  
21 for maintaining a registered office or registered agent in  
22 this state for purpose of service. The bill adds provisions  
23 taken from Code sections 490.503 and 490.504 which provide  
24 procedures for the resignation of a registered agent and  
25 delivery of service when a registered agent is not available.  
26 The bill changes the term "corporation" to "cooperative".

27 Fifth, the bill incorporates a number of provisions that  
28 were included by reference in the chapter. These sections  
29 refer to provisions in both Code chapter 490 governing  
30 corporations and Code chapter 499 governing cooperative  
31 associations. The bill redrafts these provisions expressly as  
32 part of Code chapter 501 and changes references to  
33 "corporation" or "association" to "cooperative" and corrects  
34 internal references.

35 Code section 501.102 provides that a cooperative has the

1 same powers as a corporation as provided in Code sections  
2 490.302 and 490.303. Those powers include the power to sue  
3 and be sued, have a seal, make and amend bylaws, acquire  
4 property, sell or dispose of property, enter into purchase  
5 security arrangements, make contracts, incur liabilities,  
6 issue notes and bonds, lend money, invest money, become an  
7 investor in another enterprise, conduct business, elect  
8 directors, appoint officers and hire employees, pay pensions,  
9 and make donations. This bill repeals Code section 501.102  
10 and provides those same powers expressly to cooperatives.

11 Code section 501.107 provides that Code sections 499.1601  
12 through 499.1622 apply to cooperatives organized under Code  
13 chapter 501. The sections provide for keeping corporate  
14 records, the right of shareholders to inspect those records,  
15 the authority of courts to order inspections, the preparation  
16 of financial statements for shareholders, and the submission  
17 of reports to the secretary of state. This bill repeals Code  
18 section 501.107 and rewrites those provisions into new Code  
19 sections in Code chapter 501.

20 Code section 501.408 provides that a cooperative may  
21 indemnify an officer, employee, or agent who is a party to a  
22 legal proceeding in the same way that a corporation may  
23 indemnify a director in the same circumstances. The section  
24 provides for definitions, grants authority to a corporation to  
25 indemnify a director under circumstances, requires  
26 indemnification in certain circumstances, allows for advancing  
27 a director moneys for legal expenses, allows for  
28 indemnification pursuant to court order, provides procedures  
29 for indemnification, provides for indemnification of officers,  
30 employees, and agents, and allows a corporation to purchase  
31 insurance. The bill repeals Code section 501.408 and  
32 expressly drafts those provisions into Code chapter 501.

33 Code section 501.602 provides for mergers and  
34 consolidations among cooperatives organized under Code chapter  
35 501. The section provides that Code sections 499.61 through

1 499.70 apply to the mergers or consolidations. Those sections  
2 provide for definitions, allow for merger and consolidation,  
3 require a vote of the membership, provide for objections by  
4 members and the payment of fair market value to dissenters,  
5 provide for articles of merger or consolidation and the  
6 issuance of a certificate of merger or consolidation, and  
7 authorize abandonment prior to filing the articles of merger  
8 or consolidation. This bill repeals Code section 501.602 and,  
9 with some exceptions, rewrites the same provisions in Code  
10 chapter 501. Code section 499.66 provides that in the case of  
11 a cooperative association, a dissenting member who is a  
12 natural person and who dies before receiving the fair value  
13 must be paid the fair value with the same priority as if the  
14 person was a member at the time of death. The bill does not  
15 include this provision.

16 Code section 501.604 provides for the dissolution of a  
17 cooperative based on the same provisions which apply to  
18 corporations under Code sections 490.1401 through 490.1440.  
19 Those sections provide for dissolution by incorporators,  
20 initial directors who have not issued stock, or a board of  
21 directors operating a functioning corporation; the filing of  
22 articles of dissolution, a revocation of a dissolution, and  
23 the effect of the dissolution; procedures for disposing of  
24 known and unknown claims against the corporation; grounds for  
25 administrative dissolution, procedures for and the effect of  
26 an administrative dissolution, and reinstatement, including  
27 appeal from a denial of reinstatement; grounds for judicial  
28 dissolution, procedures for judicial dissolution, and  
29 procedures for appointing a receiver or custodian; entering a  
30 decree of dissolution; and depositing creditor assets with the  
31 treasurer of state. This bill repeals Code section 501.604  
32 and rewrites those provisions expressly for cooperatives as  
33 part of Code chapter 501 with limited exceptions. The bill  
34 does not include a provision requiring information in the  
35 articles to be separately provided for each voting group

1 entitled to vote separately on the plan to dissolve.

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HSB 665  
Agriculture

HOUSE FILE 5  
BY (PROPOSED COMMITTEE ON  
AGRICULTURE BILL BY  
CHAIRPERSON EDDIE)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to cooperatives organized under Code chapter 501.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 501.101, subsection 1, Code 1997, is  
2 amended to read as follows:

3 1. "Articles" means the cooperative's articles of  
4 incorporation association.

5 Sec. 2. Section 501.101, subsection 2, paragraph b, Code  
6 1997, is amended to read as follows:

7 b. ~~An individual or general partnership that~~ A person who  
8 owns at least one hundred fifty acres of agricultural land and  
9 receives as rent a share of the crops or the animals raised on  
10 the land if those crops or animals are a significant component  
11 of the cooperative's business operations that person is a  
12 natural person or a general partnership as organized under  
13 chapter 486 in which all persons are natural persons.

14 Sec. 3. Section 501.101, subsection 4, Code 1997, is  
15 amended to read as follows:

16 4. "Cooperative" means a cooperative ~~corporation~~  
17 association organized under this chapter or converted to this  
18 chapter pursuant to section 501.601.

19 Sec. 4. Section 501.101, subsection 6, Code 1997, is  
20 amended by adding the following new paragraph:

21 NEW PARAGRAPH. c. A general partnership as organized  
22 under chapter 486 in which all the partners are natural  
23 persons actively engaged in farming as provided in section  
24 9H.1.

25 Sec. 5. Section 501.101, subsections 7 through 9, Code  
26 1997, are amended to read as follows:

27 7. "Member" means a person who owns a voting stock  
28 interest in a cooperative.

29 8. "~~Shareholder~~" "Interest holder" means a person who owns  
30 stock an interest in a cooperative, whether or not that stock  
31 interest has voting rights.

32 9. "Voting stock interest" means stock an interest in a  
33 cooperative that has voting rights.

34 Sec. 6. Section 501.102, subsection 2, Code 1997, is  
35 amended to read as follows:

1 2. Unless its articles provide otherwise, a cooperative  
2 has perpetual duration and succession in its corporate  
3 cooperative name and has the same powers as an individual to  
4 do all things necessary or convenient to carry out its  
5 business and affairs, including, ~~without limitation, all of~~  
6 ~~the powers enumerated in sections 490.302 and 490.303~~ but not  
7 limited to, all of the following:

8 a. Sue and be sued, complain, and defend in its name.

9 b. Have a seal, which may be altered at will, and use it,  
10 or a facsimile of it, by impressing or affixing it or in any  
11 other manner reproducing it.

12 c. Make and amend bylaws, not inconsistent with its  
13 articles of association or with the laws of this state, for  
14 managing the business and regulating the affairs of the  
15 cooperative.

16 d. Purchase, receive, lease, or otherwise acquire, and  
17 own, hold, improve, use, and otherwise deal with, real or  
18 personal property, or any legal or equitable interest in  
19 property, wherever located.

20 e. Sell, convey, mortgage, pledge, lease, exchange, and  
21 otherwise dispose of all or any part of its property.

22 f. Purchase, receive, subscribe for, or otherwise acquire,  
23 own, hold, vote, use, sell, mortgage, lend, pledge, or  
24 otherwise dispose of, and deal in and with shares or other  
25 interests in, or obligations of, any other entity.

26 g. Make contracts and guarantees, incur liabilities,  
27 borrow money, issue its notes, bonds, and other obligations,  
28 which may be convertible into or include the option to  
29 purchase other interests of the cooperative, and secure any of  
30 its obligations by mortgage or pledge of any of its property,  
31 franchises, or income.

32 h. Lend money, invest and reinvest its funds, and receive  
33 and hold real and personal property as security for repayment.

34 i. Be a promoter, partner, member, associate, or manager  
35 of any partnership, joint venture, trust, or other entity.

1 j. Conduct its business, locate offices, and exercise the  
2 powers granted by this chapter within or without this state.

3 k. Elect directors and appoint officers, employees, and  
4 agents of the cooperative, define their duties, fix their  
5 compensation, and lend them money and credit.

6 l. Pay pensions and establish pension plans, pension  
7 trusts, profit sharing plans, share bonus plans, share option  
8 plans, and benefit or incentive plans for any or all of its  
9 current or former directors, officers, employees, and agents.

10 m. Make donations for the public welfare or for  
11 charitable, scientific, or educational purposes.

12 n. Transact any lawful business that will aid governmental  
13 policy.

14 o. Make payments or donations, or do any other act, not  
15 inconsistent with law, that furthers the business and affairs  
16 of the cooperative.

17 Sec. 7. Section 501.103, subsections 1, 2, and 5, Code  
18 Supplement 1997, are amended to read as follows:

19 1. Notwithstanding section 9H.4, any person or entity,  
20 subject to the limitations set forth in section 501.305, and  
21 subject to the cooperative's articles and bylaws, is permitted  
22 to own stock interests, including voting stock interests, in a  
23 cooperative.

24 2. Notwithstanding section 9H.4, a cooperative may,  
25 directly or indirectly, acquire or otherwise obtain or lease  
26 agricultural land in this state, for as long as the  
27 cooperative continues to meet the following requirements:

28 a. Farming entities own sixty percent of the stock  
29 interests and are eligible to cast sixty percent of the votes  
30 at member meetings.

31 b. Authorized persons own at least seventy-five percent of  
32 the stock interests and are eligible to cast at least seventy-  
33 five percent of the votes at member meetings.

34 c. The cooperative does not, either directly or  
35 indirectly, acquire or otherwise obtain or lease agricultural

1 ~~land, if the total agricultural land either directly or~~  
2 ~~indirectly owned or leased by the cooperative would then~~  
3 ~~exceed six hundred forty in this state in excess of one~~  
4 ~~thousand five hundred acres.~~

5 5. In the event of a transfer of stock an interest in a  
6 cooperative by operation of law as a result of death, divorce,  
7 bankruptcy, or pursuant to a security interest, the  
8 cooperative may disregard the transfer for purposes of  
9 determining compliance with subsection 2 for a period of two  
10 years after the transfer.

11 Sec. 8. Section 501.105, subsection 2, Code 1997, is  
12 amended to read as follows:

13 2. Articles must be signed by all of the incorporators  
14 organizers; and all other documents filed with the secretary  
15 of state must be signed by one of the cooperative's officers.  
16 The printed name and capacity of each signatory must appear in  
17 proximity to the signatory's signature. The secretary of  
18 state may accept a document containing a copy of the  
19 signature. A document is not required to contain a corporate  
20 seal, an acknowledgment, or a verification.

21 Sec. 9. Section 501.106, subsection 2, unnumbered  
22 paragraph 1, Code 1997, is amended to read as follows:

23 A ~~corporation~~ cooperative may change its registered office  
24 or registered agent by delivering to the secretary of state  
25 for filing a statement of change that sets forth all of the  
26 following:

27 Sec. 10. Section 501.106, Code 1997, is amended by adding  
28 the following new subsections:

29 NEW SUBSECTION. 5. a. A registered agent may resign the  
30 agent's agency appointment by signing and delivering to the  
31 secretary of state for filing the signed original statement of  
32 resignation. The statement may include a statement that the  
33 registered office is also discontinued. The registered agent  
34 shall send a copy of the statement of resignation by certified  
35 mail to the cooperative at its principal office and to the

1 registered office, if not discontinued. The registered agent  
2 shall certify to the secretary of state that the copies have  
3 been sent to the cooperative, including the date the copies  
4 were sent.

5 b. The agency appointment is terminated, and the  
6 registered office discontinued if so provided, on the date on  
7 which the statement was filed.

8 NEW SUBSECTION. 6. a. A cooperative's registered agent  
9 is the cooperative's agent for service of process, notice, or  
10 demand required or permitted by law to be served on the  
11 cooperative.

12 b. If a cooperative has no registered agent, or the agent  
13 cannot with reasonable diligence be served, the cooperative  
14 may be served by registered or certified mail, return receipt  
15 requested, addressed to the secretary of the cooperative at  
16 its principal office. Service is perfected under this  
17 paragraph at the earliest of any of the following:

18 (1) The date that the cooperative receives the mail.

19 (2) The date shown on the return receipt, if signed on  
20 behalf of the cooperative.

21 (3) Five days after its deposit in the United States mail,  
22 as evidenced by the postmark, if mailed postpaid and correctly  
23 addressed.

24 c. A cooperative may be served pursuant to this section or  
25 as provided in other provisions of this chapter, unless the  
26 manner of service is otherwise specifically provided for by  
27 statute.

28 Sec. 11. Section 501.202, subsection 1, paragraph a, Code  
29 1997, is amended to read as follows:

30 a. The name, address, and occupation of each incorporator  
31 organizer.

32 Sec. 12. Section 501.202, subsection 2, paragraph d, Code  
33 1997, is amended to read as follows:

34 d. The classes of stock interests and the authorized  
35 number of shares interests of each class.

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1 Sec. 13. Section 501.306, Code 1997, is amended to read as  
2 follows:

3 501.306 NUMBER OF VOTES.

4 A person who is a member ~~or-shareholder~~ shall not own more  
5 than one membership ~~or-share-of-voting-stock~~. The person  
6 shall be entitled to cast not more than one vote regarding any  
7 matter in which a vote is conducted, including any matter  
8 subject to a vote during a cooperative meeting.

9 Sec. 14. Section 501.403, subsection 2, paragraph e, Code  
10 1997, is amended to read as follows:

11 e. Action required or permitted by this chapter to be  
12 taken at a board meeting may be taken without a meeting if the  
13 action is taken by all members of the board. The action must  
14 be evidenced by one or more written consents describing the  
15 action taken, signed by each director, and included in the  
16 minutes or filed with the corporate cooperative's records  
17 reflecting the action taken. Action taken under this section  
18 is effective when the last director signs the consent, unless  
19 the consent specifies a different effective date. A consent  
20 signed under this section has the effect of a meeting vote and  
21 may be described as such in any document.

22 Sec. 15. Section 501.403, subsection 3, Code 1997, is  
23 amended to read as follows:

24 3. A director may waive any notice required by this  
25 chapter, the articles, or the bylaws before or after the date  
26 and time stated in the notice. The waiver must be in writing,  
27 signed by the director entitled to the notice, and filed with  
28 the minutes or corporate records of the cooperative. A  
29 director's attendance at or participation in a meeting waives  
30 any required notice to that director of the meeting unless the  
31 director at the beginning of the meeting or promptly upon the  
32 director's arrival objects to holding the meeting or  
33 transacting business at the meeting and does not thereafter  
34 vote for or assent to action taken at the meeting.

35 Sec. 16. Section 501.404, subsection 1, paragraph b, Code

1 Supplement 1997, is amended to read as follows:

2 b. The material facts of the transaction and the  
3 director's interest were disclosed or known to the  
4 ~~shareholders~~ members entitled to vote and they authorized,  
5 approved, or ratified the transaction. For purposes of this  
6 paragraph, a conflict of interest transaction is authorized,  
7 approved, or ratified if it receives a majority of the votes  
8 entitled to be counted under this paragraph. Shares Voting  
9 interests owned by or voted under the control of a director  
10 who has a direct or indirect interest in the transaction, and  
11 shares voting interests owned by or voted under the control of  
12 an entity described in subsection 2, paragraph "a", shall not  
13 be counted in a vote of members to determine whether to  
14 authorize, approve, or ratify a conflict of interest  
15 transaction under this paragraph. The vote of those shares  
16 voting interests, however, is counted in determining whether  
17 the transaction is approved under other sections of this  
18 chapter. A majority of the votes, whether or not the  
19 ~~shareholders~~ members are present, that are entitled to be  
20 counted in a vote on the transaction under this paragraph  
21 constitutes a quorum for the purpose of taking action under  
22 this paragraph.

23 Sec. 17. Section 501.407, unnumbered paragraph 1, Code  
24 1997, is amended to read as follows:

25 The articles may contain a provision eliminating or  
26 limiting the personal liability of a director, officer, or  
27 shareholder interest holder of the cooperative for monetary  
28 damages for breach of a fiduciary duty as a director, officer,  
29 or shareholder interest holder, provided that the provision  
30 does not eliminate or limit liability for any of the  
31 following:

32 Sec. 18. Section 501.407, subsections 1 and 3, Code 1997,  
33 are amended to read as follows:

34 1. A breach of the duty of loyalty to the cooperative or  
35 its ~~shareholders~~ interest holders.

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1 3. A transaction from which the director, officer, or  
2 shareholder interest holder derives an improper personal  
3 benefit.

4 PART B

5 INDEMNIFICATION

6 Sec. 19. NEW SECTION. 501.411 DEFINITIONS.

7 As used in this part, unless the context otherwise  
8 requires:

9 1. "Cooperative" includes any domestic or foreign  
10 predecessor entity of a cooperative in a merger or other  
11 transaction in which the predecessor's existence ceased upon  
12 consummation of the transaction.

13 2. "Director" means an individual who is or was a director  
14 of a cooperative or an individual who, while a director of a  
15 cooperative, is or was serving at the cooperative's request as  
16 a director, officer, partner, trustee, employee, or agent of  
17 another foreign or domestic cooperative, partnership, joint  
18 venture, trust, employee benefit plan, or other enterprise. A  
19 director is considered to be serving an employee benefit plan  
20 at the cooperative's request if the director's duties to the  
21 cooperative also impose duties on, or otherwise involve  
22 services by, that director to the plan or to participants in  
23 or beneficiaries of the plan. "Director" includes, unless the  
24 context requires otherwise, the estate or personal  
25 representative of a director.

26 3. "Expenses" include counsel fees.

27 4. "Liability" means the obligation to pay a judgment,  
28 settlement, penalty, fine, including an excise tax assessed  
29 with respect to an employee benefit plan, or reasonable  
30 expenses incurred with respect to a proceeding.

31 5. "Official capacity" means:

32 a. When used with respect to a director, the office of  
33 director in a cooperative.

34 b. When used with respect to an individual other than a  
35 director, as contemplated in section 501.417, the office in a

1 cooperative held by the officer or the employment or agency  
2 relationship undertaken by the employee or agent on behalf of  
3 the cooperative.

4 "Official capacity" does not include service for any other  
5 foreign or domestic cooperative or any partnership, joint  
6 venture, trust, employee benefit plan, or other enterprise.

7 6. "Party" includes an individual who was, is, or is  
8 threatened to be made a named defendant or respondent in a  
9 proceeding.

10 7. "Proceeding" means any threatened, pending, or  
11 completed action, suit, or proceeding, whether civil,  
12 criminal, administrative, or investigative and whether formal  
13 or informal.

14 Sec. 20. NEW SECTION. 501.412 AUTHORITY TO INDEMNIFY.

15 1. Except as provided in subsection 4, a cooperative may  
16 indemnify an individual made a party to a proceeding because  
17 the individual is or was a director against liability incurred  
18 in the proceeding if all of the following apply:

19 a. The individual acted in good faith.

20 b. The individual reasonably believed either of the  
21 following:

22 (1) In the case of conduct in the individual's official  
23 capacity with the cooperative, that the individual's conduct  
24 was in the cooperative's best interests.

25 (2) In all other cases, that the individual's conduct was  
26 at least not opposed to the cooperative's best interests.

27 c. In the case of any criminal proceeding, the individual  
28 had no reasonable cause to believe the individual's conduct  
29 was unlawful.

30 2. A director's conduct with respect to an employee  
31 benefit plan for a purpose the director reasonably believed to  
32 be in the interests of the participants in and beneficiaries  
33 of the plan is conduct that satisfies the requirement of  
34 subsection 1, paragraph "b", subparagraph (2).

35 3. The termination of a proceeding by judgment, order,

1 settlement, conviction, or upon a plea of nolo contendere or  
2 its equivalent is not, of itself, determinative that the  
3 director did not meet the standard of conduct described in  
4 this section.

5 4. A cooperative shall not indemnify a director under this  
6 section in either of the following circumstances:

7 a. In connection with a proceeding by or in the right of  
8 the cooperative in which the director was adjudged liable to  
9 the cooperative.

10 b. In connection with any other proceeding charging  
11 improper personal benefit to the director, whether or not  
12 involving action in the director's official capacity, in which  
13 the director was adjudged liable on the basis that personal  
14 benefit was improperly received by the director.

15 5. Indemnification permitted under this section in  
16 connection with a proceeding by or in the right of the  
17 cooperative is limited to reasonable expenses incurred in  
18 connection with the proceeding.

19 Sec. 21. NEW SECTION. 501.413 MANDATORY INDEMNIFICATION.

20 Unless limited by its articles of association, a  
21 cooperative shall indemnify a director who was wholly  
22 successful, on the merits or otherwise, in the defense of any  
23 proceeding to which the director was a party because the  
24 director is or was a director of the cooperative against  
25 reasonable expenses incurred by the director in connection  
26 with the proceeding.

27 Sec. 22. NEW SECTION. 501.414 ADVANCE FOR EXPENSES.

28 1. A cooperative may pay for or reimburse the reasonable  
29 expenses incurred by a director who is a party to a proceeding  
30 in advance of final disposition of the proceeding if any of  
31 the following apply:

32 a. The director furnishes the cooperative a written  
33 affirmation of the director's good faith belief that the  
34 director has met the standard of conduct described in section  
35 501.412.

1 b. The director furnishes the cooperative a written  
2 undertaking, executed personally or on the director's behalf,  
3 to repay the advance if it is ultimately determined that the  
4 director did not meet the standard of conduct described in  
5 section 501.412.

6 c. A determination is made pursuant to section 501.416  
7 that the facts then known to those making the determination  
8 would not preclude indemnification under this part.

9 2. The undertaking required by subsection 1, paragraph  
10 "b", must be an unlimited general obligation of the director  
11 but need not be secured and may be accepted without reference  
12 to financial ability to make repayment.

13 3. Determinations and authorizations of payments under  
14 this section shall be made in the manner specified in section  
15 501.416.

16 Sec. 23. NEW SECTION. 501.415 COURT-ORDERED  
17 INDEMNIFICATION.

18 Unless a cooperative's articles of association provide  
19 otherwise, a director of the cooperative who is a party to a  
20 proceeding may apply for indemnification to the court  
21 conducting the proceeding or to another court of competent  
22 jurisdiction. On receipt of an application, the court after  
23 giving any notice the court considers necessary may order  
24 indemnification if it determines either of the following:

25 1. The director is entitled to mandatory indemnification  
26 under section 501.413, in which case the court shall also  
27 order the cooperative to pay the director's reasonable  
28 expenses incurred to obtain court-ordered indemnification.

29 2. The director is fairly and reasonably entitled to  
30 indemnification in view of all the relevant circumstances,  
31 whether or not the director met the standard of conduct set  
32 forth in section 501.412 or was adjudged liable as described  
33 in section 501.412, subsection 4, but if the director was  
34 adjudged so liable the director's indemnification is limited  
35 to reasonable expenses incurred.

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1 Sec. 24. NEW SECTION. 501.416 DETERMINATION AND  
2 AUTHORIZATION OF INDEMNIFICATION.

3 1. A cooperative shall not indemnify a director under  
4 section 501.412 unless authorized in the specific case after a  
5 determination has been made that indemnification of the  
6 director is permissible in the circumstances because the  
7 director has met the standard of conduct set forth in section  
8 501.412.

9 2. The determination shall be made by any of the  
10 following:

11 a. By the board of directors by majority vote of a quorum  
12 consisting of directors not at the time parties to the  
13 proceeding.

14 b. If a quorum cannot be obtained under paragraph "a", by  
15 majority vote of a committee duly designated by the board of  
16 directors, in which designation directors who are parties may  
17 participate, consisting solely of two or more directors not at  
18 the time parties to the proceeding.

19 c. By special legal counsel.

20 (1) The special legal counsel shall be selected by the  
21 board of directors or its committee in the manner prescribed  
22 in paragraph "a" or "b".

23 (2) If a quorum of the board of directors cannot be  
24 obtained under paragraph "a" and a committee cannot be  
25 designated under paragraph "b", the special legal counsel  
26 shall be selected by majority vote of the full board of  
27 directors, in which selection directors who are parties may  
28 participate.

29 d. By the members, but voting interests owned by or voted  
30 under the control of directors who are at the time parties to  
31 the proceeding shall not be voted on the determination.

32 3. Authorization of indemnification and evaluation as to  
33 reasonableness of expenses shall be made in the same manner as  
34 the determination that indemnification is permissible, except  
35 that if the determination is made by special legal counsel,

1 authorization of indemnification and evaluation as to  
2 reasonableness of expenses shall be made by those entitled  
3 under subsection 2, paragraph "c", to select counsel.

4 Sec. 25. NEW SECTION. 501.417 INDEMNIFICATION OF  
5 OFFICERS, EMPLOYEES, AND AGENTS.

6 Unless a cooperative's articles of association provide  
7 otherwise, all of the following apply:

8 1. An officer of the cooperative who is not a director is  
9 entitled to mandatory indemnification under section 501.413,  
10 and is entitled to apply for court-ordered indemnification  
11 under section 501.415, in each case to the same extent as a  
12 director.

13 2. The cooperative may indemnify and advance expenses  
14 under this part to an officer, employee, or agent of the  
15 cooperative who is not a director to the same extent as to a  
16 director.

17 3. A cooperative may also indemnify and advance expenses  
18 to an officer, employee, or agent who is not a director to the  
19 extent permitted by law and provided by its articles of  
20 association, bylaws, general or specific action of its board  
21 of directors, or contract.

22 Sec. 26. NEW SECTION. 501.418 INSURANCE.

23 A cooperative may purchase and maintain insurance on behalf  
24 of an individual who is or was a director, officer, employee,  
25 or agent of the cooperative, or who, while a director,  
26 officer, employee, or agent of the cooperative, is or was  
27 serving at the request of the cooperative as a director,  
28 officer, partner, trustee, employee, or agent of another  
29 foreign or domestic cooperative, partnership, joint venture,  
30 trust, employee benefit plan, or other enterprise, against  
31 liability asserted against or incurred by that individual in  
32 that capacity or arising from the individual's status as a  
33 director, officer, employee, or agent, whether or not the  
34 cooperative would have power to indemnify that individual  
35 against the same liability under section 501.412 or 501.413.

1 Sec. 27. NEW SECTION. 501.419 APPLICATION OF THIS PART.

2 Except as limited in section 501.412, subsection 4,  
3 paragraph "a", and subsection 5 with respect to proceedings by  
4 or in the right of the cooperative, the indemnification and  
5 advancement of expenses provided by, or granted pursuant to,  
6 sections 501.411 through 501.418 are not exclusive of any  
7 other rights to which persons seeking indemnification or  
8 advancement of expenses are entitled under a provision in the  
9 articles of association or bylaws, agreements, vote of the  
10 members or disinterested directors, or otherwise, both as to  
11 action in a person's official capacity and as to action in  
12 another capacity while holding the office. However, such  
13 provisions, agreements, votes, or other actions shall not  
14 provide indemnification for a breach of a director's duty of  
15 loyalty to the cooperative or its interest holders, for acts  
16 or omissions not in good faith or which involve intentional  
17 misconduct or knowing violation of the law, for a transaction  
18 from which the person seeking indemnification derives an  
19 improper personal benefit, or for liability under section  
20 501.407.

21 Sec. 28. Section 501.501, Code Supplement 1997, is amended  
22 to read as follows:

23 501.501 ISSUANCE AND TRANSFER OF STOCK INTERESTS.

24 1. A cooperative may issue the number of shares interests  
25 of each class authorized by its articles. A cooperative may  
26 issue fractional shares interests. Stock Interests may be  
27 represented by certificates or by entry on the cooperative's  
28 stock interest record books.

29 2. A member shall not sell or otherwise transfer voting  
30 stock interests to any person. A member may be restricted or  
31 limited from selling or otherwise transferring any other class  
32 of stock interests of the cooperative as provided by the  
33 cooperative's articles of incorporation association or bylaws  
34 or an agreement executed between the cooperative and the  
35 member.

1 3. A cooperative may acquire its own stock interests, and  
2 shares interests so acquired constitute authorized but  
3 unissued shares interests.

4 Sec. 29. Section 501.502, subsection 2, paragraph a, Code  
5 Supplement 1997, is amended to read as follows:

6 a. The member has attempted to transfer stock any interest  
7 to a person who is not a member and has not been approved for  
8 membership.

9 Sec. 30. Section 501.502, subsection 4, Code Supplement  
10 1997, is amended to read as follows:

11 4. The cooperative shall redeem, without interest, the  
12 voting stock interest of a terminated member within one year  
13 after the termination of the membership for the fair market  
14 value of the stock interest. If the amount originally paid by  
15 the member for the voting stock interest was less than ten  
16 percent of the total amount the member paid for all classes of  
17 stock interests, the cooperative may redeem the voting stock  
18 interest for its issue price if the cooperative's articles of  
19 incorporation association grant the cooperative this  
20 authority.

21 Sec. 31. Section 501.502, subsection 5, unnumbered  
22 paragraph 1, Code Supplement 1997, is amended to read as  
23 follows:

24 The cooperative shall redeem, without interest, all of the  
25 terminated member's allocated patronage refunds and preferred  
26 stock interests originally issued as allocated patronage  
27 refunds for the issue price as follows:

28 Sec. 32. Section 501.503, subsections 1 and 4, Code 1997,  
29 are amended to read as follows:

30 1. If the articles authorize the payment of dividends  
31 distributions on a class of stock interests, then the  
32 directors may declare dividends a distribution pursuant to the  
33 articles. Dividends-may Distributions shall not exceed eight  
34 percent of the value of the stock interest in each fiscal  
35 year. The members may control the amount that is allocated

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1 under this subsection.

2 4. The cooperative shall have an unconditional binding  
3 obligation to distribute to the members all remaining net  
4 savings as determined under the United States Internal Revenue  
5 Code. These net savings shall be allocated to each member in  
6 proportion to the business the member did with the cooperative  
7 during the preceding fiscal year. The net savings may be  
8 separately calculated for two or more categories of business,  
9 and allocated to the members on the basis of business done  
10 within each of these categories. Net savings shall be  
11 distributed in the form of cash or stock interests, or a  
12 combination of cash and stock interests, as determined by the  
13 board.

14 Sec. 33. Section 501.603, subsection 2, Code 1997, is  
15 amended to read as follows:

16 2. A cooperative may sell, lease, exchange, or otherwise  
17 dispose of all, or substantially all, of its property, with or  
18 without the good will, on the terms and conditions and for the  
19 consideration determined by the board, which consideration may  
20 include the preferred-stock interests of another cooperative,  
21 if the board recommends the proposed transaction to the  
22 members, and the members approve it by the vote of two-thirds  
23 of the votes cast on a ballot in which a majority of all votes  
24 are cast. The board may condition its submission of the  
25 proposed transaction on any basis.

26 PART B

27 MERGER AND CONSOLIDATION BETWEEN COOPERATIVES

28 ORGANIZED UNDER THIS CHAPTER

29 Sec. 34. NEW SECTION. 501.611 DEFINITIONS.

30 When used in this part, unless the context otherwise  
31 requires:

32 1. "Consolidation" means the uniting of two or more  
33 cooperatives organized under this chapter into one cooperative  
34 organized under this chapter, in such manner that a new  
35 cooperative is formed, and the new cooperative absorbs the

1 others, which cease to exist as separate entities.

2 2. "Dissenting member" means a voting member who votes in  
3 opposition to the plan of merger or consolidation and who  
4 makes a demand for payment of the fair value under section  
5 501.615.

6 3. "Fair value" means the cash price that would be paid by  
7 a willing buyer to a willing seller, neither being under any  
8 compulsion to buy or sell.

9 4. "Issue price" means the amount paid for an interest in  
10 the old cooperative or the amount stated in a notice of  
11 allocation of patronage dividends.

12 5. "Merger" means the uniting of two or more cooperatives  
13 organized under this chapter into one cooperative organized  
14 under this chapter, in such manner that one of the merging  
15 associations continues to exist and absorbs the others, which  
16 cease to exist as entities. "Merger" does not include the  
17 acquisition, by purchase or otherwise, of the assets of one  
18 cooperative by another, unless the acquisition only becomes  
19 effective by the filing of articles of merger by the  
20 cooperatives and the issuance of a certificate of merger  
21 pursuant to sections 501.617 and 501.618.

22 6. "New cooperative" is the cooperative resulting from the  
23 consolidation of two or more cooperatives organized under this  
24 chapter.

25 7. "Old cooperative" means the cooperative in which the  
26 member owns or owned a membership prior to merger or  
27 consolidation.

28 8. "Surviving cooperative" is the cooperative resulting  
29 from the merger of two or more cooperatives organized under  
30 this chapter.

31 Sec. 35. NEW SECTION. 501.612 MERGER.

32 Any two or more cooperatives may merge into one cooperative  
33 in the manner provided in this section. The board of  
34 directors of each cooperative shall, by resolution adopted by  
35 a majority vote of all members of each board, approve a plan

1 of merger which shall set forth all of the following:

2 1. The names of the cooperatives proposing to merge and  
3 the name of the surviving cooperative.

4 2. The terms and conditions of the proposed merger.

5 3. A statement of any changes in the articles of  
6 association of the surviving cooperative.

7 4. Other provisions deemed necessary or desirable.

8 Sec. 36. NEW SECTION. 501.613 CONSOLIDATION.

9 Any two or more cooperatives may be consolidated into a new  
10 cooperative as provided in this section. The board of  
11 directors of each cooperative shall, by resolution adopted by  
12 a majority vote of all members of each board, approve a plan  
13 of consolidation setting forth:

14 1. The names of the cooperatives proposing to consolidate  
15 and the name of the new cooperative.

16 2. The terms and conditions of the proposed consolidation.

17 3. With respect to the new cooperative, all of the  
18 statements required to be set forth in articles of association  
19 for cooperatives.

20 4. Other provisions deemed necessary or desirable.

21 Sec. 37. NEW SECTION. 501.614 VOTE OF MEMBERS.

22 1. The board of directors of a cooperative, upon approving  
23 a plan of merger or consolidation, shall, by motion or  
24 resolution, direct that the plan be submitted to a vote at a  
25 meeting of members, which may be either an annual or special  
26 meeting. Written notice shall be given not less than twenty  
27 days prior to the meeting, either personally or by mail, to  
28 each voting member of record. The notice shall state the  
29 time, place, and purpose of the meeting, and a summary of the  
30 plan of merger or consolidation shall be included in or  
31 enclosed with the notice.

32 2. At the meeting, a ballot of the members who are  
33 entitled to vote in the affairs of the association shall be  
34 taken on the proposed plan of merger or consolidation. The  
35 plan of merger or consolidation shall be approved if two-

1 thirds of the members vote affirmatively on a ballot in which  
2 a majority of all voting members participate. Voting may be  
3 by mail ballot notwithstanding any contrary provision in the  
4 articles of association or bylaws.

5 Sec. 38. NEW SECTION. 501.615 OBJECTION OF MEMBERS --  
6 PURCHASE OF INTERESTS UPON DEMAND.

7 1. If a member of a cooperative which is a party to a  
8 merger or consolidation files with the cooperative, prior to  
9 or at the meeting of members at which the plan is submitted to  
10 a vote, a written objection to the plan of merger or  
11 consolidation, and votes in opposition to the plan, and the  
12 member, within twenty days after the merger or consolidation  
13 is approved by the other members, makes written demand on the  
14 surviving or new cooperative for payment of the fair value of  
15 that member's interest as of the day prior to the date on  
16 which the vote was taken approving the merger or  
17 consolidation, the surviving or new cooperative shall pay to  
18 the member, upon surrender of that person's certificate of  
19 membership or interests in the cooperative, the fair value of  
20 that person's interest as provided in section 501.616. A  
21 member who fails to make demand within the twenty-day period  
22 is conclusively presumed to have consented to the merger or  
23 consolidation and is bound by its terms.

24 2. In the event that a dissenting member does business  
25 with the surviving or new cooperative before payment has been  
26 made for that person's membership, the dissenting member is  
27 deemed to have consented to the merger or consolidation and to  
28 have waived all further rights as a dissenting member.

29 Sec. 39. NEW SECTION. 501.616 VALUE DETERMINED.

30 1. Within twenty days after the merger or consolidation is  
31 effected, the surviving or new cooperative shall make a  
32 written offer to each dissenting member to pay a specified sum  
33 deemed by the surviving or new cooperative to be the fair  
34 value of that dissenting member's interest in the old  
35 cooperative. This offer shall be accompanied by a balance

1 sheet of the old cooperative as of the latest available date,  
2 a profit and loss statement of the old cooperative for the  
3 twelve-month period ending on the date of the balance sheet,  
4 and a list of the dissenting member's interests in the old  
5 cooperative. If the dissenting member does not agree that the  
6 sum stated in the notice represents the fair value of the  
7 member's interest, then the member may file a written  
8 objection with the surviving or new cooperative within twenty  
9 days after receiving the notice. A dissenting member who  
10 fails to file the objection within the twenty-day period is  
11 conclusively presumed to have consented to the fair value  
12 stated in the notice.

13 2. If the surviving or new cooperative receives any  
14 objections to fair values, then within ninety days after the  
15 merger or consolidation is effected, the surviving or new  
16 cooperative shall file a petition in district court asking for  
17 a finding and determination of the fair value of each type of  
18 equity. The action shall be tried as an equitable action.

19 3. The fair value of a dissenting member's interest in the  
20 old cooperative shall be determined as of the day preceding  
21 the merger or consolidation by taking the lesser of either the  
22 issue price of the dissenting member's membership, deferred  
23 patronage dividends, and any other interests in the  
24 cooperative, or the amount determined by subtracting the old  
25 cooperative's debts from the fair market value of the old  
26 cooperative's assets, dividing the remainder by the total  
27 issue price of all memberships, deferred patronage dividends  
28 and all other interests, and then multiplying the quotient  
29 from this division by the total issue price of a dissenting  
30 member's membership, deferred patronage, and other interests.

31 4. The surviving or new cooperative shall pay to each  
32 dissenting member in cash within sixty days after the merger  
33 or consolidation the amount paid in cash by the dissenting  
34 member for that member's interest in the old cooperative. The  
35 surviving or new cooperative shall pay the remainder of each

1 dissenting member's fair value in ten annual equal payments.  
2 The final payment must be made not later than fifteen years  
3 after the merger or consolidation. The value of the deferred  
4 patronage dividends or interests issued to evidence deferred  
5 patronage dividends shall be considered a liability of the  
6 surviving or new cooperative as reflected in the accounts of  
7 the surviving or new cooperative until the value of the  
8 patronage dividends or interests issued to evidence deferred  
9 patronage dividends is paid in full to the dissenting member.

10 Sec. 40. NEW SECTION. 501.617 ARTICLES OF MERGER OR  
11 CONSOLIDATION.

12 Upon approval, articles of merger or articles of  
13 consolidation shall be executed by each cooperative as  
14 provided in section 501.105. The articles must include the  
15 following:

- 16 1. The plan of merger or the plan of consolidation.
- 17 2. As to each cooperative, the number of individuals or  
18 cooperatives entitled to vote.
- 19 3. As to each cooperative, the number of individuals or  
20 cooperatives who voted for and against the plan at the meeting  
21 called for that purpose.

22 The articles of merger or articles of consolidation shall  
23 be delivered to the secretary of state for filing.

24 The secretary of state, upon the filing of articles of  
25 merger or articles of consolidation, shall issue a certificate  
26 of merger or a certificate of consolidation and send the  
27 certificate to the surviving or new cooperative, or to its  
28 representative.

29 Sec. 41. NEW SECTION. 501.618 WHEN EFFECTIVE -- EFFECT.

30 A merger or consolidation shall become effective upon the  
31 date that the certificate of merger or the certificate of  
32 consolidation is issued by the secretary of state, or the  
33 effective date specified in the articles of merger or articles  
34 of consolidation, whichever is later.

35 When a merger or consolidation has become effective:

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1 1. The several cooperatives which are parties to the plan  
2 of merger or consolidation shall be a single cooperative,  
3 which, in the case of a merger, shall be that cooperative  
4 designated in the plan of merger as the surviving cooperative,  
5 and, in the case of consolidation, shall be that cooperative  
6 designated in the plan of consolidation as the new  
7 cooperative.

8 2. The separate existence of all cooperatives which are  
9 parties to the plan of merger or consolidation, except the  
10 surviving or new cooperative, shall cease.

11 3. The surviving or new cooperative shall have all the  
12 rights, privileges, immunities, and powers and shall be  
13 subject to all the duties and liabilities of a cooperative  
14 organized under this chapter.

15 4. The surviving or new cooperative shall possess all the  
16 rights, privileges, immunities, and franchises, public as well  
17 as private, of each of the merging or consolidating  
18 cooperatives.

19 5. All property, real, personal, and mixed, and all debts  
20 due on whatever account, including all choses in action, and  
21 all and every other interest, of or belonging to or due to  
22 each of the cooperatives merged or consolidated, shall be  
23 transferred to and vested in the surviving or new cooperative  
24 without further act or deed. The title to any real estate, or  
25 any interest in real estate vested in any of the cooperatives  
26 merged or consolidated, shall not revert or be in any way  
27 impaired by reason of the merger or consolidation.

28 6. A surviving or new cooperative shall be responsible and  
29 liable for all obligations and liabilities of each of the  
30 cooperatives merged or consolidated.

31 7. Any claim existing or action or proceeding pending by  
32 or against any of the cooperatives merged or consolidated may  
33 be prosecuted as if the merger or consolidation had not taken  
34 place, or the surviving or new cooperative may be substituted  
35 for the merged or consolidated cooperative. Neither the

1 rights of creditors nor any liens upon the property of any  
2 cooperative shall be impaired by a merger or consolidation.  
3 8. In the case of a merger, the articles of association of  
4 the surviving cooperative shall be deemed to be amended to the  
5 extent that changes in its articles of association are stated  
6 in the plan of merger. In the case of a consolidation, the  
7 statements set forth in the articles of consolidation which  
8 are required or permitted to be set forth in the articles of  
9 association of a cooperative shall be deemed to be the  
10 original articles of association of the new cooperative.

11 9. The aggregate amount of the net assets of the merging  
12 or consolidating cooperative which was available for the  
13 payment of distributions immediately prior to the merger or  
14 consolidation, to the extent that the amount is not  
15 transferred to stated capital by the issuance of interests or  
16 otherwise, shall continue to be available for the payment of  
17 dividends by the surviving or new cooperative.

18 Sec. 42. NEW SECTION. 501.619 ABANDONMENT BEFORE FILING.

19 At any time prior to the filing of the articles of merger  
20 or consolidation, the merger or consolidation may be abandoned  
21 pursuant to provisions set forth in the plan of merger or  
22 consolidation.

23 SUBCHAPTER VII  
24 RECORDS AND REPORTS

25 PART A

26 RECORDS

27 Sec. 43. NEW SECTION. 501.701 RECORDS.

28 1. A cooperative shall keep as permanent records minutes  
29 of all meetings of its members and board of directors, a  
30 record of all actions taken by the members or board of  
31 directors without a meeting, and a record of all actions taken  
32 by a committee of the board of directors in place of the board  
33 of directors on behalf of the cooperative.

34 2. A cooperative shall maintain appropriate accounting  
35 records.

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1 3. A cooperative or its agent shall maintain a record of  
2 its interest holders in a form that permits preparation of a  
3 list of the names and addresses of all interest holders in  
4 alphabetical order by class of shares showing the number and  
5 class of interests held by each.

6 4. A cooperative shall maintain its records in written  
7 form or in another form capable of conversion into written  
8 form within a reasonable time.

9 5. A cooperative shall keep a copy of the following  
10 records:

11 a. Its articles or restated articles of association and  
12 all amendments to them currently in effect.

13 b. Its bylaws or restated bylaws and all amendments to  
14 them currently in effect.

15 c. Resolutions adopted by its board of directors creating  
16 one or more classes or series of interests, and fixing their  
17 relative rights, preferences, and limitations, if the  
18 interests issued pursuant to those resolutions are  
19 outstanding.

20 d. The minutes of all members' meetings, and records of  
21 all action taken by members without a meeting, for the past  
22 three years.

23 e. All written communications to interest holders  
24 generally within the past three years, including the financial  
25 statements furnished for the past three years under section  
26 501.711.

27 f. A list of the names and business addresses of its  
28 current directors and officers.

29 g. Its most recent biennial report delivered to the  
30 secretary of state under section 501.713.

31 Sec. 44. NEW SECTION. 501.702 INSPECTION OF RECORDS BY  
32 INTEREST HOLDERS.

33 1. An interest holder of a cooperative is entitled to  
34 inspect and copy, during regular business hours at the  
35 cooperative's principal office, any of the records of the

1 cooperative described in section 501.701, subsection 5, if the  
2 interest holder gives the cooperative written notice of the  
3 interest holder's demand at least five business days before  
4 the date on which the interest holder wishes to inspect and  
5 copy.

6 2. An interest holder of a cooperative is entitled to  
7 inspect and copy, during regular business hours at a  
8 reasonable location specified by the cooperative, any of the  
9 following records of the cooperative if the interest holder  
10 meets the requirements of subsection 3 and gives the  
11 cooperative written notice of the interest holder's demand at  
12 least five business days before the date on which the interest  
13 holder wishes to inspect and copy any of the following:

14 a. Excerpts from minutes of any meeting of the board of  
15 directors, records of any action of a committee of the board  
16 of directors while acting in place of the board of directors  
17 on behalf of the cooperative, minutes of any meeting of the  
18 members, and records of action taken by the members or board  
19 of directors without a meeting, to the extent not subject to  
20 inspection under subsection 1 of this section.

21 b. Accounting records of the cooperative.

22 c. The record of interest holders.

23 3. An interest holder may inspect and copy the records  
24 described in subsection 2 only if:

25 a. The interest holder's demand is made in good faith and  
26 for a proper purpose.

27 b. The interest holder describes with reasonable  
28 particularity the interest holder's purpose and the records  
29 the interest holder desires to inspect.

30 c. The records are directly connected with the interest  
31 holder's purpose.

32 4. The right of inspection granted by this section shall  
33 not be abolished or limited by a cooperative's articles of  
34 association or bylaws.

35 5. This section does not affect either of the following:

1 a. The right of an interest holder to obtain information  
2 under section 501.702 or the right of an interest holder to  
3 obtain information, if the interest holder is in litigation  
4 with the cooperative, to the same extent as any other  
5 litigant.

6 b. The power of a court, independently of this chapter, to  
7 compel the production of cooperative records for examination.

8 Sec. 45. NEW SECTION. 501.703 SCOPE OF INSPECTION RIGHT.

9 1. An interest holder's agent or attorney has the same  
10 inspection and copying rights as the interest holder the agent  
11 or attorney represents.

12 2. The right to copy records under section 501.702  
13 includes, if reasonable, the right to receive copies made by  
14 photographic, xerographic, or other technological means.

15 3. The cooperative may impose a reasonable charge,  
16 covering the costs of labor and material, for copies of any  
17 documents provided to the interest holder. The charge shall  
18 not exceed the estimated cost of production or reproduction of  
19 the records.

20 4. The cooperative may comply with an interest holder's  
21 demand to inspect the record of interest holders under section  
22 501.702, subsection 2, paragraph "c", by providing the  
23 interest holder with a list of its interest holders that was  
24 compiled no earlier than the date of the interest holder's  
25 demand.

26 Sec. 46. NEW SECTION. 501.704 COURT-ORDERED INSPECTION.

27 1. If a cooperative does not allow an interest holder who  
28 complies with section 501.702, subsection 1, to inspect and  
29 copy any records required by that subsection to be available  
30 for inspection, the district court of the county where the  
31 cooperative's principal office or, if none in this state, its  
32 registered office is located may summarily order inspection  
33 and copying of the records demanded at the cooperative's  
34 expense upon application of the interest holder.

35 2. If a cooperative does not within a reasonable time

1 allow an interest holder to inspect and copy any other  
2 records, the interest holder who complies with section  
3 501.702, subsections 2 and 3, may apply to the district court  
4 in the county where the cooperative's principal office or, if  
5 not in this state, its registered office is located for an  
6 order to permit inspection and copying of the records  
7 demanded. The court shall dispose of an application under  
8 this subsection on an expedited basis.

9 3. If the court orders inspection and copying of the  
10 records demanded, it shall also order the cooperative to pay  
11 the interest holder's costs, including reasonable counsel  
12 fees, incurred to obtain the order unless the cooperative  
13 proves that it refused inspection in good faith because it had  
14 a reasonable basis for doubt about the right of the interest  
15 holder to inspect the records demanded.

16 4. If the court orders inspection and copying of the  
17 records demanded, it may impose reasonable restrictions on the  
18 use or distribution of the records by the demanding interest  
19 holder.

20 PART B

21 REPORTS

22 Sec. 47. NEW SECTION. 501.711 FINANCIAL STATEMENTS FOR  
23 INTEREST HOLDERS.

24 A cooperative shall prepare annual financial statements,  
25 which may be consolidated or combined statements of the  
26 cooperative and one or more of its subsidiaries, as  
27 appropriate, that include a balance sheet as of the end of the  
28 fiscal year and an income statement for that year. Upon  
29 written request from an interest holder, a cooperative, at its  
30 expense, shall furnish to that interest holder the financial  
31 statements requested. If the annual financial statements are  
32 reported upon by a public accountant, the report must  
33 accompany the financial statements.

34 Sec. 48. NEW SECTION. 501.712 OTHER REPORTS TO INTEREST  
35 HOLDERS.

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1 1. If a cooperative indemnifies or advances expenses to a  
2 director under sections 501.412 through 501.415 in connection  
3 with a proceeding by or in the right of the cooperative, the  
4 cooperative shall report the indemnification or advance in  
5 writing to the members with or before the notice of the next  
6 members' meeting.

7 2. If a cooperative issues or authorizes the issuance of  
8 interests for promissory notes or for promises to render  
9 services in the future, the cooperative shall report in  
10 writing to the members the number of interests authorized or  
11 issued, and the consideration received by the cooperative,  
12 with or before the notice of the next members' meeting.

13 Sec. 49. NEW SECTION. 501.713 BIENNIAL REPORT FOR  
14 SECRETARY OF STATE.

15 1. Each cooperative authorized to transact business in  
16 this state shall deliver to the secretary of state for filing  
17 a biennial report that sets forth all of the following:

18 a. The name of the cooperative and under the laws of what  
19 state or country organized.

20 b. The address of its registered office and the name of  
21 its registered agent at that office in this state, together  
22 with the consent of any new registered agent.

23 c. The address of its principal office.

24 d. The names and addresses of the president, secretary,  
25 treasurer, and one member of the board of directors.

26 2. Information in the biennial report must be current as  
27 of the first day of January of the year in which the report is  
28 due. The report shall be executed on behalf of the  
29 cooperative and signed as provided in section 501.105 or by  
30 any other person authorized by the board of directors of the  
31 cooperative.

32 3. The first biennial report shall be delivered to the  
33 secretary of state between January 1 and April 1 of the first  
34 even-numbered year following the calendar year in which a  
35 cooperative was organized. Subsequent biennial reports must

1 be delivered to the secretary of state between January 1 and  
2 April 1 of the following even-numbered calendar years. A  
3 filing fee for the biennial report shall be determined by the  
4 secretary of state. Each biennial report shall contain  
5 information related to the two-year period immediately  
6 preceding the calendar year in which the report is filed.

7 4. If a biennial report does not contain the information  
8 required by this section, the secretary of state shall  
9 promptly notify the reporting cooperative in writing and  
10 return the report to the cooperative for correction.

11 5. The secretary of state may provide for the change of  
12 registered office or registered agent on the form prescribed  
13 by the secretary of state for the biennial report, provided  
14 that the form contains the information required in section  
15 501.106. If the secretary of state determines that a biennial  
16 report does not contain the information required by this  
17 section but otherwise meets the requirements of section  
18 501.106 for the purpose of changing the registered office or  
19 registered agent, the secretary of state shall file the  
20 statement of change of registered office or registered agent,  
21 effective as provided in section 501.105, before returning the  
22 biennial report to the cooperative as provided in this  
23 section. A statement of change of registered office or agent  
24 pursuant to this subsection shall be executed by a person  
25 authorized to execute the biennial report.

26 DIVISION VIII

27 DISSOLUTION

28 PART A

29 GENERAL

30 Sec. 50. NEW SECTION. 501.801 DISSOLUTION BY ORGANIZERS  
31 OR INITIAL DIRECTORS.

32 A majority of the organizers or initial directors of a  
33 cooperative that has not issued interests or has not commenced  
34 business may dissolve the cooperative by delivering to the  
35 secretary of state for filing articles of dissolution that set

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1 forth all of the following:

2 1. The name of the cooperative.

3 2. The date of its organization.

4 3. Either of the following:

5 a. That none of the cooperative's interests have been  
6 issued.

7 b. That the cooperative has not commenced business.

8 4. That no debt of the cooperative remains unpaid.

9 5. That the net assets of the cooperative remaining after  
10 winding up have been distributed in accordance with this  
11 chapter and the articles of association of the cooperative.

12 6. That a majority of the organizers or initial directors  
13 authorized the dissolution.

14 Sec. 51. NEW SECTION. 501.802 DISSOLUTION BY BOARD OF  
15 DIRECTORS AND MEMBERS.

16 1. A cooperative's board of directors may propose  
17 dissolution for submission to the members.

18 2. For a proposal to dissolve to be adopted both of the  
19 following must apply:

20 a. The board of directors must recommend dissolution to  
21 the members unless the board of directors determines that  
22 because of conflict of interest or other special circumstances  
23 it should make no recommendation and communicates the basis  
24 for its determination to the members.

25 b. The members entitled to vote must approve the proposal  
26 to dissolve as provided in subsection 5.

27 3. The board of directors may condition its submission of  
28 the proposal for dissolution on any basis.

29 4. The cooperative shall notify each member of a meeting  
30 to consider dissolution in accordance with section 501.302.  
31 The notice must also state that the purpose, or one of the  
32 purposes, of the meeting is to consider dissolving the  
33 cooperative.

34 5. Unless the articles of association or the board of  
35 directors acting pursuant to subsection 3 require a greater

1 vote or a vote by voting groups, the proposal to dissolve must  
2 be approved by a majority of all the votes entitled to be cast  
3 on that proposal in order to be adopted.

4 Sec. 52. NEW SECTION. 501.803 ARTICLES OF DISSOLUTION.

5 1. At any time after dissolution is authorized, the  
6 cooperative may dissolve by delivering to the secretary of  
7 state for filing articles of dissolution setting forth all of  
8 the following:

9 a. The name of the cooperative.

10 b. The date dissolution was authorized.

11 c. If dissolution was approved by the members, both of the  
12 following:

13 (1) The number of votes entitled to be cast on the  
14 proposal to dissolve.

15 (2) Either the total number of votes cast for and against  
16 dissolution or the total number of undisputed votes cast for  
17 dissolution and a statement that the number cast for  
18 dissolution was sufficient for approval.

19 2. A cooperative is dissolved upon the effective date of  
20 its articles of dissolution.

21 Sec. 53. NEW SECTION. 501.804 REVOCATION OF DISSOLUTION.

22 1. A cooperative may revoke its dissolution within one  
23 hundred twenty days of the effective date of the dissolution.

24 2. Revocation of dissolution must be authorized in the  
25 same manner as the dissolution was authorized unless that  
26 authorization permitted revocation by action of the board of  
27 directors alone, in which event the board of directors may  
28 revoke the dissolution without member action.

29 3. After the revocation of dissolution is authorized, the  
30 cooperative may revoke the dissolution by delivering to the  
31 secretary of state for filing articles of revocation of  
32 dissolution, together with a copy of its articles of  
33 dissolution, that set forth all of the following:

34 a. The name of the cooperative.

35 b. The effective date of the dissolution that was revoked.

1 c. The date that the revocation of dissolution was  
2 authorized.

3 d. If the cooperative's board of directors or organizers  
4 revoked the dissolution, a statement to that effect.

5 e. If the cooperative's board of directors revoked a  
6 dissolution authorized by the members, a statement that  
7 revocation was permitted by action by the board of directors  
8 alone pursuant to that authorization.

9 f. If membership action was required to revoke the  
10 dissolution, the information required by section 501.803,  
11 subsection 1, paragraph "c".

12 4. Revocation of dissolution is effective upon the  
13 effective date of the articles of revocation of dissolution.

14 5. When the revocation of dissolution is effective, it  
15 relates back to and takes effect as of the effective date of  
16 the dissolution as if the dissolution had never occurred.

17 Sec. 54. NEW SECTION. 501.805 EFFECT OF DISSOLUTION.

18 1. A dissolved cooperative continues its existence but  
19 shall not carry on any business except that appropriate to  
20 wind up and liquidate its business and affairs, including any  
21 of the following:

22 a. Collecting its assets.

23 b. Disposing of its properties that will not be  
24 distributed in kind in accordance with this chapter and the  
25 cooperative's articles of association.

26 c. Discharging or making provision for discharging its  
27 liabilities.

28 d. Distributing its remaining property in accordance with  
29 this chapter and the cooperative's articles of association.

30 e. Doing every other act necessary to wind up and  
31 liquidate its business and affairs.

32 2. Dissolution of a cooperative does not do any of the  
33 following:

34 a. Transfer title to the cooperative's property.

35 b. Prevent transfer of its interests, although the

1 authorization to dissolve may provide for closing the  
2 cooperative's interest transfer records.

3 c. Subject its directors or officers to standards of  
4 conduct different from those prescribed in section 501.406.

5 d. Change quorum or voting requirements for its board of  
6 directors or members; change provisions for selection,  
7 resignation, or removal of its directors or officers or both;  
8 or change provisions for amending its bylaws.

9 e. Prevent commencement of a proceeding by or against the  
10 cooperative in its name.

11 f. Abate or suspend a proceeding pending by or against the  
12 cooperative on the effective date of dissolution.

13 g. Terminate the authority of the registered agent of the  
14 cooperative.

15 Sec. 55. NEW SECTION. 501.805A DISSOLUTION OF ASSETS.

16 Upon the cooperative's dissolution, the cooperative's  
17 assets shall first be used to pay expenses necessary to carry  
18 out the dissolution and liquidation of assets, then be used to  
19 pay the cooperative's obligations other than the payment of  
20 patronage dividends or interests issued as patronage  
21 dividends, and the remainder shall be paid in the manner set  
22 forth in the cooperative's articles of association.

23 Sec. 56. NEW SECTION. 501.806 KNOWN CLAIMS AGAINST  
24 DISSOLVED COOPERATIVE.

25 1. A dissolved cooperative may dispose of the known claims  
26 against it by following the procedure described in this  
27 section.

28 2. The dissolved cooperative shall notify its known  
29 claimants in writing of the dissolution at any time after the  
30 effective date of the dissolution. The written notice must do  
31 all of the following:

32 a. Describe information that must be included in a claim.

33 b. Provide a mailing address where a claim may be sent.

34 c. State the deadline, which shall not be fewer than one  
35 hundred twenty days from the effective date of the written

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1 notice, by which the dissolved cooperative must receive the  
2 claim.

3 d. State that the claim will be barred if not received by  
4 the deadline.

5 3. A claim against the dissolved cooperative is barred if  
6 either of the following occur:

7 a. A claimant who was given written notice under  
8 subsection 2 does not deliver the claim to the dissolved  
9 cooperative by the deadline.

10 b. A claimant whose claim was rejected by the dissolved  
11 cooperative does not commence a proceeding to enforce the  
12 claim within ninety days from the effective date of the  
13 rejection notice.

14 4. For purposes of this section, "claim" does not include  
15 a contingent liability or a claim based on an event occurring  
16 after the effective date of dissolution.

17 Sec. 57. NEW SECTION. 501.807 UNKNOWN CLAIMS AGAINST  
18 DISSOLVED COOPERATIVE.

19 1. A dissolved cooperative may also publish notice of its  
20 dissolution and request that persons with claims against the  
21 cooperative present them in accordance with the notice.

22 2. The notice must meet all of the following requirements:

23 a. Be published one time in a newspaper of general  
24 circulation in the county where the dissolved cooperative's  
25 principal office or, if not in this state, its registered  
26 office is or was last located.

27 b. Describe the information that must be included in a  
28 claim and provide a mailing address where the claim may be  
29 sent.

30 c. State that a claim against the cooperative will be  
31 barred unless a proceeding to enforce the claim is commenced  
32 within five years after the publication of the notice.

33 3. If the dissolved cooperative publishes a newspaper  
34 notice in accordance with subsection 2, the claim of each of  
35 the following claimants is barred unless the claimant

1 commences a proceeding to enforce the claim against the  
2 dissolved cooperative within five years after the publication  
3 date of the newspaper notice:

4 a. A claimant who did not receive written notice under  
5 section 501.806.

6 b. A claimant whose claim was timely sent to the dissolved  
7 cooperative but not acted on.

8 c. A claimant whose claim is contingent or based on an  
9 event occurring after the effective date of dissolution.

10 4. A claim may be enforced under this section in either of  
11 the following ways:

12 a. Against the dissolved cooperative, to the extent of its  
13 undistributed assets.

14 b. If the assets have been distributed in liquidation,  
15 against an interest holder of the dissolved cooperative to the  
16 extent of the interest holder's pro rata share of the claim or  
17 the cooperative assets distributed to the interest holder in  
18 liquidation, whichever is less, but an interest holder's total  
19 liability for all claims under this section shall not exceed  
20 the total amount of assets distributed to the interest holder  
21 in liquidation.

22 PART B

23 ADMINISTRATIVE DISSOLUTION

24 Sec. 58. NEW SECTION. 501.811 GROUNDS FOR ADMINISTRATIVE  
25 DISSOLUTION.

26 The secretary of state may commence a proceeding under  
27 section 501.812 to administratively dissolve a cooperative if  
28 any of the following apply:

29 1. The cooperative has not delivered a biennial report to  
30 the secretary of state in a form that meets the requirements  
31 of section 501.713, within sixty days after it is due, or has  
32 not paid the filing fee as determined by the secretary of  
33 state, within sixty days after it is due.

34 2. The cooperative is without a registered agent or  
35 registered office in this state for sixty days or more.

1 3. The cooperative does not notify the secretary of state  
2 within sixty days that its registered agent or registered  
3 office has been changed, that its registered agent has  
4 resigned, or that its registered office has been discontinued.

5 4. The cooperative's period of duration stated in its  
6 articles of association expires.

7 Sec. 59. NEW SECTION. 501.812 PROCEDURE FOR AND EFFECT  
8 OF ADMINISTRATIVE DISSOLUTION.

9 1. If the secretary of state determines that one or more  
10 grounds exist under section 501.811 for dissolving a  
11 cooperative, the secretary of state shall serve the  
12 cooperative with written notice of the secretary of state's  
13 determination under section 501.106.

14 2. If the cooperative does not correct each ground for  
15 dissolution or demonstrate to the reasonable satisfaction of  
16 the secretary of state that each ground determined by the  
17 secretary of state does not exist within sixty days after  
18 service of the notice is perfected under section 501.106, the  
19 secretary of state shall administratively dissolve the  
20 cooperative by signing a certificate of dissolution that  
21 recites the ground or grounds for dissolution and its  
22 effective date. The secretary of state shall file the  
23 original of the certificate and serve a copy on the  
24 cooperative under section 501.106.

25 3. A cooperative administratively dissolved continues its  
26 existence but shall not carry on any business except that  
27 necessary to wind up and liquidate its business and affairs  
28 under section 501.805 and notify claimants under sections  
29 501.806 and 501.807.

30 4. The administrative dissolution of a cooperative does  
31 not terminate the authority of its registered agent.

32 5. The secretary of state's administrative dissolution of  
33 a cooperative pursuant to this section appoints the secretary  
34 of state the cooperative's agent for service of process in any  
35 proceeding based on a cause of action which arose during the

1 time the cooperative was authorized to transact business in  
2 this state. Service of process on the secretary of state  
3 under this subsection is service on the cooperative. Upon  
4 receipt of process, the secretary of state shall serve a copy  
5 of the process on the cooperative as provided in section  
6 501.106. This subsection does not preclude service on the  
7 cooperative's registered agent, if any.

8 Sec. 60. NEW SECTION. 501.813 REINSTATEMENT FOLLOWING  
9 ADMINISTRATIVE DISSOLUTION.

10 1. A cooperative administratively dissolved under section  
11 501.812 may apply to the secretary of state for reinstatement  
12 within two years after the effective date of dissolution. The  
13 application must meet all of the following requirements:

14 a. Recite the name of the cooperative at its date of  
15 dissolution and the effective date of its administrative  
16 dissolution.

17 b. State that the ground or grounds for dissolution have  
18 been eliminated.

19 c. State a name that satisfies the requirements of section  
20 501.103.

21 d. State the federal tax identification number of the  
22 cooperative.

23 2. a. The secretary of state shall refer the federal tax  
24 identification number contained in the application for  
25 reinstatement to the department of revenue and finance. The  
26 department of revenue and finance shall report to the  
27 secretary of state the tax status of the cooperative. If the  
28 department reports to the secretary of state that a filing  
29 delinquency or liability exists against the cooperative, the  
30 secretary of state shall not cancel the certificate of  
31 dissolution until the filing delinquency or liability is  
32 satisfied.

33 b. If the secretary of state determines that the  
34 application contains the information required by subsection 1,  
35 and that a delinquency or liability reported pursuant to

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1 paragraph "a" has been satisfied, and that the information is  
2 correct, the secretary of state shall cancel the certificate  
3 of dissolution and prepare a certificate of reinstatement that  
4 recites the secretary of state's determination and the  
5 effective date of reinstatement, file the original of the  
6 certificate, and serve a copy on the cooperative under section  
7 501.106. If the name of the cooperative as provided in  
8 subsection 1, paragraph "c", is different than the name in  
9 subsection 1, paragraph "a", the certificate of reinstatement  
10 shall constitute an amendment to the articles of association  
11 insofar as it pertains to the name.

12 3. When the reinstatement is effective, it relates back to  
13 and takes effect as of the effective date of the  
14 administrative dissolution as if the administrative  
15 dissolution had never occurred.

16 Sec. 61. NEW SECTION. 501.814 APPEAL FROM DENIAL OF  
17 REINSTATEMENT.

18 1. If the secretary of state denies a cooperative's  
19 application for reinstatement following administrative  
20 dissolution, the secretary of state shall serve the  
21 cooperative under section 501.106 with a written notice that  
22 explains the reason or reasons for denial.

23 2. The cooperative may appeal the denial of reinstatement  
24 to the district court within thirty days after service of the  
25 notice of denial is perfected. The cooperative appeals by  
26 petitioning the court to set aside the dissolution and  
27 attaching to the petition copies of the secretary of state's  
28 certificate of dissolution, the cooperative's application for  
29 reinstatement, and the secretary of state's notice of denial.

30 3. The court may summarily order the secretary of state to  
31 reinstate the dissolved cooperative or may take other action  
32 the court considers appropriate.

33 4. The court's final decision may be appealed as in other  
34 civil proceedings.

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PART C

JUDICIAL DISSOLUTION

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Sec. 62. NEW SECTION. 501.821 GROUNDS FOR JUDICIAL DISSOLUTION.

The district court may dissolve a cooperative in any of the following ways:

1. A proceeding by the attorney general, if it is established that either of the following apply:

a. The cooperative obtained its articles of association through fraud.

b. The cooperative has continued to exceed or abuse the authority conferred upon it by law.

2. A proceeding by a member if it is established that any of the following conditions exist:

a. The directors are deadlocked in the management of the cooperative's affairs, the members are unable to break the deadlock, and either irreparable injury to the cooperative is threatened or being suffered, or the business and affairs of the cooperative can no longer be conducted to the advantage of the interest holders generally, because of the deadlock.

b. The directors or those in control of the cooperative have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent.

c. The members are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired.

d. The cooperative's assets are being misapplied or wasted.

3. A proceeding by a creditor if it is established that either of the following apply:

a. The creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the cooperative is insolvent.

b. The cooperative has admitted in writing that the creditor's claim is due and owing and the cooperative is

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1 insolvent.

2 4. A proceeding by the cooperative to have its voluntary  
3 dissolution continued under court supervision.

4 Sec. 63. NEW SECTION. 501.822 PROCEDURE FOR JUDICIAL  
5 DISSOLUTION.

6 1. Venue for a proceeding by the attorney general to  
7 dissolve a cooperative lies in Polk county district court.  
8 Venue for a proceeding brought by any other party named in  
9 section 501.821 lies in the county where a cooperative's  
10 principal office or, if not in this state, its registered  
11 office is or was last located.

12 2. It is not necessary to make interest holders parties to  
13 a proceeding to dissolve a cooperative unless relief is sought  
14 against them individually.

15 3. A court in a proceeding brought to dissolve a  
16 cooperative may issue injunctions, appoint a receiver or  
17 custodian pendente lite with all powers and duties the court  
18 directs, take other action required to preserve the  
19 cooperative's assets wherever located, and carry on the  
20 business of the cooperative until a full hearing can be held.

21 Sec. 64. NEW SECTION. 501.823 RECEIVERSHIP OR  
22 CUSTODIANSHIP.

23 1. A court in a judicial proceeding brought to dissolve a  
24 cooperative may appoint one or more receivers to wind up and  
25 liquidate, or one or more custodians to manage, the business  
26 and affairs of the cooperative. The court shall hold a  
27 hearing, after notifying all parties to the proceeding and any  
28 interested persons designated by the court, before appointing  
29 a receiver or custodian. The court appointing a receiver or  
30 custodian has exclusive jurisdiction over the cooperative and  
31 all its property wherever located.

32 2. The court may appoint an individual or a domestic or  
33 foreign corporation authorized to transact business in this  
34 state as a receiver or custodian. The court may require the  
35 receiver or custodian to post bond, with or without sureties,

1 in an amount the court directs.

2 3. The court shall describe the powers and duties of the  
3 receiver or custodian in its appointing order, which may be  
4 amended from time to time.

5 a. The receiver may do any of the following:

6 (1) Dispose of all or any part of the assets of the  
7 cooperative wherever located, at a public or private sale, if  
8 authorized by the court.

9 (2) Sue and defend in the receiver's own name as receiver  
10 of the cooperative in all courts of this state.

11 b. The custodian may exercise all of the powers of the  
12 cooperative, through or in place of its board of directors or  
13 officers, to the extent necessary to manage the affairs of the  
14 cooperative in the best interests of its interest holders and  
15 creditors.

16 4. The court during a receivership may redesignate the  
17 receiver a custodian, and during a custodianship may  
18 redesignate the custodian a receiver, if doing so is in the  
19 best interests of the cooperative, its interest holders, and  
20 creditors.

21 5. The court from time to time during the receivership or  
22 custodianship may order compensation paid and expense  
23 disbursements or reimbursements made to the receiver or  
24 custodian and the receiver's or custodian's counsel from the  
25 assets of the cooperative or proceeds from the sale of the  
26 assets.

27 Sec. 65. NEW SECTION. 501.824 DECREE OF DISSOLUTION.

28 1. If after a hearing the court determines that one or  
29 more grounds for judicial dissolution described in section  
30 501.821 exist, it may enter a decree dissolving the  
31 cooperative and specifying the effective date of the  
32 dissolution, and the clerk of the district court shall deliver  
33 a certified copy of the decree to the secretary of state, who  
34 shall file it.

35 2. After entering the decree of dissolution, the court

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1 shall direct the winding up and liquidation of the  
2 cooperative's business and affairs in accordance with section  
3 501.805 and the notification of claimants in accordance with  
4 sections 501.806 and 501.807.

5 PART D

6 STATE TREASURER

7 Sec. 66. NEW SECTION. 501.831 DEPOSIT WITH STATE  
8 TREASURER.

9 Assets of a dissolved cooperative that should be  
10 transferred to a creditor, claimant, or interest holder of the  
11 cooperative who cannot be found or who is not competent to  
12 receive them shall be reduced to cash and deposited with the  
13 treasurer of state or other appropriate state official for  
14 safekeeping. When the creditor, claimant, or interest holder  
15 furnishes satisfactory proof of entitlement to the amount  
16 deposited, the treasurer of state or other appropriate state  
17 official shall pay the creditor, claimant, or interest holder  
18 or that person's representative the amount.

19 Sec. 67. Sections 501.107 and 501.602, Code 1997, are  
20 repealed. Sections 501.408 and 501.604, Code Supplement 1997,  
21 are repealed.

22 EXPLANATION

23 This bill amends Code chapter 501 which provides for  
24 cooperative corporations which may hold agricultural land in  
25 this state. This type of entity is a hybrid between a  
26 cooperative association organized under Code chapter 499 and a  
27 corporation organized under Code chapter 490. The bill amends  
28 a number of provisions.

29 First, the bill changes a number of terms used in the  
30 chapter. The bill changes "cooperative corporations" to  
31 "cooperatives". It changes a number of other terms to more  
32 closely resemble terms describing the business activities of  
33 cooperative associations rather than corporations. For  
34 example, a cooperative must be organized as an association  
35 rather than a corporation. The bill changes "articles of

1 incorporation" to "articles of association". The bill changes  
2 "shareholders" to "interest holders" or "members" in the  
3 cooperatives. It changes "voting stock" to "voting interest".  
4 An "interest holder" is defined to mean a person who holds a  
5 voting or nonvoting interest in a cooperative. A "member" is  
6 a person who holds a voting interest in the cooperative.  
7 References to "dividends" are changed to "distributions".

8 Second, the bill provides that a general partner that is  
9 authorized to hold an interest in a cooperative must include  
10 all natural persons.

11 Third, the bill increases the number of acres of  
12 agricultural land that a cooperative may hold from 640 to  
13 1,500.

14 Fourth, the bill amends Code section 501.106 which provides  
15 for maintaining a registered office or registered agent in  
16 this state for purpose of service. The bill adds provisions  
17 taken from Code sections 490.503 and 490.504 which provide  
18 procedures for the resignation of a registered agent and  
19 delivery of service when a registered agent is not available.  
20 The bill changes the term "corporation" to "cooperative".

21 Fifth, the bill incorporates a number of provisions that  
22 were included by reference in the chapter. These sections  
23 refer to provisions in both Code chapter 490 governing  
24 corporations and Code chapter 499 governing cooperative  
25 associations. The bill redrafts these provisions expressly as  
26 part of Code chapter 501 and changes references to  
27 "corporation" or "association" to "cooperative" and corrects  
28 internal references.

29 Code section 501.102 provides that a cooperative has the  
30 same powers as a corporation as provided in Code sections  
31 490.302 and 490.303. Those powers include the power to sue  
32 and be sued, have a seal, make and amend bylaws, acquire  
33 property, sell or dispose of property, enter into purchase  
34 security arrangements, make contracts, incur liabilities,  
35 issue notes and bonds, lend money, invest money, become an

1 investor in another enterprise, conduct business, elect  
2 directors, appoint officers and hire employees, pay pensions,  
3 and make donations. This bill repeals Code section 501.102  
4 and provides those same powers expressly to cooperatives.

5 Code section 501.107 provides that Code sections 499.1601  
6 through 499.1622 apply to cooperatives organized under Code  
7 chapter 501. The sections provide for keeping corporate  
8 records, the right of shareholders to inspect those records,  
9 the authority of courts to order inspections, the preparation  
10 of financial statements for shareholders, and the submission  
11 of reports to the secretary of state. This bill repeals Code  
12 section 501.107 and rewrites those provisions into new Code  
13 sections in Code chapter 501.

14 Code section 501.408 provides that a cooperative may  
15 indemnify an officer, employee, or agent who is a party to a  
16 legal proceeding in the same way that a corporation may  
17 indemnify a director in the same circumstances. The section  
18 provides for definitions, grants authority to a corporation to  
19 indemnify a director under circumstances, requires  
20 indemnification in certain circumstances, allows for advancing  
21 a director moneys for legal expenses, allows for  
22 indemnification pursuant to court order, provides procedures  
23 for indemnification, provides for indemnification of officers,  
24 employees, and agents, and allows a corporation to purchase  
25 insurance. The bill repeals Code section 501.408 and  
26 expressly drafts those provisions into Code chapter 501.

27 Code section 501.602 provides for mergers and  
28 consolidations among cooperatives organized under Code chapter  
29 501. The section provides that Code sections 499.61 through  
30 499.70 apply to the mergers or consolidations. Those sections  
31 provide for definitions, allow for merger and consolidation,  
32 require a vote of the membership, provide for objections by  
33 members and the payment of fair market value to dissenters,  
34 provide for articles of merger or consolidation and the  
35 issuance of a certificate of merger or consolidation, and

1 authorize abandonment prior to filing the articles of merger  
2 or consolidation. This bill repeals Code section 501.602 and,  
3 with some exceptions, rewrites the same provisions in Code  
4 chapter 501. Code section 499.66 provides that in the case of  
5 a cooperative association, a dissenting member who is a  
6 natural person and who dies before receiving the fair value  
7 must be paid the fair value with the same priority as if the  
8 person was a member at the time of death. The bill does not  
9 include this provision.

10 Code section 501.604 provides for the dissolution of a  
11 cooperative based on the same provisions which apply to  
12 corporations under Code sections 490.1401 through 490.1440.  
13 Those sections provide for dissolution by incorporators,  
14 initial directors who have not issued stock, or a board of  
15 directors operating a functioning corporation; the filing of  
16 articles of dissolution, a revocation of a dissolution, and  
17 the effect of the dissolution; procedures for disposing of  
18 known and unknown claims against the corporation; grounds for  
19 administrative dissolution, procedures for and the effect of  
20 an administrative dissolution, and reinstatement, including  
21 appeal from a denial of reinstatement; grounds for judicial  
22 dissolution, procedures for judicial dissolution, and  
23 procedures for appointing a receiver or custodian; entering a  
24 decree of dissolution; and depositing creditor assets with the  
25 treasurer of state. This bill repeals Code section 501.604  
26 and rewrites those provisions expressly for cooperatives as  
27 part of Code chapter 501 with limited exceptions. The bill  
28 does not include a provision requiring information in the  
29 articles to be separately provided for each voting group  
30 entitled to vote separately on the plan to dissolve.

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