

# Senate Study Bill 2157

## Bill Text

PAG LIN

1 1 Section 1. Section [501.101](#), subsection 1, Code 1997, is  
1 2 amended to read as follows:  
1 3 1. "Articles" means the cooperative's articles of  
1 4

~~incorporation~~

~~association.~~

1 5 Sec. 2. Section [501.101](#), subsection 2, paragraph b, Code  
1 6 1997, is amended to read as follows:  
1 7 b.

~~An individual or general partnership that~~

~~A person who~~

1 8 owns at least one hundred fifty acres of agricultural land and  
1 9 receives as rent a share of the crops or the animals raised on  
1 10 the land if

~~those crops or animals are a significant component~~

1 11

~~of the cooperative's business operations~~

~~that person is a~~

1 12 natural person or a general partnership as organized under  
1 13 chapter 486 in which all persons are natural persons.

1 14 Sec. 3. Section [501.101](#), subsection 4, Code 1997, is  
1 15 amended to read as follows:

1 16 4. "Cooperative" means a cooperative

~~corporation~~

1 17 association organized under this chapter or converted to this  
1 18 chapter pursuant to section 501.601.

1 19 Sec. 4. Section [501.101](#), subsection 6, Code 1997, is  
1 20 amended by adding the following new paragraph:

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

1 25 Sec. 5. Section [501.101](#), subsections 7 through 9, Code  
1 26 1997, are amended to read as follows:

1 27 7. "Member" means a person who owns a voting

~~stock~~

1 28 interest in a cooperative.

1 29 8.

~~"Shareholder"~~

~~"Interest holder" means a person who owns~~

1 30

~~stock~~

~~an interest~~ in a cooperative, whether or not that

~~stock~~

1 31 interest has voting rights.

1 32 9. "Voting

~~—stock~~

~~— interest" means~~

~~—stock~~

~~— an interest in a~~

1 33 cooperative that has voting rights.

1 34 Sec. 6. Section [501.102](#), subsection 2, Code 1997, is

1 35 amended to read as follows:

2 1 2. Unless its articles provide otherwise, a cooperative

2 2 has perpetual duration and succession in its

~~—corporate~~

2 3 cooperative name and has the same powers as an individual to

2 4 do all things necessary or convenient to carry out its

2 5 business and affairs, including,

~~—without limitation, all of~~

2 6

~~—the powers enumerated in sections 490.302 and 490.303~~

~~— but not~~

2 7 limited to, all of the following:

2 8 a. Sue and be sued, complain, and defend in its name.

2 9 b. Have a seal, which may be altered at will, and use it,

2 10 or a facsimile of it, by impressing or affixing it or in any

2 11 other manner reproducing it.

2 12 c. Make and amend bylaws, not inconsistent with its

2 13 articles of association or with the laws of this state, for

2 14 managing the business and regulating the affairs of the

2 15 cooperative.

2 16 d. Purchase, receive, lease, or otherwise acquire, and

2 17 own, hold, improve, use, and otherwise deal with, real or

2 18 personal property, or any legal or equitable interest in

2 19 property, wherever located.

2 20 e. Sell, convey, mortgage, pledge, lease, exchange, and

2 21 otherwise dispose of all or any part of its property.

2 22 f. Purchase, receive, subscribe for, or otherwise acquire,

2 23 own, hold, vote, use, sell, mortgage, lend, pledge, or

2 24 otherwise dispose of, and deal in and with shares or other

2 25 interests in, or obligations of, any other entity.

2 26 g. Make contracts and guarantees, incur liabilities,

2 27 borrow money, issue its notes, bonds, and other obligations,

2 28 which may be convertible into or include the option to

2 29 purchase other interests of the cooperative, and secure any of

2 30 its obligations by mortgage or pledge of any of its property,

2 31 franchises, or income.

2 32 h. Lend money, invest and reinvest its funds, and receive

2 33 and hold real and personal property as security for repayment.

2 34 i. Be a promoter, partner, member, associate, or manager

2 35 of any partnership, joint venture, trust, or other entity.

3 1 j. Conduct its business, locate offices, and exercise the

3 2 powers granted by this chapter within or without this state.

3 3 k. Elect directors and appoint officers, employees, and

3 4 agents of the cooperative, define their duties, fix their

3 5 compensation, and lend them money and credit.

3 6 l. Pay pensions and establish pension plans, pension

3 7 trusts, profit sharing plans, share bonus plans, share option

3 8 plans, and benefit or incentive plans for any or all of its

3 9 current or former directors, officers, employees, and agents.

3 10 m. Make donations for the public welfare or for

3 11 charitable, scientific, or educational purposes.

3 12 n. Transact any lawful business that will aid governmental  
3 13 policy.  
3 14 o. Make payments or donations, or do any other act, not  
3 15 inconsistent with law, that furthers the business and affairs  
3 16 of the cooperative.  
3 17 Sec. 7. Section [501.103](#), subsections 1, 2, and 5, Code  
3 18 Supplement 1997, are amended to read as follows:  
3 19 1. Notwithstanding section 9H.4, any person or entity,  
3 20 subject to the limitations set forth in section 501.305, and  
3 21 subject to the cooperative's articles and bylaws, is permitted  
3 22 to own

~~—stock~~

- interests, including voting

~~—stock~~

- interests, in a

3 23 cooperative.

3 24 2. Notwithstanding section 9H.4, a cooperative may,  
3 25 directly or indirectly, acquire or otherwise obtain or lease  
3 26 agricultural land in this state, for as long as the  
3 27 cooperative continues to meet the following requirements:

3 28 a. Farming entities own sixty percent of the

~~—stock~~

- interests and are eligible to cast sixty percent of the votes  
3 30 at member meetings.

3 31 b. Authorized persons own at least seventy-five percent of  
3 32 the

~~—stock~~

- interests and are eligible to cast at least seventy-  
3 33 five percent of the votes at member meetings.

3 34 c. The cooperative does not, either directly or  
3 35 indirectly, acquire or otherwise obtain or lease agricultural  
4 1 land

~~—, if the total agricultural land either directly or~~

~~4 2~~

~~—indirectly owned or leased by the cooperative would then~~

~~4 3~~

~~—exceed six hundred forty~~

~~—in this state in excess of one~~

~~4 4 thousand five hundred acres.~~

~~4 5 5. In the event of a transfer of~~

~~—stock~~

- an interest in a

4 6 cooperative by operation of law as a result of death, divorce,  
4 7 bankruptcy, or pursuant to a security interest, the  
4 8 cooperative may disregard the transfer for purposes of  
4 9 determining compliance with subsection 2 for a period of two  
4 10 years after the transfer.

4 11 Sec. 8. Section [501.105](#), subsection 2, Code 1997, is  
4 12 amended to read as follows:

4 13 2. Articles must be signed by all of the

~~—incorporators~~

-  
4 14 organizers; and all other documents filed with the secretary  
4 15 of state must be signed by one of the cooperative's officers.  
4 16 The printed name and capacity of each signatory must appear in

4 17 proximity to the signatory's signature. The secretary of  
4 18 state may accept a document containing a copy of the  
4 19 signature. A document is not required to contain a

~~corporate~~

4 20 seal, an acknowledgment, or a verification.  
4 21 Sec. 9. Section [501.106](#), subsection 2, unnumbered  
4 22 paragraph 1, Code 1997, is amended to read as follows:  
4 23 A

~~corporation~~

- ~~cooperative~~ may change its registered office  
4 24 or registered agent by delivering to the secretary of state  
4 25 for filing a statement of change that sets forth all of the  
4 26 following:  
4 27 Sec. 10. Section [501.106](#), Code 1997, is amended by adding  
4 28 the following new subsections:  
4 29 NEW SUBSECTION. 5. a. A registered agent may resign the  
4 30 agent's agency appointment by signing and delivering to the  
4 31 secretary of state for filing the signed original statement of  
4 32 resignation. The statement may include a statement that the  
4 33 registered office is also discontinued. The registered agent  
4 34 shall send a copy of the statement of resignation by certified  
4 35 mail to the cooperative at its principal office and to the  
5 1 registered office, if not discontinued. The registered agent  
5 2 shall certify to the secretary of state that the copies have  
5 3 been sent to the cooperative, including the date the copies  
5 4 were sent.  
5 5 b. The agency appointment is terminated, and the  
5 6 registered office discontinued if so provided, on the date on  
5 7 which the statement was filed.  
5 8 NEW SUBSECTION. 6. a. A cooperative's registered agent  
5 9 is the cooperative's agent for service of process, notice, or  
5 10 demand required or permitted by law to be served on the  
5 11 cooperative.  
5 12 b. If a cooperative has no registered agent, or the agent  
5 13 cannot with reasonable diligence be served, the cooperative  
5 14 may be served by registered or certified mail, return receipt  
5 15 requested, addressed to the secretary of the cooperative at  
5 16 its principal office. Service is perfected under this  
5 17 paragraph at the earliest of any of the following:  
5 18 (1) The date that the cooperative receives the mail.  
5 19 (2) The date shown on the return receipt, if signed on  
5 20 behalf of the cooperative.  
5 21 (3) Five days after its deposit in the United States mail,  
5 22 as evidenced by the postmark, if mailed postpaid and correctly  
5 23 addressed.  
5 24 c. A cooperative may be served pursuant to this section or  
5 25 as provided in other provisions of this chapter, unless the  
5 26 manner of service is otherwise specifically provided for by  
5 27 statute.  
5 28 Sec. 11. Section [501.202](#), subsection 1, paragraph a, Code  
5 29 1997, is amended to read as follows:  
5 30 a. The name, address, and occupation of each

~~incorporator~~

5 31 organizer.  
5 32 Sec. 12. Section [501.202](#), subsection 2, paragraph d, Code  
5 33 1997, is amended to read as follows:  
5 34 d. The classes of

~~stock~~

- interests and the authorized  
5 35 number of

~~—shares~~

- interests of each class.

6 1 Sec. 13. Section [501.306](#), Code 1997, is amended to read as  
6 2 follows:  
6 3 501.306 NUMBER OF VOTES.  
6 4 A person who is a member

~~—or shareholder~~

- shall not own more  
6 5 than one membership

~~—or share of voting stock~~

- The person

6 6 shall be entitled to cast not more than one vote regarding any  
6 7 matter in which a vote is conducted, including any matter  
6 8 subject to a vote during a cooperative meeting.

6 9 Sec. 14. Section [501.403](#), subsection 2, paragraph e, Code  
6 10 1997, is amended to read as follows:

6 11 e. Action required or permitted by this chapter to be  
6 12 taken at a board meeting may be taken without a meeting if the  
6 13 action is taken by all members of the board. The action must  
6 14 be evidenced by one or more written consents describing the  
6 15 action taken, signed by each director, and included in the  
6 16 minutes or filed with the

~~—corporate~~

- cooperative's records

6 17 reflecting the action taken. Action taken under this section  
6 18 is effective when the last director signs the consent, unless  
6 19 the consent specifies a different effective date. A consent  
6 20 signed under this section has the effect of a meeting vote and  
6 21 may be described as such in any document.

6 22 Sec. 15. Section [501.403](#), subsection 3, Code 1997, is  
6 23 amended to read as follows:

6 24 3. A director may waive any notice required by this  
6 25 chapter, the articles, or the bylaws before or after the date  
6 26 and time stated in the notice. The waiver must be in writing,  
6 27 signed by the director entitled to the notice, and filed with  
6 28 the minutes or

~~—corporate~~

- records of the cooperative. A

6 29 director's attendance at or participation in a meeting waives  
6 30 any required notice to that director of the meeting unless the  
6 31 director at the beginning of the meeting or promptly upon the  
6 32 director's arrival objects to holding the meeting or  
6 33 transacting business at the meeting and does not thereafter  
6 34 vote for or assent to action taken at the meeting.

6 35 Sec. 16. Section [501.404](#), subsection 1, paragraph b, Code  
7 1 Supplement 1997, is amended to read as follows:

7 2 b. The material facts of the transaction and the  
7 3 director's interest were disclosed or known to the  
7 4

~~—shareholders~~

- members entitled to vote and they authorized,

7 5 approved, or ratified the transaction. For purposes of this  
7 6 paragraph, a conflict of interest transaction is authorized,  
7 7 approved, or ratified if it receives a majority of the votes  
7 8 entitled to be counted under this paragraph.

~~—Shares~~

- Voting

7 9 interests owned by or voted under the control of a director  
7 10 who has a direct or indirect interest in the transaction, and  
7 11

~~—shares~~

- voting interests owned by or voted under the control of  
7 12 an entity described in subsection 2, paragraph "a", shall not  
7 13 be counted in a vote of members to determine whether to  
7 14 authorize, approve, or ratify a conflict of interest  
7 15 transaction under this paragraph. The vote of those

~~—shares~~

- voting interests, however, is counted in determining whether  
7 16 the transaction is approved under other sections of this  
7 17 chapter. A majority of the votes, whether or not the  
7 18  
7 19

~~—shareholders~~

- members are present, that are entitled to be  
7 20 counted in a vote on the transaction under this paragraph  
7 21 constitutes a quorum for the purpose of taking action under  
7 22 this paragraph.  
7 23 Sec. 17. Section [501.407](#), unnumbered paragraph 1, Code  
7 24 1997, is amended to read as follows:  
7 25 The articles may contain a provision eliminating or  
7 26 limiting the personal liability of a director, officer, or  
7 27

~~—shareholder~~

- interest holder of the cooperative for monetary  
7 28 damages for breach of a fiduciary duty as a director, officer,  
7 29 or

~~—shareholder~~

- interest holder, provided that the provision  
7 30 does not eliminate or limit liability for any of the  
7 31 following:  
7 32 Sec. 18. Section [501.407](#), subsections 1 and 3, Code 1997,  
7 33 are amended to read as follows:  
7 34 1. A breach of the duty of loyalty to the cooperative or  
7 35 its

~~—shareholders~~

- interest holders.  
8 1 3. A transaction from which the director, officer, or  
8 2

~~—shareholder~~

- interest holder derives an improper personal  
8 3 benefit.
- 8 4 PART B  
8 5 INDEMNIFICATION
- 8 6 Sec. 19. NEW SECTION. 501.411 DEFINITIONS.  
8 7 As used in this part, unless the context otherwise  
8 8 requires:  
8 9 1. "Cooperative" includes any domestic or foreign  
8 10 predecessor entity of a cooperative in a merger or other  
8 11 transaction in which the predecessor's existence ceased upon  
8 12 consummation of the transaction.  
8 13 2. "Director" means an individual who is or was a director  
8 14 of a cooperative or an individual who, while a director of a  
8 15 cooperative, is or was serving at the cooperative's request as  
8 16 a director, officer, partner, trustee, employee, or agent of  
8 17 another foreign or domestic cooperative, partnership, joint  
8 18 venture, trust, employee benefit plan, or other enterprise. A  
8 19 director is considered to be serving an employee benefit plan  
8 20 at the cooperative's request if the director's duties to the  
8 21 cooperative also impose duties on, or otherwise involve  
8 22 services by, that director to the plan or to participants in  
8 23 or beneficiaries of the plan. "Director" includes, unless the

8 24 context requires otherwise, the estate or personal  
8 25 representative of a director.

8 26 3. "Expenses" include counsel fees.

8 27 4. "Liability" means the obligation to pay a judgment,  
8 28 settlement, penalty, fine, including an excise tax assessed  
8 29 with respect to an employee benefit plan, or reasonable  
8 30 expenses incurred with respect to a proceeding.

8 31 5. "Official capacity" means:

8 32 a. When used with respect to a director, the office of  
8 33 director in a cooperative.

8 34 b. When used with respect to an individual other than a  
8 35 director, as contemplated in section 501.417, the office in a  
9 1 cooperative held by the officer or the employment or agency  
9 2 relationship undertaken by the employee or agent on behalf of  
9 3 the cooperative.

9 4 "Official capacity" does not include service for any other  
9 5 foreign or domestic cooperative or any partnership, joint  
9 6 venture, trust, employee benefit plan, or other enterprise.

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

9 10 7. "Proceeding" means any threatened, pending, or  
9 11 completed action, suit, or proceeding, whether civil,  
9 12 criminal, administrative, or investigative and whether formal  
9 13 or informal.

9 14 Sec. 20. NEW SECTION. 501.412 AUTHORITY TO INDEMNIFY.

9 15 1. Except as provided in subsection 4, a cooperative may  
9 16 indemnify an individual made a party to a proceeding because  
9 17 the individual is or was a director against liability incurred  
9 18 in the proceeding if all of the following apply:

9 19 a. The individual acted in good faith.

9 20 b. The individual reasonably believed either of the  
9 21 following:

9 22 (1) In the case of conduct in the individual's official  
9 23 capacity with the cooperative, that the individual's conduct  
9 24 was in the cooperative's best interests.

9 25 (2) In all other cases, that the individual's conduct was  
9 26 at least not opposed to the cooperative's best interests.

9 27 c. In the case of any criminal proceeding, the individual  
9 28 had no reasonable cause to believe the individual's conduct  
9 29 was unlawful.

9 30 2. A director's conduct with respect to an employee  
9 31 benefit plan for a purpose the director reasonably believed to  
9 32 be in the interests of the participants in and beneficiaries  
9 33 of the plan is conduct that satisfies the requirement of  
9 34 subsection 1, paragraph "b", subparagraph (2).

9 35 3. The termination of a proceeding by judgment, order,  
10 1 settlement, conviction, or upon a plea of nolo contendere or  
10 2 its equivalent is not, of itself, determinative that the  
10 3 director did not meet the standard of conduct described in  
10 4 this section.

10 5 4. A cooperative shall not indemnify a director under this  
10 6 section in either of the following circumstances:

10 7 a. In connection with a proceeding by or in the right of  
10 8 the cooperative in which the director was adjudged liable to  
10 9 the cooperative.

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

10 15 5. Indemnification permitted under this section in  
10 16 connection with a proceeding by or in the right of the  
10 17 cooperative is limited to reasonable expenses incurred in  
10 18 connection with the proceeding.

10 19 Sec. 21. NEW SECTION. 501.413 MANDATORY INDEMNIFICATION.

10 20 Unless limited by its articles of association, a

10 21 cooperative shall indemnify a director who was wholly  
10 22 successful, on the merits or otherwise, in the defense of any  
10 23 proceeding to which the director was a party because the  
10 24 director is or was a director of the cooperative against  
10 25 reasonable expenses incurred by the director in connection  
10 26 with the proceeding.

10 27 Sec. 22. NEW SECTION. 501.414 ADVANCE FOR EXPENSES.

10 28 1. A cooperative may pay for or reimburse the reasonable  
10 29 expenses incurred by a director who is a party to a proceeding  
10 30 in advance of final disposition of the proceeding if any of  
10 31 the following apply:

10 32 a. The director furnishes the cooperative a written  
10 33 affirmation of the director's good faith belief that the  
10 34 director has met the standard of conduct described in section  
10 35 501.412.

11 1 b. The director furnishes the cooperative a written  
11 2 undertaking, executed personally or on the director's behalf,  
11 3 to repay the advance if it is ultimately determined that the  
11 4 director did not meet the standard of conduct described in  
11 5 section 501.412.

11 6 c. A determination is made pursuant to section 501.416  
11 7 that the facts then known to those making the determination  
11 8 would not preclude indemnification under this part.

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

11 13 3. Determinations and authorizations of payments under  
11 14 this section shall be made in the manner specified in section  
11 15 501.416.

11 16 Sec. 23. NEW SECTION. 501.415 COURT-ORDERED  
11 17 INDEMNIFICATION.

11 18 Unless a cooperative's articles of association provide  
11 19 otherwise, a director of the cooperative who is a party to a  
11 20 proceeding may apply for indemnification to the court  
11 21 conducting the proceeding or to another court of competent  
11 22 jurisdiction. On receipt of an application, the court after  
11 23 giving any notice the court considers necessary may order  
11 24 indemnification if it determines either of the following:

11 25 1. The director is entitled to mandatory indemnification  
11 26 under section 501.413, in which case the court shall also  
11 27 order the cooperative to pay the director's reasonable  
11 28 expenses incurred to obtain court-ordered indemnification.

11 29 2. The director is fairly and reasonably entitled to  
11 30 indemnification in view of all the relevant circumstances,  
11 31 whether or not the director met the standard of conduct set  
11 32 forth in section 501.412 or was adjudged liable as described  
11 33 in section 501.412, subsection 4, but if the director was  
11 34 adjudged so liable the director's indemnification is limited  
11 35 to reasonable expenses incurred.

12 1 Sec. 24. NEW SECTION. 501.416 DETERMINATION AND  
12 2 AUTHORIZATION OF INDEMNIFICATION.

12 3 1. A cooperative shall not indemnify a director under  
12 4 section 501.412 unless authorized in the specific case after a  
12 5 determination has been made that indemnification of the  
12 6 director is permissible in the circumstances because the  
12 7 director has met the standard of conduct set forth in section  
12 8 501.412.

12 9 2. The determination shall be made by any of the  
12 10 following:

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

12 14 b. If a quorum cannot be obtained under paragraph "a", by  
12 15 majority vote of a committee duly designated by the board of  
12 16 directors, in which designation directors who are parties may  
12 17 participate, consisting solely of two or more directors not at

12 18 the time parties to the proceeding.

12 19 c. By special legal counsel.

12 20 (1) The special legal counsel shall be selected by the  
12 21 board of directors or its committee in the manner prescribed  
12 22 in paragraph "a" or "b".

12 23 (2) If a quorum of the board of directors cannot be  
12 24 obtained under paragraph "a" and a committee cannot be  
12 25 designated under paragraph "b", the special legal counsel  
12 26 shall be selected by majority vote of the full board of  
12 27 directors, in which selection directors who are parties may  
12 28 participate.

12 29 d. By the members, but voting interests owned by or voted  
12 30 under the control of directors who are at the time parties to  
12 31 the proceeding shall not be voted on the determination.

12 32 3. Authorization of indemnification and evaluation as to  
12 33 reasonableness of expenses shall be made in the same manner as  
12 34 the determination that indemnification is permissible, except  
12 35 that if the determination is made by special legal counsel,  
13 1 authorization of indemnification and evaluation as to  
13 2 reasonableness of expenses shall be made by those entitled  
13 3 under subsection 2, paragraph "c", to select counsel.

13 4 Sec. 25. NEW SECTION. 501.417 INDEMNIFICATION OF  
13 5 OFFICERS, EMPLOYEES, AND AGENTS.

13 6 Unless a cooperative's articles of association provide  
13 7 otherwise, all of the following apply:

13 8 1. An officer of the cooperative who is not a director is  
13 9 entitled to mandatory indemnification under section 501.413,  
13 10 and is entitled to apply for court-ordered indemnification  
13 11 under section 501.415, in each case to the same extent as a  
13 12 director.

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

13 17 3. A cooperative may also indemnify and advance expenses  
13 18 to an officer, employee, or agent who is not a director to the  
13 19 extent permitted by law and provided by its articles of  
13 20 association, bylaws, general or specific action of its board  
13 21 of directors, or contract.

13 22 Sec. 26. NEW SECTION. 501.418 INSURANCE.

13 23 A cooperative may purchase and maintain insurance on behalf  
13 24 of an individual who is or was a director, officer, employee,  
13 25 or agent of the cooperative, or who, while a director,  
13 26 officer, employee, or agent of the cooperative, is or was  
13 27 serving at the request of the cooperative as a director,  
13 28 officer, partner, trustee, employee, or agent of another  
13 29 foreign or domestic cooperative, partnership, joint venture,  
13 30 trust, employee benefit plan, or other enterprise, against  
13 31 liability asserted against or incurred by that individual in  
13 32 that capacity or arising from the individual's status as a  
13 33 director, officer, employee, or agent, whether or not the  
13 34 cooperative would have power to indemnify that individual  
13 35 against the same liability under section 501.412 or 501.413.

14 1 Sec. 27. NEW SECTION. 501.419 APPLICATION OF THIS PART.

14 2 Except as limited in section 501.412, subsection 4,  
14 3 paragraph "a", and subsection 5 with respect to proceedings by  
14 4 or in the right of the cooperative, the indemnification and  
14 5 advancement of expenses provided by, or granted pursuant to,  
14 6 sections 501.411 through 501.418 are not exclusive of any  
14 7 other rights to which persons seeking indemnification or  
14 8 advancement of expenses are entitled under a provision in the  
14 9 articles of association or bylaws, agreements, vote of the  
14 10 members or disinterested directors, or otherwise, both as to  
14 11 action in a person's official capacity and as to action in  
14 12 another capacity while holding the office. However, such  
14 13 provisions, agreements, votes, or other actions shall not  
14 14 provide indemnification for a breach of a director's duty of

14 15 loyalty to the cooperative or its interest holders, for acts  
14 16 or omissions not in good faith or which involve intentional  
14 17 misconduct or knowing violation of the law, for a transaction  
14 18 from which the person seeking indemnification derives an  
14 19 improper personal benefit, or for liability under section  
14 20 501.407.

14 21 Sec. 28. Section [501.501](#), Code Supplement 1997, is amended  
14 22 to read as follows:

14 23 501.501 ISSUANCE AND TRANSFER OF

~~STOCK~~

- INTERESTS.

14 24 1. A cooperative may issue the number of

~~shares~~

- interests

14 25 of each class authorized by its articles. A cooperative may  
14 26 issue fractional

~~shares~~

- interests.

~~Stock~~

- Interests may be

14 27 represented by certificates or by entry on the cooperative's  
14 28

~~stock~~

- interest record books.

14 29 2. A member shall not sell or otherwise transfer voting  
14 30

~~stock~~

- interests to any person. A member may be restricted or

14 31 limited from selling or otherwise transferring any other class  
14 32 of

~~stock~~

- interests of the cooperative as provided by the

14 33 cooperative's articles of

~~incorporation~~

- association or bylaws

14 34 or an agreement executed between the cooperative and the  
14 35 member.

15 1 3. A cooperative may acquire its own

~~stock~~

- interests, and

15 2

~~shares~~

- interests so acquired constitute authorized but

15 3 unissued

~~shares~~

- interests.

15 4 Sec. 29. Section [501.502](#), subsection 2, paragraph a, Code  
15 5 Supplement 1997, is amended to read as follows:

15 6 a. The member has attempted to transfer

~~stock~~

- any interest

15 7 to a person who is not a member and has not been approved for  
15 8 membership.

15 9 Sec. 30. Section [501.502](#), subsection 4, Code Supplement  
15 10 1997, is amended to read as follows:

15 11 4. The cooperative shall redeem, without interest, the  
15 12 voting

~~—stock~~

- interest of a terminated member within one year  
15 13 after the termination of the membership for the fair market  
15 14 value of the

~~—stock~~

- interest. If the amount originally paid by  
15 15 the member for the voting

~~—stock~~

- interest was less than ten  
15 16 percent of the total amount the member paid for all classes of  
15 17

~~—stock~~

- interests, the cooperative may redeem the voting

~~—stock~~

- interest for its issue price if the cooperative's articles of  
15 18  
15 19

~~—incorporation~~

- association grant the cooperative this  
15 20 authority.

15 21 Sec. 31. Section [501.502](#), subsection 5, unnumbered  
15 22 paragraph 1, Code Supplement 1997, is amended to read as  
15 23 follows:

15 24 The cooperative shall redeem, without interest, all of the  
15 25 terminated member's allocated patronage refunds and preferred  
15 26

~~—stock~~

- interests originally issued as allocated patronage  
15 27 refunds for the issue price as follows:

15 28 Sec. 32. Section [501.503](#), subsections 1 and 4, Code 1997,  
15 29 are amended to read as follows:

15 30 1. If the articles authorize the payment of

~~—dividends~~

- distributions on a class of  
15 31

~~—stock~~

- interests, then the  
15 32 directors may declare

~~—dividends~~

- a distribution pursuant to the  
15 33 articles.

~~—Dividends may~~

- Distributions shall not exceed eight  
15 34 percent of the value of the

~~—stock~~

- interest in each fiscal  
15 35 year. The members may control the amount that is allocated  
16 1 under this subsection.

16 2 4. The cooperative shall have an unconditional binding  
16 3 obligation to distribute to the members all remaining net  
16 4 savings as determined under the United States Internal Revenue  
16 5 Code. These net savings shall be allocated to each member in  
16 6 proportion to the business the member did with the cooperative

16 7 during the preceding fiscal year. The net savings may be  
16 8 separately calculated for two or more categories of business,  
16 9 and allocated to the members on the basis of business done  
16 10 within each of these categories. Net savings shall be  
16 11 distributed in the form of cash or

~~— stock~~

- interests, or a  
16 12 combination of cash and

~~— stock~~

- interests, as determined by the  
16 13 board.

16 14 Sec. 33. Section [501.603](#), subsection 2, Code 1997, is  
16 15 amended to read as follows:

16 16 2. A cooperative may sell, lease, exchange, or otherwise  
16 17 dispose of all, or substantially all, of its property, with or  
16 18 without the good will, on the terms and conditions and for the  
16 19 consideration determined by the board, which consideration may  
16 20 include the

~~— preferred stock~~

- interests of another cooperative,  
16 21 if the board recommends the proposed transaction to the  
16 22 members, and the members approve it by the vote of two-thirds  
16 23 of the votes cast on a ballot in which a majority of all votes  
16 24 are cast. The board may condition its submission of the  
16 25 proposed transaction on any basis.

16 26 PART B

16 27 MERGER AND CONSOLIDATION BETWEEN COOPERATIVES  
16 28 ORGANIZED UNDER THIS CHAPTER

16 29 Sec. 34. NEW SECTION. 501.611 DEFINITIONS.

16 30 When used in this part, unless the context otherwise  
16 31 requires:

16 32 1. "Consolidation" means the uniting of two or more  
16 33 cooperatives organized under this chapter into one cooperative  
16 34 organized under this chapter, in such manner that a new  
16 35 cooperative is formed, and the new cooperative absorbs the  
17 1 others, which cease to exist as separate entities.

17 2 2. "Dissenting member" means a voting member who votes in  
17 3 opposition to the plan of merger or consolidation and who  
17 4 makes a demand for payment of the fair value under section  
17 5 501.615.

17 6 3. "Fair value" means the cash price that would be paid by  
17 7 a willing buyer to a willing seller, neither being under any  
17 8 compulsion to buy or sell.

17 9 4. "Issue price" means the amount paid for an interest in  
17 10 the old cooperative or the amount stated in a notice of  
17 11 allocation of patronage dividends.

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

17 22 6. "New cooperative" is the cooperative resulting from the  
17 23 consolidation of two or more cooperatives organized under this  
17 24 chapter.

17 25 7. "Old cooperative" means the cooperative in which the  
17 26 member owns or owned a membership prior to merger or  
17 27 consolidation.

17 28 8. "Surviving cooperative" is the cooperative resulting  
17 29 from the merger of two or more cooperatives organized under

17 30 this chapter.

17 31 Sec. 35. NEW SECTION. 501.612 MERGER.

17 32 Any two or more cooperatives may merge into one cooperative  
17 33 in the manner provided in this section. The board of  
17 34 directors of each cooperative shall, by resolution adopted by  
17 35 a majority vote of all members of each board, approve a plan  
18 1 of merger which shall set forth all of the following:

18 2 1. The names of the cooperatives proposing to merge and  
18 3 the name of the surviving cooperative.

18 4 2. The terms and conditions of the proposed merger.

18 5 3. A statement of any changes in the articles of  
18 6 association of the surviving cooperative.

18 7 4. Other provisions deemed necessary or desirable.

18 8 Sec. 36. NEW SECTION. 501.613 CONSOLIDATION.

18 9 Any two or more cooperatives may be consolidated into a new  
18 10 cooperative as provided in this section. The board of  
18 11 directors of each cooperative shall, by resolution adopted by  
18 12 a majority vote of all members of each board, approve a plan  
18 13 of consolidation setting forth:

18 14 1. The names of the cooperatives proposing to consolidate  
18 15 and the name of the new cooperative.

18 16 2. The terms and conditions of the proposed consolidation.

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

18 20 4. Other provisions deemed necessary or desirable.

18 21 Sec. 37. NEW SECTION. 501.614 VOTE OF MEMBERS.

18 22 1. The board of directors of a cooperative, upon approving  
18 23 a plan of merger or consolidation, shall, by motion or  
18 24 resolution, direct that the plan be submitted to a vote at a  
18 25 meeting of members, which may be either an annual or special  
18 26 meeting. Written notice shall be given not less than twenty  
18 27 days prior to the meeting, either personally or by mail, to  
18 28 each voting member of record. The notice shall state the  
18 29 time, place, and purpose of the meeting, and a summary of the  
18 30 plan of merger or consolidation shall be included in or  
18 31 enclosed with the notice.

18 32 2. At the meeting, a ballot of the members who are  
18 33 entitled to vote in the affairs of the association shall be  
18 34 taken on the proposed plan of merger or consolidation. The  
18 35 plan of merger or consolidation shall be approved if two-  
19 1 thirds of the members vote affirmatively on a ballot in which  
19 2 a majority of all voting members participate. Voting may be  
19 3 by mail ballot notwithstanding any contrary provision in the  
19 4 articles of association or bylaws.

19 5 Sec. 38. NEW SECTION. 501.615 OBJECTION OF MEMBERS

19 6 PURCHASE OF INTERESTS UPON DEMAND.

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

19 24 2. In the event that a dissenting member does business  
19 25 with the surviving or new cooperative before payment has been  
19 26 made for that person's membership, the dissenting member is

19 27 deemed to have consented to the merger or consolidation and to  
19 28 have waived all further rights as a dissenting member.

19 29 Sec. 39. NEW SECTION. 501.616 VALUE DETERMINED.

19 30 1. Within twenty days after the merger or consolidation is  
19 31 effected, the surviving or new cooperative shall make a  
19 32 written offer to each dissenting member to pay a specified sum  
19 33 deemed by the surviving or new cooperative to be the fair  
19 34 value of that dissenting member's interest in the old  
19 35 cooperative. This offer shall be accompanied by a balance  
20 1 sheet of the old cooperative as of the latest available date,  
20 2 a profit and loss statement of the old cooperative for the  
20 3 twelve-month period ending on the date of the balance sheet,  
20 4 and a list of the dissenting member's interests in the old  
20 5 cooperative. If the dissenting member does not agree that the  
20 6 sum stated in the notice represents the fair value of the  
20 7 member's interest, then the member may file a written  
20 8 objection with the surviving or new cooperative within twenty  
20 9 days after receiving the notice. A dissenting member who  
20 10 fails to file the objection within the twenty-day period is  
20 11 conclusively presumed to have consented to the fair value  
20 12 stated in the notice.

20 13 2. If the surviving or new cooperative receives any  
20 14 objections to fair values, then within ninety days after the  
20 15 merger or consolidation is effected, the surviving or new  
20 16 cooperative shall file a petition in district court asking for  
20 17 a finding and determination of the fair value of each type of  
20 18 equity. The action shall be tried as an equitable action.

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

20 31 4. The surviving or new cooperative shall pay to each  
20 32 dissenting member in cash within sixty days after the merger  
20 33 or consolidation the amount paid in cash by the dissenting  
20 34 member for that member's interest in the old cooperative. The  
20 35 surviving or new cooperative shall pay the remainder of each  
21 1 dissenting member's fair value in ten annual equal payments.  
21 2 The final payment must be made not later than fifteen years  
21 3 after the merger or consolidation. The value of the deferred  
21 4 patronage dividends or interests issued to evidence deferred  
21 5 patronage dividends shall be considered a liability of the  
21 6 surviving or new cooperative as reflected in the accounts of  
21 7 the surviving or new cooperative until the value of the  
21 8 patronage dividends or interests issued to evidence deferred  
21 9 patronage dividends is paid in full to the dissenting member.

21 10 Sec. 40. NEW SECTION. 501.617 ARTICLES OF MERGER OR  
21 11 CONSOLIDATION.

21 12 Upon approval, articles of merger or articles of  
21 13 consolidation shall be executed by each cooperative as  
21 14 provided in section 501.105. The articles must include the  
21 15 following:

21 16 1. The plan of merger or the plan of consolidation.

21 17 2. As to each cooperative, the number of individuals or  
21 18 cooperatives entitled to vote.

21 19 3. As to each cooperative, the number of individuals or  
21 20 cooperatives who voted for and against the plan at the meeting  
21 21 called for that purpose.

21 22 The articles of merger or articles of consolidation shall  
21 23 be delivered to the secretary of state for filing.

21 24 The secretary of state, upon the filing of articles of  
21 25 merger or articles of consolidation, shall issue a certificate  
21 26 of merger or a certificate of consolidation and send the  
21 27 certificate to the surviving or new cooperative, or to its  
21 28 representative.

21 29 Sec. 41. NEW SECTION. 501.618 WHEN EFFECTIVE EFFECT.

21 30 A merger or consolidation shall become effective upon the  
21 31 date that the certificate of merger or the certificate of  
21 32 consolidation is issued by the secretary of state, or the  
21 33 effective date specified in the articles of merger or articles  
21 34 of consolidation, whichever is later.

21 35 When a merger or consolidation has become effective:

22 1 1. The several cooperatives which are parties to the plan  
22 2 of merger or consolidation shall be a single cooperative,  
22 3 which, in the case of a merger, shall be that cooperative  
22 4 designated in the plan of merger as the surviving cooperative,  
22 5 and, in the case of consolidation, shall be that cooperative  
22 6 designated in the plan of consolidation as the new  
22 7 cooperative.

22 8 2. The separate existence of all cooperatives which are  
22 9 parties to the plan of merger or consolidation, except the  
22 10 surviving or new cooperative, shall cease.

22 11 3. The surviving or new cooperative shall have all the  
22 12 rights, privileges, immunities, and powers and shall be  
22 13 subject to all the duties and liabilities of a cooperative  
22 14 organized under this chapter.

22 15 4. The surviving or new cooperative shall possess all the  
22 16 rights, privileges, immunities, and franchises, public as well  
22 17 as private, of each of the merging or consolidating  
22 18 cooperatives.

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

22 28 6. A surviving or new cooperative shall be responsible and  
22 29 liable for all obligations and liabilities of each of the  
22 30 cooperatives merged or consolidated.

22 31 7. Any claim existing or action or proceeding pending by  
22 32 or against any of the cooperatives merged or consolidated may  
22 33 be prosecuted as if the merger or consolidation had not taken  
22 34 place, or the surviving or new cooperative may be substituted  
22 35 for the merged or consolidated cooperative. Neither the  
23 1 rights of creditors nor any liens upon the property of any  
23 2 cooperative shall be impaired by a merger or consolidation.

23 3 8. In the case of a merger, the articles of association of  
23 4 the surviving cooperative shall be deemed to be amended to the  
23 5 extent that changes in its articles of association are stated  
23 6 in the plan of merger. In the case of a consolidation, the  
23 7 statements set forth in the articles of consolidation which  
23 8 are required or permitted to be set forth in the articles of  
23 9 association of a cooperative shall be deemed to be the  
23 10 original articles of association of the new cooperative.

23 11 9. The aggregate amount of the net assets of the merging  
23 12 or consolidating cooperative which was available for the  
23 13 payment of distributions immediately prior to the merger or  
23 14 consolidation, to the extent that the amount is not  
23 15 transferred to stated capital by the issuance of interests or  
23 16 otherwise, shall continue to be available for the payment of  
23 17 dividends by the surviving or new cooperative.

23 18 Sec. 42. NEW SECTION. 501.619 ABANDONMENT BEFORE FILING.

23 19 At any time prior to the filing of the articles of merger  
23 20 or consolidation, the merger or consolidation may be abandoned

23 21 pursuant to provisions set forth in the plan of merger or  
23 22 consolidation.

23 23 SUBCHAPTER VII  
23 24 RECORDS AND REPORTS  
23 25 PART A  
23 26 RECORDS

23 27 Sec. 43. NEW SECTION. 501.701 RECORDS.

23 28 1. A cooperative shall keep as permanent records minutes  
23 29 of all meetings of its members and board of directors, a  
23 30 record of all actions taken by the members or board of  
23 31 directors without a meeting, and a record of all actions taken  
23 32 by a committee of the board of directors in place of the board  
23 33 of directors on behalf of the cooperative.

23 34 2. A cooperative shall maintain appropriate accounting  
23 35 records.

24 1 3. A cooperative or its agent shall maintain a record of  
24 2 its interest holders in a form that permits preparation of a  
24 3 list of the names and addresses of all interest holders in  
24 4 alphabetical order by class of shares showing the number and  
24 5 class of interests held by each.

24 6 4. A cooperative shall maintain its records in written  
24 7 form or in another form capable of conversion into written  
24 8 form within a reasonable time.

24 9 5. A cooperative shall keep a copy of the following  
24 10 records:

24 11 a. Its articles or restated articles of association and  
24 12 all amendments to them currently in effect.

24 13 b. Its bylaws or restated bylaws and all amendments to  
24 14 them currently in effect.

24 15 c. Resolutions adopted by its board of directors creating  
24 16 one or more classes or series of interests, and fixing their  
24 17 relative rights, preferences, and limitations, if the  
24 18 interests issued pursuant to those resolutions are  
24 19 outstanding.

24 20 d. The minutes of all members' meetings, and records of  
24 21 all action taken by members without a meeting, for the past  
24 22 three years.

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

24 27 f. A list of the names and business addresses of its  
24 28 current directors and officers.

24 29 g. Its most recent biennial report delivered to the  
24 30 secretary of state under section 501.713.

24 31 Sec. 44. NEW SECTION. 501.702 INSPECTION OF RECORDS BY  
24 32 INTEREST HOLDERS.

24 33 1. An interest holder of a cooperative is entitled to  
24 34 inspect and copy, during regular business hours at the  
24 35 cooperative's principal office, any of the records of the  
25 1 cooperative described in section 501.701, subsection 5, if the  
25 2 interest holder gives the cooperative written notice of the  
25 3 interest holder's demand at least five business days before  
25 4 the date on which the interest holder wishes to inspect and  
25 5 copy.

25 6 2. An interest holder of a cooperative is entitled to  
25 7 inspect and copy, during regular business hours at a  
25 8 reasonable location specified by the cooperative, any of the  
25 9 following records of the cooperative if the interest holder  
25 10 meets the requirements of subsection 3 and gives the  
25 11 cooperative written notice of the interest holder's demand at  
25 12 least five business days before the date on which the interest  
25 13 holder wishes to inspect and copy any of the following:

25 14 a. Excerpts from minutes of any meeting of the board of  
25 15 directors, records of any action of a committee of the board  
25 16 of directors while acting in place of the board of directors  
25 17 on behalf of the cooperative, minutes of any meeting of the

25 18 members, and records of action taken by the members or board  
25 19 of directors without a meeting, to the extent not subject to  
25 20 inspection under subsection 1 of this section.

25 21 b. Accounting records of the cooperative.

25 22 c. The record of interest holders.

25 23 3. An interest holder may inspect and copy the records  
25 24 described in subsection 2 only if:

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

25 27 b. The interest holder describes with reasonable  
25 28 particularity the interest holder's purpose and the records  
25 29 the interest holder desires to inspect.

25 30 c. The records are directly connected with the interest  
25 31 holder's purpose.

25 32 4. The right of inspection granted by this section shall  
25 33 not be abolished or limited by a cooperative's articles of  
25 34 association or bylaws.

25 35 5. This section does not affect either of the following:

26 1 a. The right of an interest holder to obtain information  
26 2 under section 501.702 or the right of an interest holder to  
26 3 obtain information, if the interest holder is in litigation  
26 4 with the cooperative, to the same extent as any other  
26 5 litigant.

26 6 b. The power of a court, independently of this chapter, to  
26 7 compel the production of cooperative records for examination.

26 8 Sec. 45. NEW SECTION. 501.703 SCOPE OF INSPECTION RIGHT.

26 9 1. An interest holder's agent or attorney has the same  
26 10 inspection and copying rights as the interest holder the agent  
26 11 or attorney represents.

26 12 2. The right to copy records under section 501.702  
26 13 includes, if reasonable, the right to receive copies made by  
26 14 photographic, xerographic, or other technological means.

26 15 3. The cooperative may impose a reasonable charge,  
26 16 covering the costs of labor and material, for copies of any  
26 17 documents provided to the interest holder. The charge shall  
26 18 not exceed the estimated cost of production or reproduction of  
26 19 the records.

26 20 4. The cooperative may comply with an interest holder's  
26 21 demand to inspect the record of interest holders under section  
26 22 501.702, subsection 2, paragraph "c", by providing the  
26 23 interest holder with a list of its interest holders that was  
26 24 compiled no earlier than the date of the interest holder's  
26 25 demand.

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

26 27 1. If a cooperative does not allow an interest holder who  
26 28 complies with section 501.702, subsection 1, to inspect and  
26 29 copy any records required by that subsection to be available  
26 30 for inspection, the district court of the county where the  
26 31 cooperative's principal office or, if none in this state, its  
26 32 registered office is located may summarily order inspection  
26 33 and copying of the records demanded at the cooperative's  
26 34 expense upon application of the interest holder.

26 35 2. If a cooperative does not within a reasonable time  
27 1 allow an interest holder to inspect and copy any other  
27 2 records, the interest holder who complies with section  
27 3 501.702, subsections 2 and 3, may apply to the district court  
27 4 in the county where the cooperative's principal office or, if  
27 5 not in this state, its registered office is located for an  
27 6 order to permit inspection and copying of the records  
27 7 demanded. The court shall dispose of an application under  
27 8 this subsection on an expedited basis.

27 9 3. If the court orders inspection and copying of the  
27 10 records demanded, it shall also order the cooperative to pay  
27 11 the interest holder's costs, including reasonable counsel  
27 12 fees, incurred to obtain the order unless the cooperative  
27 13 proves that it refused inspection in good faith because it had  
27 14 a reasonable basis for doubt about the right of the interest

27 15 holder to inspect the records demanded.

27 16 4. If the court orders inspection and copying of the  
27 17 records demanded, it may impose reasonable restrictions on the  
27 18 use or distribution of the records by the demanding interest  
27 19 holder.

27 20 PART B  
27 21 REPORTS

27 22 Sec. 47. NEW SECTION. 501.711 FINANCIAL STATEMENTS FOR  
27 23 INTEREST HOLDERS.

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

27 34 Sec. 48. NEW SECTION. 501.712 OTHER REPORTS TO INTEREST  
27 35 HOLDERS.

28 1 1. If a cooperative indemnifies or advances expenses to a  
28 2 director under sections 501.412 through 501.415 in connection  
28 3 with a proceeding by or in the right of the cooperative, the  
28 4 cooperative shall report the indemnification or advance in  
28 5 writing to the members with or before the notice of the next  
28 6 members' meeting.

28 7 2. If a cooperative issues or authorizes the issuance of  
28 8 interests for promissory notes or for promises to render  
28 9 services in the future, the cooperative shall report in  
28 10 writing to the members the number of interests authorized or  
28 11 issued, and the consideration received by the cooperative,  
28 12 with or before the notice of the next members' meeting.

28 13 Sec. 49. NEW SECTION. 501.713 BIENNIAL REPORT FOR  
28 14 SECRETARY OF STATE.

28 15 1. Each cooperative authorized to transact business in  
28 16 this state shall deliver to the secretary of state for filing  
28 17 a biennial report that sets forth all of the following:

28 18 a. The name of the cooperative and under the laws of what  
28 19 state or country organized.

28 20 b. The address of its registered office and the name of  
28 21 its registered agent at that office in this state, together  
28 22 with the consent of any new registered agent.

28 23 c. The address of its principal office.

28 24 d. The names and addresses of the president, secretary,  
28 25 treasurer, and one member of the board of directors.

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

28 32 3. The first biennial report shall be delivered to the  
28 33 secretary of state between January 1 and April 1 of the first  
28 34 even-numbered year following the calendar year in which a  
28 35 cooperative was organized. Subsequent biennial reports must  
29 1 be delivered to the secretary of state between January 1 and  
29 2 April 1 of the following even-numbered calendar years. A  
29 3 filing fee for the biennial report shall be determined by the  
29 4 secretary of state. Each biennial report shall contain  
29 5 information related to the two-year period immediately  
29 6 preceding the calendar year in which the report is filed.

29 7 4. If a biennial report does not contain the information  
29 8 required by this section, the secretary of state shall  
29 9 promptly notify the reporting cooperative in writing and  
29 10 return the report to the cooperative for correction.

29 11 5. The secretary of state may provide for the change of

29 12 registered office or registered agent on the form prescribed  
29 13 by the secretary of state for the biennial report, provided  
29 14 that the form contains the information required in section  
29 15 501.106. If the secretary of state determines that a biennial  
29 16 report does not contain the information required by this  
29 17 section but otherwise meets the requirements of section  
29 18 501.106 for the purpose of changing the registered office or  
29 19 registered agent, the secretary of state shall file the  
29 20 statement of change of registered office or registered agent,  
29 21 effective as provided in section 501.105, before returning the  
29 22 biennial report to the cooperative as provided in this  
29 23 section. A statement of change of registered office or agent  
29 24 pursuant to this subsection shall be executed by a person  
29 25 authorized to execute the biennial report.

29 26 DIVISION VIII

29 27 DISSOLUTION

29 28 PART A

29 29 GENERAL

29 30 Sec. 50. NEW SECTION. 501.801 DISSOLUTION BY ORGANIZERS  
29 31 OR INITIAL DIRECTORS.

29 32 A majority of the organizers or initial directors of a  
29 33 cooperative that has not issued interests or has not commenced  
29 34 business may dissolve the cooperative by delivering to the  
29 35 secretary of state for filing articles of dissolution that set  
30 1 forth all of the following:

- 30 2 1. The name of the cooperative.
- 30 3 2. The date of its organization.
- 30 4 3. Either of the following:
  - 30 5 a. That none of the cooperative's interests have been  
30 6 issued.
  - 30 7 b. That the cooperative has not commenced business.
- 30 8 4. That no debt of the cooperative remains unpaid.
- 30 9 5. That the net assets of the cooperative remaining after  
30 10 winding up have been distributed in accordance with this  
30 11 chapter and the articles of association of the cooperative.
- 30 12 6. That a majority of the organizers or initial directors  
30 13 authorized the dissolution.

30 14 Sec. 51. NEW SECTION. 501.802 DISSOLUTION BY BOARD OF  
30 15 DIRECTORS AND MEMBERS.

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

31 4 Sec. 52. NEW SECTION. 501.803 ARTICLES OF DISSOLUTION.

- 31 5 1. At any time after dissolution is authorized, the  
31 6 cooperative may dissolve by delivering to the secretary of  
31 7 state for filing articles of dissolution setting forth all of  
31 8 the following:

31 9 a. The name of the cooperative.  
31 10 b. The date dissolution was authorized.  
31 11 c. If dissolution was approved by the members, both of the  
31 12 following:  
31 13 (1) The number of votes entitled to be cast on the  
31 14 proposal to dissolve.  
31 15 (2) Either the total number of votes cast for and against  
31 16 dissolution or the total number of undisputed votes cast for  
31 17 dissolution and a statement that the number cast for  
31 18 dissolution was sufficient for approval.  
31 19 2. A cooperative is dissolved upon the effective date of  
31 20 its articles of dissolution.  
31 21 Sec. 53. NEW SECTION. 501.804 REVOCATION OF DISSOLUTION.  
31 22 1. A cooperative may revoke its dissolution within one  
31 23 hundred twenty days of the effective date of the dissolution.  
31 24 2. Revocation of dissolution must be authorized in the  
31 25 same manner as the dissolution was authorized unless that  
31 26 authorization permitted revocation by action of the board of  
31 27 directors alone, in which event the board of directors may  
31 28 revoke the dissolution without member action.  
31 29 3. After the revocation of dissolution is authorized, the  
31 30 cooperative may revoke the dissolution by delivering to the  
31 31 secretary of state for filing articles of revocation of  
31 32 dissolution, together with a copy of its articles of  
31 33 dissolution, that set forth all of the following:  
31 34 a. The name of the cooperative.  
31 35 b. The effective date of the dissolution that was revoked.  
32 1 c. The date that the revocation of dissolution was  
32 2 authorized.  
32 3 d. If the cooperative's board of directors or organizers  
32 4 revoked the dissolution, a statement to that effect.  
32 5 e. If the cooperative's board of directors revoked a  
32 6 dissolution authorized by the members, a statement that  
32 7 revocation was permitted by action by the board of directors  
32 8 alone pursuant to that authorization.  
32 9 f. If membership action was required to revoke the  
32 10 dissolution, the information required by section 501.803,  
32 11 subsection 1, paragraph "c".  
32 12 4. Revocation of dissolution is effective upon the  
32 13 effective date of the articles of revocation of dissolution.  
32 14 5. When the revocation of dissolution is effective, it  
32 15 relates back to and takes effect as of the effective date of  
32 16 the dissolution as if the dissolution had never occurred.  
32 17 Sec. 54. NEW SECTION. 501.805 EFFECT OF DISSOLUTION.  
32 18 1. A dissolved cooperative continues its existence but  
32 19 shall not carry on any business except that appropriate to  
32 20 wind up and liquidate its business and affairs, including any  
32 21 of the following:  
32 22 a. Collecting its assets.  
32 23 b. Disposing of its properties that will not be  
32 24 distributed in kind in accordance with this chapter and the  
32 25 cooperative's articles of association.  
32 26 c. Discharging or making provision for discharging its  
32 27 liabilities.  
32 28 d. Distributing its remaining property in accordance with  
32 29 this chapter and the cooperative's articles of association.  
32 30 e. Doing every other act necessary to wind up and  
32 31 liquidate its business and affairs.  
32 32 2. Dissolution of a cooperative does not do any of the  
32 33 following:  
32 34 a. Transfer title to the cooperative's property.  
32 35 b. Prevent transfer of its interests, although the  
33 1 authorization to dissolve may provide for closing the  
33 2 cooperative's interest transfer records.  
33 3 c. Subject its directors or officers to standards of  
33 4 conduct different from those prescribed in section 501.406.  
33 5 d. Change quorum or voting requirements for its board of

33 6 directors or members; change provisions for selection,  
33 7 resignation, or removal of its directors or officers or both;  
33 8 or change provisions for amending its bylaws.  
33 9 e. Prevent commencement of a proceeding by or against the  
33 10 cooperative in its name.  
33 11 f. Abate or suspend a proceeding pending by or against the  
33 12 cooperative on the effective date of dissolution.  
33 13 g. Terminate the authority of the registered agent of the  
33 14 cooperative.

33 15 Sec. 55. NEW SECTION. 501.805A DISSOLUTION OF ASSETS.  
33 16 Upon the cooperative's dissolution, the cooperative's  
33 17 assets shall first be used to pay expenses necessary to carry  
33 18 out the dissolution and liquidation of assets, then be used to  
33 19 pay the cooperative's obligations other than the payment of  
33 20 patronage dividends or interests issued as patronage  
33 21 dividends, and the remainder shall be paid in the manner set  
33 22 forth in the cooperative's articles of association.

33 23 Sec. 56. NEW SECTION. 501.806 KNOWN CLAIMS AGAINST  
33 24 DISSOLVED COOPERATIVE.

33 25 1. A dissolved cooperative may dispose of the known claims  
33 26 against it by following the procedure described in this  
33 27 section.

33 28 2. The dissolved cooperative shall notify its known  
33 29 claimants in writing of the dissolution at any time after the  
33 30 effective date of the dissolution. The written notice must do  
33 31 all of the following:

33 32 a. Describe information that must be included in a claim.  
33 33 b. Provide a mailing address where a claim may be sent.  
33 34 c. State the deadline, which shall not be fewer than one  
33 35 hundred twenty days from the effective date of the written  
34 1 notice, by which the dissolved cooperative must receive the  
34 2 claim.

34 3 d. State that the claim will be barred if not received by  
34 4 the deadline.

34 5 3. A claim against the dissolved cooperative is barred if  
34 6 either of the following occur:

34 7 a. A claimant who was given written notice under  
34 8 subsection 2 does not deliver the claim to the dissolved  
34 9 cooperative by the deadline.

34 10 b. A claimant whose claim was rejected by the dissolved  
34 11 cooperative does not commence a proceeding to enforce the  
34 12 claim within ninety days from the effective date of the  
34 13 rejection notice.

34 14 4. For purposes of this section, "claim" does not include  
34 15 a contingent liability or a claim based on an event occurring  
34 16 after the effective date of dissolution.

34 17 Sec. 57. NEW SECTION. 501.807 UNKNOWN CLAIMS AGAINST  
34 18 DISSOLVED COOPERATIVE.

34 19 1. A dissolved cooperative may also publish notice of its  
34 20 dissolution and request that persons with claims against the  
34 21 cooperative present them in accordance with the notice.

34 22 2. The notice must meet all of the following requirements:

34 23 a. Be published one time in a newspaper of general  
34 24 circulation in the county where the dissolved cooperative's  
34 25 principal office or, if not in this state, its registered  
34 26 office is or was last located.

34 27 b. Describe the information that must be included in a  
34 28 claim and provide a mailing address where the claim may be  
34 29 sent.

34 30 c. State that a claim against the cooperative will be  
34 31 barred unless a proceeding to enforce the claim is commenced  
34 32 within five years after the publication of the notice.

34 33 3. If the dissolved cooperative publishes a newspaper  
34 34 notice in accordance with subsection 2, the claim of each of  
34 35 the following claimants is barred unless the claimant  
35 1 commences a proceeding to enforce the claim against the  
35 2 dissolved cooperative within five years after the publication

35 3 date of the newspaper notice:  
35 4 a. A claimant who did not receive written notice under  
35 5 section 501.806.  
35 6 b. A claimant whose claim was timely sent to the dissolved  
35 7 cooperative but not acted on.  
35 8 c. A claimant whose claim is contingent or based on an  
35 9 event occurring after the effective date of dissolution.  
35 10 4. A claim may be enforced under this section in either of  
35 11 the following ways:  
35 12 a. Against the dissolved cooperative, to the extent of its  
35 13 undistributed assets.  
35 14 b. If the assets have been distributed in liquidation,  
35 15 against an interest holder of the dissolved cooperative to the  
35 16 extent of the interest holder's pro rata share of the claim or  
35 17 the cooperative assets distributed to the interest holder in  
35 18 liquidation, whichever is less, but an interest holder's total  
35 19 liability for all claims under this section shall not exceed  
35 20 the total amount of assets distributed to the interest holder  
35 21 in liquidation.

35 22 PART B

35 23 ADMINISTRATIVE DISSOLUTION

35 24 Sec. 58. NEW SECTION. 501.811 GROUNDS FOR ADMINISTRATIVE  
35 25 DISSOLUTION.

35 26 The secretary of state may commence a proceeding under  
35 27 section 501.812 to administratively dissolve a cooperative if  
35 28 any of the following apply:

35 29 1. The cooperative has not delivered a biennial report to  
35 30 the secretary of state in a form that meets the requirements  
35 31 of section 501.713, within sixty days after it is due, or has  
35 32 not paid the filing fee as determined by the secretary of  
35 33 state, within sixty days after it is due.

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

36 1 3. The cooperative does not notify the secretary of state  
36 2 within sixty days that its registered agent or registered  
36 3 office has been changed, that its registered agent has  
36 4 resigned, or that its registered office has been discontinued.

36 5 4. The cooperative's period of duration stated in its  
36 6 articles of association expires.

36 7 Sec. 59. NEW SECTION. 501.812 PROCEDURE FOR AND EFFECT  
36 8 OF ADMINISTRATIVE DISSOLUTION.

36 9 1. If the secretary of state determines that one or more  
36 10 grounds exist under section 501.811 for dissolving a  
36 11 cooperative, the secretary of state shall serve the  
36 12 cooperative with written notice of the secretary of state's  
36 13 determination under section 501.106.

36 14 2. If the cooperative does not correct each ground for  
36 15 dissolution or demonstrate to the reasonable satisfaction of  
36 16 the secretary of state that each ground determined by the  
36 17 secretary of state does not exist within sixty days after  
36 18 service of the notice is perfected under section 501.106, the  
36 19 secretary of state shall administratively dissolve the  
36 20 cooperative by signing a certificate of dissolution that  
36 21 recites the ground or grounds for dissolution and its  
36 22 effective date. The secretary of state shall file the  
36 23 original of the certificate and serve a copy on the  
36 24 cooperative under section 501.106.

36 25 3. A cooperative administratively dissolved continues its  
36 26 existence but shall not carry on any business except that  
36 27 necessary to wind up and liquidate its business and affairs  
36 28 under section 501.805 and notify claimants under sections  
36 29 501.806 and 501.807.

36 30 4. The administrative dissolution of a cooperative does  
36 31 not terminate the authority of its registered agent.

36 32 5. The secretary of state's administrative dissolution of  
36 33 a cooperative pursuant to this section appoints the secretary  
36 34 of state the cooperative's agent for service of process in any

36 35 proceeding based on a cause of action which arose during the  
37 1 time the cooperative was authorized to transact business in  
37 2 this state. Service of process on the secretary of state  
37 3 under this subsection is service on the cooperative. Upon  
37 4 receipt of process, the secretary of state shall serve a copy  
37 5 of the process on the cooperative as provided in section  
37 6 501.106. This subsection does not preclude service on the  
37 7 cooperative's registered agent, if any.

37 8 Sec. 60. NEW SECTION. 501.813 REINSTATEMENT FOLLOWING  
37 9 ADMINISTRATIVE DISSOLUTION.

37 10 1. A cooperative administratively dissolved under section  
37 11 501.812 may apply to the secretary of state for reinstatement  
37 12 within two years after the effective date of dissolution. The  
37 13 application must meet all of the following requirements:

37 14 a. Recite the name of the cooperative at its date of  
37 15 dissolution and the effective date of its administrative  
37 16 dissolution.

37 17 b. State that the ground or grounds for dissolution have  
37 18 been eliminated.

37 19 c. State a name that satisfies the requirements of section  
37 20 501.103.

37 21 d. State the federal tax identification number of the  
37 22 cooperative.

37 23 2. a. The secretary of state shall refer the federal tax  
37 24 identification number contained in the application for  
37 25 reinstatement to the department of revenue and finance. The  
37 26 department of revenue and finance shall report to the  
37 27 secretary of state the tax status of the cooperative. If the  
37 28 department reports to the secretary of state that a filing  
37 29 delinquency or liability exists against the cooperative, the  
37 30 secretary of state shall not cancel the certificate of  
37 31 dissolution until the filing delinquency or liability is  
37 32 satisfied.

37 33 b. If the secretary of state determines that the  
37 34 application contains the information required by subsection 1,  
37 35 and that a delinquency or liability reported pursuant to  
38 1 paragraph "a" has been satisfied, and that the information is  
38 2 correct, the secretary of state shall cancel the certificate  
38 3 of dissolution and prepare a certificate of reinstatement that  
38 4 recites the secretary of state's determination and the  
38 5 effective date of reinstatement, file the original of the  
38 6 certificate, and serve a copy on the cooperative under section  
38 7 501.106. If the name of the cooperative as provided in  
38 8 subsection 1, paragraph "c", is different than the name in  
38 9 subsection 1, paragraph "a", the certificate of reinstatement  
38 10 shall constitute an amendment to the articles of association  
38 11 insofar as it pertains to the name.

38 12 3. When the reinstatement is effective, it relates back to  
38 13 and takes effect as of the effective date of the  
38 14 administrative dissolution as if the administrative  
38 15 dissolution had never occurred.

38 16 Sec. 61. NEW SECTION. 501.814 APPEAL FROM DENIAL OF  
38 17 REINSTATEMENT.

38 18 1. If the secretary of state denies a cooperative's  
38 19 application for reinstatement following administrative  
38 20 dissolution, the secretary of state shall serve the  
38 21 cooperative under section 501.106 with a written notice that  
38 22 explains the reason or reasons for denial.

38 23 2. The cooperative may appeal the denial of reinstatement  
38 24 to the district court within thirty days after service of the  
38 25 notice of denial is perfected. The cooperative appeals by  
38 26 petitioning the court to set aside the dissolution and  
38 27 attaching to the petition copies of the secretary of state's  
38 28 certificate of dissolution, the cooperative's application for  
38 29 reinstatement, and the secretary of state's notice of denial.

38 30 3. The court may summarily order the secretary of state to  
38 31 reinstate the dissolved cooperative or may take other action

38 32 the court considers appropriate.

38 33 4. The court's final decision may be appealed as in other  
38 34 civil proceedings.

38 35 PART C

39 1 JUDICIAL DISSOLUTION

39 2 Sec. 62. NEW SECTION. 501.821 GROUNDS FOR JUDICIAL  
39 3 DISSOLUTION.

39 4 The district court may dissolve a cooperative in any of the  
39 5 following ways:

39 6 1. A proceeding by the attorney general, if it is  
39 7 established that either of the following apply:

39 8 a. The cooperative obtained its articles of association  
39 9 through fraud.

39 10 b. The cooperative has continued to exceed or abuse the  
39 11 authority conferred upon it by law.

39 12 2. A proceeding by a member if it is established that any  
39 13 of the following conditions exist:

39 14 a. The directors are deadlocked in the management of the  
39 15 cooperative's affairs, the members are unable to break the  
39 16 deadlock, and either irreparable injury to the cooperative is  
39 17 threatened or being suffered, or the business and affairs of  
39 18 the cooperative can no longer be conducted to the advantage of  
39 19 the interest holders generally, because of the deadlock.

39 20 b. The directors or those in control of the cooperative  
39 21 have acted, are acting, or will act in a manner that is  
39 22 illegal, oppressive, or fraudulent.

39 23 c. The members are deadlocked in voting power and have  
39 24 failed, for a period that includes at least two consecutive  
39 25 annual meeting dates, to elect successors to directors whose  
39 26 terms have expired.

39 27 d. The cooperative's assets are being misapplied or  
39 28 wasted.

39 29 3. A proceeding by a creditor if it is established that  
39 30 either of the following apply:

39 31 a. The creditor's claim has been reduced to judgment, the  
39 32 execution on the judgment returned unsatisfied, and the  
39 33 cooperative is insolvent.

39 34 b. The cooperative has admitted in writing that the  
39 35 creditor's claim is due and owing and the cooperative is  
40 1 insolvent.

40 2 4. A proceeding by the cooperative to have its voluntary  
40 3 dissolution continued under court supervision.

40 4 Sec. 63. NEW SECTION. 501.822 PROCEDURE FOR JUDICIAL  
40 5 DISSOLUTION.

40 6 1. Venue for a proceeding by the attorney general to  
40 7 dissolve a cooperative lies in Polk county district court.  
40 8 Venue for a proceeding brought by any other party named in  
40 9 section 501.821 lies in the county where a cooperative's  
40 10 principal office or, if not in this state, its registered  
40 11 office is or was last located.

40 12 2. It is not necessary to make interest holders parties to  
40 13 a proceeding to dissolve a cooperative unless relief is sought  
40 14 against them individually.

40 15 3. A court in a proceeding brought to dissolve a  
40 16 cooperative may issue injunctions, appoint a receiver or  
40 17 custodian pendente lite with all powers and duties the court  
40 18 directs, take other action required to preserve the  
40 19 cooperative's assets wherever located, and carry on the  
40 20 business of the cooperative until a full hearing can be held.

40 21 Sec. 64. NEW SECTION. 501.823 RECEIVERSHIP OR  
40 22 CUSTODIANSHIP.

40 23 1. A court in a judicial proceeding brought to dissolve a  
40 24 cooperative may appoint one or more receivers to wind up and  
40 25 liquidate, or one or more custodians to manage, the business  
40 26 and affairs of the cooperative. The court shall hold a  
40 27 hearing, after notifying all parties to the proceeding and any  
40 28 interested persons designated by the court, before appointing

40 29 a receiver or custodian. The court appointing a receiver or  
40 30 custodian has exclusive jurisdiction over the cooperative and  
40 31 all its property wherever located.

40 32 2. The court may appoint an individual or a domestic or  
40 33 foreign corporation authorized to transact business in this  
40 34 state as a receiver or custodian. The court may require the  
40 35 receiver or custodian to post bond, with or without sureties,  
41 1 in an amount the court directs.

41 2 3. The court shall describe the powers and duties of the  
41 3 receiver or custodian in its appointing order, which may be  
41 4 amended from time to time.

41 5 a. The receiver may do any of the following:

41 6 (1) Dispose of all or any part of the assets of the  
41 7 cooperative wherever located, at a public or private sale, if  
41 8 authorized by the court.

41 9 (2) Sue and defend in the receiver's own name as receiver  
41 10 of the cooperative in all courts of this state.

41 11 b. The custodian may exercise all of the powers of the  
41 12 cooperative, through or in place of its board of directors or  
41 13 officers, to the extent necessary to manage the affairs of the  
41 14 cooperative in the best interests of its interest holders and  
41 15 creditors.

41 16 4. The court during a receivership may redesignate the  
41 17 receiver a custodian, and during a custodianship may  
41 18 redesignate the custodian a receiver, if doing so is in the  
41 19 best interests of the cooperative, its interest holders, and  
41 20 creditors.

41 21 5. The court from time to time during the receivership or  
41 22 custodianship may order compensation paid and expense  
41 23 disbursements or reimbursements made to the receiver or  
41 24 custodian and the receiver's or custodian's counsel from the  
41 25 assets of the cooperative or proceeds from the sale of the  
41 26 assets.

41 27 Sec. 65. NEW SECTION. 501.824 DECREE OF DISSOLUTION.

41 28 1. If after a hearing the court determines that one or  
41 29 more grounds for judicial dissolution described in section  
41 30 501.821 exist, it may enter a decree dissolving the  
41 31 cooperative and specifying the effective date of the  
41 32 dissolution, and the clerk of the district court shall deliver  
41 33 a certified copy of the decree to the secretary of state, who  
41 34 shall file it.

41 35 2. After entering the decree of dissolution, the court  
42 1 shall direct the winding up and liquidation of the  
42 2 cooperative's business and affairs in accordance with section  
42 3 501.805 and the notification of claimants in accordance with  
42 4 sections 501.806 and 501.807.

42 5 PART D  
42 6 STATE TREASURER

42 7 Sec. 66. NEW SECTION. 501.831 DEPOSIT WITH STATE  
42 8 TREASURER.

42 9 Assets of a dissolved cooperative that should be  
42 10 transferred to a creditor, claimant, or interest holder of the  
42 11 cooperative who cannot be found or who is not competent to  
42 12 receive them shall be reduced to cash and deposited with the  
42 13 treasurer of state or other appropriate state official for  
42 14 safekeeping. When the creditor, claimant, or interest holder  
42 15 furnishes satisfactory proof of entitlement to the amount  
42 16 deposited, the treasurer of state or other appropriate state  
42 17 official shall pay the creditor, claimant, or interest holder  
42 18 or that person's representative the amount.

42 19 Sec. 67. Sections 501.107 and 501.602, Code 1997, are  
42 20 repealed. Sections 501.408 and 501.604, Code Supplement 1997,  
42 21 are repealed.

42 22 EXPLANATION

42 23 This bill amends Code chapter 501 which provides for  
42 24 cooperative corporations which may hold agricultural land in  
42 25 this state. This type of entity is a hybrid between a

42 26 cooperative association organized under Code chapter 499 and a  
42 27 corporation organized under Code chapter 490. The bill amends  
42 28 a number of provisions.

42 29 First, the bill changes a number of terms used in the  
42 30 chapter. The bill changes "cooperative corporations" to  
42 31 "cooperatives". It changes a number of other terms to more  
42 32 closely resemble terms describing the business activities of  
42 33 cooperative associations rather than corporations. For  
42 34 example, a cooperative must be organized as an association  
42 35 rather than a corporation. The bill changes "articles of  
43 1 incorporation" to "articles of association". The bill changes  
43 2 "shareholders" to "interest holders" or "members" in the  
43 3 cooperatives. It changes "voting stock" to "voting interest".  
43 4 An "interest holder" is defined to mean a person who holds a  
43 5 voting or nonvoting interest in a cooperative. A "member" is  
43 6 a person who holds a voting interest in the cooperative.  
43 7 References to "dividends" are changed to "distributions".

43 8 Second, the bill provides that a general partner that is  
43 9 authorized to hold an interest in a cooperative must include  
43 10 all natural persons.

43 11 Third, the bill increases the number of acres of  
43 12 agricultural land that a cooperative may hold from 640 to  
43 13 1,500.

43 14 Fourth, the bill amends Code section 501.106 which provides  
43 15 for maintaining a registered office or registered agent in  
43 16 this state for purpose of service. The bill adds provisions  
43 17 taken from Code sections 490.503 and 490.504 which provide  
43 18 procedures for the resignation of a registered agent and  
43 19 delivery of service when a registered agent is not available.  
43 20 The bill changes the term "corporation" to "cooperative".

43 21 Fifth, the bill incorporates a number of provisions that  
43 22 were included by reference in the chapter. These sections  
43 23 refer to provisions in both Code chapter 490 governing  
43 24 corporations and Code chapter 499 governing cooperative  
43 25 associations. The bill redrafts these provisions expressly as  
43 26 part of Code chapter 501 and changes references to  
43 27 "corporation" or "association" to "cooperative" and corrects  
43 28 internal references.

43 29 Code section 501.102 provides that a cooperative has the  
43 30 same powers as a corporation as provided in Code sections  
43 31 490.302 and 490.303. Those powers include the power to sue  
43 32 and be sued, have a seal, make and amend bylaws, acquire  
43 33 property, sell or dispose of property, enter into purchase  
43 34 security arrangements, make contracts, incur liabilities,  
43 35 issue notes and bonds, lend money, invest money, become an  
44 1 investor in another enterprise, conduct business, elect  
44 2 directors, appoint officers and hire employees, pay pensions,  
44 3 and make donations. This bill repeals Code section 501.102  
44 4 and provides those same powers expressly to cooperatives.

44 5 Code section 501.107 provides that Code sections 499.1601  
44 6 through 499.1622 apply to cooperatives organized under Code  
44 7 chapter 501. The sections provide for keeping corporate  
44 8 records, the right of shareholders to inspect those records,  
44 9 the authority of courts to order inspections, the preparation  
44 10 of financial statements for shareholders, and the submission  
44 11 of reports to the secretary of state. This bill repeals Code  
44 12 section 501.107 and rewrites those provisions into new Code  
44 13 sections in Code chapter 501.

44 14 Code section 501.408 provides that a cooperative may  
44 15 indemnify an officer, employee, or agent who is a party to a  
44 16 legal proceeding in the same way that a corporation may  
44 17 indemnify a director in the same circumstances. The section  
44 18 provides for definitions, grants authority to a corporation to  
44 19 indemnify a director under circumstances, requires  
44 20 indemnification in certain circumstances, allows for advancing  
44 21 a director moneys for legal expenses, allows for  
44 22 indemnification pursuant to court order, provides procedures

44 23 for indemnification, provides for indemnification of officers,  
44 24 employees, and agents, and allows a corporation to purchase  
44 25 insurance. The bill repeals Code section 501.408 and  
44 26 expressly drafts those provisions into Code chapter 501.  
44 27 Code section 501.602 provides for mergers and  
44 28 consolidations among cooperatives organized under Code chapter  
44 29 501. The section provides that Code sections 499.61 through  
44 30 499.70 apply to the mergers or consolidations. Those sections  
44 31 provide for definitions, allow for merger and consolidation,  
44 32 require a vote of the membership, provide for objections by  
44 33 members and the payment of fair market value to dissenters,  
44 34 provide for articles of merger or consolidation and the  
44 35 issuance of a certificate of merger or consolidation, and  
45 1 authorize abandonment prior to filing the articles of merger  
45 2 or consolidation. This bill repeals Code section 501.602 and,  
45 3 with some exceptions, rewrites the same provisions in Code  
45 4 chapter 501. Code section 499.66 provides that in the case of  
45 5 a cooperative association, a dissenting member who is a  
45 6 natural person and who dies before receiving the fair value  
45 7 must be paid the fair value with the same priority as if the  
45 8 person was a member at the time of death. The bill does not  
45 9 include this provision.  
45 10 Code section 501.604 provides for the dissolution of a  
45 11 cooperative based on the same provisions which apply to  
45 12 corporations under Code sections 490.1401 through 490.1440.  
45 13 Those sections provide for dissolution by incorporators,  
45 14 initial directors who have not issued stock, or a board of  
45 15 directors operating a functioning corporation; the filing of  
45 16 articles of dissolution, a revocation of a dissolution, and  
45 17 the effect of the dissolution; procedures for disposing of  
45 18 known and unknown claims against the corporation; grounds for  
45 19 administrative dissolution, procedures for and the effect of  
45 20 an administrative dissolution, and reinstatement, including  
45 21 appeal from a denial of reinstatement; grounds for judicial  
45 22 dissolution, procedures for judicial dissolution, and  
45 23 procedures for appointing a receiver or custodian; entering a  
45 24 decree of dissolution; and depositing creditor assets with the  
45 25 treasurer of state. This bill repeals Code section 501.604  
45 26 and rewrites those provisions expressly for cooperatives as  
45 27 part of Code chapter 501 with limited exceptions. The bill  
45 28 does not include a provision requiring information in the  
45 29 articles to be separately provided for each voting group  
45 30 entitled to vote separately on the plan to dissolve.  
45 31 LSB 4211XC 77  
45 32 da/cf/24