

MAR 17 2005
WAYS AND MEANS

HOUSE FILE 806
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HF 226)

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

A BILL FOR

1 An Act relating to the establishment of a form of business
2 association referred to as a cooperative, and providing for
3 fees and tax credits, providing penalties, and providing an
4 effective date.

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

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HF 806

1 partnership, investment company, joint stock company, joint
2 stock association, or trust, including but not limited to a
3 business trust.

4 7. "Cooperative" means a business association organized
5 under this chapter.

6 8. "Crop" means a plant used for food, animal feed, fiber,
7 or oil, if the plant is classified as a forage or cereal
8 plant, including but not limited to alfalfa, barley,
9 buckwheat, corn, flax, forage, millet, oats, popcorn, rye,
10 sorghum, soybeans, sunflowers, wheat, and grasses used for
11 forage or silage.

12 9. "Domestic business entity" means a business entity
13 organized under the laws of this state, including but not
14 limited to a corporation organized pursuant to chapter 490; a
15 nonprofit corporation organized under chapter 504; a limited
16 liability company as defined in section 490A.102; a
17 partnership, limited partnership, limited liability
18 partnership, or limited liability limited partnership as
19 provided in chapter 486A, 487, or 488; or a cooperative
20 association or other cooperative organized under this chapter
21 or chapter 497, 498, 499, or 501.

22 10. "Domestic cooperative" means a cooperative association
23 or other cooperative organized under this chapter or chapter
24 497, 498, 499, or 501.

25 11. "Foreign business entity" means a business entity that
26 is not a domestic business entity.

27 12. "Foreign cooperative" means a foreign business entity
28 organized to conduct business consistent with this chapter or
29 chapter 497, 498, or 499.

30 13. "Iowa limited liability company" means a limited
31 liability company governed by chapter 490A.

32 14. "Livestock" means the same as defined in section
33 717.1.

34 15. "Member" means a person or entity reflected on the
35 books of a cooperative as the owner of governance rights of a

1 membership interest of the cooperative and includes patron and
2 nonpatron members.

3 16. "Member control agreement" means an instrument which
4 controls the investment or governance of nonpatron members,
5 which may be executed by the board and one or more nonpatron
6 members and which may provide for their individual or
7 collective rights to elect directors or to participate in the
8 distribution or allocation of profits or losses.

9 17. "Membership interest" means a member's interest in a
10 cooperative consisting of a member's financial rights, a
11 member's right to assign financial rights, a member's
12 governance rights, and a member's right to assign governance
13 rights. "Membership interest" includes patron membership
14 interests and nonpatron membership interests.

15 18. "Members' meeting" means a regular or special members'
16 meeting.

17 19. "Nonpatron member" means a member who holds a
18 nonpatron membership interest.

19 20. "Nonpatron membership interest" means a membership
20 interest that does not require the holder to conduct patronage
21 for or with the cooperative to receive financial rights or
22 distributions.

23 21. "Patron" means a person or entity who conducts
24 patronage with the cooperative, regardless of whether the
25 person is a member.

26 22. "Patronage" means business, transactions, or services
27 done for or with the cooperative as defined by the
28 cooperative.

29 23. "Patron member" means a member holding a patron
30 membership interest.

31 24. "Patron membership interest" means the membership
32 interest requiring the holder to conduct patronage for or with
33 the cooperative, as specified by the cooperative to receive
34 financial rights or distributions.

35 25. "Secretary" means the secretary of state.

1 26. "Traditional cooperative" means a cooperative or
2 cooperative association organized under chapter 497, 498, 499,
3 or 501.

4 Sec. 3. NEW SECTION. 501A.103 REQUIREMENTS FOR DOCUMENTS
5 -- FILING AND SIGNATURES.

6 A document is signed when a person has written on a
7 document. A person authorized to do so by this chapter, the
8 articles or bylaws, or by a resolution approved by the
9 directors or the members must sign the document. A signature
10 on a document may be a facsimile affixed, engraved, printed,
11 placed, stamped with indelible ink, transmitted by facsimile
12 or electronically, or in any other manner reproduced on the
13 document.

14 SUBCHAPTER 2

15 FILING

16 PART A

17 GENERAL REQUIREMENTS

18 Sec. 4. NEW SECTION. 501A.201 GENERAL FILING
19 REQUIREMENTS.

20 1. A document must satisfy the requirements of this
21 section, and of any other section that adds to or varies these
22 requirements, to be entitled to filing.

23 2. The document must be one that this chapter requires or
24 permits to be filed with the secretary.

25 3. The document must contain the information required by
26 this chapter. The document may contain other information as
27 well.

28 4. The document must be typewritten or printed. The
29 typewritten or printed portion shall be in black ink.
30 Manually signed photocopies, or other reproduced copies,
31 including facsimiles and other electronically or computer-
32 generated copies of typewritten or printed documents may be
33 filed.

34 5. The document must be in the English language. A
35 cooperative's name need not be in English if written in

1 English letters or Arabic or Roman numerals. The articles,
2 duly authenticated by the official having custody of the
3 applicable records in the state or country under whose law the
4 cooperative is formed, which are required of cooperatives,
5 need not be in English if accompanied by a reasonably
6 authenticated English translation.

7 6. The document must be executed by one of the following
8 persons:

9 a. An officer of the cooperative, or if no officer has
10 been selected, by any patron member of the cooperative.

11 b. If the cooperative has not been organized, by the
12 organizers of the cooperative as provided in subchapter 5.

13 c. If the cooperative is in the hands of a receiver,
14 trustee, or other court-appointed fiduciary, that fiduciary.

15 7. The person executing the document shall sign the
16 document and state beneath or opposite the person's signature,
17 the person's name, and the capacity in which the person signs.

18 8. If, pursuant to any provision of this chapter, the
19 secretary has prescribed a mandatory form for the document,
20 the document shall be in or on the prescribed form.

21 9. The document must be delivered to the secretary for
22 filing and must be accompanied by the correct filing fee as
23 provided in this subchapter.

24 Sec. 5. NEW SECTION. 501A.202 FILING DUTY OF SECRETARY
25 OF STATE.

26 1. If a document delivered to the secretary for filing
27 satisfies the requirements of section 501A.201, the secretary
28 shall file it and issue any necessary certificate.

29 2. The secretary files a document by recording it as filed
30 on the date and at the time of receipt. After filing a
31 document, and except as provided in section 501A.204, the
32 secretary shall deliver the document, and an acknowledgement
33 of the date and time of filing to the domestic cooperative or
34 foreign cooperative or its representative.

35 3. If the secretary refuses to file a document, the

1 secretary shall return it to the domestic cooperative or
2 foreign cooperative or its representative within ten days
3 after the document was received by the secretary, together
4 with a brief, written explanation of the reason for the
5 refusal.

6 4. The secretary's duty to file documents under this
7 section is ministerial. Filing or refusing to file a document
8 does not do any of the following:

9 a. Affect the validity or invalidity of the document in
10 whole or in part.

11 b. Relate to the correctness or incorrectness of
12 information contained in the document.

13 c. Create a presumption that the document is valid or
14 invalid or that information contained in the document is
15 correct or incorrect.

16 Sec. 6. NEW SECTION. 501A.203 EFFECTIVE TIME AND DATE OF
17 DOCUMENTS.

18 1. Except as provided in subsection 2 and section
19 501A.204, subsection 3, a document accepted for filing is
20 effective at the later of the following times:

21 a. At the time of filing on the date the document is
22 filed, as evidenced by the secretary's date and time
23 endorsement on the original document.

24 b. At the time specified in the document as its effective
25 time on the date the document is filed.

26 2. A document may specify a delayed effective time and
27 date, and if the document does so, the document becomes
28 effective at the time and date specified. If a delayed
29 effective date but no time is specified, the document is
30 effective at the close of business on that date. A delayed
31 effective date for a document shall not be later than the
32 ninetieth day after the date the document is filed.

33 Sec. 7. NEW SECTION. 501A.204 CORRECTING FILED
34 DOCUMENTS.

35 1. A domestic cooperative or foreign cooperative may

1 correct a document filed by the secretary if the document
2 satisfies any of the following requirements:

- 3 a. Contains an incorrect statement.
- 4 b. Was defectively executed, attested, sealed, verified,
5 or acknowledged.

6 2. A document is corrected by complying with all of the
7 following:

8 a. By preparing articles of correction that satisfy all of
9 the following requirements:

10 (1) Describe the document, including its filing date, or
11 attach a copy of the document to the articles.

12 (2) Specify the incorrect statement and the reason the
13 statement is incorrect or the manner in which the execution
14 was defective.

15 (3) Correct the incorrect statement or defective
16 execution.

17 b. By delivering the articles of correction to the
18 secretary for filing.

19 3. Articles of correction are effective on the effective
20 date of the document the articles correct, except as to
21 persons relying on the uncorrected document and adversely
22 affected by the correction. As to those persons, articles of
23 correction are effective when filed.

24 Sec. 8. NEW SECTION. 501A.205 FEES.

25 1. The secretary shall collect the following fees when
26 documents described in this subsection are delivered to the
27 secretary's office for filing:

- 28 a. Articles of organization \$50
- 29 b. Application for use of indistinguishable name \$10
- 30 c. Application for reserved name \$10
- 31 d. Notice of transfer of reserved name \$10
- 32 e. Application for registered name per month
33 or part thereof \$ 2
- 34 f. Application for renewal of registered name \$20
- 35 g. Statement of change of registered agent or

- 1 registered office or both No fee
- 2 h. Agent's statement of change of registered
- 3 office for each affected cooperative No fee
- 4 i. Agent's statement of resignation No fee
- 5 j. Amendment of articles of organization \$ 50
- 6 k. Restatement of articles of organization with
- 7 amendment of articles \$ 50
- 8 l. Articles of merger \$ 50
- 9 m. Articles of dissolution \$ 5
- 10 n. Articles of revocation of dissolution \$ 5
- 11 o. Certificate of administrative dissolution No fee
- 12 p. Application for reinstatement following
- 13 administrative dissolution \$ 5
- 14 q. Certificate of reinstatement No fee
- 15 r. Certificate of judicial dissolution No fee
- 16 s. Application for certificate of authority \$100
- 17 t. Application for amended certificate of authority \$100
- 18 u. Application for certificate of cancellation \$ 10
- 19 v. Certificate of revocation of authority to transact
- 20 business No fee
- 21 w. Articles of correction \$ 5
- 22 x. Application for certificate of existence or
- 23 authorization \$ 5
- 24 y. Any other document required or permitted to
- 25 be filed by this chapter \$ 5
- 26 2. The secretary shall collect a fee of five dollars each
- 27 time process is served on the secretary under this chapter.
- 28 The party to a proceeding causing service of process is
- 29 entitled to recover this fee as costs if the party prevails in
- 30 the proceeding.
- 31 3. The secretary shall collect the following fees for
- 32 copying and certifying the copy of any filed document relating
- 33 to a domestic cooperative or foreign cooperative:
- 34 a. One dollar a page for copying.
- 35 b. Five dollars for the certificate.

1 Sec. 9. NEW SECTION. 501A.206 FORMS.

2 1. The secretary may prescribe and furnish on request
3 forms, including but not limited to the following:

4 a. An application for a certificate of existence.

5 b. A foreign cooperative's application for a certificate
6 of authority to transact business in this state.

7 c. A foreign cooperative's application for a certificate
8 of withdrawal.

9 If the secretary so requires, use of these listed forms
10 prescribed by the secretary is mandatory.

11 2. The secretary may prescribe and furnish on request
12 forms, for other documents required or permitted to be filed
13 by this chapter but their use is not mandatory.

14 Sec. 10. NEW SECTION. 501A.207 APPEAL FROM SECRETARY OF
15 STATE'S REFUSAL TO FILE DOCUMENT.

16 1. If the secretary refuses to file a document delivered
17 to the secretary's office for filing, the domestic cooperative
18 or foreign cooperative may appeal the refusal, within thirty
19 days after the return of the document, to the district court
20 for the county in which the cooperative's principal office or,
21 if none in this state, where its registered office is or will
22 be located. The appeal is commenced by petitioning the court
23 to compel filing the document and by attaching to the petition
24 the document and the secretary's explanation of the refusal to
25 file.

26 2. The court may summarily order the secretary to file the
27 document or take other action the court considers appropriate.

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

30 Sec. 11. NEW SECTION. 501A.208 EVIDENTIARY EFFECT OF
31 COPY OF FILED DOCUMENT.

32 A certificate attached to a copy of a document filed by the
33 secretary, bearing the secretary's signature, which may be in
34 facsimile, and the seal of the secretary, is conclusive
35 evidence that the original document is on file with the

1 secretary.

2 Sec. 12. NEW SECTION. 501A.209 CERTIFICATE OF EXISTENCE.

3 1. Anyone may apply to the secretary to furnish a
4 certificate of existence for a domestic cooperative or a
5 certificate of authorization for a foreign cooperative.

6 2. A certificate of existence or certificate of
7 authorization must set forth all of the following:

8 a. The domestic cooperative's name or the foreign
9 cooperative's name used in this state.

10 b. That one of the following applies:

11 (1) If it is a domestic cooperative, that it is duly
12 organized under the law of this state, the date of its
13 organization, and the period of its duration.

14 (2) If it is a foreign cooperative, that it is authorized
15 to transact business in this state.

16 c. That all fees required by this subchapter have been
17 paid.

18 d. If it is a domestic cooperative, that articles of
19 dissolution have not been filed.

20 e. Other facts of record in the office of the secretary
21 that may be requested by the applicant.

22 3. Subject to any qualification stated in the certificate,
23 a certificate of existence or certificate of authorization
24 issued by the secretary may be relied upon as conclusive
25 evidence that the domestic cooperative or foreign cooperative
26 is in existence or is authorized to transact business in this
27 state.

28 Sec. 13. NEW SECTION. 501A.210 PENALTY FOR SIGNING FALSE
29 DOCUMENT.

30 1. A person commits an offense if that person signs a
31 document the person knows is false in any material respect
32 with intent that the document be delivered to the secretary
33 for filing.

34 2. An offense under this section is a serious misdemeanor
35 punishable by a fine of not to exceed one thousand dollars.

1 foreign cooperative was formed.

2 b. That the foreign cooperative is not transacting
3 business in this state and that the foreign cooperative
4 surrenders its registration to transact business in this
5 state.

6 c. That the foreign cooperative revokes the authority of
7 its registered agent to accept service on its behalf and
8 appoints the secretary as its agent for service of process in
9 any proceeding based on a cause of action arising during the
10 time the foreign cooperative was authorized to transact
11 business in this state.

12 d. A mailing address to which the secretary may mail a
13 copy of any process served on the secretary under paragraph
14 "c".

15 e. A commitment to notify the secretary in the future of
16 any change in the mailing address of the foreign cooperative.

17 2. The certificate of authority shall be canceled upon the
18 filing of the certificate of cancellation by the secretary.

19 PART C

20 REPORTS

21 Sec. 17. NEW SECTION. 501A.231 BIENNIAL REPORT FOR
22 SECRETARY OF STATE.

23 1. A cooperative authorized to transact business in this
24 state shall deliver to the secretary of state for filing a
25 biennial report that sets forth all of the following:

26 a. The name of the cooperative.

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

30 c. The address of its principal office.

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

33 2. Information in the biennial report must be current as
34 of the first day of January of the year in which the report is
35 due. The report shall be executed on behalf of the

1 cooperative and signed as provided in section 501A.103 or by
2 any other person authorized by the board of directors of the
3 cooperative.

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

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

16 5. The secretary of state may provide for the change of
17 registered office or registered agent on the form prescribed
18 by the secretary of state for the biennial report, provided
19 that the form contains the information required by section
20 501A.402. If the secretary of state determines that a
21 biennial report does not contain the information required by
22 this section but otherwise meets the requirements of section
23 501.402 for the purpose of changing the registered office or
24 registered agent, the secretary of state shall file the
25 statement of change of registered office or registered agent,
26 effective as provided in section 501A.203, before returning
27 the biennial report to the cooperative as provided in this
28 section. A statement of change of registered office or agent
29 pursuant to this subsection shall be executed by a person
30 authorized to execute the biennial report.

31 SUBCHAPTER 3

32 NAMES

33 Sec. 18. NEW SECTION. 501A.301 NAME.

34 1. A cooperative name must contain the word "cooperative",
35 "coop", or the abbreviation "CP".

1 2. Except as authorized by subsections 3 and 4, a
2 cooperative name must be distinguishable upon the records of
3 the secretary from all of the following:

4 a. The name of a domestic cooperative, limited liability
5 company, limited partnership, or corporation organized under
6 the laws of this state or registered as a foreign cooperative,
7 foreign limited liability company, foreign limited
8 partnership, or foreign corporation in this state.

9 b. A name reserved in the manner provided under the laws
10 of this state.

11 c. The fictitious name adopted by a foreign cooperative,
12 foreign limited liability company, foreign limited
13 partnership, or foreign corporation authorized to transact
14 business in this state because its real name is unavailable.

15 d. The corporate name of a nonprofit corporation
16 incorporated or authorized to transact business in this state.

17 3. A cooperative may apply to the secretary for
18 authorization to use a name that is not distinguishable upon
19 the secretary's records from one or more of the names
20 described in subsection 2. The secretary shall authorize use
21 of the name applied for if one of the following conditions
22 applies:

23 a. The other entity consents to the use in writing and
24 submits an undertaking in a form satisfactory to the secretary
25 to change the entity's name to a name that is distinguishable
26 upon the records of the secretary from the name of the
27 applying cooperative.

28 b. The applicant delivers to the secretary a certified
29 copy of the final judgment of a court of competent
30 jurisdiction establishing the applicant's right to use the
31 name applied for in this state.

32 4. A cooperative may use the name, including the
33 fictitious name, of another business entity that is used in
34 this state if the other business entity is formed under the
35 laws of this state or is authorized to transact business in

1 this state and the proposed user cooperative meets one of the
2 following conditions:

3 a. Has merged with the other business entity.

4 b. Has been formed by reorganization of the other business
5 entity.

6 c. Has acquired all or substantially all of the assets,
7 including the name, of the other business entity.

8 5. This chapter does not control the use of fictitious
9 names; however, if a cooperative uses a fictitious name in
10 this state, the cooperative shall deliver to the secretary for
11 filing a certified copy of the resolution of the cooperative
12 adopting the fictitious name.

13 Sec. 19. NEW SECTION. 501A.302 RESERVED NAME.

14 1. A person may reserve the exclusive use of a cooperative
15 name, including a fictitious name for a foreign cooperative
16 whose cooperative name is not available, by delivering an
17 application to the secretary for filing. The application must
18 set forth the name and address of the applicant and the name
19 proposed to be reserved. If the secretary finds that the
20 cooperative name applied for is available, the secretary shall
21 reserve the name for the applicant's exclusive use for a
22 nonrenewable one-hundred-twenty-day period.

23 2. The owner of a reserved cooperative name may transfer
24 the reservation to another person by delivering to the
25 secretary a signed notice of the transfer that states the name
26 and address of the transferee.

27 SUBCHAPTER 4

28 REGISTERED OFFICE AND AGENT

29 Sec. 20. NEW SECTION. 501A.401 REGISTERED OFFICE AND
30 REGISTERED AGENT.

31 A cooperative must continuously maintain in this state each
32 of the following:

33 1. A registered office that may be the same as any of its
34 places of business.

35 2. A registered agent who may be any of the following:

1 a. An individual who is a resident of this state and whose
2 business office is identical with the registered office.

3 b. A cooperative, domestic corporation, domestic limited
4 liability company, or not-for-profit domestic corporation
5 whose business office is identical with the registered office.

6 c. A foreign cooperative, foreign corporation, foreign
7 limited liability company, or not-for-profit foreign
8 corporation authorized to transact business in this state
9 whose business office is identical with the registered office.

10 Sec. 21. NEW SECTION. 501A.402 CHANGE OF REGISTERED
11 OFFICE OR REGISTERED AGENT.

12 1. A cooperative may change its registered office or
13 registered agent by delivering to the secretary for filing a
14 statement of change that sets forth the following:

15 a. The name of the domestic cooperative or foreign
16 cooperative.

17 b. If the current registered office is to be changed, the
18 street address of the new registered office.

19 c. If the current registered agent is to be changed, the
20 name of the new registered agent and the new agent's written
21 consent either on the statement or attached to the statement,
22 to the appointment.

23 d. That after the change or changes are made, the street
24 address of its registered office and the business office of
25 its registered agent will be identical.

26 2. A statement of change shall forthwith be filed in the
27 office of the secretary by a cooperative whenever its
28 registered agent dies, resigns, or ceases to satisfy the
29 requirements of section 501A.401.

30 3. If a registered agent changes the registered agent's
31 business address to another place, the registered agent may
32 change the business address and the address of the registered
33 agent by filing a statement as required in subsection 1 for
34 each cooperative, or a single statement for all cooperatives
35 named in the notice, except that the statement need be signed

1 only by the registered agent and need not be responsive to
2 subsection 1, paragraph "c", and must recite that a copy of
3 the statement has been mailed to each cooperative named in the
4 notice.

5 4. The change of address of a registered office or the
6 change of registered agent becomes effective upon the filing
7 of such statement by the secretary.

8 Sec. 22. NEW SECTION. 501A.403 RESIGNATION OF REGISTERED
9 AGENT -- DISCONTINUANCE OF REGISTERED OFFICE -- STATEMENT.

10 1. A registered agent may resign the agent's agency
11 appointment by signing and delivering to the secretary for
12 filing an original statement of resignation. The statement
13 may include a statement that the registered office is also
14 discontinued. The registered agent shall send a copy of the
15 statement of resignation to the registered office, if not
16 discontinued, and to the cooperative at its principal office.
17 The agent shall certify to the secretary that the copy has
18 been sent to the cooperative, including the date the copy was
19 sent.

20 2. The agency appointment is terminated, and the
21 registered office discontinued if so provided, on the date on
22 which the statement is filed by the secretary.

23 Sec. 23. NEW SECTION. 501A.404 SERVICE ON DOMESTIC
24 COOPERATIVES.

25 1. A domestic cooperative's registered agent is the
26 cooperative's agent for service of process, notice, or demand
27 required or permitted by law to be served on the cooperative.

28 2. If a cooperative has no registered agent, or the agent
29 cannot with reasonable diligence be served, the cooperative
30 may be served by registered mail or certified mail, return
31 receipt requested, and addressed to the cooperative at its
32 principal office. Service is perfected under this subsection
33 at the earliest of any of the following:

34 a. The date the cooperative receives the mail.

35 b. The date shown on the return receipt for the registered

1 mail or certified mail, return receipt requested, if signed on
2 behalf of the cooperative.

3 c. Five days after its deposit in the United States mail,
4 as evidenced by the postmark, if mailed postpaid and correctly
5 addressed.

6 3. This section does not prescribe the only means, or
7 necessarily the required means, of serving a domestic
8 cooperative or foreign cooperative.

9 Sec. 24. NEW SECTION. 501A.405 SERVICE ON FOREIGN
10 COOPERATIVE.

11 1. The registered agent of a foreign cooperative
12 authorized to transact business in this state is the foreign
13 cooperative's agent for service of process, notice, or demand
14 required or permitted by law to be served on the foreign
15 cooperative.

16 2. A foreign cooperative may be served by certified mail
17 or restricted certified mail addressed to the foreign
18 cooperative at its principal office shown in its application
19 for a certificate of authority if the foreign cooperative
20 meets any of the following conditions:

21 a. Has no registered agent or its registered agent cannot
22 with reasonable diligence be served.

23 b. Has withdrawn from transacting business in this state.

24 c. Has had its certificate of authority revoked.

25 3. Service is perfected under subsection 2 at the earliest
26 of any of the following:

27 a. The date the foreign cooperative receives the mail.

28 b. The date shown on the return receipt for the restricted
29 certified mail, if signed on behalf of the foreign
30 cooperative.

31 c. Five days after its deposit in the United States mail,
32 as evidenced by the postmark, if mailed postpaid and correctly
33 addressed.

34 4. A foreign cooperative may also be served in any other
35 manner permitted by law.

1 SUBCHAPTER 5

2 ORGANIZATION

3 Sec. 25. NEW SECTION. 501A.501 ORGANIZATIONAL PURPOSE.

4 A cooperative may be formed and organized for any lawful
5 purpose for the benefit of its members, including but not
6 limited to any of the following purposes:

7 1. To store or market agricultural commodities, including
8 crops and livestock.

9 2. To market, process, or otherwise change the form or
10 marketability of agricultural commodities. The cooperative
11 may provide for the manufacturing or processing of those
12 commodities into products.

13 3. To accomplish other purposes that are necessary or
14 convenient to facilitate the production or marketing of
15 agricultural commodities or agricultural products by patron
16 members, other patrons, and other persons, and for other
17 purposes that are related to the business of the cooperative.

18 4. To provide products, supplies, and services to its
19 patron members, other patrons, and others.

20 5. For any other purpose that a cooperative is authorized
21 by law under chapter 499 or 501.

22 Sec. 26. NEW SECTION. 501A.502 ORGANIZERS.

23 1. QUALIFICATION. A cooperative may be organized by one
24 or more organizers who shall be adult natural persons, and who
25 may act for themselves as individuals or as the agents of
26 other entities. The organizers forming the cooperative need
27 not be members of the cooperative.

28 2. ROLE OF ORGANIZERS. If the first board of directors is
29 not named in the articles of organization, the organizers may
30 elect the first board or may act as directors with all of the
31 powers, rights, duties, and liabilities of directors, until
32 directors are elected or until a contribution is accepted,
33 whichever occurs first.

34 3. MEETING. After the filing of articles of organization,
35 the organizers or the directors named in the articles of

1 organization shall either hold an organizational meeting at
2 the call of a majority of the organizers or of the directors
3 named in the articles, or take written action for the purposes
4 of transacting business and taking actions necessary or
5 appropriate to complete the organization of the cooperative,
6 including but not limited to all of the following:

7 a. Amending the articles.

8 b. Electing directors.

9 c. Adopting bylaws.

10 d. Authorizing or ratifying the purchase, lease, or other
11 acquisition of suitable space, furniture, furnishings,
12 supplies, or materials.

13 e. Adopting a fiscal year.

14 f. Contracting to receive and accept contributions.

15 g. Making appropriate tax elections.

16 If a meeting is held, the person or persons calling the
17 meeting shall give at least three days' notice of the meeting
18 to each organizer or director named, stating the date, time,
19 and place of the meeting. Organizers and directors may waive
20 notice of an organizational meeting in the same manner that a
21 director may waive notice of meetings of the board.

22 Sec. 27. NEW SECTION. 501A.503 ARTICLES OF ORGANIZATION.

23 1. a. The articles of organization for the cooperative
24 shall include all of the following:

25 (1) The name of the cooperative.

26 (2) The purpose of the cooperative.

27 (3) The name and address of each organizer.

28 (4) The period of duration for the cooperative, if the
29 duration is not to be perpetual.

30 (5) The street address of the cooperative's initial
31 registered office and the name of its registered agent at that
32 office.

33 b. The articles may contain any other lawful provision.

34 2. EFFECT OF FILING. When the articles of organization or
35 an application for a certificate of authority has been filed

1 pursuant to subchapter 2 and the required fee has been paid to
2 the secretary under section 501A.205, all of the following
3 shall be presumed:

4 a. All conditions precedent that are required to be
5 performed by the organizers have been complied with.

6 b. The organization of the cooperative has been organized
7 under the laws of this state as a separate legal entity.

8 c. The secretary shall issue an acknowledgment to the
9 cooperative.

10 Sec. 28. NEW SECTION. 501A.504 AMENDMENT OF ARTICLES.

11 1. a. The articles of organization of a cooperative shall
12 be amended only as follows:

13 (1) The board, by majority vote, must pass a resolution
14 stating the text of the proposed amendment. The text of the
15 proposed amendment and an attached mail or alternative ballot,
16 if the board has provided for a mail or alternative ballot in
17 the resolution or alternative method approved by the board and
18 stated in the resolution, shall be mailed or otherwise
19 distributed with a regular or special meeting notice to each
20 member. The notice shall designate the time and place of the
21 meeting for the proposed amendment to be considered and voted
22 on.

23 (2) If a quorum of the members is registered as being
24 present or represented by alternative vote at the meeting, the
25 proposed amendment is adopted if any of the following occurs:

26 (a) If approved by a majority of the votes cast.

27 (b) For a cooperative with articles or bylaws requiring
28 more than majority approval or other conditions for approval,
29 the amendment is approved by a proportion of the votes cast or
30 a number of total members as required by the articles or
31 bylaws and the conditions for approval in the articles or
32 bylaws have been satisfied.

33 b. After an amendment has been adopted by the members, the
34 amendment must be signed by the chairperson, vice chairperson,
35 records officer, or assistant records officer and a copy of

1 the amendment filed in the office of the secretary.

2 2. CERTIFIED STATEMENT.

3 a. The board shall prepare a certified statement affirming
4 that all of the following are true:

5 (1) The vote and meeting of the board adopting a
6 resolution of the proposed amendment.

7 (2) The notice given to members of the meeting at which
8 the amendment was adopted.

9 (3) The quorum registered at the meeting.

10 (4) The vote cast adopting the amendment.

11 b. The certified statement shall be signed by the
12 chairperson, vice chairperson, records officer, or financial
13 officer and filed with the records of the cooperative.

14 3. AMENDMENT BY DIRECTORS. A majority of directors may
15 amend the articles if the cooperative does not have any
16 members with voting rights.

17 4. FILING. An amendment of the articles shall be filed
18 with the secretary as required in section 501A.503. The
19 amendment is effective as provided in subchapter 2. After an
20 amendment to the articles of organization has been adopted and
21 approved in the manner required by this chapter and by the
22 articles of organization, the cooperative shall deliver to the
23 secretary of state for filing articles of amendment which
24 shall set forth all of the following:

25 a. The name of the cooperative.

26 b. The text of each amendment adopted.

27 c. The date of each amendment's adoption.

28 d. If the amendment was adopted by the directors or
29 members and that members' adoption was not required.

30 e. If an amendment required adoption by the members, a
31 statement that the amendment was duly adopted by the members
32 in the manner required by this chapter and by the articles of
33 organization.

34 Sec. 29. NEW SECTION. 501A.505 EXISTENCE.

35 1. COMMENCEMENT. The existence of a cooperative shall

1 commence on or after the filing of articles of organization as
2 provided in section 501A.503.

3 2. DURATION. A cooperative shall have a perpetual
4 duration unless the cooperative provides for a limited period
5 of duration in the articles or the cooperative is dissolved as
6 provided in subchapter 12.

7 Sec. 30. NEW SECTION. 501A.506 BYLAWS.

8 1. REQUIRED. A cooperative shall have bylaws governing
9 the cooperative's business affairs, structure, the
10 qualifications, classification, rights and obligations of
11 members, and the classifications, allocations, and
12 distributions of membership interests, which are not otherwise
13 provided in the articles or by this chapter.

14 2. CONTENTS.

15 a. If not stated in the articles, a cooperative's bylaws
16 must state all of the following:

17 (1) The purpose of the cooperative.

18 (2) The capital structure of the cooperative to the extent
19 not stated in the articles, including a statement of the
20 classes and relative rights, preferences, and restrictions
21 granted to or imposed upon each class of member interests, the
22 rights to share in profits or distributions of the
23 cooperative, and the authority to issue membership interests,
24 which may be designated to be determined by the board.

25 (3) A provision designating the voting and governance
26 rights, to the extent not stated in the articles, including
27 which membership interests have voting power and any
28 limitations or restrictions on the voting power, which shall
29 be in accordance with the provisions of this chapter.

30 (4) A statement that patron membership interests with
31 voting power shall be restricted to one vote for each member
32 regardless of the amount of patron membership interests held
33 in the affairs of the cooperative or a statement describing
34 the allocation of voting power allocated as prescribed in this
35 chapter.

1 (5) A statement that membership interests held by a member
2 are transferable only with the approval of the board or as
3 provided in the bylaws.

4 (6) If nonpatron membership interests are authorized, all
5 of the following:

6 (a) A statement as to how profits and losses will be
7 allocated and cash will be distributed between patron
8 membership interests collectively and nonpatron membership
9 interests collectively to the extent not stated in the
10 articles.

11 (b) A statement that net income allocated to a patron
12 membership interest as determined by the board in excess of
13 dividends and additions to reserves shall be distributed on
14 the basis of patronage.

15 (c) A statement that the records of the cooperative shall
16 include patron membership interests and, if authorized,
17 nonpatron membership interests, which may be further described
18 in the bylaws of any classes and in the reserves.

19 b. The bylaws may contain any provision relating to the
20 management or regulation of the affairs of the cooperative
21 that are not inconsistent with law or the articles, and shall
22 include all of the following:

23 (1) The number of directors and the qualifications, manner
24 of election, powers, duties, and compensation, if any, of
25 directors.

26 (2) The qualifications of members and any limitations on
27 their number.

28 (3) The manner of admission, withdrawal, suspension, and
29 expulsion of members.

30 (4) Generally, the governance rights, financial rights,
31 assignability of governance and financial rights, and other
32 rights, privileges, and obligations of members and their
33 membership interests, which may be further described in member
34 control agreements.

35 (5) Any provisions required by the articles to be in the

1 bylaws.

2 3. ADOPTION.

3 a. Bylaws shall be adopted before any distributions to
4 members, but if the articles or bylaws provide that rights of
5 contributors to a class of membership interest will be
6 determined in the bylaws, the bylaws must be adopted before
7 the acceptance of any contributions to that class.

8 b. Subject to subsections 4, 5, and 6, the bylaws of a
9 cooperative may be adopted or amended by the directors, or the
10 members may adopt or amend bylaws at a regular or special
11 members' meeting if all of the following apply:

12 (1) The notice of the regular or special meeting contains
13 a statement that the bylaws or restated bylaws will be voted
14 upon and copies are included with the notice, or copies are
15 available upon request from the cooperative and a summary
16 statement of the proposed bylaws or amendment is included with
17 the notice.

18 (2) A quorum is registered as being present or represented
19 by mail or alternative voting method if the mail or
20 alternative voting method is authorized by the board.

21 (3) The bylaws or amendment is approved by a majority vote
22 cast, or for a cooperative with articles or bylaws requiring
23 more than majority approval or other conditions for approval,
24 the bylaws or amendment is approved by a proportion of the
25 vote cast or a number of the total members as required by the
26 articles or bylaws and the conditions for approval in the
27 articles or bylaws have been satisfied.

28 c. Until the next annual or special members' meeting, the
29 majority of directors may adopt and amend bylaws for the
30 cooperative that are consistent with subsections 4, 5, and 6,
31 which may be further amended or repealed by the members at an
32 annual or special members' meeting.

33 4. AMENDMENT OF BYLAWS BY BOARD OR MEMBERS.

34 a. The board may amend the bylaws at any time to add,
35 change, or delete a provision, unless any of the following

1 applies:

2 (1) This chapter, the articles, or the bylaws reserve the
3 power exclusively to the members in whole or in part.

4 (2) A particular bylaw expressly prohibits the board from
5 doing so.

6 b. Any amendment of the bylaws adopted by the board must
7 be distributed to the members no later than ten days after
8 adoption and the notice of the annual meeting of the members
9 must contain a notice and summary of the actual amendments to
10 the bylaws adopted by the board.

11 c. The members may amend the bylaws even though the bylaws
12 may also be amended by the board.

13 5. BYLAW CHANGING QUORUM OR VOTING REQUIREMENT FOR
14 MEMBERS.

15 a. (1) The members may amend the bylaws to fix a greater
16 quorum or voting requirement for members, or voting groups of
17 members, than is required under this chapter.

18 (2) An amendment to the bylaws to add, change, or delete a
19 greater quorum or voting requirement for members shall meet
20 the same quorum requirement and be adopted by the same vote
21 and voting groups required to take action under the quorum and
22 voting requirements then in effect or proposed to be adopted,
23 whichever is greater.

24 b. A bylaw that fixes a greater quorum or voting
25 requirement for members under paragraph "a" shall not be
26 adopted and shall not be amended by the board.

27 6. BYLAW CHANGING QUORUM OR VOTING REQUIREMENT FOR
28 DIRECTORS.

29 a. A bylaw that fixes a greater quorum or voting
30 requirement for the board may be amended by any of the
31 following methods:

32 (1) If adopted by the members, only by the members.

33 (2) If adopted by the board, either by the members or by
34 the board.

35 b. A bylaw adopted or amended by the members that fixes a

1 greater quorum or voting requirement for the board may provide
2 that the bylaw may be amended only by a specified vote of
3 either the members or the board, but if the bylaw is to be
4 amended by a specified vote of the members, the bylaw must be
5 adopted by the same specified vote of the members.

6 c. Action by the board under paragraph "a", subparagraph
7 (2), to adopt or amend a bylaw that changes the quorum or
8 voting requirement for the board shall meet the same quorum
9 requirement and be adopted by the same vote required to take
10 action under the quorum and voting requirement then in effect
11 or proposed to be adopted, whichever is greater.

12 7. EMERGENCY BYLAWS.

13 a. Unless otherwise provided in the articles or bylaws,
14 the board may adopt bylaws to be effective only in an
15 emergency as defined in paragraph "d". The emergency bylaws,
16 which are subject to amendment or repeal by the members, may
17 include all provisions necessary for managing the cooperative
18 during the emergency, including any of the following:

19 (1) Procedures for calling a meeting of the board.

20 (2) Quorum requirements for the meeting.

21 (3) Designation of additional or substitute directors.

22 b. All provisions of the regular bylaws consistent with
23 the emergency bylaws shall remain in effect during the
24 emergency. The emergency bylaws shall not be effective after
25 the emergency ends.

26 c. All of the following shall apply to action taken in
27 good faith in accordance with the emergency bylaws:

28 (1) The action binds the cooperative.

29 (2) The action shall not be the basis for imposition of
30 liability on any director, officer, employee, or agent of the
31 cooperative on the grounds that the action was not authorized
32 cooperative action.

33 d. An emergency exists for the purposes of this section,
34 if a quorum of the directors cannot readily be obtained
35 because of some catastrophic event.

1 Sec. 31. NEW SECTION. 501A.507 COOPERATIVE RECORDS.

2 1. PERMANENT RECORDS REQUIRED TO BE KEPT. A cooperative
3 shall keep as permanent records minutes of all meetings of its
4 members and of the board, a record of all actions taken by the
5 members or the board without a meeting by a written unanimous
6 consent in lieu of a meeting, and a record of all waivers of
7 notices of meetings of the members and of the board.

8 2. ACCOUNTING RECORDS. A cooperative shall maintain
9 appropriate accounting records.

10 3. FORMAT. A cooperative shall maintain its records in
11 written form or in another form capable of conversion into
12 written form within a reasonable time.

13 4. COPIES. A cooperative shall keep a copy of each of the
14 following records at its principal office:

- 15 a. Its articles and other governing instruments.
- 16 b. Its bylaws or other similar instruments.
- 17 c. A record of the names and addresses of its members, in
18 a form that allows preparation of an alphabetical list of
19 members with each member's address.
- 20 d. The minutes of members' meetings, and records of all
21 actions taken by members without a meeting by unanimous
22 written consent in lieu of a meeting, for the past three
23 years.
- 24 e. All written communications within the past three years
25 to members as a group or to any class of members as a group.
- 26 f. A list of the names and business addresses of its
27 current board members and officers.
- 28 g. All financial statements prepared for periods ending
29 during the last fiscal year.

30 5. Except as otherwise limited by this chapter, the board
31 of a cooperative shall have discretion to determine what
32 records are appropriate for the purposes of the cooperative,
33 the length of time records are to be retained, and policies
34 relating to the confidentiality, disclosure, inspection, and
35 copying of the records of the cooperative.

1 SUBCHAPTER 6

2 POWERS AND AUTHORITIES

3 Sec. 32. NEW SECTION. 501A.601 POWERS.

4 1. GENERALLY.

5 a. In addition to other powers, a cooperative as an agent
6 or otherwise may do any of the following:

7 (1) Perform every act necessary or proper to the conduct
8 of the cooperative's business or the accomplishment of the
9 purposes of the cooperative.

10 (2) Enjoy other rights, powers, or privileges granted by
11 the laws of this state to other cooperatives, except those
12 that are inconsistent with the express provisions of this
13 chapter.

14 (3) Have the powers provided in section 501A.501 and in
15 this section.

16 b. This section does not give a cooperative the power or
17 authority to exercise the powers of a credit union under
18 chapter 533, a bank under chapter 524, or a savings and loan
19 association under chapter 534.

20 2. DEALING IN PRODUCTS. A cooperative may buy, sell, or
21 deal in its own commodities or products or those of another
22 person, including but not limited to those of its members,
23 patrons, or nonmembers; another cooperative organized under
24 this chapter or another cooperative association organized
25 under other law including a traditional cooperative, or
26 members or patrons of such cooperatives or cooperative
27 associations. A cooperative may negotiate the price at which
28 its commodities products may be sold.

29 3. CONTRACTS WITH MEMBERS. A cooperative may enter into
30 or become a party to a contract or agreement for the
31 cooperative or for the cooperative's members or patrons or
32 between the cooperative and its members or patrons.

33 4. HOLDING AND TRANSACTIONS OF REAL AND PERSONAL PROPERTY.

34 a. A cooperative may purchase and hold, lease, mortgage,
35 encumber, sell, exchange, and convey as a legal entity real,

1 personal, and intellectual property, including real estate,
2 buildings, personal property, patents, and copyrights as the
3 business of the cooperative may require, including but not
4 limited to the sale or other disposition of assets required by
5 the business of the cooperative as determined by the board.

6 b. A cooperative may take, receive, and hold real or
7 personal property, including the principal and interest of
8 money or other negotiable instruments and rights in a
9 contract, in trust for any purpose not inconsistent with the
10 purposes of the cooperative in its articles or bylaws. The
11 cooperative may exercise fiduciary powers in relation to
12 taking, receiving, and holding the real or personal property.
13 However, a cooperative's fiduciary powers do not include trust
14 powers or trust services exercised for its members as provided
15 in section 633.63 or chapter 524.

16 5. BUILDINGS. A cooperative may erect buildings or other
17 structures or facilities on the cooperative's owned or leased
18 property or on a right-of-way legally acquired by the
19 cooperative.

20 6. DEBT INSTRUMENTS.

21 a. A cooperative may issue bonds, debentures, or other
22 evidence of indebtedness, except as provided in subsection 1,
23 paragraph "b". The cooperative shall not issue bonds,
24 debentures, or other evidence of indebtedness to a
25 nonaccredited member, unless prior to issuance the cooperative
26 provides the member with a written disclosure statement which
27 includes a conspicuous notice that moneys are not insured or
28 guaranteed by an agency or instrumentality of the United
29 States government, and that the investment may lose value.

30 b. A cooperative may borrow money, may secure any of its
31 obligations by mortgage of or creation of a security interest
32 in or other encumbrances or assignment of all or any of its
33 property, franchises, or income, and may issue guarantees for
34 any legal purpose.

35 c. A cooperative may form special purpose business

1 entities to secure assets of the cooperative.

2 7. ADVANCES TO PATRONS. A cooperative may make advances
3 to its members or patrons on products delivered by the members
4 or patrons to the cooperative.

5 8. DEPOSITS. A cooperative may accept donations or
6 deposits of money or real or personal property from other
7 cooperatives or associations from which the cooperative is
8 constituted.

9 9. BORROWING, INVESTMENT, AND PAYMENT TERMS. A
10 cooperative may borrow money from its members, or cooperatives
11 or associations from which the cooperative is constituted,
12 with security that the cooperative considers sufficient. A
13 cooperative may invest or reinvest its moneys. A cooperative
14 may extend payment terms to its customers on the sale of the
15 cooperative's goods or services. An extension of payment
16 terms by the cooperative shall not be secured by real
17 property. A cooperative which authorizes nonpatron members
18 under section 501A.901 shall not borrow moneys from a bank for
19 cooperatives or from an agricultural credit bank, if the
20 collective vote of patron members is less than eighty percent
21 of the total vote on general matters of the cooperative.

22 10. PENSIONS AND BENEFITS. A cooperative may pay
23 pensions, retirement allowances, and compensation for past
24 services to and for the benefit of, and establish, maintain,
25 continue, and carry out, wholly or partially at the expense of
26 the cooperative, employee, or incentive benefit plans, trusts,
27 and provisions to or for the benefit of any or all of its and
28 its related organizations' officers, managers, directors,
29 governors, employees, and agents; and in the case of a related
30 organization that is a cooperative, members who provide
31 services to the cooperative, and any of their families,
32 dependents, and beneficiaries. A cooperative may indemnify
33 and purchase and maintain insurance for and on behalf of a
34 fiduciary of any of these employee benefit and incentive
35 plans, trusts, and provisions.

1 11. INSURANCE.

2 a. A cooperative may purchase and maintain insurance on
3 behalf of a person who is or was a director, officer,
4 employee, or agent of the cooperative and in which the
5 cooperative has an insurable interest. The cooperative may
6 also purchase and maintain insurance on the life of a member
7 for the purpose of acquiring at the death of the member any or
8 all membership interests in the cooperative owned by the
9 member.

10 b. A cooperative or a foreign cooperative shall not sell,
11 solicit, or negotiate in this state any line of insurance to
12 members or nonmembers.

13 12. OWNERSHIP INTERESTS IN OTHER ENTITIES.

14 a. A cooperative may purchase, acquire, hold, or dispose
15 of the ownership interests of another business entity or
16 organize business entities whether organized under the laws of
17 this state or another state or the United States and assume
18 all rights, interests, privileges, responsibilities, and
19 obligations arising out of the ownership interests, including
20 a business entity organized as any of the following:

21 (1) As a federation of associations.

22 (2) For the purpose of forming a district, state, or
23 national marketing sales or service agency.

24 (3) For the purpose of acquiring marketing facilities at
25 terminal or other markets in this state or other states.

26 b. A cooperative may purchase, own, and hold ownership
27 interests, including stock and other equity interests,
28 memberships, interests in nonstock capital, and evidences of
29 indebtedness of any domestic business entity or foreign
30 business entity.

31 13. FIDUCIARY POWERS. A cooperative may exercise any and
32 all fiduciary powers in relations with members, cooperatives,
33 or business entities from which the cooperative is
34 constituted. However, these fiduciary powers do not include
35 trust powers or trust services for its members as provided in

1 section 633.63 or chapter 524.

2 Sec. 33. NEW SECTION. 501A.602 EMERGENCY POWERS.

3 1. In anticipation of or during an emergency as defined in
4 this section, the board may do any of the following:

5 a. Modify lines of succession to accommodate the
6 incapacity of any director, officer, employee, or agent.

7 b. Relocate the principal office, designate alternative
8 principal offices or regional offices, or authorize the
9 officers to do so.

10 2. During an emergency, unless emergency bylaws provide
11 otherwise, all of the following apply:

12 a. A notice of a meeting of the board need be given only
13 to those directors to whom it is practicable to reach and may
14 be given in any practicable manner, including by publication
15 or radio.

16 b. One or more officers of the cooperative present at a
17 meeting of the board may be deemed to be directors for the
18 meeting, in order of rank and within the same rank in order of
19 seniority, as necessary to achieve a quorum.

20 3. All of the following apply to cooperative action taken
21 in good faith during an emergency under this section to
22 further the ordinary business affairs of the cooperative:

23 a. The action binds the cooperative.

24 b. The action shall not be the basis for the imposition of
25 liability on any director, officer, employee, or agent of the
26 cooperative on the grounds that the action was not an
27 authorized cooperative action.

28 4. An emergency exists for purposes of this section if a
29 quorum of the directors cannot readily be obtained because of
30 a catastrophic event.

31 Sec. 34. NEW SECTION. 501A.603 AGRICULTURAL COMMODITIES
32 AND PRODUCTS -- MARKETING CONTRACTS.

33 1. AUTHORITY. A cooperative and its patron member or
34 patron may make and execute a marketing contract, requiring
35 the patron member or patron to sell a specified portion of the

1 patron member's or patron's agricultural commodity or product
2 or specified commodity or product produced from a certain area
3 exclusively to or through the cooperative or facility
4 established by the cooperative.

5 2. TITLE TO COMMODITIES OR PRODUCTS. If a sale is
6 contracted to the cooperative, the sale shall transfer title
7 to the commodity or product absolutely, except for a recorded
8 lien or security interest against the agricultural commodity
9 or product of the patron member or patron as provided in
10 article 9 of chapter 554, and provisions in Title XIV,
11 subtitle 3, governing agricultural liens, and liens granted
12 against farm products under federal law, to the cooperative on
13 delivery of the commodity or product or at another specified
14 time if expressly provided in the contract. The contract may
15 allow the cooperative to sell or resell the commodity or
16 product of its patron member or patron with or without taking
17 title to the commodity or product, and pay the resale price to
18 the patron member or patron, after deducting all necessary
19 selling, overhead, and other costs and expenses, including
20 other proper reserves and interest.

21 3. TERM OF CONTRACT. A single term of a marketing
22 contract shall not exceed ten years, but a marketing contract
23 may be made self-renewing for periods not exceeding five years
24 each, subject to the right of either party to terminate by
25 giving written notice of the termination during a period of
26 the current term as specified in the contract.

27 4. DAMAGES FOR BREACH OF CONTRACT. The cooperative's
28 bylaws or marketing contract in which the cooperative is a
29 party may set a specific sum as liquidated damages to be paid
30 by the patron member or patron to the cooperative for breach
31 of any provision of the marketing contract regarding the sale
32 or delivery or withholding of a commodity or product and may
33 provide that the patron member or patron shall pay the costs,
34 premiums for bonds, expenses, and fees if an action is brought
35 on the contract by the cooperative. The remedies for breach

1 of contract are valid and enforceable in the courts of this
2 state. The provisions shall be enforced as liquidated damages
3 and are not considered a penalty.

4 5. INJUNCTION AGAINST BREACH OF CONTRACT. If there is a
5 breach or threatened breach of a marketing contract by a
6 patron member or patron, the cooperative is entitled to an
7 injunction to prevent the further breach of the contract and
8 to a decree of specific performance of the contract. Pending
9 the adjudication of the action after filing a complaint
10 showing the breach or threatened breach and filing a
11 sufficient bond, the cooperative is entitled to a temporary
12 restraining order and preliminary injunction against the
13 patron member or patron.

14 6. PENALTIES FOR CONTRACT INTERFERENCE AND FALSE REPORTS.
15 A person who knowingly induces or attempts to induce any
16 member or patron of a cooperative organized under this chapter
17 to breach a marketing contract with the cooperative, or who
18 maliciously and knowingly spreads false reports about the
19 cooperative's finances or management, is guilty of a simple
20 misdemeanor.

21 7. CIVIL DAMAGES FOR CONTRACT INTERFERENCE AND FALSE
22 REPORTS. In addition to the penalty provided in subsection 6,
23 the person may be liable to the cooperative for civil damages
24 for any violation of that subsection. Each violation shall
25 constitute a separate offense.

26 SUBCHAPTER 7

27 DIRECTORS AND OFFICERS

28 Sec. 35. NEW SECTION. 501A.701 BOARD GOVERNS
29 COOPERATIVE.

30 A cooperative shall be governed by its board of directors,
31 which shall take all action for and on behalf of the
32 cooperative, except those actions reserved or granted to
33 members. Board action shall be by the affirmative vote of a
34 majority of the directors voting at a duly called meeting
35 unless a greater majority is required by the articles or

1 bylaws. A director individually or collectively with other
2 directors does not have authority to act for or on behalf of
3 the cooperative unless authorized by the board. A director
4 may advocate interests of members or member groups to the
5 board, but the fiduciary duty of each director is to represent
6 the best interests of the cooperative and all members
7 collectively.

8 Sec. 36. NEW SECTION. 501A.702 NUMBER OF DIRECTORS.

9 The board shall not have less than five directors, except
10 that a cooperative with fifty or fewer members may have three
11 or more directors as prescribed in the cooperative's articles
12 or bylaws.

13 Sec. 37. NEW SECTION. 501A.703 ELECTION OF DIRECTORS.

14 1. FIRST BOARD. The organizers shall elect and obtain the
15 acknowledgment of the first board to serve until directors are
16 elected by members. Until election by members, the first
17 board shall appoint directors to fill any vacancies.

18 2. GENERALLY.

19 a. Directors shall be elected for the term, at the time,
20 and in the manner provided in this section and the bylaws.

21 b. A majority of the directors shall be members and a
22 majority of the directors shall be elected exclusively by the
23 members holding patron membership interests unless otherwise
24 provided in the articles or bylaws.

25 c. The voting power of the directors may be allocated
26 according to equity classifications or allocation units of the
27 cooperative. If the cooperative authorizes nonpatron
28 membership interests, one of the following must apply:

29 (1) At least one-half of the voting power on matters of
30 the cooperative that are not specific to equity
31 classifications or allocation units shall be allocated to the
32 directors elected by members holding patron membership
33 interests.

34 (2) The directors elected by the members holding patron
35 membership interests shall have at least an equal voting power

1 or shall not have a minority voting power on general matters
2 of the cooperative that are not specific to equity
3 classifications or allocation units.

4 d. A director holds office for the term the director was
5 elected and until a successor is elected and has qualified, or
6 until the earlier death, resignation, removal, or
7 disqualification of the director.

8 e. The expiration of a director's term with or without
9 election of a qualified successor does not make the prior or
10 subsequent acts of the director or the board void or voidable.

11 f. Subject to any limitation in the articles or bylaws,
12 the board may set the compensation of directors.

13 g. Directors may be divided into or designated and elected
14 by class or other distinction as provided in the articles or
15 bylaws.

16 h. A director may resign by giving written notice to the
17 chairperson of the board or the board. The resignation is
18 effective without acceptance when the notice is given to the
19 chairperson of the board or the board unless a later effective
20 time is specified in the notice.

21 3. ELECTION AT REGULAR MEETING. Directors shall be
22 elected at the regular members' meeting for the terms of
23 office prescribed in the bylaws. Except for directors elected
24 at district meetings or special meetings to fill a vacancy,
25 all directors shall be elected at the regular members'
26 meeting. There shall be no cumulative voting for directors
27 except as provided in this chapter and the articles or bylaws.

28 4. DISTRICT OR LOCAL UNIT ELECTION OF DIRECTORS. For a
29 cooperative with districts or other units, members may elect
30 directors on a district or unit basis if provided in the
31 bylaws. The directors may be nominated or elected at district
32 meetings if provided in the bylaws. Directors who are
33 nominated at district meetings shall be elected at the annual
34 regular members' meeting by vote of the entire membership,
35 unless the bylaws provide that directors who are nominated at

1 district meetings are to be elected by vote of the members of
2 the district, at the district meeting, or the annual regular
3 members' meeting.

4 5. VOTE BY MAIL OR ALTERNATIVE BALLOT. The following
5 shall apply to voting by mail or alternative ballot voting:

6 a. A member shall not vote for a director other than by
7 being present at a meeting or by mail ballot or alternative
8 ballot authorized by the board.

9 b. The ballot shall be in a form prescribed by the board.

10 c. The member shall mark the ballot for the candidate
11 chosen and mail the ballot to the cooperative in a sealed
12 plain envelope inside another envelope bearing the member's
13 name, or shall vote designating the candidate chosen by
14 alternative ballot in the manner prescribed by the board.

15 d. If the ballot of the member is received by the
16 cooperative on or before the date of the regular members'
17 meeting or as otherwise prescribed for alternative ballots,
18 the ballot shall be accepted and counted as the vote of the
19 absent member.

20 6. BUSINESS ENTITY MEMBERS MAY NOMINATE PERSONS FOR
21 DIRECTOR. If a member of a cooperative is not a natural
22 person, and the bylaws do not provide otherwise, the member
23 may appoint or elect one or more natural persons to be
24 eligible for election as a director.

25 7. TERM. A director holds office for the term the
26 director was elected and until a successor is elected and has
27 qualified, or the earlier death, resignation, removal, or
28 disqualification of the director.

29 8. ACTS NOT VOID OR VOIDABLE. The expiration of a
30 director's term with or without the election of a qualified
31 successor does not make prior or subsequent acts of the
32 director void or voidable.

33 9. COMPENSATION. Subject to any limitation in the
34 articles or bylaws, the board may fix the compensation of the
35 directors.

1 10. CLASSIFICATION. Directors may be divided into classes
2 as provided in the articles or bylaws.

3 Sec. 38. NEW SECTION. 501A.704 FILLING VACANCIES.

4 1. PATRON DIRECTORS. If a patron member director's
5 position becomes vacant or a new director position is created
6 for a director that was or is to be elected by patron members,
7 the board, in consultation with the directors elected by
8 patron members, shall appoint a patron member of the
9 cooperative to fill the director's position until the next
10 regular or special members' meeting. If there are no
11 directors elected by patron members on the board at the time
12 of the vacancy, a special patron members' meeting shall be
13 called to fill the patron member director vacancy.

14 2. NONPATRON DIRECTORS. If the vacating director was not
15 elected by the patron members or a new director position is
16 created, unless otherwise provided in the articles or bylaws,
17 the board shall appoint a director to fill the vacant position
18 by majority vote of the remaining or then serving directors
19 even though less than a quorum. At the next regular or
20 special members' meeting, the members or patron members shall
21 elect a director to fill the unexpired term of the vacant
22 director's position.

23 Sec. 39. NEW SECTION. 501A.705 REMOVAL OF DIRECTORS.

24 1. MODIFICATION. The provisions of this section apply
25 unless modified by the articles or the bylaws.

26 2. REMOVAL OF DIRECTORS. A director may be removed at any
27 time, with or without cause, if all of the following apply:

28 a. The director was named by the board to fill a vacancy.

29 b. The members have not elected directors in the interval
30 between the time of the appointment to fill a vacancy and the
31 time of the removal.

32 c. A majority of the remaining directors present
33 affirmatively vote to remove the director.

34 3. REMOVAL BY MEMBERS. Any one or all of the directors
35 may be removed at any time, with or without cause, by the

1 affirmative vote of the holders of a majority of the voting
2 power of membership interests entitled to vote at an election
3 of directors, provided that if a director has been elected
4 solely by the patron members or the holders of a class or
5 series of membership interests as stated in the articles or
6 bylaws, then that director may be removed only by the
7 affirmative vote of the holders of a majority of the voting
8 power of the patron members for a director elected by the
9 patron members or of all membership interests of that class or
10 series entitled to vote at an election of that director.

11 4. ELECTION OF REPLACEMENTS. New directors may be elected
12 at a meeting at which directors are removed.

13 Sec. 40. NEW SECTION. 501A.706 BOARD OF DIRECTORS'
14 MEETINGS.

15 1. TIME AND PLACE. Meetings of the board may be held from
16 time to time as provided in the articles or bylaws at any
17 place within or without the state that the board may select or
18 by any means described in subsection 2. If the board fails to
19 select a place for a meeting, the meeting must be held at the
20 principal executive office, unless the articles or bylaws
21 provide otherwise.

22 2. ELECTRONIC COMMUNICATIONS.

23 a. A conference among directors by any means of
24 communication through which the directors may simultaneously
25 hear each other during the conference constitutes a board
26 meeting, if the same notice is given of the conference as
27 would be required by subsection 3 for a meeting, and if the
28 number of directors participating in the conference would be
29 sufficient to constitute a quorum at a meeting. Participation
30 in a meeting by that means constitutes presence in person at
31 the meeting.

32 b. A director may participate in a board meeting not
33 described in paragraph "a" by any means of communication
34 through which the director, other directors so participating,
35 and all directors physically present at the meeting may

1 simultaneously hear each other during the meeting.

2 Participation in a meeting by that means constitutes presence
3 in person at the meeting.

4 3. CALLING MEETINGS AND NOTICE. Unless the articles or
5 bylaws provide for a different time period, a director may
6 call a board meeting by giving at least ten days' notice or,
7 in the case of organizational meetings, at least three days'
8 notice to all directors of the date, time, and place of the
9 meeting. The notice need not state the purpose of the meeting
10 unless this chapter, the articles, or the bylaws require it.

11 4. PREVIOUSLY SCHEDULED MEETINGS. If the day or date,
12 time, and place of a board meeting have been provided in the
13 articles or bylaws, or announced at a previous meeting of the
14 board, no notice is required. Notice of an adjourned meeting
15 need not be given other than by announcement at the meeting at
16 which adjournment is taken.

17 5. WAIVER OF NOTICE. A director may waive notice of a
18 meeting of the board. A waiver of notice by a director
19 entitled to notice is effective whether given before, at, or
20 after the meeting, and whether given in writing, orally, or by
21 attendance. Attendance by a director at a meeting is a waiver
22 of notice of that meeting, except where the director objects
23 at the beginning of the meeting to the transaction of business
24 because the meeting is not lawfully called or convened and
25 does not participate in the meeting after the objection.

26 6. ABSENT DIRECTORS. If the articles or bylaws so
27 provide, a director may give advance written consent or
28 opposition to a proposal to be acted on at a board meeting.
29 If the director is not present at the meeting, consent or
30 opposition to a proposal does not constitute presence for
31 purposes of determining the existence of a quorum, but consent
32 or opposition must be counted as the vote of a director
33 present at the meeting in favor of or against the proposal and
34 must be entered in the minutes or other record of action at
35 the meeting, if the proposal acted on at the meeting is

1 substantially the same or has substantially the same effect as
2 the proposal to which the director has consented or objected.

3 Sec. 41. NEW SECTION. 501A.707 QUORUM.

4 A majority, or a larger or smaller portion or number
5 provided in the articles or bylaws, of the directors currently
6 holding office is a quorum for the transaction of business.
7 In the absence of a quorum, a majority of the directors
8 present may adjourn a meeting from time to time until a quorum
9 is present. If a quorum is present when a duly called or held
10 meeting is convened, the directors present may continue to
11 transact business until adjournment, even though the
12 withdrawal of a number of directors originally present leaves
13 less than the proportion of number otherwise required for a
14 quorum.

15 Sec. 42. NEW SECTION. 501A.708 ACT OF BOARD OF
16 DIRECTORS.

17 1. Except as provided in subsection 2, the board shall
18 only take action at a duly held meeting by the affirmative
19 vote of any of the following:

- 20 a. A majority of directors present at the meeting.
21 b. A majority of the directors' voting power present at
22 the meeting.

23 2. The articles or bylaws may require the affirmative vote
24 of a larger vote than provided in subsection 1. If the
25 articles or bylaws require a larger vote than is required by
26 this chapter for a particular action, the articles or bylaws
27 control.

28 Sec. 43. NEW SECTION. 501A.709 ACTION WITHOUT A MEETING.

29 1. METHOD. An action required or permitted to be taken at
30 a board meeting may be taken by written action signed by all
31 of the directors. If the articles or bylaws so provide, any
32 action, other than an action requiring member approval, may be
33 taken by written action signed by the number of directors that
34 would be required to take the same action at a meeting of the
35 board at which all directors were present.

1 2. EFFECTIVE TIME. The written action is effective when
2 signed by the required number of directors, unless a different
3 effective time is provided in the written action.

4 3. NOTICE AND LIABILITY. When written action is permitted
5 to be taken by less than all directors, all directors must be
6 notified immediately of its text and effective date. Failure
7 to provide the notice does not invalidate the written action.
8 A director who does not sign or consent to the written action
9 has no liability for the action or actions taken by the
10 written action.

11 Sec. 44. NEW SECTION. 501A.710 AUDIT COMMITTEE.

12 The board shall establish an audit committee to review the
13 financial information and accounting report of the
14 cooperative. The cooperative shall have the financial
15 information audited for presentation to the members unless the
16 cooperative's bylaws allow financial statements that are not
17 audited and the financial statements clearly state that they
18 are not audited and the difference between the financial
19 statements and audited financial statements that are prepared
20 according to generally accepted accounting procedures. The
21 directors shall elect members to the audit committee. The
22 audit committee shall ensure an independent review of the
23 cooperative's finances and audit.

24 Sec. 45. NEW SECTION. 501A.711 COMMITTEES.

25 1. GENERALLY. A resolution approved by the affirmative
26 vote of a majority of the board may establish committees
27 having the authority of the board in the management of the
28 business of the cooperative only to the extent provided in the
29 resolution. Committees may include a special litigation
30 committee consisting of one or more independent directors or
31 other independent persons to consider legal rights or remedies
32 of the cooperative and whether those rights and remedies
33 should be pursued. Committees other than special litigation
34 committees are subject at all times to the direction and
35 control of the board.

1 2. MEMBERSHIP. Committee members must be natural persons.
2 Unless the articles or bylaws provide for a different
3 membership or manner of appointment, a committee consists of
4 one or more persons, who need not be directors, appointed by
5 affirmative vote of a majority of the directors present.

6 3. PROCEDURE. The procedures for meetings of the board
7 apply to committees and members of committees to the same
8 extent as those sections apply to the board and individual
9 directors.

10 4. MINUTES. Minutes, if any, of committee meetings must
11 be made available upon request to members of the committee and
12 to any director.

13 5. STANDARD OF CONDUCT. The establishment of, delegation
14 of authority to, and action by a committee does not alone
15 constitute compliance by a director with the standard of
16 conduct set forth in section 501A.712.

17 6. COMMITTEE MEMBERS CONSIDERED DIRECTORS. Committee
18 members are considered to be directors for purposes of
19 sections 501A.712, 501A.713, and 501A.715.

20 Sec. 46. NEW SECTION. 501A.712 STANDARD OF CONDUCT.

21 1. STANDARD AND LIABILITY. A director shall discharge the
22 duties of the position of director in good faith, in a manner
23 the director reasonably believes to be in the best interests
24 of the cooperative, and with the care an ordinarily prudent
25 person in a like position would exercise under similar
26 circumstances. A person who so performs those duties is not
27 liable by reason of being or having been a director of the
28 cooperative.

29 2. RELIANCE.

30 a. A director is entitled to rely on information,
31 opinions, reports, or statements, including financial
32 statements and other financial data, in each case prepared or
33 presented by any of the following:

34 (1) One or more officers or employees of the cooperative
35 who the director reasonably believes to be liable and

1 competent in the matters presented.

2 (2) Counsel, public accountants, or other persons as to
3 matters that the director reasonably believes are within the
4 person's professional or expert competence.

5 (3) A committee of the board upon which the director does
6 not serve, duly established by the board, as to matters within
7 its designated authority, if the director reasonably believes
8 the committee to merit confidence.

9 b. Paragraph "a" does not apply to a director who has
10 knowledge concerning the matter in question that makes the
11 reliance otherwise permitted by paragraph "a" unwarranted.

12 3. PRESUMPTION OF ASSENT AND DISSENT. A director who is
13 present at a meeting of the board when an action is approved
14 by the affirmative vote of a majority of the directors present
15 is presumed to have assented to the action approved, unless
16 any of the following applies:

17 a. The director objects at the beginning of the meeting to
18 the transaction of business because the meeting is not
19 lawfully called or convened and does not participate in the
20 meeting after the objection, in which case the director is not
21 considered to be present at the meeting for any purpose of
22 this chapter.

23 b. The director votes against the action at the meeting.

24 c. The director is prohibited by a conflict of interest
25 from voting on the action.

26 4. CONSIDERATIONS. In discharging the duties of the
27 position of director, a director may, in considering the best
28 interests of the cooperative, consider the interests of the
29 cooperative's employees, customers, suppliers, and creditors,
30 the economy of the state, and long-term as well as short-term
31 interests of the cooperative and its patron members, including
32 the possibility that these interests may be best served by the
33 continued independence of the cooperative.

34 Sec. 47. NEW SECTION. 501A.713 DIRECTOR CONFLICTS OF
35 INTEREST.

1 1. CONFLICT AND PROCEDURE WHEN CONFLICT ARISES.

2 a. A contract or other transaction between a cooperative
3 and one or more of its directors, or between a cooperative and
4 a business entity in or of which one or more of its directors
5 are governors, directors, managers, officers, or legal
6 representatives or have a material financial interest, is not
7 void or voidable because the director or directors or the
8 other business entities are parties or because the director or
9 directors are present at the meeting of the members or the
10 board or a committee at which the contract or transaction is
11 authorized, approved, or ratified, if any of the following
12 applies:

13 (1) The contract or transaction was, and the person
14 asserting the validity of the contract or transaction sustains
15 the burden of establishing that the contract or transaction
16 was, fair and reasonable as to the cooperative at the time it
17 was authorized, approved, or ratified and all of the following
18 apply:

19 (a) The material facts as to the contract or transaction
20 and as to the director's or directors' interest are disclosed
21 or known to the members.

22 (b) The material facts as to the contract or transaction
23 and as to the director's or directors' interest are fully
24 disclosed or known to the board or a committee, and the board
25 or committee authorizes, approves, or ratifies the contract or
26 transaction in good faith by a majority of the board or
27 committee, but the interested director or directors are not
28 counted in determining the presence of a quorum and must not
29 vote.

30 (2) The contract or transaction is a distribution,
31 contract, or transaction that is made available to all members
32 or patron members as part of the cooperative's business.

33 b. If a committee is elected or appointed to authorize,
34 ratify, or approve a contract or transaction under this
35 section, the members of the committee must not have a conflict

1 of interest and must be charged with representing the best
2 interests of the cooperative.

3 2. MATERIAL FINANCIAL INTEREST. For purposes of this
4 section, all of the following apply:

5 a. A resolution fixing the compensation of a director or
6 fixing the compensation of another director as a director,
7 officer, employee, or agent of the cooperative is not void or
8 voidable or considered to be a contract or other transaction
9 between a cooperative and one or more of its directors for
10 purposes of this section even though the director receiving
11 the compensation fixed by the resolution is present and voting
12 at the meeting of the board or a committee at which the
13 resolution is authorized, approved, or ratified or even though
14 other directors voting upon the resolution are also receiving
15 compensation from the cooperative.

16 b. A director has a material financial interest in each
17 organization in which the director or a family member of the
18 director has a material financial interest. A contract or
19 other transaction between a cooperative and a family member of
20 a director is considered to be a transaction between the
21 cooperative and the director. A family member of a director
22 includes the spouse, parents, children and spouses of
23 children, brothers and sisters and spouses of brothers and
24 sisters, and the brothers and sisters of the spouse of the
25 director or any combination of them.

26 Sec. 48. NEW SECTION. 501A.714 LIMITATION OF DIRECTOR'S
27 LIABILITY.

28 Except as otherwise provided in this chapter, a director,
29 officer, employee, or member of the cooperative is not liable
30 for the cooperative's debts or obligations, and a director,
31 officer, member, or other volunteer is not personally liable
32 in that capacity, for a claim based upon any action taken, or
33 any failure to take action in the discharge of the person's
34 duties, except for the amount of a financial benefit received
35 by the person to which the person is not entitled, an

1 intentional infliction of harm to the cooperative or its
2 members or patrons, or an intentional violation of criminal
3 law.

4 Sec. 49. NEW SECTION. 501A.715 INDEMNIFICATION.

5 1. DEFINITIONS. As used in this section, all of the
6 following apply:

7 a. "Official capacity" means any of the following:

8 (1) With respect to a director, the position of director
9 in a cooperative.

10 (2) With respect to a person other than a director, the
11 elective or appointive office or position held by the person,
12 member of a committee of the board, the employment
13 relationship undertaken by an employee of the cooperative, or
14 the scope of the services provided by members of the
15 cooperative who provide services to the cooperative.

16 (3) With respect to a director, chief executive officer,
17 member, or employee of the cooperative who, while a director,
18 chief executive officer, or member or employee of the
19 cooperative, is or was serving at the request of the
20 cooperative or whose duties in that position involve or
21 involved service as a governor, director, manager, officer,
22 member, partner, trustee, employee, or agent of another
23 organization or employee benefit plan, the position of that
24 person as a governor, director, manager, officer, member,
25 partner, trustee, employee, or agent, as the case may be, of
26 the other organization or employee benefit plan.

27 b. "Predecessor entity" includes a domestic cooperative or
28 foreign cooperative that was the predecessor of the
29 cooperative referred to in this section in a merger or other
30 transaction in which the predecessor entity's existence ceased
31 upon consummation of the transaction.

32 c. "Proceeding" means a threatened, pending, or completed
33 civil, criminal, administrative, arbitration, or investigative
34 proceeding, including a proceeding by or in the right of the
35 cooperative.

1 d. "Special legal counsel" means counsel who has not
2 represented the cooperative or a related organization, or a
3 director, manager, member of a committee of the board, or
4 employee whose indemnification is in issue.

5 2. INDEMNIFICATION.

6 a. Subject to the provisions of subsection 4, a
7 cooperative shall indemnify a person made or threatened to be
8 made a party to a proceeding by reason of the former or
9 present official capacity of the person against judgments,
10 penalties, fines, including, without limitation, excise taxes
11 assessed against the person with respect to an employee
12 benefit plan, settlements, and reasonable expenses, including
13 attorney fees and disbursements incurred by the person in
14 connection with the proceeding, if, with respect to the acts
15 or omissions of the person complained of in the proceeding,
16 any of the following applies:

17 (1) All of the following apply:

18 (a) The person has not been indemnified by another
19 organization or employee benefit plan for the same judgments,
20 penalties, fines, including, without limitation, excise taxes
21 assessed against the person with respect to an employee
22 benefit plan, settlements, and reasonable expenses, including
23 attorney fees and disbursements incurred by the person in
24 connection with the proceeding with respect to the same acts
25 or omissions.

26 (b) The person acted in good faith.

27 (c) The person has not received an improper personal
28 benefit.

29 (d) The person has not committed an act for which
30 liability cannot be eliminated or limited under section
31 501A.714.

32 (e) In the case of a criminal proceeding, the person had
33 no reasonable cause to believe the conduct was unlawful.

34 (2) (a) In the case of an act or omission occurring in
35 the official capacity described in subsection 1, paragraph

1 "a", subparagraph (1) or (2), the person reasonably believed
2 that the conduct was in the best interests of the cooperative.

3 (b) In the case of an act or omission occurring in the
4 official capacity described in subsection 1, paragraph "a",
5 subparagraph (3), the person reasonably believed that the
6 conduct was not opposed to the best interests of the
7 cooperative.

8 If the person's acts or omissions complained of in the
9 proceeding relate to conduct as a director, officer, trustee,
10 employee, or agent of an employee benefit plan, the conduct is
11 not considered to be opposed to the best interests of the
12 cooperative if the person reasonably believed that the conduct
13 was in the best interests of the participants or beneficiaries
14 of the employee benefit plan.

15 b. The termination of a proceeding by judgment, order,
16 settlement, conviction, or upon a plea of nolo contendere or
17 its equivalent does not, of itself, establish that the person
18 did not meet the criteria set forth in this subsection.

19 3. ADVANCES. Subject to the provisions of subsection 4,
20 if a person is made or threatened to be made a party to a
21 proceeding, the person is entitled, upon written request to
22 the cooperative, to payment or reimbursement by the
23 cooperative of reasonable expenses, including attorney fees
24 and disbursements incurred by the person in advance of the
25 final disposition of the proceeding, as follows:

26 a. Upon receipt by the cooperative of a written
27 affirmation by the person of a good-faith belief that the
28 criteria for indemnification set forth in subsection 2 has
29 been satisfied, and a written undertaking by the person to
30 repay all amounts paid or reimbursed by the cooperative, if it
31 is ultimately determined that the criteria for indemnification
32 have not been satisfied.

33 b. After a determination that the facts then known to
34 those making the determination would not preclude
35 indemnification under this section.

1 The written undertaking required by this subsection is an
2 unlimited general obligation of the person making it, but need
3 not be secured and shall be accepted without reference to
4 financial ability to make the repayment.

5 4. PROHIBITION OR LIMIT ON INDEMNIFICATION OR ADVANCES.

6 The articles or bylaws either may prohibit indemnification or
7 advances of expenses otherwise required by this section or may
8 impose conditions on indemnification or advances of expenses
9 in addition to the conditions contained in subsection 2 or 3,
10 including, without limitation, monetary limits on
11 indemnification or advances of expenses if the conditions
12 apply equally to all persons or to all persons within a given
13 class. A prohibition or limit on indemnification or advances
14 of expenses shall not apply to or affect the right of a person
15 to indemnification or advances of expenses with respect to any
16 acts or omissions of the person occurring before the effective
17 date of a provision in the articles or the date of adoption of
18 a provision in the bylaws establishing the prohibition or
19 limit on indemnification or advances of expenses.

20 5. REIMBURSEMENT TO WITNESSES. This section does not
21 require, or limit the ability of, a cooperative to reimburse
22 expenses, including attorney fees and disbursements incurred
23 by a person in connection with an appearance as a witness in a
24 proceeding at a time when the person has not been made or
25 threatened to be made a party to a proceeding.

26 6. DETERMINATION OF ELIGIBILITY.

27 a. All determinations whether indemnification of a person
28 is required because the criteria set forth in subsection 2
29 have been satisfied and whether a person is entitled to
30 payment or reimbursement of expenses in advance of the final
31 disposition of a proceeding as provided in subsection 3 must
32 be made as follows:

33 (1) By the board by a majority of a quorum, if the
34 directors who are, at the time, parties to the proceeding are
35 not counted for determining either a majority or the presence

1 of a quorum.

2 (2) If a quorum under subparagraph (1) cannot be obtained
3 by a majority of a committee of the board consisting solely of
4 two or more directors not at the time parties to the
5 proceeding duly designated to act in the matter by a majority
6 of the full board, including directors who are parties.

7 (3) If a determination is not made under subparagraph (1)
8 or (2) by special legal counsel selected either by a majority
9 of the board or a committee by vote under subparagraph (1) or
10 (2) or if the requisite quorum of the full board cannot be
11 obtained and the committee cannot be established by a majority
12 of the full board, including directors who are parties.

13 (4) If a determination is not made under subparagraphs (1)
14 through (3) by the affirmative vote of the members, but the
15 membership interests held by parties to the proceeding must
16 not be counted in determining the presence of a quorum, and
17 are not considered to be present and entitled to vote on the
18 determination.

19 (5) If an adverse determination is made under
20 subparagraphs (1) through (4) or paragraph "b" or if a
21 determination is not made under subparagraphs (1) through (4)
22 or paragraph "b" within sixty days either after the later to
23 occur of the termination of a proceeding or a written request
24 for indemnification to the cooperative, or a written request
25 for an advance of expenses, as the case may be, by a court in
26 this state, which may be the same court in which the
27 proceeding involving the person's liability took place upon
28 application of the person and any notice the court requires.
29 The person seeking indemnification or payment or reimbursement
30 of expenses under this subparagraph has the burden of
31 establishing that the person is entitled to indemnification or
32 payment or reimbursement of expenses.

33 b. With respect to a person who is not, and was not at the
34 time of the act or omission complained of in the proceedings,
35 a director, chief executive officer, or person possessing,

1 directly or indirectly, the power to direct or cause the
2 direction of the management or policies of the cooperative,
3 the determination whether indemnification of this person is
4 required because the criteria set forth in subsection 2 have
5 been satisfied and whether such person is entitled to payment
6 or reimbursement of expenses in advance of the final
7 disposition of a proceeding as provided in subsection 3, may
8 be made by an annually appointed committee of the board,
9 having at least one member who is a director. The committee
10 shall report at least annually to the board concerning its
11 actions.

12 7. INSURANCE. A cooperative may purchase and maintain
13 insurance on behalf of a person in that person's official
14 capacity against any liability asserted against and incurred
15 by the person in or arising from that capacity, whether or not
16 the cooperative would have been required to indemnify the
17 person against the liability under the provisions of this
18 section.

19 8. DISCLOSURE. A cooperative that indemnifies or advances
20 expenses to a person in accordance with this section in
21 connection with a proceeding by or on behalf of the
22 cooperative shall report to the members in writing the amount
23 of the indemnification or advance and to whom and on whose
24 behalf it was paid not later than the next meeting of members.

25 9. INDEMNIFICATION OF OTHER PERSONS. Nothing in this
26 section must be construed to limit the power of the
27 cooperative to indemnify persons other than a director, chief
28 executive officer, member, employee, or member of a committee
29 of the board of the cooperative by contract or otherwise.

30 Sec. 50. NEW SECTION. 501A.716 OFFICERS.

31 1. REQUIRED OFFICERS.

32 a. The board shall elect all of the following:

33 (1) A chairperson.

34 (2) One or more vice chairpersons.

35 b. The board shall elect or appoint all of the following:

1 (1) A records officer.

2 (2) A financial officer.

3 c. The officers, other than the chief executive officer,
4 shall not have the authority to bind the cooperative except as
5 authorized by the board.

6 2. ADDITIONAL OFFICERS. The board may elect additional
7 officers as the articles or bylaws authorize or require.

8 3. RECORDS OFFICER AND FINANCIAL OFFICER MAY BE COMBINED.
9 The offices of records officer and financial officer may be
10 combined.

11 4. OFFICERS THAT MUST BE MEMBERS. The chairperson and
12 first vice chairperson shall be directors and members. The
13 financial officer, records officer, and additional officers
14 need not be directors or members.

15 5. CHIEF EXECUTIVE OFFICER. The board may employ a chief
16 executive officer to manage the day-to-day affairs and
17 business of the cooperative, and if a chief executive officer
18 is employed, the chief executive officer shall have the
19 authority to implement the functions, duties, and obligations
20 of the cooperative except as restricted by the board. The
21 chief executive officer shall not exercise authority reserved
22 to the board or the members under this chapter, the articles,
23 or the bylaws.

24 SUBCHAPTER 8

25 MEMBERS

26 Sec. 51. NEW SECTION. 501A.801 MEMBERS.

27 1. REQUIREMENT. A cooperative shall have one or more
28 patron members.

29 2. GROUPING OF MEMBERS.

30 a. A cooperative may group members and patron members in
31 districts, units, or on another basis if and as authorized in
32 its articles or bylaws. The articles or bylaws may include
33 authorization for the board to determine the groupings.

34 b. The board may implement the use of districts or units,
35 including setting the time and place and prescribing the rules

1 of conduct for holding meetings by districts or units to elect
2 delegates to members' meetings.

3 3. MEMBER VIOLATIONS.

4 a. A member who knowingly, intentionally, or repeatedly
5 violates a provision of this chapter, the articles or bylaws
6 of the cooperative, or a member control agreement or marketing
7 contract with the cooperative may be required by the board to
8 surrender the member's voting power or the financial rights of
9 membership interest of any class owned by the member, or both.

10 b. The cooperative shall refund to the member for the
11 surrendered financial rights of membership interest the lesser
12 of the book value or market value of the financial right of
13 the membership interest payable in not more than seven years
14 from the date of surrender or the board may transfer all of
15 any patron member's financial rights to a class of financial
16 rights held by members who are not patron members, or to a
17 certificate of interest, which carries liquidation rights on
18 par with membership interests and is redeemed within seven
19 years after the transfer as provided in the certificate.

20 c. Membership interests required to be surrendered may be
21 reissued or be retired and canceled by the board.

22 4. INSPECTION OF COOPERATIVE RECORDS BY MEMBER.

23 a. A member is entitled to inspect and copy, at the
24 member's expense, during regular business hours at a
25 reasonable location specified by the cooperative, any of the
26 records described in section 501A.507 if the member meets the
27 requirements of paragraph "b" and gives the cooperative
28 written demand at least five business days before the date on
29 which the member wishes to inspect and copy the records.
30 Notwithstanding the provisions of this subsection or any
31 provisions of section 501A.507, a member shall not have the
32 right to inspect or copy any records of the cooperative
33 relating to the amount of equity capital in the cooperative
34 held by any person or any accounts receivable or other amounts
35 due the cooperative from any person, or any personnel records

1 or employment records of any employee.

2 b. To be entitled to inspect and copy permitted records,
3 the member shall meet all of the following requirements:

4 (1) The member must have been a member for at least one
5 year immediately preceding the demand to inspect or copy or
6 must be a member holding at least five percent of all of the
7 outstanding equity interests in the cooperative as of the date
8 the demand is made.

9 (2) The demand is made in good faith and for a proper
10 cooperative business purpose.

11 (3) The member describes with reasonable particularity the
12 purpose and the records the member desires to inspect.

13 (4) The records are directly connected with the described
14 purpose.

15 c. The right of inspection granted by this subsection
16 shall not be abolished or limited by the articles, bylaws, or
17 any actions of the board or the members.

18 d. This subsection does not affect any of the following:

19 (1) The right of a member to inspect records to the same
20 extent as any other litigant if the member is in litigation
21 with the cooperative.

22 (2) The power of a court to compel the production of the
23 cooperative's records for examination.

24 e. Notwithstanding any other provision in this subsection,
25 if the records to be inspected or copied are in active use or
26 storage and, therefore, not available at the time otherwise
27 provided for inspection or copying, the cooperative shall
28 notify the member and shall set a date and hour within three
29 business days of the date otherwise set in this subsection for
30 the inspection or copying.

31 f. A member's agent or attorney has the same inspection
32 and copying rights as the member. The right to copy records
33 under this subsection includes, if reasonable, the right to
34 receive copies made by photographic copying, xerographic
35 copying, or other means. The cooperative may impose a

1 reasonable charge, covering the costs of labor and material,
2 for copies of any documents provided to the member. The
3 charge shall not exceed the estimated cost of production and
4 reproduction of the records.

5 g. If a cooperative refuses to allow a member, or the
6 member's agent or attorney, who complies with this subsection
7 to inspect or copy any records that the member is entitled to
8 inspect or copy within a prescribed time limit or, if none,
9 within a reasonable time, the district court of the county in
10 this state where the cooperative's principal office is located
11 or, if it has no principal office in this state, the district
12 court of the county in which its registered office is located
13 may, on application of the member, summarily order the
14 inspection or copying of the records demanded at the
15 cooperative's expense.

16 h. If a court orders inspection or copying of the records
17 demanded, unless the cooperative proves that it refused
18 inspection or copying in good faith because it had a
19 reasonable basis for doubt about the right of the member or
20 the member's agent or attorney to inspect or copy the records
21 demanded, all of the following shall apply:

22 (1) The court may order the losing party to pay the
23 prevailing party's reasonable costs, including reasonable
24 attorney fees.

25 (2) The court may order the losing party to pay the
26 prevailing party for any damages the prevailing party shall
27 have incurred by reason of the subject matter of the
28 litigation.

29 (3) If inspection or copying is ordered under this
30 paragraph "h", the court may order the cooperative to pay the
31 member's inspection and copying expenses.

32 (4) The court may grant either party any other remedy
33 provided by law.

34 (5) The court may impose reasonable restrictions on the
35 use or distribution of the records by the demanding member.

1 Sec. 52. NEW SECTION. 501A.802 MEMBER NOT LIABLE FOR
2 COOPERATIVE DEBTS.

3 A member is not, merely on the account of that status,
4 personally liable for the acts, debts, liabilities, or
5 obligations of a cooperative. A member is liable for any
6 unpaid subscription for the membership interest, unpaid
7 membership fees, or a debt for which the member has separately
8 contracted with the cooperative.

9 Sec. 53. NEW SECTION. 501A.803 REGULAR MEMBERS'
10 MEETINGS.

11 1. ANNUAL MEETING. Regular members' meetings shall be
12 held annually at a time determined by the board, unless
13 otherwise provided for in the bylaws.

14 2. LOCATION. The regular members' meeting shall be held
15 at the principal place of business of the cooperative or at
16 another conveniently located place as determined by the bylaws
17 or the board.

18 3. BUSINESS AND FISCAL REPORTS. The officers shall submit
19 reports to the members at the regular members' meeting
20 covering the business of the cooperative for the previous
21 fiscal year that show the condition of the cooperative at the
22 close of the fiscal year.

23 4. ELECTION OF DIRECTORS. All directors shall be elected
24 at the regular members' meeting for the terms of office
25 prescribed in the bylaws, except for directors elected at
26 district or unit meetings.

27 5. NOTICE.

28 a. The cooperative shall give notice of regular members'
29 meetings by mailing the regular members' meeting notice to
30 each member at the members' last known post office address or
31 by other notification approved by the board and agreed to by
32 the members. The regular members' meeting notice shall be
33 published or otherwise given by approved method at least two
34 weeks before the date of the meeting or mailed at least
35 fifteen days before the date of the meeting.

1 b. The notice shall contain a summary of any bylaw
2 amendments adopted by the board since the last annual meeting.

3 6. WAIVER AND OBJECTIONS. A member may waive notice of a
4 meeting of members. A waiver of notice by a member entitled
5 to notice is effective whether given before, at, or after the
6 meeting, and whether given in writing, orally, or by
7 attendance. Attendance by a member at a meeting is a waiver
8 of notice of that meeting, except where the member objects at
9 the beginning of the meeting to the transaction of business
10 because the meeting is not lawfully called or convened, or
11 objects before a vote on an item of business because the item
12 cannot lawfully be considered at that meeting and does not
13 participate in the consideration of the item at that meeting.

14 Sec. 54. NEW SECTION. 501A.804 SPECIAL MEMBERS'
15 MEETINGS.

16 1. CALLING MEETING. Special members' meetings of the
17 members may be called by any of the following:

18 a. A majority vote of the board.

19 b. The written petition of at least twenty percent of the
20 patron members and, if authorized by the articles or bylaws,
21 twenty percent of the nonpatron members, twenty percent of all
22 members, or members representing twenty percent of the
23 membership interests collectively submitted to the
24 chairperson.

25 2. NOTICE. The cooperative shall give notice of a special
26 members' meeting by mailing the special members' meeting
27 notice to each member personally at the person's last known
28 post office address or an alternative method approved by the
29 board and agreed to by the member individually or the members
30 generally. For a member that is an entity, notice mailed or
31 delivered by an alternative method shall be to an officer of
32 the entity. The special members' meeting notice shall state
33 the time, place, and purpose of the special members' meeting.
34 The special members' meeting notice shall be issued within ten
35 days from and after the date of the presentation of a members'

1 petition, and the special members' meeting shall be held
2 within thirty days after the date of the presentation of the
3 members' petition.

4 3. WAIVER AND OBJECTIONS. A member may waive notice of a
5 meeting of members. A waiver of notice by a member entitled
6 to notice is effective whether given before, at, or after the
7 meeting, and whether given in writing, orally, or by
8 attendance. Attendance by a member at a meeting is a waiver
9 of notice of that meeting, except where the member objects at
10 the beginning of the meeting to the transaction of business
11 because the meeting is not lawfully called or convened, or
12 objects before a vote on an item of business because the item
13 cannot lawfully be considered at that meeting and does not
14 participate in the consideration of the item at that meeting.

15 Sec. 55. NEW SECTION. 501A.805 CERTIFICATION OF MEETING
16 NOTICE.

17 1. CERTIFICATE OF MAILING. After mailing special or
18 regular members' meeting notices or otherwise delivering the
19 notices, the cooperative shall execute a certificate
20 containing the date of mailing or delivery of the notice and a
21 statement that the special or regular members' meeting notices
22 were mailed or delivered as prescribed by law.

23 2. MATTER OF RECORD. The certificate shall be made a part
24 of the record of the meeting.

25 3. FAILURE TO RECEIVE MEETING NOTICE. Failure of a member
26 to receive a special or regular members' meeting notice does
27 not invalidate an action taken by the members at a members'
28 meeting.

29 Sec. 56. NEW SECTION. 501A.806 QUORUM.

30 1. QUORUM. The quorum for a members' meeting to transact
31 business shall be by any of the following:

32 a. Ten percent of the total number of members of a
33 cooperative with five hundred or fewer members.

34 b. Fifty members for cooperatives with more than five
35 hundred members.

1 2. QUORUM FOR VOTING BY MAIL. In determining a quorum at
2 a meeting, on a question submitted to a vote by mail or an
3 alternative method, members present in person or represented
4 by mail vote or the alternative voting method shall be
5 counted. The attendance of a sufficient number of members to
6 constitute a quorum shall be established by a registration of
7 the members of the cooperative present at the meeting. The
8 registration shall be verified by the chairperson or the
9 records officer of the cooperative and shall be reported in
10 the minutes of the meeting.

11 3. MEETING ACTION INVALID WITHOUT QUORUM. An action by a
12 cooperative is not valid or legal in the absence of a quorum
13 at the meeting at which the action was taken.

14 Sec. 57. NEW SECTION. 501A.807 REMOTE COMMUNICATIONS FOR
15 MEMBERS' MEETINGS.

16 1. CONSTRUCTION AND APPLICATION. This section shall be
17 construed and applied to all of the following:

18 a. To facilitate remote communication consistent with
19 other applicable law.

20 b. To be consistent with reasonable practices concerning
21 remote communication and with the continued expansion of those
22 practices.

23 2. MEMBERS' MEETINGS HELD SOLELY BY MEANS OF REMOTE
24 COMMUNICATION. To the extent authorized in the articles, a
25 member control agreement, or the bylaws and determined by the
26 board, a regular or special meeting of members may be held
27 solely by any combination of means of remote communication
28 through which the members may participate in the meeting, if
29 notice of the meeting is given to every owner of membership
30 interests entitled to vote as would be required by this
31 chapter for a meeting, and if the membership interests held by
32 the members participating in the meeting would be sufficient
33 to constitute a quorum at a meeting. Participation by a
34 member by that means constitutes presence at the meeting in
35 person or by proxy if all the other requirements of this

1 chapter for the meeting are met.

2 3. PARTICIPATION IN MEMBERS' MEETINGS BY MEANS OF REMOTE
3 COMMUNICATION. To the extent authorized in the articles or
4 the bylaws and determined by the board, a member not
5 physically present in person or by proxy at a regular or
6 special meeting of members may, by means of remote
7 communication, participate in a meeting of members held at a
8 designated place. Participation by a member by that means
9 constitutes presence at the meeting in person or by proxy if
10 all the other requirements of this chapter for the meeting are
11 met.

12 4. REQUIREMENTS FOR MEETINGS HELD SOLELY BY MEANS OF
13 REMOTE COMMUNICATION AND FOR PARTICIPATION BY MEANS OF REMOTE
14 COMMUNICATION. In any meeting of members held solely by means
15 of remote communication under subsection 2 or in any meeting
16 of members held at a designated place in which one or more
17 members participate by means of remote communication under
18 subsection 3, all of the following shall apply:

19 a. The cooperative shall implement reasonable measures to
20 verify that each person deemed present and entitled to vote at
21 the meeting by means of remote communication is a member.

22 b. The cooperative shall implement reasonable measures to
23 provide each member participating by means of remote
24 communication with a reasonable opportunity to participate in
25 the meeting, including an opportunity to do all of the
26 following:

27 (1) Read or hear the proceedings of the meeting
28 substantially concurrently with those proceedings.

29 (2) If allowed by the procedures governing the meeting,
30 have the member's remarks heard or read by other participants
31 in the meeting substantially concurrently with the making of
32 those remarks.

33 (3) If otherwise entitled, vote on matters submitted to
34 the members.

35 5. NOTICE TO MEMBERS.

1 a. Any notice to members given by the cooperative under
2 any provision of this chapter, the articles, or the bylaws by
3 a form of electronic communication consented to by the member
4 to whom the notice is given is effective when given. The
5 notice is deemed given upon any of the following:

6 (1) If by facsimile communication, when directed to a
7 telephone number at which the member has consented to receive
8 notice.

9 (2) If by electronic mail, when directed to an electronic
10 mail address at which the member has consented to receive
11 notice.

12 (3) If by a posting on an electronic network on which the
13 member has consented to receive notice, together with separate
14 notice to the member of the specific posting, upon the later
15 of any of the following:

16 (a) The posting.

17 (b) The giving of the separate notice.

18 (4) If by any other form of electronic communication by
19 which the member has consented to receive notice, when
20 directed to the member.

21 b. An affidavit of the secretary, other authorized
22 officer, or authorized agent of the cooperative that the
23 notice has been given by a form of electronic communication
24 is, in the absence of fraud, prima facie evidence of the facts
25 stated in the affidavit.

26 c. Consent by a member to notice given by electronic
27 communication may be given in writing or by authenticated
28 electronic communication. The cooperative is entitled to rely
29 on any consent so given until revoked by the member, provided
30 that no revocation affects the validity of any notice given
31 before receipt by the cooperative of revocation of the
32 consent.

33 6. REVOCATION. Any ballot, vote, authorization, or
34 consent submitted by electronic communication under this
35 chapter may be revoked by the member submitting the ballot,

1 vote, authorization, or consent so long as the revocation is
2 received by a director or the chief executive officer of the
3 cooperative at or before the meeting or before an action
4 without a meeting is effective.

5 7. WAIVER. Waiver of notice by a member of a meeting by
6 means of authenticated electronic communication may be given
7 in the manner provided for the regular or special meeting.
8 Participation in a meeting by means of remote communication
9 described in subsections 2 and 3 is a waiver of notice of that
10 meeting, except where the member objects at the beginning of
11 the meeting to the transaction of business because the meeting
12 is not lawfully called or convened, or objects before a vote
13 on an item of business because the item cannot lawfully be
14 considered at the meeting and does not participate in the
15 consideration of the item at that meeting.

16 Sec. 58. NEW SECTION. 501A.808 ACT OF MEMBERS.

17 1. ACTION BY AFFIRMATIVE VOTE OF MEMBERS.

18 a. The members shall take action by the affirmative vote
19 of the members of the greater of any of the following:

20 (1) A majority of the voting power of the membership
21 interests present and entitled to vote on that item of
22 business.

23 (2) A majority of the voting power that would constitute a
24 quorum for the transaction of business at the meeting, except
25 where this chapter, the articles or bylaws, or a member
26 control agreement require a larger proportion.

27 b. If the articles, bylaws, or a member control agreement
28 require a larger proportion than is required by this chapter
29 for a particular action, the articles, bylaws, or the member
30 control agreement shall have control over the provisions of
31 this chapter.

32 2. CLASS OR SERIES OF MEMBERSHIP INTERESTS. In any case
33 where a class or series of membership interests is entitled by
34 this chapter, the articles, bylaws, a member control
35 agreement, or the terms of the membership interests to vote as

1 a class or series, the matter being voted upon must also
2 receive the affirmative vote of the owners of the same
3 proportion of the membership interests present of that class
4 or series; or of the total outstanding membership interests of
5 that class or series, as the proportion required under
6 subsection 1, unless the articles, bylaws, or the member
7 control agreement require a larger proportion. Unless
8 otherwise stated in the articles, bylaws, or a member control
9 agreement, in the case of voting as a class or series, the
10 minimum percentage of the total voting power of membership
11 interests of the class or series that must be present is equal
12 to the minimum percentage of all membership interests entitled
13 to vote required to be present under section 501A.707.

14 3. GREATER QUORUM OR VOTING REQUIREMENTS.

15 a. The articles or bylaws adopted by the members may
16 provide for a greater quorum or voting requirement for members
17 or voting groups than is provided for by this chapter.

18 b. An amendment to the articles or bylaws that adds,
19 changes, or deletes a greater quorum or voting requirement
20 shall meet the same quorum requirement and be adopted by the
21 same vote and voting groups required to take action under the
22 quorum and voting requirements then in effect or proposed to
23 be adopted, whichever is greater.

24 Sec. 59. NEW SECTION. 501A.809 ACTION WITHOUT A MEETING.

25 1. METHOD. An action required or permitted to be taken at
26 a meeting of the members may be taken by written action
27 signed, or consented to by authenticated electronic
28 communication, by all of the members. If the articles,
29 bylaws, or a member control agreement so provide, any action
30 may be taken by written action signed, or consented to by
31 authenticated electronic communication, by the members who own
32 voting power equal to the voting power that would be required
33 to take the same action at a meeting of the members at which
34 all members were present.

35 2. EFFECTIVE TIME. The written action is effective when

1 signed or consented to by authenticated electronic
2 communication by the required members, unless a different
3 effective time is provided in the written action.

4 3. NOTICE AND LIABILITY. When written action is permitted
5 to be taken by less than all members, all members must be
6 notified immediately of its text and effective date. Failure
7 to provide the notice does not invalidate the written action.
8 A member who does not sign or consent to the written action
9 has no liability for the action or actions taken by the
10 written action.

11 Sec. 60. NEW SECTION. 501A.810 MEMBER VOTING RIGHTS.

12 1. MEMBER HAS ONE VOTE OR PATRONAGE VOTING. A patron
13 member of a cooperative is only entitled to one vote on an
14 issue to be voted upon by members holding patron membership
15 interests. However, if authorized in the cooperative's
16 articles or bylaws, a patron member may be entitled to
17 additional votes based on patronage criteria in section
18 501A.811. If nonpatron members are authorized by the patron
19 members and granted voting rights on any matter voted on by
20 the members of the cooperative, the entire patron members'
21 voting power shall be voted collectively based upon the vote
22 of the majority of patron members voting on the issue and the
23 collective vote of the patron members shall be a majority of
24 the vote cast unless otherwise provided in the bylaws. The
25 bylaws shall not reduce the collective patron member vote to
26 less than fifteen percent of the total vote on matters of the
27 cooperative. A nonpatron member has the voting rights in
28 accordance to the nonpatron member's nonpatron membership
29 interests as granted in the bylaws, subject to the provisions
30 of this chapter.

31 2. RIGHT TO VOTE AT MEETING. A member or delegate may
32 exercise voting rights on any matter that is before the
33 members as prescribed in the articles or bylaws at a members'
34 meeting from the time the member or delegate arrives at the
35 members' meeting, unless the articles or bylaws specify an

1 earlier and specific time for closing the right to vote.

2 3. VOTING METHOD. A member's vote at a members' meeting
3 shall be in person or by mail if a mail vote is authorized by
4 the board or by alternative method if authorized by the board
5 and not by proxy, except as provided in subsection 4.

6 4. MEMBERS REPRESENTED BY DELEGATES.

7 a. The provisions of this subsection apply to members
8 represented by delegates.

9 b. A cooperative may provide in the articles or bylaws
10 that units or districts of members are entitled to be
11 represented at members' meetings by delegates chosen by the
12 members of the unit or district. The delegates may vote on
13 matters at the members' meeting in the same manner as a
14 member. The delegates may only exercise the voting rights on
15 a basis and with the number of votes as prescribed in the
16 articles or bylaws.

17 c. If the approval of a certain portion of the members is
18 required for adoption of amendments, a dissolution, a merger,
19 a consolidation, or a sale of assets, the votes of delegates
20 shall be counted as votes by the members represented by the
21 delegate.

22 d. Patron members may be represented by the proxy of other
23 patron members.

24 e. Nonpatron members may be represented by proxy if
25 authorized in the bylaws.

26 5. ABSENTEE BALLOTS.

27 a. The provisions of this subsection apply to absentee
28 ballots.

29 b. A member who is or will be absent from a members'
30 meeting may vote by mail or by an approved alternative method
31 on the ballot prescribed in this subsection on any motion,
32 resolution, or amendment that the board submits for vote by
33 mail or alternative method to the members.

34 c. The ballot shall be in the form prescribed by the board
35 and contain all of the following:

1 (1) The exact text of the proposed motion, resolution, or
2 amendment to be acted on at the meeting.

3 (2) The text of the motion, resolution, or amendment for
4 which the member may indicate an affirmative or negative vote.

5 d. The member shall express a choice by marking an
6 appropriate choice on the ballot and mail, deliver, or
7 otherwise submit the ballot to the cooperative in a plain,
8 sealed envelope inside another envelope bearing the member's
9 name or by an alternative method approved by the board.

10 e. A properly executed ballot shall be accepted by the
11 board and counted as the vote of the absent member at the
12 meeting.

13 Sec. 61. NEW SECTION. 501A.811 PATRON MEMBER VOTING
14 BASED ON PATRONAGE.

15 1. PATRON MEMBERS TO HAVE AN ADDITIONAL VOTE. A
16 cooperative may authorize by the articles or the bylaws for
17 patron members to have an additional vote for all of the
18 following:

19 a. A stipulated amount of business transacted between the
20 patron member and cooperative.

21 b. A stipulated number of patron members in a member
22 cooperative.

23 c. A certain stipulated amount of equity allocated to or
24 held by a patron member in the cooperative's central
25 organization.

26 d. A combination of methods provided in this subsection.

27 2. DELEGATES ELECTED BY PATRONS TO HAVE AN ADDITIONAL
28 VOTE. A cooperative that is organized into units or districts
29 of patron members may, by the articles or the bylaws,
30 authorize the delegates elected by its patron members to have
31 an additional vote for any of the following:

32 a. A stipulated amount of business transacted between the
33 patron members in the units or districts and the cooperative.

34 b. A certain stipulated amount of equity allocated to or
35 held by the patron members of the units or districts of the

1 cooperative.

2 c. A combination of methods in this subsection.

3 Sec. 62. NEW SECTION. 501A.812 VOTING RIGHTS.

4 1. DETERMINATION. The board may fix a date not more than
5 sixty days, or a shorter time period provided in the articles
6 or bylaws, before the date of a meeting of members as the date
7 for the determination of the owners of membership interests
8 entitled to notice of and entitled to vote at the meeting.
9 When a date is so fixed, only members on that date are
10 entitled to notice of and permitted to vote at that meeting of
11 members.

12 2. NONMEMBERS. The articles or bylaws may give or
13 prescribe the manner of giving a creditor, security holder, or
14 other person a right to vote on patron membership interests
15 under this section.

16 3. JOINTLY OWNED MEMBERSHIP INTERESTS. Membership
17 interests owned by two or more members may be voted by any one
18 of them unless the cooperative receives written notice from
19 any one of them denying the authority of that person to vote
20 those membership interests.

21 4. MANNER OF VOTING AND PRESUMPTION. Except as provided
22 in subsection 3, an owner of a nonpatron membership interest
23 or a patron membership interest with more than one vote that
24 is entitled to vote may vote any portion of the membership
25 interest in any way the member chooses. If a member votes
26 without designating the proportion voted in a particular way,
27 the member is considered to have voted all of the membership
28 interest in that way.

29 Sec. 63. NEW SECTION. 501A.813 VOTING BY ORGANIZATIONS
30 AND LEGAL REPRESENTATIVES.

31 1. MEMBERSHIP INTERESTS HELD BY ANOTHER ORGANIZATION.
32 Membership interests of a cooperative reflected in the
33 required records as being owned by another domestic business
34 entity or foreign business entity may be voted by the
35 chairperson, chief executive officer, or another legal

1 representative of that organization.

2 2. MEMBERSHIP INTERESTS HELD BY SUBSIDIARY. Except as
3 provided in subsection 3, membership interests of a
4 cooperative reflected in the required records as being owned
5 by a subsidiary are not entitled to be voted on any matter.

6 3. MEMBERSHIP INTERESTS CONTROLLED IN A FIDUCIARY
7 CAPACITY. Membership interests of a cooperative in the name
8 of, or under the control of, the cooperative or a subsidiary
9 in a fiduciary capacity are not entitled to be voted on any
10 matter, except to the extent that the settler or beneficiary
11 possesses and exercises a right to vote or gives the
12 cooperative or, with respect to membership interests in the
13 name of or under control of a subsidiary, the subsidiary,
14 binding instructions on how to vote the membership interests.

15 4. VOTING BY CERTAIN REPRESENTATIVES. Subject to section
16 501A.810, membership interests under the control of a person
17 in a capacity as a personal representative, an administrator,
18 executor, guardian, conservator, or the like may be voted by
19 the person, either in person or by proxy, without reflecting
20 in the required records those membership interests in the name
21 of the person.

22 5. VOTING BY TRUSTEES IN BANKRUPTCY OR RECEIVER.
23 Membership interests reflected in the required records in the
24 name of a trustee in bankruptcy or a receiver may be voted by
25 the trustee or receiver either in person or by proxy.
26 Membership interests under the control of a trustee in
27 bankruptcy or a receiver may be voted by the trustee or
28 receiver without reflecting in the required records the name
29 of the trustee or receiver, if authority to do so is contained
30 in an appropriate order of the court by which the trustee or
31 receiver was appointed. The right to vote of trustees in
32 bankruptcy and receivers is subject to section 501A.810.

33 6. MEMBERSHIP INTERESTS HELD BY OTHER ORGANIZATIONS.
34 Membership interests reflected in the required records in the
35 name of a business entity not described in subsections 1

1 through 5 may be voted either in person or by proxy by the
2 legal representative of that business entity.

3 7. GRANT OF SECURITY INTEREST. The grant of a security
4 interest in a membership interest does not entitle the holders
5 of the security interest to vote.

6 Sec. 64. NEW SECTION. 501A.814 PROXIES.

7 1. AUTHORIZATION.

8 a. A patron member may only grant a proxy to vote to
9 another patron member.

10 b. A member may cast or authorize the casting of a vote by
11 any of the following:

12 (1) Filing a written appointment of a proxy with the board
13 at or before the meeting at which the appointment is to be
14 effective.

15 (2) Telephonic transmission or authenticated electronic
16 communication, whether or not accompanied by written
17 instructions of the member, of an appointment of a proxy with
18 the cooperative or the cooperative's duly authorized agent at
19 or before the meeting at which the appointment is to be
20 effective.

21 c. The telephonic transmission or authenticated electronic
22 communication must set forth or be submitted with information
23 from which it can be determined that the appointment was
24 authorized by the member. If it is reasonably concluded that
25 the telephonic transmission or authenticated electronic
26 communication is valid, the inspectors of election or, if
27 there are not inspectors, the other persons making that
28 determination shall specify the information upon which they
29 relied to make that determination. A proxy so appointed may
30 vote on behalf of the member, or otherwise participate, in a
31 meeting by remote communication under section 501A.807, to the
32 extent the member appointing the proxy would have been
33 entitled to participate by remote communication if the member
34 did not appoint the proxy.

35 d. A copy, facsimile, telecommunication, or other

1 reproduction of the original writing or transmission may be
2 substituted or used in lieu of the original writing or
3 transmission for any purpose for which the original
4 transmission could be used, if the copy, facsimile,
5 telecommunication, or other reproduction is a complete and
6 legible reproduction of the entire original writing or
7 transmission.

8 e. An appointment of a proxy for membership interests
9 owned jointly by two or more members is valid if signed or
10 consented to by authenticated electronic communication, by any
11 one of them, unless the cooperative receives from any one of
12 those members written notice or an authenticated electronic
13 communication either denying the authority of that person to
14 appoint a proxy or appointing a different proxy.

15 2. DURATION. The appointment of a proxy is valid for
16 eleven months unless a longer period is expressly provided in
17 the appointment. An appointment is not irrevocable unless the
18 appointment is coupled with an interest in the membership
19 interests or the cooperative.

20 3. TERMINATION. An appointment may be terminated at will
21 unless the appointment is coupled with an interest, in which
22 case the appointment shall not be terminated except in
23 accordance with the terms of an agreement, if any, between the
24 parties to the appointment. Termination may be made by filing
25 written notice of the termination of the appointment with a
26 manager of the cooperative or by filing a new written
27 appointment of a proxy with a manager of the cooperative.
28 Termination in either manner revokes all prior proxy
29 appointments and is effective when filed with a manager of the
30 cooperative.

31 4. REVOCATION BY DEATH OR INCAPACITY. The death or
32 incapacity of a person appointing a proxy does not revoke the
33 authority of the proxy, unless written notice of the death or
34 incapacity is received by a manager of the cooperative before
35 the proxy exercises the authority under that appointment.

1 5. MULTIPLE PROXIES. Unless the appointment specifically
2 provides otherwise, if two or more persons are appointed as
3 proxies for a member, all of the following apply:

4 a. Any one of them may vote the membership interests on
5 each item of business in accordance with specific instructions
6 contained in the appointment.

7 b. If no specific instructions are contained in the
8 appointment with respect to voting the membership interests on
9 a particular item of business, the membership interests must
10 be voted as a majority of the proxies determine. If the
11 proxies are equally divided, the membership interests must not
12 be voted.

13 6. VOTE OF PROXY ACCEPTED AND LIABILITY. Unless the
14 appointment of a proxy contains a restriction, limitation, or
15 specific reservation of authority, the cooperative may accept
16 a vote or action taken by a person named in the appointment.
17 The vote of a proxy is final, binding, and not subject to
18 challenge, but the proxy is liable to the member for damages
19 resulting from a failure to exercise the proxy or from an
20 exercise of the proxy in violation of the authority granted in
21 the appointment.

22 7. LIMITED AUTHORITY. If a proxy is given authority by a
23 member to vote on less than all items of business considered
24 at a meeting of members, the member is considered to be
25 present and entitled to vote by the proxy only with respect to
26 those items of business for which the proxy has authority to
27 vote. A proxy who is given authority by a member who abstains
28 with respect to an item of business is considered to have
29 authority to vote on the item of business for purposes of this
30 subsection.

31 Sec. 65. NEW SECTION. 501A.815 SALE OF PROPERTY AND
32 ASSETS.

33 1. MEMBER APPROVAL NOT REQUIRED. A cooperative may, by
34 affirmative vote of a majority of the board present, upon
35 those terms and conditions and for those considerations, which

1 may be money, securities, or other instruments for the payment
2 of money or other property, as the board considers expedient
3 and without member approval, do any of the following:

4 a. Sell, lease, transfer, or otherwise dispose of all or
5 substantially all of its property and assets in the usual and
6 regular course of its business.

7 b. Grant a security interest in all or substantially all
8 of its property and assets whether or not in the usual and
9 regular course of its business.

10 c. Transfer any or all of its property to a business
11 entity all the ownership interests of which are owned by the
12 cooperative.

13 d. For purposes of debt financing, transfer any or all of
14 its property to a special purpose entity owned or controlled
15 by the cooperative for an asset securitization.

16 2. MEMBER APPROVAL REQUIRED. Except as provided in
17 subsection 1, a cooperative, by affirmative vote of a majority
18 of the board present, may sell, lease, transfer, or otherwise
19 dispose of all or substantially all of its property and
20 assets, including its goodwill, not in the usual and regular
21 course of its business, upon those terms and conditions and
22 for those considerations, which may be money, securities, or
23 other instruments for the payment of money or other property,
24 as the board considers expedient, when approved at a regular
25 or special meeting of the members by the affirmative vote of
26 two-thirds of the voting power voting at the meeting. Ten
27 days' written notice of the meeting must be given to all
28 members whether or not they are entitled to vote at the
29 meeting. The written notice must state that a purpose of the
30 meeting is to consider the sale, lease, transfer, or other
31 disposition of all or substantially all of the property and
32 assets of the cooperative.

33 3. CONFIRMATORY DOCUMENTS. Confirmatory deeds,
34 assignments, or similar instruments to evidence a sale, lease,
35 transfer, or other disposition may be signed and delivered at

1 any time in the name of the transferor by its current
2 chairperson of the board or authorized agents.

3 4. LIABILITY OF TRANSFEREE. The transferee is liable for
4 the debts, obligations, and liabilities of the transferor only
5 to the extent provided in the contract or agreement between
6 the transferee and the transferor or to the extent provided by
7 law.

8 Sec. 66. NEW SECTION. 501A.816 VOTE OF OWNERSHIP
9 INTERESTS HELD BY COOPERATIVE.

10 A cooperative that holds ownership interests of another
11 business entity may, by direction of the cooperative's board,
12 elect or appoint a person to represent the cooperative at a
13 meeting of the business entity. The representative has
14 authority to represent the cooperative and may cast the
15 cooperative's vote at the business entity's meeting.

16 SUBCHAPTER 9

17 MEMBERSHIP INTERESTS

18 Sec. 67. NEW SECTION. 501A.901 MEMBERSHIP INTERESTS.

19 1. PATRON MEMBERSHIP INTERESTS. Patron membership
20 interests shall be the only membership interest of a
21 cooperative unless nonpatron memberships are authorized under
22 subsection 2. If nonpatron interests are authorized, the
23 patron membership interests collectively shall have not less
24 than fifty percent of the cooperative's financial rights to
25 profit allocations and distributions. However, the
26 cooperative's articles or bylaws may be amended by the
27 affirmative vote of patron members to allow the cooperative's
28 financial rights to profit allocations and distributions to
29 patron members collectively to be a lesser amount but in no
30 case less than fifteen percent.

31 2. NONPATRONAGE MEMBERSHIP INTERESTS.

32 a. In order for a cooperative to have nonpatron membership
33 interests, the patron members must approve articles or bylaw
34 provisions authorizing the terms and conditions of the
35 nonpatron membership interests, which may include authorizing

1 the board to determine the terms and conditions of the
2 nonpatron membership interests.

3 b. If nonpatron membership interests are authorized, the
4 cooperative may solicit and issue nonpatron membership
5 interests on terms and conditions determined by the board and
6 disclosed in the articles, bylaws, or by separate disclosure
7 to the members. Each member acquiring nonpatron membership
8 interests shall sign a member control agreement or otherwise
9 agree to the conditions of the bylaws. The control agreement
10 or the bylaws shall describe the rights and obligations of the
11 member as it relates to the nonpatron membership interests,
12 the financial and governance rights, the transferability of
13 the nonpatron membership interests, the division and
14 allocation of profits and losses among the membership
15 interests and membership classes, and financial rights upon
16 liquidation. If the articles or bylaws do not otherwise
17 provide for the allocation of the profits and losses between
18 patron membership interests and nonpatron membership
19 interests, then the allocation of profits and losses among
20 nonpatron membership interests individually and patron
21 membership interests collectively shall be allocated on the
22 basis of the value of contributions to capital made according
23 to the patron membership interests collectively and the
24 nonpatron memberships interests individually to the extent the
25 contributions have been accepted by the cooperative.
26 Distributions of cash or other assets of the cooperative shall
27 be allocated among the membership interests as provided in the
28 articles or bylaws, subject to the provisions of this chapter.
29 If not otherwise provided in the articles or bylaws,
30 distributions shall be made on the basis of value of the
31 capital contributions of the patron membership interests
32 collectively and the nonpatron membership interests to the
33 extent the contributions have been accepted by the
34 cooperative.

35 3. AMOUNTS AND DIVISIONS OF MEMBERSHIP INTERESTS. The

1 authorized amount and divisions of patron membership interests
2 and, if authorized by the patron members, nonpatron membership
3 interest, may be increased, decreased, established, or altered
4 in accordance with the restrictions in this chapter by
5 amending the articles or bylaws at a regular members' meeting
6 or at a special members' meeting called for the purpose of the
7 amendment.

8 4. ISSUANCE OF MEMBERSHIP INTERESTS. Authorized
9 membership interests may be issued on terms and conditions
10 prescribed in the articles, bylaws, or if authorized in the
11 articles or bylaws as determined by the board. The
12 cooperative shall disclose to any person acquiring membership
13 interests to be issued by the cooperative, the organization,
14 capital structure, and known business prospects and risks of
15 the cooperative, the nature of the governance and financial
16 rights of the membership interest being acquired and of other
17 classes of membership and membership interests. The
18 cooperative shall notify all members of the membership
19 interests being issued by the cooperative. A membership
20 interest shall not be issued until subscription price of the
21 membership interest has been paid for in money or property
22 with the value of the property to be contributed approved by
23 the board.

24 5. TRANSFERRING OR SELLING MEMBERSHIP INTERESTS. After
25 issuance by the cooperative, membership interests in a
26 cooperative may only be sold or transferred with the approval
27 of the board. The board may adopt resolutions prescribing
28 procedures to prospectively approve transfers.

29 6. COOPERATIVE FIRST RIGHT TO PURCHASE MEMBERSHIP
30 INTERESTS. The articles or bylaws may provide that the
31 cooperative or the patron members, individually or
32 collectively, have the first privilege of purchasing the
33 membership interests of any class of membership interests
34 offered for sale. The first privilege to purchase membership
35 interests may be satisfied by notice to other members that the

1 membership interests are for sale and a procedure by which
2 members may proceed to attempt to purchase and acquire the
3 membership interests.

4 7. PAYMENT FOR DISSENTING MEMBERSHIP INTERESTS.

5 a. Subject to the provisions in the articles and bylaws, a
6 member may dissent from and obtain payment for the fair value
7 of the member's membership interests in the cooperative if all
8 of the following apply:

9 (1) The majority of the cooperative's member voting power
10 is held by different classes of interests.

11 (2) The articles or bylaws are amended or the cooperative
12 is merged or otherwise combined with another entity in a
13 manner that materially and adversely affects the rights and
14 preferences of the membership interests of the dissenting
15 member.

16 b. The dissenting member shall file a notice of intent to
17 demand fair value of the membership interest with the records
18 officer of the cooperative within thirty days after the
19 amendment of the bylaws and notice of the amendment to
20 members; otherwise, the right of the dissenting member to
21 demand payment of fair value for the membership interest is
22 waived. If a proposed amendment of the articles or bylaws
23 must be approved by the members, a member who is entitled to
24 dissent and who wishes to exercise dissenter's rights shall
25 file a notice to demand fair value of the membership interest
26 with the records officer of the cooperative; otherwise, the
27 right to demand fair value for the membership interest by the
28 dissenting member is waived. After receipt of the dissenting
29 member's demand notice and approval of the amendment, the
30 cooperative has sixty days to rescind the amendment, or
31 otherwise the cooperative shall remit the fair value for the
32 member's interest to the dissenting member by one hundred
33 eighty days after receipt of the notice. Upon receipt of the
34 fair value for the membership interest, the member has no
35 further member rights in the cooperative.

1 Sec. 68. NEW SECTION. 501A.902 ASSIGNMENT OF FINANCIAL
2 RIGHTS.

3 1. ASSIGNMENT OF FINANCIAL RIGHTS PERMITTED. Except as
4 provided in subsection 3, a member's financial rights are
5 transferable in whole or in part.

6 2. EFFECT OF ASSIGNMENT OF FINANCIAL RIGHTS. An
7 assignment of a member's financial rights entitles the
8 assignee to receive, to the extent assigned, only the share of
9 profits and losses and the distributions to which the assignor
10 would otherwise be entitled. An assignment of a member's
11 financial rights does not dissolve the cooperative and does
12 not entitle or empower the assignee to become a member, to
13 exercise any governance rights, to receive any notices from
14 the cooperative, or to cause dissolution. The assignment
15 shall not allow the assignee to control the member's exercise
16 of governance or voting rights.

17 3. RESTRICTIONS OF ASSIGNMENT OF FINANCIAL RIGHTS.

18 a. A restriction on the assignment of financial rights may
19 be imposed in the articles, in the bylaws, in a member control
20 agreement, by a resolution adopted by the members, by an
21 agreement among or other written action by the members, or by
22 an agreement among or other written action by the members and
23 the cooperative. A restriction is not binding with respect to
24 financial rights reflected in the required records before the
25 adoption of the restriction, unless the owners of those
26 financial rights are parties to the agreement or voted in
27 favor of the restriction.

28 b. Subject to paragraph "c", a written restriction on the
29 assignment of financial rights that is not manifestly
30 unreasonable under the circumstances and is noted
31 conspicuously in the required records may be enforced against
32 the owner of the restricted financial rights or a successor or
33 transferee of the owner, including a pledgee or a legal
34 representative. Unless noted conspicuously in the required
35 records, a restriction, even though permitted by this section,

1 is ineffective against a person without knowledge of the
2 restriction.

3 c. With regard to restrictions on the assignment of
4 financial rights, a would-be assignee of financial rights is
5 entitled to rely on a statement of membership interest issued
6 by the cooperative under section 501A.903. A restriction on
7 the assignment of financial rights, which is otherwise valid
8 and in effect at the time of the issuance of a statement of
9 membership interest but which is not reflected in that
10 statement, is ineffective against an assignee who takes an
11 assignment in reliance on the statement.

12 d. Notwithstanding any provision of law, articles, bylaws,
13 member control agreement, other agreement, resolution, or
14 action to the contrary, a security interest in a member's
15 financial rights may be foreclosed and otherwise enforced, and
16 a secured party may assign a member's financial rights in
17 accordance with the uniform commercial code, chapter 554,
18 without the consent or approval of the member whose financial
19 rights are subject to the security interest.

20 Sec. 69. NEW SECTION. 501A.903 NATURE OF A MEMBERSHIP
21 INTEREST AND STATEMENT OF INTEREST OWNED.

22 1. GENERALLY. A membership interest is personal property.
23 A member has no interest in specific cooperative property.
24 All property of the cooperative is property of the
25 cooperative.

26 2. STATEMENT OF MEMBERSHIP INTEREST. At the request of
27 any member, the cooperative shall state in writing the
28 particular membership interest owned by that member as of the
29 date the cooperative makes the statement. The statement must
30 describe the member's rights to vote, if any, to share in
31 profits and losses, and to share in distributions,
32 restrictions on assignments of financial rights under section
33 501A.902, subsection 3, or voting rights under section
34 501A.810 then in effect, as well as any assignment of the
35 member's rights then in effect other than a security interest.

1 3. TERMS OF MEMBERSHIP INTERESTS. All the membership
2 interests of a cooperative are subject to all of the
3 following:

4 a. Membership interests shall be of one class, without
5 series, unless the articles or bylaws establish or authorize
6 the board to establish more than one class or series within
7 classes.

8 b. Ordinary patron membership interests and, if
9 authorized, nonpatron membership interest subject to this
10 chapter are entitled to vote as provided in section 501A.810,
11 and have equal rights and preferences in all matters not
12 otherwise provided for by the board and to the extent that the
13 articles or bylaws have fixed the relative rights and
14 preferences of different classes and series.

15 c. Membership interests share profits and losses and are
16 entitled to distributions as provided in sections 501A.1005
17 and 501A.1006.

18 4. RIGHTS OF JUDGMENT CREDITOR. On application to a court
19 of competent jurisdiction by any judgment creditor of a
20 member, the court may charge a member's or an assignee's
21 financial rights with payment of the unsatisfied amount of the
22 judgment with interest. To the extent so charged, the
23 judgment creditor has only the rights of an assignee of a
24 member's financial rights under section 501A.902. This
25 chapter does not deprive any member or assignee of financial
26 rights of the benefit of any exemption laws applicable to the
27 membership interest. This section is the sole and exclusive
28 remedy of a judgment creditor with respect to the judgment
29 debtor's membership interest.

30 5. a. Subject to any restrictions in the articles or
31 bylaws, the power granted in this subsection may be exercised
32 by a resolution or resolutions establishing a class or series,
33 setting forth the designation of the class or series, and
34 fixing the relative rights and preferences of the class or
35 series. Any of the rights and preferences of a class or

1 series established in the articles, bylaws, or by resolution
2 of the board may do any of the following:

3 (1) Be made dependent upon facts ascertainable outside the
4 articles or bylaws or outside the resolution or resolutions
5 establishing the class or series, if the manner in which the
6 facts operate upon the rights and preferences of the class or
7 series is clearly and expressly set forth in the articles or
8 bylaws or in the resolution or resolutions establishing the
9 class or series.

10 (2) Include by reference some or all of the terms of any
11 agreements, contracts, or other arrangements entered into by
12 the cooperative in connection with the establishment of the
13 class or series if the cooperative retains at its principal
14 executive office a copy of the agreements, contracts, or other
15 arrangements or the portions will be included by reference.

16 b. A statement setting forth the name of the cooperative
17 and the text of the resolution and certifying the adoption of
18 the resolution and the date of adoption must be given to the
19 members before the acceptance of any contributions for which
20 the resolution creates rights or preferences not set forth in
21 the articles or bylaws. Where the members have received
22 notice of the creation of membership interests with rights or
23 preferences not set forth in the articles or bylaws before the
24 acceptance of the contributions with respect to the membership
25 interests, the statement may be filed anytime within one year
26 after the acceptance of the contributions. The resolution is
27 effective three days after delivery to the members is deemed
28 effective by the board, or, if the statement is not required
29 to be given to the members before the acceptance of
30 contributions, on the date of its adoption by the directors.

31 6. SPECIFIC TERMS. Without limiting the authority granted
32 in this section, in regulating the membership interests of a
33 class or series, a cooperative may do any of the following:

34 a. Subject to the right of the cooperative to redeem any
35 of those membership interests at the price fixed for their

1 redemption by the articles or bylaws or by the board.

2 b. Entitle the members to receive cumulative, partially
3 cumulative, or noncumulative distributions.

4 c. Provide a preference over any class or series of
5 membership interests for the payment of distributions of any
6 or all kinds.

7 d. Convert into membership interests of any other class or
8 any series of the same or another class.

9 e. Provide full, partial, or no voting rights, except as
10 provided in section 501A.810.

11 7. GRANT OF A SECURITY INTEREST. For the purpose of any
12 law relating to security interests, membership interests,
13 governance or voting rights, and financial rights are each to
14 be characterized as provided in section 554.8103, subsection
15 3.

16 8. POWERS OF ESTATE OF A DECEASED OR INCOMPETENT MEMBER.

17 a. If a member who is an individual dies or a court of
18 competent jurisdiction adjudges the member to be incompetent
19 to manage the member's person or property, or an order for
20 relief under the bankruptcy code is entered with respect to
21 the member, the member's executor, administrator, guardian,
22 conservator, trustee, or other legal representative may
23 exercise all of the member's rights for the purpose of
24 settling the estate or administering the member's property.
25 If a member is a business entity, trust, or other entity and
26 is dissolved, terminated, or placed by a court in receivership
27 or bankruptcy, the powers of that member may be exercised by
28 its legal representative or successor.

29 b. If an event referred to in paragraph "a" causes the
30 termination of a member's membership interest and the
31 termination does not result in dissolution, then, subject to
32 the articles and bylaws, all of the following apply:

33 (1) As provided in section 501A.902, the terminated
34 member's interest will be considered to be merely that of an
35 assignee of the financial rights owned before the termination

1 of membership.

2 (2) The rights to be exercised by the legal representative
3 of the terminated member shall be limited accordingly.

4 9. LIABILITY OF SUBSCRIBERS AND MEMBERS WITH RESPECT TO
5 MEMBERSHIP INTERESTS. A person who subscribes to or owns a
6 membership interest in a cooperative is under no obligation to
7 the cooperative or its creditors with respect to the
8 membership interests subscribed for or owned, except to pay to
9 the cooperative the full consideration for which the
10 membership interests are issued or to be issued.

11 Sec. 70. NEW SECTION. 501A.904 CERTIFICATED MEMBERSHIP
12 INTERESTS.

13 1. CERTIFICATED -- UNCERTIFICATED. The membership
14 interests of a cooperative shall be either certificated or
15 uncertificated. Each holder of certificated membership
16 interests issued is entitled to a certificate of membership
17 interest.

18 2. SIGNATURE REQUIRED. Certificates shall be signed by an
19 agent or officer authorized in the articles or bylaws to sign
20 share certificates or, in the absence of an authorization, by
21 the chairperson or records officer of the cooperative.

22 3. SIGNATURE VALID. If a person signs or has a facsimile
23 signature placed upon a certificate while the chairperson, an
24 officer, transfer agent, or records officer of a cooperative,
25 the certificate may be issued by the cooperative, even if the
26 person has ceased to have that capacity before the certificate
27 is issued, with the same effect as if the person had that
28 capacity at the date of its issue.

29 4. FORM OF CERTIFICATE. A certificate representing
30 membership interests of a cooperative shall contain on its
31 face all of the following:

32 a. The name of the cooperative.

33 b. A statement that the cooperative is organized under the
34 laws of this state and this chapter.

35 c. The name of the person to whom the certificate is

1 issued.

2 d. The number and class of membership interests, and the
3 designation of the series, if any, that the certificate
4 represents.

5 e. A statement that the membership interests in the
6 cooperative are subject to the articles and bylaws of the
7 cooperative.

8 f. Any restrictions on transfer, including approval of the
9 board, if applicable, first rights of purchase by the
10 cooperative, and other restrictions on transfer, which may be
11 stated by reference to the back of the certificate or to
12 another document.

13 5. LIMITATIONS SET FORTH. A certificate representing
14 membership interests issued by a cooperative authorized to
15 issue membership interests of more than one class or series
16 shall set forth upon the face or back of the certificate, or
17 shall state that the cooperative will furnish to any member
18 upon request and without charge, a full statement of the
19 designations, preferences, limitations, and relative rights of
20 the membership interests of each class or series authorized to
21 be issued, so far as they have been determined, and the
22 authority of the board to determine the relative rights and
23 preferences of subsequent classes or series.

24 6. PRIMA FACIE EVIDENCE. A certificate signed as provided
25 in subsection 2 is prima facie evidence of the ownership of
26 the membership interests referred to in the certificate.

27 7. UNCERTIFICATED MEMBERSHIP INTERESTS. Unless
28 uncertificated membership interests are prohibited by the
29 articles or bylaws, a resolution approved by the affirmative
30 vote of a majority of the directors present may provide that
31 some or all of any or all classes and series of its membership
32 interests will be uncertificated membership interests.

33 The resolution does not apply to membership interests
34 represented by a certificate until the certificate is
35 surrendered to the cooperative. Within a reasonable time

1 after the issuance or transfer of uncertificated membership
2 interests, the cooperative shall send to the new member the
3 information required by this section to be stated on
4 certificates. This information is not required to be sent to
5 the new holder by a publicly held cooperative that has adopted
6 a system of issuance, recordation, and transfer of its
7 membership interests by electronic or other means not
8 involving an issuance of certificates if the system complies
9 with section 17A of the Securities Exchange Act of 1934, 15
10 U.S.C. § 78a et seq. Except as otherwise expressly provided
11 by statute, the rights and obligations of the holders of
12 certificated and uncertificated membership interests of the
13 same class and series are identical.

14 Sec. 71. NEW SECTION. 501A.905 LOST CERTIFICATES --
15 REPLACEMENT.

16 1. ISSUANCE. A new membership interest certificate may be
17 issued under section 554.8405 in place of one that is alleged
18 to have been lost, stolen, or destroyed.

19 2. NOT OVERISSUE. The issuance of a new certificate under
20 this section does not constitute an overissue of the
21 membership interests the new certificate represents.

22 Sec. 72. NEW SECTION. 501A.906 RESTRICTION ON TRANSFER
23 OR REGISTRATION OF MEMBERSHIP INTERESTS.

24 1. HOW IMPOSED. A restriction on the transfer or
25 registration of transfer of membership interests of a
26 cooperative may be imposed in the articles, in the bylaws, by
27 a resolution adopted by the members, or by an agreement among
28 or other written action by a number of members or holders of
29 other membership interests or among them and the cooperative.
30 A restriction is not binding with respect to membership
31 interests issued prior to the adoption of the restriction,
32 unless the holders of those membership interests are parties
33 to the agreement or voted in favor of the restriction.

34 2. RESTRICTIONS PERMITTED. A written restriction on the
35 transfer or registration of transfer of membership interests

1 of a cooperative that is not manifestly unreasonable under the
2 circumstances may be enforced against the holder of the
3 restricted membership interests or a successor or transferee
4 of the holder, including a pledgee or a legal representative,
5 if the restriction is any of the following:

6 a. Noted conspicuously on the face or back of the
7 certificate.

8 b. Included in this chapter or the articles or bylaws.

9 c. Included in information sent to the holders of
10 uncertificated membership interests.

11 Unless otherwise restricted by this chapter, the articles,
12 bylaws, noted conspicuously on the face or back of the
13 certificate, or included in information sent to the holders of
14 uncertificated membership interests, a restriction, even
15 though permitted by this section, is ineffective against a
16 person without knowledge of the restriction. A restriction
17 under this section is deemed to be noted conspicuously and is
18 effective if the existence of the restriction is stated on the
19 certificate and reference is made to a separate document
20 creating or describing the restriction.

21 SUBCHAPTER 10

22 CONTRIBUTIONS, ALLOCATIONS, AND DISTRIBUTIONS

23 Sec. 73. NEW SECTION. 501A.1001 AUTHORIZATION, FORM, AND
24 ACCEPTANCE OF CONTRIBUTIONS.

25 1. Subject to any restrictions in this chapter regarding
26 patron and nonpatron membership interests or in the articles
27 or bylaws, and only when authorized by the board, a
28 cooperative may accept contributions, which may be patron or
29 nonpatron membership contributions as determined by the board
30 under subsections 2 and 3, make contribution agreements under
31 section 501A.1003, and make contribution rights agreements
32 under section 501A.1004.

33 2. PERMISSIBLE FORMS. A person may make a contribution to
34 a cooperative by any of following:

35 a. Paying money or transferring the ownership of an

1 interest in property to the cooperative or rendering services
2 to or for the benefit of the cooperative.

3 b. Executing a written obligation signed by the person to
4 pay money or transfer ownership of an interest in property to
5 the cooperative or to perform services to or for the benefit
6 of the cooperative.

7 3. A purported contribution shall not be treated or
8 considered as a contribution, unless all of the following
9 apply:

10 a. The board accepts the contribution on behalf of the
11 cooperative and in that acceptance describes the contribution,
12 including terms of future performance, if any, and states the
13 value being accorded to the contribution.

14 b. The fact of contribution and the contribution's
15 accorded value are both reflected in the required records of
16 the cooperative.

17 4. The determinations of the board as to the amount or
18 fair value or the fairness to the cooperative of the
19 contribution accepted or to be accepted by the cooperative or
20 the terms of payment or performance, including under a
21 contribution rights in section 501A.1003, and a contribution
22 rights agreement in section 501A.1004, are presumed to be
23 proper if they are made in good faith and on the basis of
24 accounting methods, or a fair valuation or other method,
25 reasonable in the circumstances. Directors who are present
26 and entitled to vote, and who, intentionally or without
27 reasonable investigation, fail to vote against approving a
28 consideration that is unfair to the cooperative, or overvalue
29 property or services received or to be received by the
30 cooperative as a contribution, are jointly and severally
31 liable to the cooperative for the benefit of the then members
32 who did not consent to and are damaged by the action to the
33 extent of the damages of those members. A director against
34 whom a claim is asserted under this subsection, except in case
35 of knowing participation in a deliberate fraud, is entitled to

1 contribution on an equitable basis from other directors who
2 are liable under this subsection.

3 Sec. 74. NEW SECTION. 501A.1002 RESTATEMENT OF VALUE OF
4 PREVIOUS CONTRIBUTIONS.

5 1. DEFINITION. As used in this section, an "old
6 contribution" is a contribution reflected in the required
7 records of a cooperative before the time the cooperative
8 accepts a new contribution.

9 2. RESTATEMENT REQUIRED. Whenever a cooperative accepts a
10 new contribution, the board shall restate, as required by this
11 section, the value of all old contributions.

12 3. RESTATEMENT AS TO PARTICULAR SERIES OR CLASS TO WHICH
13 NEW CONTRIBUTION PERTAINS.

14 a. Unless otherwise provided in a cooperative's articles
15 or bylaws, this subsection sets forth the method of restating
16 the value of old contributions that pertain to the same series
17 or class to which the new contribution pertains. In restating
18 the value, the cooperative shall do all of the following:

19 (1) State the value the cooperative has accorded to the
20 new contribution under section 504A.1001, subsection 3,
21 paragraph "a".

22 (2) Determine what percentage the value stated under
23 subparagraph (1) will constitute, after the restatement
24 required by this subsection, of the total value of all
25 contributions that pertain to the particular series or class
26 to which the new contribution pertains.

27 (3) Divide the value stated under subparagraph (1) by the
28 percentage determined under subparagraph (2), yielding the
29 total value, after the restatement required by this
30 subsection, of all contributions pertaining to the particular
31 series or class.

32 (4) Subtract the value stated under subparagraph (1) from
33 the value determined under subparagraph (3), yielding the
34 total value, after the restatement required by this
35 subsection, of all the old contributions pertaining to the

1 particular series or class.

2 (5) Subtract the value, as reflected in the required
3 records before the restatement required by this subsection, of
4 the old contributions from the value determined under
5 subparagraph (4), yielding the value to be allocated among and
6 added to the old contributions pertaining to the particular
7 series or class.

8 (6) Allocate the value determined under subparagraph (5)
9 proportionally among the old contributions pertaining to the
10 particular series or class, add the allocated values to those
11 old contributions, and change the required records
12 accordingly.

13 b. The values determined under paragraph "a", subparagraph
14 (5), and allocated and added under paragraph "a", subparagraph
15 (6), may be positive, negative, or zero.

16 4. RESTATEMENT METHOD FOR OTHER SERIES OR CLASS. Unless
17 otherwise provided in a cooperative's articles or bylaws, this
18 subsection sets forth the method of restating the value of old
19 contributions that do not pertain to the same series or class
20 to which the new contribution pertains. In restating the
21 value, the cooperative shall do all of the following:

22 a. Determine the percentage by which the restatement under
23 subsection 3 has changed the total contribution value
24 reflected in the required records for the series or class to
25 which the new contribution pertains.

26 b. As to each old contribution that does not pertain to
27 the same series or class to which the new contribution
28 pertains, change the value reflected in the required records
29 by the percentage determined under paragraph "a". The
30 percentage determined under paragraph "a" may be positive,
31 negative, or zero.

32 5. NEW CONTRIBUTIONS MAY BE AGGREGATED. If a cooperative
33 accepts more than one contribution pertaining to the same
34 series or class at the same time, then for the purpose of the
35 restatement required by this section, the cooperative may

1 consider all the new contributions a single contribution.

2 Sec. 75. NEW SECTION. 501A.1003 CONTRIBUTION AGREEMENTS.

3 1. SIGNED WRITING. A contribution agreement, whether made
4 before or after the formation of the cooperative, is not
5 enforceable against the would-be contributor unless it is in
6 writing and signed by the would-be contributor.

7 2. IRREVOCABLE PERIOD. Unless otherwise provided in the
8 contribution agreement, or unless all of the would-be
9 contributors and, if in existence, the cooperative, consent to
10 a shorter or longer period, a contribution agreement is
11 irrevocable for a period of six months.

12 3. CURRENT AND DEFERRED PAYMENT. A contribution
13 agreement, whether made before or after the formation of a
14 cooperative, must be paid or performed in full at the time or
15 times, or in the installments, if any, specified in the
16 contribution agreement. In the absence of a provision in the
17 contribution agreement specifying the time at which the
18 contribution is to be paid or performed, the contribution must
19 be paid or performed at the time or times determined by the
20 board. However, a call made by the board for payment or
21 performance on contributions must be uniform for all
22 membership interests of the same class or for all membership
23 interests of the same series.

24 4. FAILURE TO PAY REMEDIES.

25 a. Unless otherwise provided in the contribution
26 agreement, in the event of default in the payment or
27 performance of an installment or call when due, the
28 cooperative may proceed to collect the amount due in the same
29 manner as a debt due the cooperative. If a would-be
30 contributor does not make a required contribution of property
31 or services, the cooperative shall require the would-be
32 contributor to contribute cash equal to that portion of the
33 value, as stated in the cooperative's required records, of the
34 contribution that has not been made.

35 b. If the amount due under a contribution agreement

1 remains unpaid for a period of twenty days after written
2 notice of demand for payment has been given to the delinquent
3 would-be contributor, the membership interests that were
4 subject to the contribution agreement may be offered for sale
5 by the cooperative for a price in money equaling or exceeding
6 the sum of the full balance owed by the delinquent would-be
7 contributor plus the expenses incidental to the sale.

8 If the membership interests that were subject to the
9 contribution agreement are sold according to this paragraph
10 "b", the cooperative shall pay to the delinquent would-be
11 contributor or to the delinquent would-be contributor's legal
12 representative the lesser of one of the following:

13 (1) The excess of net proceeds realized by the cooperative
14 over the sum of the amount owed by the delinquent would-be
15 contributor plus the expenses incidental to the sale, less any
16 penalty stated in the contribution agreement, which may
17 include forfeiture of the partial contribution.

18 (2) The amount actually paid by the delinquent would-be
19 contributor.

20 If the membership interests that were subject to the
21 contribution agreement are not sold according to this
22 paragraph "b", the cooperative may collect the amount due in
23 the same manner as a debt due the cooperative or cancel the
24 contribution agreement according to paragraph "c".

25 c. If the amount due under a contribution agreement
26 remains unpaid for a period of twenty days after written
27 notice of demand for payment has been given to the delinquent
28 would-be contributor and the membership interests that were
29 subject to the defaulted contribution agreement have not been
30 sold according to paragraph "b", the cooperative may cancel
31 the contribution agreement. In addition, the cooperative may
32 retain any portion of the contribution agreement price
33 actually paid as provided in the contribution agreement. The
34 cooperative shall refund to the delinquent would-be
35 contributor or the delinquent would-be contributor's legal

1 representatives any portion of the contribution agreement
2 price as provided in the contribution agreement.

3 5. RESTRICTIONS ON ASSIGNMENT. Unless otherwise provided
4 in the articles or bylaws, a would-be contributor's rights
5 under a contribution agreement shall not be assigned, in whole
6 or in part, to a person who was not a member at the time of
7 the assignment, unless all the members approve the assignment
8 by unanimous written consent.

9 Sec. 76. NEW SECTION. 501A.1004 CONTRIBUTION RIGHTS
10 AGREEMENTS.

11 1. AGREEMENTS PERMITTED. Subject to any restrictions in a
12 cooperative's articles or bylaws, the cooperative may enter
13 into contribution rights agreements under the terms,
14 provisions, and conditions established by board resolution.

15 2. WRITING REQUIRED AND TERMS TO BE STATED. Any
16 contribution rights agreement must be in writing and the
17 writing must state in full, summarize, or include by reference
18 all the agreement's terms, provisions, and conditions of the
19 rights to make contributions.

20 3. RESTRICTIONS ON ASSIGNMENT. Unless otherwise provided
21 in a cooperative's articles or bylaws, a would-be
22 contributor's rights under a contribution rights agreement
23 shall not be assigned, in whole or in part, to a person who
24 was not a member at the time of the assignment, unless all the
25 members approve the assignment by unanimous written consent.

26 Sec. 77. NEW SECTION. 501A.1005 ALLOCATIONS AND
27 DISTRIBUTIONS TO MEMBERS.

28 1. ALLOCATION OF PROFITS AND LOSSES. If nonpatron
29 membership interests are authorized by the patrons, the bylaws
30 shall prescribe the allocation of profits and losses between
31 patron membership interests collectively and any other
32 membership interests. If the bylaws do not otherwise provide,
33 the profits and losses between patron membership interests
34 collectively and other membership interests shall be allocated
35 on the basis of the value of contributions to capital made by

1 the patron membership interests collectively and other
2 membership interests accepted by the cooperative. The
3 allocation of profits to the patron membership interests
4 collectively shall not be less than fifty percent of the total
5 profits in any fiscal year, except if authorized in the
6 cooperative's articles or bylaws that are adopted by an
7 affirmative vote of the patron members, or in the articles or
8 bylaws as amended by the affirmative vote of the patron
9 members. However, the allocation of profits to the patron
10 membership interests collectively shall not be less than
11 fifteen percent of the total profits in any fiscal year.

12 2. DISTRIBUTION OF CASH OR OTHER ASSETS. A cooperative's
13 bylaws shall prescribe the distribution of cash or other
14 assets of the cooperative among the membership interests of
15 the cooperative. If nonpatron membership interests are
16 authorized by the patrons and the bylaws do not provide
17 otherwise, distributions and allocations shall be made to the
18 patron membership interests collectively and other members on
19 the basis of the value of contributions to capital made and
20 accepted by the cooperative, by the patron membership
21 interests collectively, and other membership interests. The
22 distributions to patron membership interests collectively
23 shall not be less than fifty percent of the total
24 distributions in any fiscal year, except if authorized in the
25 articles or bylaws adopted by the affirmative vote of the
26 patron members, or the articles or bylaws as amended by the
27 affirmative vote of the patron members. However, the
28 distributions to patron membership interests collectively
29 shall not be less than fifteen percent of the total
30 distributions in any fiscal year.

31 Sec. 78. NEW SECTION. 501A.1006 ALLOCATIONS AND
32 DISTRIBUTIONS TO PATRON MEMBERS.

33 1. DISTRIBUTION OF NET INCOME. A cooperative may set
34 aside a portion of net income allocated to the patron
35 membership interests as the board determines advisable to

1 create or maintain a capital reserve.

2 2. RESERVES. In addition to a capital reserve, the board
3 may, for patron membership interests, do any of the following:

4 a. Set aside an amount not to exceed five percent of the
5 annual net income of the cooperative for promoting and
6 encouraging cooperative organization.

7 b. Establish and accumulate reserves for new buildings,
8 machinery and equipment, depreciation, losses, and other
9 proper purposes.

10 3. PATRONAGE DISTRIBUTIONS. Net income allocated to
11 patron members in excess of dividends on equity and additions
12 to reserves shall be distributed to patron members on the
13 basis of patronage. A cooperative may establish allocation
14 units, whether the units are functional, divisional,
15 departmental, geographic, or otherwise. The cooperative may
16 provide for pooling arrangements. The cooperative may account
17 for and distribute net income to patrons on the basis of
18 allocation units and pooling arrangements. A cooperative may
19 offset the net loss of an allocation unit or pooling
20 arrangement against the net income of other allocation units
21 or pooling arrangements.

22 4. FREQUENCY OF DISTRIBUTION. A distribution of net
23 income shall be made at least annually. The board shall
24 present to the members at their annual meeting a report
25 covering the operations of the cooperative during the
26 preceding fiscal year.

27 5. FORM OF DISTRIBUTION. A cooperative may distribute net
28 income to patron members in cash, capital credits, allocated
29 patronage equities, revolving fund certificates, or its own or
30 other securities.

31 6. ELIGIBLE NONMEMBER PATRONS. A cooperative may provide
32 in the bylaws that nonmember patrons are allowed to
33 participate in the distribution of net income, payable to
34 patron members on equal terms with patron members.

35 7. PATRONAGE CREDITS FOR INELIGIBLE MEMBERS. If a

1 nonmember patron with patronage credits is not qualified or
2 eligible for membership, a refund due may be credited to the
3 nonmember patron's individual account. The board may issue a
4 certificate of interest to reflect the credited amount. After
5 the nonmember patron is issued a certificate of interest, the
6 nonmember patron may participate in the distribution of income
7 on the same basis as a patron member.

8 Sec. 79. NEW SECTION. 501A.1007 MEMBER CONTROL
9 AGREEMENTS.

10 1. AUTHORIZATION. A written agreement among persons who
11 are then members, including a sole member, or who have signed
12 subscription or contribution agreements, relating to the
13 control of any phase of the business and affairs of the
14 cooperative, its liquidation, dissolution and termination, or
15 the relations among members or persons who have signed
16 subscription or contribution agreements is valid as provided
17 in subsection 2. Other than the authorization of nonpatron
18 membership interests as provided in section 501A.901 and
19 nonpatron voting rights as provided in section 501A.810,
20 whenever this chapter provides that a particular result may or
21 must be obtained through a provision in a cooperative's
22 articles or bylaws, the same result can be accomplished
23 through a member control agreement valid under this section or
24 through a procedure established by a member control agreement
25 valid under this section. However, the member control
26 agreement must be authorized by the cooperative's articles or
27 bylaws and cannot conflict with the cooperative's articles or
28 bylaws. Any result accomplished through a membership control
29 agreement under this section must be properly disclosed as
30 provided in section 501A.901.

31 2. VALID EXECUTION. Other than patron member voting
32 control under section 501A.810 and patron member allocation
33 and distribution provisions under sections 501A.1005 and
34 501A.1006, a written agreement among persons described in
35 subsection 1 that relates to the control of or the

1 liquidation, dissolution, and termination of the cooperative,
2 the relations among them, or any phase of the business and
3 affairs of the cooperative is valid if it meets the
4 requirements of this subsection. This includes but is not
5 limited to the management of its business, the declaration and
6 payment of distributions, the sharing of profits and losses,
7 the election of directors, the employment of members by the
8 cooperative, or the arbitration of disputes. The written
9 agreement must be signed by all persons who are then the
10 members of the cooperative, whether or not the members all
11 have voting power, and all those who have signed contribution
12 agreements, regardless of whether those signatories will, when
13 members, have voting power.

14 3. OTHER AGREEMENTS NOT AFFECTED. This section does not
15 apply to, limit, or restrict agreements otherwise valid, nor
16 is the procedure set forth in this section the exclusive
17 method of agreement among members or between the members and
18 the cooperative with respect to any of the matters described.

19 Sec. 80. NEW SECTION. 501A.1008 REVERSION OF
20 DISBURSEMENTS.

21 1. Once a person's membership interest or other member's
22 equity in a cooperative is deemed abandoned under section
23 556.5, the cooperative may retain any disbursement held by the
24 cooperative for or owing to the person. The cooperative may
25 also deliver the disbursement to the treasurer of state for
26 disposition as abandoned property pursuant to sections 556.5
27 and 556.11.

28 2. If the cooperative elects to retain the disbursement
29 under this section, the disbursement shall be deposited into a
30 reversion fund established by the cooperative.

31 3. A disbursement having an aggregate value of fifty
32 dollars or more that is retained by the cooperative shall be
33 forfeited to the cooperative only if the cooperative publishes
34 at least one notice of the abandoned property in a publication
35 regularly distributed to its membership or in a newspaper

1 having a general circulation in the county where the
2 cooperative is located. The notice shall include all of the
3 following:

- 4 a. The name and address of the cooperative.
- 5 b. The name of the person who has an interest in the
6 disbursement according to the records of the cooperative.
- 7 c. A brief description of the type of disbursement
8 retained by the cooperative.
- 9 d. A statement that the disbursement will be forfeited to
10 the cooperative unless the person files a claim for the
11 disbursement within the period provided for in this section.

12 4. a. Subject to this subsection, a person asserting an
13 interest in the disbursement may file a claim for it with the
14 cooperative in a manner and according to procedures required
15 by the cooperative. If a person is entitled to an abandoned
16 membership interest, or other interest as provided in section
17 556.20 or 556.21, the cooperative shall also pay the person
18 the disbursement deposited in the reversion fund that is
19 realized or accrued from the membership interest or other
20 interest.

21 b. If a person has not filed a claim for the disbursement
22 within six months after the first date that the notice of
23 abandoned property is first published as provided in this
24 section, the disbursement shall be forfeited to the
25 cooperative.

26 5. The disbursements deposited into the reversion fund
27 that are forfeited to the cooperative shall be used as
28 provided in this subsection. The cooperative may authorize
29 the payment of forfeited disbursements to persons claiming
30 interests in forfeited disbursements as provided in the
31 cooperative's articles of organization or bylaws. Otherwise,
32 forfeited disbursements shall be used as the directors deem
33 suitable for any of the following purposes:

- 34 a. Teaching and promoting cooperation. The directors may
35 deposit the amounts of disbursements into the education fund

1 as established by the cooperative.

2 b. Economic development including private or joint public
3 and private investments involving the creation of economic
4 opportunities for its members or the retention of existing
5 sources of income that would otherwise be lost.

6 SUBCHAPTER 11

7 MERGER AND CONVERSION

8 Sec. 81. NEW SECTION. 501A.1101 MERGER AND
9 CONSOLIDATION.

10 1. AUTHORIZATION. Unless otherwise prohibited,
11 cooperatives organized under the laws of this state, including
12 cooperatives organized under this chapter or traditional
13 cooperatives, may merge or consolidate with each other, an
14 Iowa limited liability company under the provisions of section
15 490A.1207, or other business entities organized under the laws
16 of another state by complying with the provisions of this
17 section and the law of the state where the surviving or new
18 business entity will exist. A cooperative shall not merge or
19 consolidate with a business entity organized under the laws of
20 this state, other than a traditional cooperative unless the
21 law governing the business entity expressly authorizes merger
22 or consolidation with a cooperative. This subsection does not
23 authorize a foreign business entity to do any act not
24 authorized by the law governing the foreign business entity.

25 2. PLAN. To initiate a merger or consolidation of a
26 cooperative, a written plan of merger or consolidation shall
27 be prepared by the board or by a committee selected by the
28 board to prepare a plan. The plan shall state all of the
29 following:

30 a. The names of the constituent domestic cooperative, the
31 name of any Iowa limited liability company that is a party to
32 the merger, to the extent authorized under section 490A.1207,
33 and any foreign business entities.

34 b. The name of the surviving or new domestic cooperative,
35 Iowa limited liability company as required by section

1 490A.1207, or other foreign business entity.

2 c. The manner and basis of converting membership or
3 ownership interests of the constituent domestic cooperative,
4 the surviving Iowa limited liability company as provided in
5 section 490A.1207, or foreign business entity into membership
6 or ownership interests in the surviving or new domestic
7 cooperative, the surviving Iowa limited liability company as
8 authorized in section 490A.1207, or foreign business entity.

9 d. The terms of the merger or consolidation.

10 e. The proposed effect of the merger or consolidation on
11 the members and patron members of each constituent domestic
12 cooperative.

13 f. For a consolidation, the plan shall contain the
14 articles of the entity or organizational documents to be filed
15 with the state in which the entity is organized or, if the
16 surviving organization is an Iowa limited liability company,
17 the articles of organization.

18 3. NOTICE. The following shall apply to notice:

19 a. The board shall mail or otherwise transmit or deliver
20 notice of the merger or consolidation to each member. The
21 notice shall contain the full text of the plan, and the time
22 and place of the meeting at which the plan will be considered.

23 b. A cooperative with more than two hundred members may
24 provide the notice in the same manner as a regular members'
25 meeting notice.

26 4. ADOPTION OF PLAN.

27 a. A plan of merger or consolidation shall be adopted by a
28 domestic cooperative as provided in this subsection.

29 b. The plan of merger or consolidation is adopted if all
30 of the following apply:

31 (1) A quorum of the members eligible to vote is registered
32 as being present or represented by mail vote or alternative
33 ballot at the meeting.

34 (2) The plan is approved by the patron members, or if
35 otherwise provided in the articles or bylaws, is approved by a

1 majority of the votes cast in each class of votes cast. For a
2 domestic cooperative with articles or bylaws requiring more
3 than a majority of the votes cast or other conditions for
4 approval, the plan must be approved by a proportion of the
5 votes cast or a number of total members as required by the
6 articles or bylaws and the conditions for approval in the
7 articles or bylaws have been satisfied.

8 c. After the plan has been adopted, articles of merger or
9 consolidation stating the plan and that the plan was adopted
10 according to this subsection shall be signed by the
11 chairperson, vice chairperson, records officer, or documents
12 officer of each cooperative merging or consolidating.

13 d. The articles of merger or consolidation shall be filed
14 in the office of the secretary.

15 e. For a merger, the articles of the surviving domestic
16 cooperative subject to this chapter are deemed amended to the
17 extent provided in the articles of merger.

18 f. Unless a later date is provided in the plan, the merger
19 or consolidation is effective when the articles of merger or
20 consolidation are filed in the office of the secretary or the
21 appropriate office of another jurisdiction.

22 g. The secretary shall issue a certificate of organization
23 of the merged or consolidated cooperative.

24 5. EFFECT OF MERGER. For a merger that does not involve
25 an Iowa limited liability company, the following shall apply
26 to the effect of a merger:

27 a. After the effective date, the domestic cooperative,
28 Iowa limited liability company, if party to the plan, and any
29 foreign business entity that is a party to the plan become a
30 single entity. For a merger, the surviving business entity is
31 the business entity designated in the plan. For a
32 consolidation, the new domestic cooperative, the Iowa limited
33 liability company, if any, and any foreign business entity is
34 the business entity provided for in the plan. Except for the
35 surviving or new domestic cooperative, Iowa limited liability

1 company, or foreign business entity, the separate existence of
2 each merged or consolidated domestic or foreign business
3 entity that is a party to the plan ceases on the effective
4 date of the merger or consolidation.

5 b. The surviving or new domestic cooperative, Iowa limited
6 liability company, or foreign business entity possesses all of
7 the rights and property of each of the merged or consolidated
8 business entities and is responsible for all their
9 obligations. The title to property of the merged or
10 consolidated domestic cooperative, Iowa limited liability
11 company, or foreign business entity is vested in the surviving
12 or new domestic cooperative, Iowa limited liability company,
13 or foreign business entity without reversion or impairment of
14 the title caused by the merger or consolidation.

15 c. If a merger involves an Iowa limited liability company,
16 this subsection is subject to the provisions of section
17 490A.1207.

18 Sec. 82. NEW SECTION. 501A.1102 MERGER OF SUBSIDIARY.

19 1. WHEN AUTHORIZED -- CONTENTS OF PLAN. For purposes of
20 this section, "subsidiary" means a domestic cooperative, an
21 Iowa limited liability company, or a foreign cooperative.

22 2. An Iowa limited liability company may only participate
23 in a merger under this section to the extent authorized under
24 section 490A.1207. A parent domestic cooperative or a
25 subsidiary that is a domestic cooperative may complete the
26 merger of a subsidiary as provided in this section. However,
27 if either the parent cooperative or the subsidiary is a
28 business entity organized under the laws of this state, the
29 merger of the subsidiary is not authorized under this section
30 unless the law governing the business entity expressly
31 authorizes merger with a cooperative.

32 a. A parent cooperative owning at least ninety percent of
33 the outstanding ownership interests of each class and series
34 of a subsidiary directly, or indirectly through related
35 organizations, other than classes or series that, absent this

1 section, would otherwise not be entitled to vote on the
2 merger, may merge the subsidiary into itself or into any other
3 subsidiary at least ninety percent of the outstanding
4 ownership interests of each class and series of which is owned
5 by the parent cooperative directly, or indirectly through
6 related organizations, other than classes or series that,
7 absent this section, would otherwise not be entitled to vote
8 on the merger, without a vote of the members of itself or any
9 subsidiary or may merge itself, or itself and one or more of
10 the subsidiaries, into one of the subsidiaries under this
11 section. A resolution approved by the affirmative vote of a
12 majority of the directors of the parent cooperative present
13 shall set forth a plan of merger that contains all of the
14 following:

15 (1) The name of the subsidiary or subsidiaries, the name
16 of the parent cooperative, and the name of the surviving
17 cooperative.

18 (2) The manner and basis of converting the membership
19 interests of the subsidiary or subsidiaries or parent
20 cooperative into securities of the parent cooperative,
21 subsidiary, or of another cooperative or, in whole or in part,
22 into money or other property.

23 (3) If the parent cooperative is a constituent cooperative
24 but is not the surviving cooperative in the merger, a
25 provision for the pro rata issuance of membership interests of
26 the surviving cooperative to the holders of membership
27 interests of the parent on surrender of any certificates for
28 shares or membership interests of the parent cooperative.

29 (4) If the surviving cooperative is a subsidiary, a
30 statement of any amendments to the articles of the surviving
31 cooperative that will be part of the merger.

32 b. If the parent is a constituent cooperative and the
33 surviving cooperative in the merger, the parent cooperative
34 may change its cooperative name, without a vote of its
35 members, by the inclusion of a provision to that effect in the

1 resolution of merger setting forth the plan of merger that is
2 approved by the affirmative vote of a majority of the
3 directors of the parent cooperative present. Upon the
4 effective date of the merger, the name of the parent
5 cooperative shall be changed.

6 c. If the parent cooperative is a constituent cooperative
7 but is not the surviving cooperative in the merger, the
8 resolution is not effective unless the resolution is also
9 approved by the affirmative vote of the holders of a majority
10 of the voting power of all membership interests of the parent
11 entitled to vote at a regular or special meeting if the parent
12 is a cooperative, or in accordance with the laws under which
13 the parent is organized if the parent is a foreign business
14 entity or foreign cooperative.

15 3. NOTICE TO MEMBERS OF SUBSIDIARY. Notice of the action,
16 including a copy of the plan of merger, shall be delivered to
17 each member, other than the parent cooperative and any
18 subsidiary of each subsidiary that is a constituent
19 cooperative in the merger before, or within ten days after,
20 the effective date of the merger.

21 4. ARTICLES OF MERGER -- CONTENTS OF ARTICLES. Articles
22 of merger shall be prepared that contain all of the following:

23 a. The plan of merger.

24 b. The number of outstanding membership interests of each
25 series and class of each subsidiary that is a constituent
26 cooperative in the merger, other than the series or classes
27 that, absent this section, would otherwise not be entitled to
28 vote on the merger, and the number of membership interests of
29 each series and class of the subsidiary or subsidiaries, other
30 than series or classes that, absent this section, would
31 otherwise not be entitled to vote on the merger, owned by the
32 parent directly, or indirectly through related organizations.

33 c. A statement that the plan of merger has been approved
34 by the parent under this section.

35 5. ARTICLES SIGNED, FILED. The articles of merger shall

1 be signed on behalf of the parent and filed with the
2 secretary.

3 6. CERTIFICATE. The secretary shall issue a certificate
4 of merger to the parent or its legal representative or, if the
5 parent is a constituent cooperative but is not the surviving
6 cooperative in the merger, to the surviving cooperative or its
7 legal representative.

8 7. NONEXCLUSIVITY. A merger among a parent and one or
9 more subsidiaries or among two or more subsidiaries of a
10 parent may be accomplished under section 501A.1101 instead of
11 this section, in which case this section does not apply.

12 Sec. 83. NEW SECTION. 501A.1103 ABANDONMENT.

13 1. ABANDONMENT BY MEMBERS OF PLAN. After a plan of merger
14 has been approved by the members entitled to vote on the
15 approval of the plan and before the effective date of the
16 plan, the plan may be abandoned by the same vote that approved
17 the plan.

18 2. ABANDONMENT OF MERGER.

19 a. A merger may be abandoned upon any of the following:

20 (1) The members of each of the constituent domestic
21 cooperatives entitled to vote on the approval of the plan have
22 approved the abandonment at a meeting by the affirmative vote
23 of the holders of a majority of the voting power of the
24 membership interests entitled to vote.

25 (2) The merger is with a domestic cooperative and an Iowa
26 limited liability company or foreign business entity.

27 (3) The abandonment is approved in such manner as may be
28 required by section 490A.1207 for the involvement of an Iowa
29 limited liability company, or for a foreign business entity by
30 the laws of the state under which the foreign business entity
31 is organized.

32 (4) The members of a constituent domestic cooperative are
33 not entitled to vote on the approval of the plan, and the
34 board of the constituent domestic cooperative has approved the
35 abandonment by the affirmative vote of a majority of the

1 directors present.

2 (5) The plan provides for abandonment and all conditions
3 for abandonment set forth in the plan are met.

4 (6) The plan is abandoned before the effective date of the
5 plan by a resolution of the board of any constituent domestic
6 cooperative abandoning the plan of merger approved by the
7 affirmative vote of a majority of the directors present,
8 subject to the contract rights of any other person under the
9 plan. If a plan of merger is with a domestic business entity
10 or foreign business entity, the plan of merger may be
11 abandoned before the effective date of the plan by a
12 resolution of the foreign business entity adopted according to
13 the laws of the state under which the foreign business entity
14 is organized, subject to the contract rights of any other
15 person under the plan. If the plan of merger is with an Iowa
16 limited liability company, the plan of merger may be abandoned
17 by the Iowa limited liability company as provided in section
18 490A.1207, subject to the contractual rights of any other
19 person under the plan.

20 b. If articles of merger have been filed with the
21 secretary, but have not yet become effective, the constituent
22 organizations, in the case of abandonment under paragraph "a",
23 subparagraphs (1) through (4), the constituent organizations
24 or any one of them, in the case of abandonment under paragraph
25 "a", subparagraph (5), or the abandoning organization in the
26 case of abandonment under paragraph "a", subparagraph (6),
27 shall file with the secretary articles of abandonment that
28 include all of the following:

29 (1) The names of the constituent organizations.

30 (2) The provisions of this section under which the plan is
31 abandoned.

32 (3) If the plan is abandoned under paragraph "a",
33 subparagraph (6), the text of the resolution abandoning the
34 plan.

35 Sec. 84. NEW SECTION. 501A.1104 CONVERSION -- AMENDMENT

1 OF ORGANIZATIONAL DOCUMENTS TO BE GOVERNED BY THIS CHAPTER.

2 1. AUTHORITY.

3 a. A traditional cooperative organized may convert to a
4 cooperative and become subject to this chapter by amending its
5 organizational documents to conform to the requirements of
6 this chapter.

7 b. A traditional cooperative becoming a converted
8 cooperative must provide its members with a disclosure
9 statement of the rights and obligations of the members and the
10 capital structure of the cooperative before becoming subject
11 to this chapter. A traditional cooperative, upon distribution
12 of the disclosure required in this subsection and approval of
13 its members as necessary for amending its articles under the
14 respective chapter of its organization, may amend its articles
15 to comply with this chapter.

16 c. A traditional cooperative becoming a converted
17 cooperative must prepare a certificate stating all of the
18 following:

19 (1) The date on which the traditional cooperative was
20 first organized.

21 (2) The name of the traditional cooperative and, if the
22 name is changed, the name of the cooperative becoming
23 converted.

24 (3) The future effective date and time, which must be a
25 date and time certain, that the traditional cooperative will
26 be governed by this chapter, if the effective date and time is
27 not to be the date and time of filing.

28 d. Upon filing with the secretary of the articles for
29 compliance with this chapter and the certificate required
30 under paragraph "c", a traditional cooperative is converted
31 and governed by this chapter unless a later date and time is
32 specified in the certificate under paragraph "c".

33 e. In connection with a conversion under which a
34 traditional cooperative becomes governed by this chapter, the
35 rights, securities, or interests of the traditional

1 cooperative as provided in chapter 497, 498, 499, or 501 may
2 be exchanged or converted into rights, property, securities,
3 or interests in the converted cooperative.

4 2. EFFECT OF BEING GOVERNED BY THIS CHAPTER. The
5 conversion of a traditional cooperative to a cooperative
6 governed by this chapter does not affect any obligations or
7 liabilities of the cooperative before the conversion or the
8 personal liability of any person incurred before the
9 conversion.

10 a. When the conversion is effective, the rights,
11 privileges, and powers of the cooperative, real and personal
12 property of the cooperative, debts due to the cooperative, and
13 causes of action belonging to the traditional cooperative
14 remain vested in the converted cooperative and are the
15 property of the converted cooperative and governed by this
16 chapter. Title to real property vested by deed or otherwise
17 in the traditional cooperative does not revert and is not
18 impaired by reason of the cooperative being converted and
19 governed by this chapter.

20 b. Rights of creditors and liens upon property of the
21 traditional cooperative are preserved unimpaired, and debts,
22 liabilities, and duties of the traditional cooperative remain
23 attached to the converted cooperative and may be enforced
24 against the converted cooperative to the same extent as if the
25 debts, liabilities, and duties had originally been incurred or
26 contracted by the cooperative as organized under this chapter.

27 c. The rights, privileges, powers, and interests in
28 property of the traditional cooperative as well as the debts,
29 liabilities, and duties of the traditional cooperative are not
30 deemed, as a consequence of the conversion, to have been
31 transferred for any purpose by the laws of this state.

32 SUBCHAPTER 12

33 DISSOLUTION

34 Sec. 85. NEW SECTION. 501A.1201 METHODS OF DISSOLUTION.

35 A cooperative may be dissolved by the members or by

1 administrative or court order as provided in this chapter.

2 Sec. 86. NEW SECTION. 501A.1202 WINDING UP.

3 1. COLLECTION AND PAYMENT OF DEBTS. After the notice of
4 intent to dissolve has been filed with the secretary, the
5 board, or the officers acting under the direction of the
6 board, shall proceed as soon as possible to do all of the
7 following:

8 a. Collect or make provision for the collection of all
9 debts due or owing to the cooperative, including unpaid
10 subscriptions for membership interests.

11 b. Pay or make provision for the payment of all debts,
12 obligations, and liabilities of the cooperative according to
13 their priorities.

14 2. TRANSFER OF ASSETS. After the notice of intent to
15 dissolve has been filed with the secretary, the board may
16 sell, lease, transfer, or otherwise dispose of all or
17 substantially all of the property and assets of the dissolving
18 cooperative without a vote of the members.

19 3. DISTRIBUTION TO MEMBERS. Tangible and intangible
20 property, including money, remaining after the discharge of
21 the debts, obligations, and liabilities of the cooperative
22 shall be distributed to the members and former members as
23 provided in the cooperative's articles or bylaws, unless
24 otherwise provided by law. If previously authorized by the
25 members, the tangible and intangible property of the
26 cooperative may be liquidated and disposed of at the
27 discretion of the board.

28 Sec. 87. NEW SECTION. 501A.1203 REVOCATION OF
29 DISSOLUTION PROCEEDINGS.

30 1. AUTHORITY TO REVOKE. Dissolution proceedings may be
31 revoked before the articles of dissolution are filed with the
32 secretary.

33 2. REVOCATION BY MEMBERS. The chairperson may call a
34 members' meeting to consider the advisability of revoking the
35 dissolution proceedings. The question of the proposed

1 revocation shall be submitted to the members at the members'
2 meeting called to consider the revocation. The dissolution
3 proceedings are revoked if the proposed revocation is approved
4 at the members' meeting by a majority of the members of the
5 cooperative or, for a cooperative with articles or bylaws
6 requiring a greater number of members, the number of members
7 required by the articles or bylaws.

8 3. FILING WITH THE SECRETARY. Revocation of dissolution
9 proceedings is effective when a notice of revocation is filed
10 with the secretary. After the notice is filed, the
11 cooperative may resume business.

12 Sec. 88. NEW SECTION. 501A.1204 STATUTE OF LIMITATIONS.

13 The claim of a creditor or claimant against a dissolving
14 cooperative is barred if the claim has not been enforced by
15 initiating legal, administrative, or arbitration proceedings
16 concerning the claim by two years after the date the notice of
17 intent to dissolve is filed with the secretary.

18 Sec. 89. NEW SECTION. 501A.1205 ARTICLES OF DISSOLUTION.

19 1. CONDITIONS TO FILE. Articles of dissolution of a
20 cooperative shall be filed with the secretary after payment of
21 the claims of all known creditors and claimants has been made
22 or provided for and the remaining property has been
23 distributed by the board. The articles of dissolution shall
24 state all of the following:

25 a. The name of the cooperative.

26 b. All debts, obligations, and liabilities of the
27 cooperative have been paid or discharged or adequate
28 provisions have been made for them or time periods allowing
29 claims have run and other claims are not outstanding.

30 c. The remaining property, assets, and claims of the
31 cooperative have been distributed among the members or under a
32 liquidation authorized by the members.

33 d. Legal, administrative, or arbitration proceedings by or
34 against the cooperative are not pending or adequate provision
35 has been made for the satisfaction of a judgment, order, or

1 decree that may be entered against the cooperative in a
2 pending proceeding.

3 2. DISSOLUTION EFFECTIVE ON FILING. The cooperative is
4 dissolved when the articles of dissolution have been filed
5 with the secretary.

6 3. CERTIFICATE. The secretary shall issue to the
7 dissolved cooperative or its legal representative a
8 certificate of dissolution that contains all of the following:

9 a. The name of the dissolved cooperative.

10 b. The date the articles of dissolution were filed with
11 the secretary.

12 c. A statement that the cooperative is dissolved.

13 Sec. 90. NEW SECTION. 501A.1206 APPLICATION FOR COURT-
14 SUPERVISED VOLUNTARY DISSOLUTION.

15 After a notice of intent to dissolve has been filed with
16 the secretary and before a certificate of dissolution has been
17 issued, the cooperative or, for good cause shown, a member or
18 creditor may apply to a court within the county where the
19 registered address is located to have the dissolution
20 conducted or continued under the supervision of the court.

21 Sec. 91. NEW SECTION. 501A.1207 COURT-ORDERED REMEDIES
22 FOR DISSOLUTION.

23 1. CONDITIONS FOR RELIEF. A court may grant equitable
24 relief that the court deems just and reasonable in the
25 circumstances or may dissolve a cooperative and liquidate its
26 assets and business as follows:

27 a. In a supervised voluntary dissolution that is applied
28 for by the cooperative.

29 b. In an action by a member when it is established that
30 any of the following apply:

31 (1) The directors or the persons having the authority
32 otherwise vested in the board are deadlocked in the management
33 of the cooperative's affairs and the members are unable to
34 break the deadlock.

35 (2) The directors or those in control of the cooperative

1 have acted fraudulently, illegally, or in a manner unfairly
2 prejudicial toward one or more members in their capacities as
3 members, directors, or officers.

4 (3) The members of the cooperative are so divided in
5 voting power that, for a period that includes the time when
6 two consecutive regular members' meetings were held, they have
7 failed to elect successors to directors whose terms have
8 expired or would have expired upon the election and
9 qualification of their successors.

10 (4) The cooperative assets are being misapplied or wasted.

11 (5) The period of duration as provided in the articles has
12 expired and has not been extended as provided in this chapter.

13 c. In an action by a creditor when any of the following
14 applies:

15 (1) The claim of the creditor against the cooperative has
16 been reduced to judgment and an execution on the judgment has
17 been returned unsatisfied.

18 (2) The cooperative has admitted in writing that the claim
19 of the creditor against the cooperative is due and owing and
20 it is established that the cooperative is unable to pay its
21 debts in the ordinary course of business.

22 (3) In an action by the attorney general to dissolve the
23 cooperative in accordance with this chapter when it is
24 established that a decree of dissolution is appropriate.

25 2. CONDITION OF COOPERATIVE OR ASSOCIATION. In
26 determining whether to order equitable relief or dissolution,
27 the court shall take into consideration the financial
28 condition of the cooperative, but shall not refuse to order
29 equitable relief or dissolution solely on the grounds that the
30 cooperative has accumulated operating net income or current
31 operating net income.

32 3. DISSOLUTION AS REMEDY. In deciding whether to order
33 dissolution of the cooperative, the court shall consider
34 whether lesser relief suggested by one or more parties, such
35 as a form of equitable relief or a partial liquidation, would

1 be adequate to permanently relieve the circumstances
2 established under subsection 1, paragraph "b", subparagraph
3 (1) or (2). Lesser relief may be ordered if it would be
4 appropriate under the facts and circumstances of the case.

5 4. EXPENSES. If the court finds that a party to a
6 proceeding brought under this section has acted arbitrarily,
7 vexatiously, or otherwise not in good faith, the court may in
8 its discretion award reasonable expenses, including attorney
9 fees and disbursements to any of the other parties.

10 5. VENUE. Proceedings under this section shall be brought
11 in a court within the county where the registered address of
12 the cooperative is located.

13 6. PARTIES. It is not necessary to make members parties
14 to the action or proceeding unless relief is sought against
15 them personally.

16 Sec. 92. NEW SECTION. 501A.1208 PROCEDURE IN INVOLUNTARY
17 OR COURT-SUPERVISED VOLUNTARY DISSOLUTION.

18 1. ACTION BEFORE HEARING. Before a hearing is completed
19 in dissolution proceedings, a court may do any of the
20 following:

21 a. Issue injunctions.

22 b. Appoint receivers with all powers and duties that the
23 court directs.

24 c. Take actions required to preserve the cooperative's
25 assets, wherever located.

26 d. Carry on the business of the cooperative.

27 2. ACTION AFTER HEARING. After a hearing is completed,
28 upon notice to parties to the proceedings and to other parties
29 in interest designated by the court, the court may appoint a
30 receiver to collect the cooperative's assets, including
31 amounts owing to the cooperative by subscribers on account of
32 an unpaid portion of the consideration for the issuance of
33 membership interests. A receiver has authority, subject to
34 the order of the court, to continue the business of the
35 cooperative and to sell, lease, transfer, or otherwise dispose

1 of the property and assets of the cooperative, either at
2 public or private sale.

3 3. DISCHARGE OF OBLIGATIONS. The assets of the
4 cooperative or the proceeds resulting from a sale, lease,
5 transfer, or other disposition shall be applied in the
6 following order of priority:

7 a. The costs and expense of the proceedings, including
8 attorney fees and disbursements.

9 b. Debts, taxes, and assessments due the United States,
10 this state, and other states in that order.

11 c. Claims duly proved and allowed to employees under the
12 provisions of the workers' compensation law, except that
13 claims under this paragraph shall not be allowed if the
14 cooperative carried workers' compensation insurance, as
15 provided by law, at the time the injury was sustained.

16 d. Claims, including the value of all compensation paid in
17 a medium other than money, proved and allowed to employees for
18 services performed within three months preceding the
19 appointment of the receiver.

20 e. Other claims that are proved and allowed by the court.

21 4. REMAINDER TO MEMBERS. After payment of the expenses of
22 receivership and claims of creditors are proved, the remaining
23 assets, if any, may be distributed to the members or
24 distributed under an approved liquidation plan.

25 Sec. 93. NEW SECTION. 501A.1209 RECEIVER QUALIFICATIONS
26 AND POWERS.

27 1. QUALIFICATIONS. A receiver shall be a natural person
28 or a domestic business entity or a foreign business entity
29 authorized to transact business in this state. A receiver
30 shall give a bond as directed by the court with the sureties
31 required by the court.

32 2. POWERS. A receiver may sue and defend in all courts as
33 receiver of the cooperative. The court appointing the
34 receiver has exclusive jurisdiction of the cooperative and its
35 property.

1 Sec. 94. NEW SECTION. 501A.1210 DISSOLUTION ACTION BY
2 ATTORNEY GENERAL -- ADMINISTRATIVE DISSOLUTION.

3 1. CONDITIONS TO BEGIN ACTION. A cooperative may be
4 dissolved involuntarily by a decree of a court in this state
5 in an action filed by the attorney general if it is
6 established that any of the following applies:

7 a. The articles and certificate of organization were
8 procured through fraud.

9 b. The cooperative was organized for a purpose not
10 permitted by this chapter or prohibited by state law.

11 c. The cooperative has flagrantly violated a provision of
12 this chapter, has violated a provision of this chapter more
13 than once, or has violated more than one provision of this
14 chapter.

15 d. The cooperative has acted, or failed to act, in a
16 manner that constitutes surrender or abandonment of the
17 cooperative's franchise, privileges, or enterprise.

18 2. NOTICE TO COOPERATIVE. An action shall not be
19 commenced under subsection 1 until thirty days after notice to
20 the cooperative by the attorney general of the reason for the
21 filing of the action. If the reason for filing the action is
22 an act that the cooperative has done, or omitted to do, and
23 the act or omission may be corrected by an amendment of the
24 articles or bylaws or by performance of or abstention from the
25 act, the attorney general shall give the cooperative thirty
26 additional days to make the correction before filing the
27 action.

28 Sec. 95. NEW SECTION. 501A.1211 FILING CLAIMS IN COURT-
29 SUPERVISED DISSOLUTION PROCEEDINGS.

30 1. FILING UNDER OATH. In proceedings to dissolve a
31 cooperative, the court may require all creditors and claimants
32 of the cooperative to file their claims under oath with the
33 clerk of court or with the receiver in a form prescribed by
34 the court.

35 2. DATE TO FILE A CLAIM. If the court requires the filing

1 of claims, the court shall do all of the following:

2 a. Set a date, by order, at least one hundred twenty days
3 after the date the order is filed as the last day for the
4 filing of claims.

5 b. Prescribe the notice of the fixed date that shall be
6 given to creditors and claimants.

7 3. FIXED DATE OR EXTENSION FOR FILING. Before the fixed
8 date, the court may extend the time for filing claims.

9 Creditors and claimants failing to file claims on or before
10 the fixed date may be barred, by order of court, from claiming
11 an interest in or receiving payment out of the property or
12 assets of the cooperative.

13 Sec. 96. NEW SECTION. 501A.1212 DISCONTINUANCE OF COURT-
14 SUPERVISED DISSOLUTION PROCEEDINGS.

15 The involuntary or supervised voluntary dissolution of a
16 cooperative may be discontinued at any time during the
17 dissolution proceedings if it is established that cause for
18 dissolution does not exist. The court shall dismiss the
19 proceedings and direct the receiver, if any, to redeliver to
20 the cooperative its remaining property and assets.

21 Sec. 97. NEW SECTION. 501A.1213 COURT-SUPERVISED
22 DISSOLUTION ORDER.

23 1. CONDITIONS FOR DISSOLUTION ORDER. In an involuntary or
24 supervised voluntary dissolution the court shall enter an
25 order dissolving the cooperative upon the following
26 conditions:

27 a. After the costs and expenses of the proceedings and all
28 debts, obligations, and liabilities of the cooperative have
29 been paid or discharged and the remaining property and assets
30 have been distributed to its members.

31 b. If the property or other assets are not sufficient to
32 satisfy and discharge the costs, expenses, debts, obligations,
33 and liabilities, when all the property and assets have been
34 applied so far as they will go to their payment according to
35 their priorities.

1 2. DISSOLUTION EFFECTIVE ON FILING ORDER. When the order
2 dissolving the cooperative has been entered, the cooperative
3 is dissolved.

4 Sec. 98. NEW SECTION. 501A.1214 FILING COURT'S
5 DISSOLUTION ORDER.

6 After the court enters an order dissolving a cooperative,
7 the clerk of court shall cause a certified copy of the
8 dissolution order to be filed with the secretary. The
9 secretary shall not charge a fee for filing the dissolution
10 order.

11 Sec. 99. NEW SECTION. 501A.1215 BARRING OF CLAIMS.

12 1. CLAIMS BARRED. A person who is or becomes a creditor
13 or claimant before, during, or following the conclusion of
14 dissolution proceedings, who does not file a claim or pursue a
15 remedy in a legal, administrative, or arbitration proceeding
16 during the pendency of the dissolution proceeding or has not
17 initiated a legal, administrative, or arbitration proceeding
18 before the commencement of the dissolution proceedings and all
19 those claiming through or under the creditor or claimant, are
20 forever barred from suing on that claim or otherwise realizing
21 upon or enforcing it, except as provided in this section.

22 2. CERTAIN UNFILED CLAIMS ALLOWED. Within one year after
23 articles of dissolution have been filed with the secretary
24 under this chapter or a dissolution order has been entered, a
25 creditor or claimant who shows good cause for not having
26 previously filed the claim may apply to a court in this state
27 to allow a claim for any of the following:

28 a. Against the cooperative to the extent of undistributed
29 assets.

30 b. If the undistributed assets are not sufficient to
31 satisfy the claim, the claim may be allowed against a member
32 to the extent of the distributions to members in dissolution
33 received by the member.

34 3. OMITTED CLAIMS ALLOWED. Debts, obligations, and
35 liabilities incurred during dissolution proceedings shall be

1 paid or provided for by the cooperative before the
2 distribution of assets to a member. A person to whom this
3 kind of debt, obligation, or liability is owed but is not paid
4 may pursue any remedy against the offenders, directors, or
5 members of the cooperative before the expiration of the
6 applicable statute of limitations. This subsection does not
7 apply to dissolution under the supervision or order of a
8 court.

9 Sec. 100. NEW SECTION. 501A.1216 RIGHT TO SUE OR DEFEND
10 AFTER DISSOLUTION.

11 After a cooperative has been dissolved, any of its former
12 officers, directors, or members may assert or defend, in the
13 name of the cooperative, a claim by or against the
14 cooperative.

15 DIVISION II

16 CONFORMING CHANGES

17 Sec. 101. Section 10B.1, subsection 2, Code 2005, is
18 amended to read as follows:

19 2. "Cooperative association" means any entity organized on
20 a cooperative basis, including an association of persons
21 organized under chapter 497, 498, or 499; an entity composed
22 of entities organized under those chapters; or a cooperative
23 organized under chapter 501 or 501A.

24 Sec. 102. Section 15.333, subsection 1, Code 2005, is
25 amended to read as follows:

26 1. An eligible business may claim a corporate tax credit
27 up to a maximum of ten percent of the new investment which is
28 directly related to new jobs created by the location or
29 expansion of an eligible business under the program. Any
30 credit in excess of the tax liability for the tax year may be
31 credited to the tax liability for the following seven years or
32 until depleted, whichever occurs earlier. Subject to prior
33 approval by the department of economic development in
34 consultation with the department of revenue, an eligible
35 business whose project primarily involves the production of

1 value-added agricultural products may elect to receive a
2 refund of all or a portion of an unused tax credit. For
3 purposes of this section, an eligible business includes a
4 cooperative described in section 521 of the Internal Revenue
5 Code which is not required to file an Iowa corporate income
6 tax return. The refund may be used against a tax liability
7 imposed under chapter 422, division II, III, or V. If the
8 business is a partnership, S corporation, limited liability
9 company, cooperative organized under chapter 501 or 501A and
10 filing as a partnership for federal tax purposes, or estate or
11 trust electing to have the income taxed directly to the
12 individual, an individual may claim the tax credit allowed.
13 The amount claimed by the individual shall be based upon the
14 pro rata share of the individual's earnings of the
15 partnership, S corporation, limited liability company,
16 cooperative organized under chapter 501 or 501A and filing as
17 a partnership for federal tax purposes, or estate or trust.
18 Sec. 103. Section 15.385, subsection 3, paragraph a, Code
19 2005, is amended to read as follows:

20 a. An eligible business may claim a tax credit equal to a
21 percentage of the new investment directly related to new jobs
22 created by the location or expansion of an eligible business
23 under the program. The tax credit shall be allowed against
24 taxes imposed under chapter 422, division II, III, or V. If
25 the business is a partnership, S corporation, limited
26 liability company, cooperative organized under chapter 501 and
27 filing as a partnership for federal tax purposes, or estate or
28 trust electing to have the income taxed directly to the
29 individual, an individual may claim the tax credit allowed.
30 The amount claimed by the individual shall be based upon the
31 pro rata share of the individual's earnings of the
32 partnership, S corporation, limited liability company,
33 cooperative organized under chapter 501 or 501A, and filing as
34 a partnership for federal tax purposes, or estate or trust.
35 The percentage shall be equal to the amount provided in

1 paragraph "d". Any tax credit in excess of the tax liability
2 for the tax year may be credited to the tax liability for the
3 following seven years or until depleted, whichever occurs
4 first.

5 Subject to prior approval by the department of economic
6 development, in consultation with the department of revenue,
7 an eligible business whose project primarily involves the
8 production of value-added agricultural products or uses
9 biotechnology-related processes may elect to receive a refund
10 of all or a portion of an unused tax credit. For purposes of
11 this subsection, such an eligible business includes a
12 cooperative described in section 521 of the Internal Revenue
13 Code which is not required to file an Iowa corporate income
14 tax return, and whose project primarily involves the
15 production of ethanol. The refund may be applied against a
16 tax liability imposed under chapter 422, division II, III, or
17 V. If the business is a partnership, S corporation, limited
18 liability company, cooperative organized under chapter 501 or
19 501A, and filing as a partnership for federal tax purposes, or
20 estate or trust electing to have the income taxed directly to
21 the individual, an individual may claim the tax credit
22 allowed. The amount claimed by the individual shall be based
23 upon the pro rata share of the individual's earnings of the
24 partnership, S corporation, limited liability company,
25 cooperative organized under chapter 501 and filing as a
26 partnership for federal tax purposes, or estate or trust.

27 Sec. 104. Section 15E.202, subsection 17, paragraph b,
28 Code 2005, is amended to read as follows:

29 b. A cooperative organized under chapter 501 or 501A.

30 Sec. 105. Section 203.1, subsection 10, paragraph i, Code
31 2005, is amended to read as follows:

32 i. A cooperative organized under chapter 501 or 501A, if
33 the cooperative only purchases grain from its members who are
34 producers or from a licensed grain dealer, and the cooperative
35 does not resell that grain.

1 Sec. 106. Section 490A.102, subsection 4, Code 2005, is
2 amended to read as follows:

3 4. "Constituent entity" means each limited liability
4 company, limited partnership, ~~or corporation,~~ or domestic
5 cooperative which is party to a plan of merger pursuant to
6 subchapter XII.

7 Sec. 107. Section 490A.102, Code 2005, is amended by
8 adding the following new subsection:

9 NEW SUBSECTION. 7A. "Domestic cooperative" means a
10 cooperative organized under chapter 497, 498, 499, 501, or
11 501A.

12 Sec. 108. Section 490A.1201, Code 2005, is amended by
13 striking the section and inserting in lieu thereof of the
14 following:

15 490A.1201 CONSTITUENT ENTITY.

16 As used in this section, unless the context otherwise
17 requires, "constituent entity", as used in sections 490A.1202,
18 490A.1204, 490A.1205, and 490A.1207, includes a domestic
19 cooperative. However, as used in section 490A.1203,
20 "constituent entity" does not include a domestic cooperative.

21 Sec. 109. NEW SECTION. 490A.1201A MERGER.

22 With or without a business purpose, a limited liability
23 company may merge with any of the following:

24 1. Another domestic limited liability company pursuant to
25 a plan of merger approved in the manner provided in sections
26 490A.1202 through 490A.1205.

27 2. A domestic corporation under a plan of merger approved
28 in the manner provided in sections 490A.1202 through
29 490A.1205, and in chapter 490.

30 3. A domestic limited partnership pursuant to a plan of
31 merger approved in the manner provided in sections 490A.1202
32 through 490A.1207, and in chapter 487.

33 4. One or more cooperatives organized under chapter 497,
34 498, 499, 501, or 501A, in the manner provided by and subject
35 to the limitations in section 490A.1207.

1 5. A foreign corporation, foreign limited liability
2 company, or foreign limited partnership pursuant to a plan of
3 merger approved in the manner provided in section 490A.1206.

4 Sec. 110. Section 490A.1202, Code 2005, is amended by
5 adding the following new subsection:

6 NEW SUBSECTION. 0A. As used in this section, "interests"
7 includes but is not limited to membership interests in a
8 domestic cooperative.

9 Sec. 111. NEW SECTION. 490A.1207 MERGER OF DOMESTIC
10 COOPERATIVE INTO A DOMESTIC LIMITED LIABILITY COMPANY.

11 1. A limited liability company may merge with a domestic
12 cooperative only as provided by this section. A limited
13 liability company may merge with one or more domestic
14 cooperatives if all of the following apply:

15 a. Only one limited liability company and one or more
16 domestic cooperatives are parties to the merger.

17 b. When the merger becomes effective, the separate
18 existence of each domestic cooperative ceases and the limited
19 liability company is the surviving entity per organization.

20 c. As to each domestic cooperative, the plan of merger is
21 initiated and adopted, and the merger is effectuated, as
22 provided in section 501A.1101.

23 d. As to the limited liability company, the plan of merger
24 complies with section 490A.1202, the plan of merger is
25 approved as provided in section 490A.1203, and the articles of
26 merger are prepared, signed, and filed as provided in section
27 490A.1204.

28 e. Notwithstanding section 490A.1202, 490A.1205, or
29 490A.1206, the surviving organization must be the limited
30 liability company.

31 2. Section 501A.1103 governs the abandonment by a domestic
32 cooperative of a merger authorized by this section. Section
33 490A.1203, subsection 2, governs the abandonment by a limited
34 liability company of a merger authorized by this section,
35 except that for the purposes of a merger authorized by this

1 section, the requirements stated in section 490A.1203,
2 subsection 2, paragraphs "b" and "c", do not apply and instead
3 the abandonment must have been approved by the domestic
4 cooperative.

5 Sec. 112. Section 499.4, unnumbered paragraph 1, Code
6 2005, is amended to read as follows:

7 ~~No~~ A person or firm, and no including a corporation
8 hereafter organized, which is not an association as defined in
9 this chapter or a cooperative as defined in chapter 501 or
10 501A, shall not use the word "cooperative" or any abbreviation
11 thereof in its name or advertising or in any connection with
12 its business, except foreign associations admitted under
13 section 499.54. The attorney general or any association or
14 any member thereof may sue and enjoin such use.

15 Sec. 113. Section 502.102, subsection 20, Code 2005, is
16 amended to read as follows:

17 20. "Person" means an individual; corporation; business
18 trust; estate; trust; partnership; limited liability company;
19 association; cooperative; joint venture; government;
20 governmental subdivision, agency, or instrumentality; public
21 corporation; or any other legal or commercial entity.

22 Sec. 114. Section 556.1, subsection 3, Code 2005, is
23 amended to read as follows:

24 3. "Cooperative association" means ~~an~~ any of the
25 following:

26 a. An entity which is structured and operated on a
27 cooperative basis, including an association of persons
28 organized under chapter 497, 498, or 499; or an entity
29 composed of entities organized under those chapters ~~,-a.~~

30 b. A cooperative organized under chapter 501 ~~,-~~

31 c. A cooperative organized under chapter 501A.

32 d. ~~a~~ A cooperative association organized under chapter
33 490 ~~,-or-any.~~

34 e. Any other entity recognized pursuant to 26 U.S.C. §
35 1381(a) which meets the definitional requirements of an

1 association as provided in 12 U.S.C. § 1141(j)(a) or 7 U.S.C.
2 § 291.

3 Sec. 115. Section 556.5, subsection 4, paragraph b, Code
4 2005, is amended to read as follows:

5 b. A disbursement held by a cooperative association shall
6 not be deemed abandoned under this chapter if the disbursement
7 is retained by a cooperative association organized under
8 chapter 490 as provided in section 490.629, or by a
9 cooperative association organized under chapter 499 as
10 provided in section 499.30A, or by a cooperative as provided
11 in section 501A.1008.

12 Sec. 116. Section 501A.102, as enacted in this Act, is
13 amended by striking from the section the word and figure "or
14 487".

15 Sec. 117. EFFECTIVE DATES. This Act takes effect July 1,
16 2005, except that section 116 of this Act takes effect January
17 1, 2006.

18 EXPLANATION

19 This bill creates a new Code chapter 501A authorizing
20 persons to organize as a new form of cooperative. Generally,
21 cooperatives or cooperative associations in Iowa are formed
22 under Code chapter 499 (older Code chapters include 497 and
23 498). Traditionally, a cooperative is a business association
24 organized for purposes of providing economic services to its
25 members (sometimes referred to as shareholders) that does
26 business with patrons on a nonprofit or "cooperative" basis
27 and is taxed under special provisions.

28 Cooperatives are usually formed for agricultural purposes
29 or for providing utilities. Code chapter 501 provides for a
30 hybrid between a cooperative and corporation which is
31 organized for purposes of attracting outside capital. The
32 bill establishes another hybrid organization which includes
33 provisions and terms common to both cooperative associations
34 and limited liability companies. Its purpose is to allow the
35 formation of these types of business associations which are

1 organized and may be taxed as a limited liability company.

2 DIVISION I. The bill provides for administrative
3 provisions (governing the state's administration of
4 cooperative associations organized under the bill), its powers
5 and duties, including the powers and duties of its members and
6 directors, the equity interests (or membership interests) of
7 its members, the allocations and distributions of profits and
8 losses, mergers and conversions, and dissolution.

9 Specifically, the bill divides members up into investors
10 who do not patronize the cooperative and patrons who do. It
11 provides that an outside investor member may hold an equity
12 position in a cooperative, and to receive profits from its
13 business endeavors. Generally, patrons are provided control
14 of the cooperative through its board of directors unless the
15 patrons grant equal control to nonpatron members. A patron
16 member is entitled to one vote on issues. However, the
17 cooperative may allow patron members additional votes based on
18 patronage criteria.

19 The bill requires the allocations and distributions to
20 patron members to be not less than 50 percent of the total
21 profits or distributions in any fiscal year unless the patron
22 members authorize a lesser amount which may not be less than
23 15 percent. The bill provides that a cooperative may be
24 formed to grant voting rights to members or directors who are
25 patrons and nonpatrons (bloc voting). It also provides that,
26 collectively, nonpatron members may control up to 85 percent
27 of financial rights, if provided in its bylaws. Under
28 subchapter T of the federal Internal Revenue Code, income
29 generated by an agricultural cooperative may be taxed at the
30 cooperative level or the patron level. The bill enables a
31 cooperative to elect to be taxed as a partnership under
32 subchapter K or under subchapter T. The bill also provides
33 that a cooperative organized under another chapter may elect
34 to convert to a cooperative organized under Code chapter 501A,
35 assuming that it meets the requirement of federal antitrust

1 provisions.

2 The bill provides for mergers between cooperatives into
3 Code chapter 501A business entities or into Iowa limited
4 liability companies or foreign business entities.

5 DIVISION II. The bill also provides a number of changes to
6 other provisions of the Code. It makes changes to economic
7 development provisions, including those in Code section
8 15.333, which provides that an eligible business under the new
9 jobs and income program may claim a tax credit of up to 10
10 percent of a new investment that involves the creation of new
11 jobs. The bill amends provisions in Code chapter 15E, which
12 includes the Iowa agricultural industry finance Act, by
13 allowing Code chapter 501A cooperatives to participate in
14 loans extended by an agricultural industry finance
15 corporation.

16 The bill amends various provisions in Code chapter 490A,
17 which provides for limited liability companies, by providing
18 for mergers between such companies and cooperatives organized
19 under Code chapter 501A.

20 Generally, the bill takes effect on July 1, 2005, but one
21 provision relating to the repeal of Iowa's uniform limited
22 partnership Act takes effect on January 1, 2006.

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