

WISCONSIN STATE  
LEGISLATURE  
COMMITTEE HEARING  
RECORDS

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

Committee on  
Agriculture and  
Insurance  
(SC-AI)

File Naming Example:

Record of Comm. Proceedings ... RCP

- 05hr\_AC-Ed\_RCP\_pt01a
- 05hr\_AC-Ed\_RCP\_pt01b
- 05hr\_AC-Ed\_RCP\_pt02

*Published Documents*

➤ Committee Hearings ... CH (Public Hearing Announcements)

➤ \*\*

➤ Committee Reports ... CR

➤ \*\*

➤ Executive Sessions ... ES

➤ \*\*

➤ Record of Comm. Proceedings ... RCP

➤ \*\*

*Information Collected For Or  
Against Proposal*

➤ Appointments ... Appt

➤ \*\*

➤ Clearinghouse Rules ... CRule

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➤ Hearing Records ... HR (bills and resolutions)

➤ **05hr\_ab0327\_SC-AI\_pt01**

➤ Miscellaneous ... Misc

➤ \*\*

## Vote Record Committee on Agriculture and Insurance

Date: 3-6-06

Moved by: Brown

Seconded by: Olsen

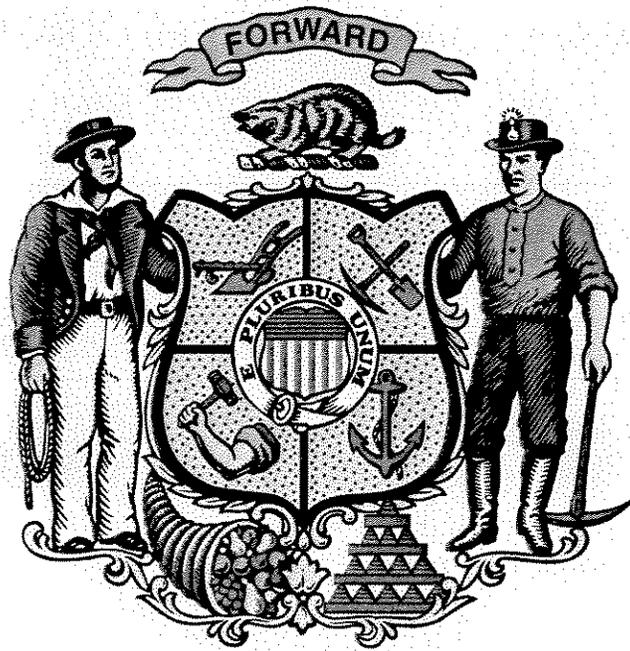
AB 327 SB \_\_\_\_\_ Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_ SJR \_\_\_\_\_ Appointment \_\_\_\_\_  
 AR \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_  
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 A/S Sub Amdt \_\_\_\_\_  
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Be recommended for:  
 Passage     Adoption     Confirmation     Concurrence     Indefinite Postponement  
 Introduction     Rejection     Tabling     Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Dan Kapanke, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Ronald Brown	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Luther Olsen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jon Erpenbach	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator David Hansen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Mark Miller	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Totals:</b>	<u>6</u>	<u>1</u>	<u>1</u>	<u>1</u>

Motion Carried       Motion Failed





# REPRESENTATIVE JOHN AINSWORTH

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CHAIR: ASSEMBLY COMMITTEE ON TRANSPORTATION

TO: Members of the Senate Committee on Agriculture & Insurance

FROM: Representative John Ainsworth

IN RE: Assembly Bill 327

DATE: March 2, 2006

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Assembly Bill 327, which I have authored in the State Assembly, is scheduled to receive a public hearing before your Committee on Monday, March 6, 2006. Unfortunately, commitments on our family's farm will prevent me from attending the public hearing next week. Therefore, I wanted to provide you with a description of the Bill's contents prior to the public hearing.

Assembly Bill 327 would create a second cooperative Statute for our state that would greatly enhance the ability of Wisconsin's citizens to create, modernize and expand *new* member-owned cooperative businesses. This legislation is being requested by the Wisconsin Federation of Cooperatives.

I would like to provide you with a brief summary of Wisconsin's proud cooperative history. We are the second leading cooperative state in the nation with over 860 businesses generating more than \$40 billion in economic activity. More than 2.9 million Wisconsin citizens are cooperative members and belong to such diverse cooperatives as agricultural production and processing, agricultural supply, mutual insurance, health care, housing, grocery, electric and telecommunications utility, as well as consumer, farm credit, credit union and livestock cooperatives. Cooperatives are unique as they are member owned and led. In addition, recent national surveys demonstrate consumers trust cooperatives more than any other type of business.

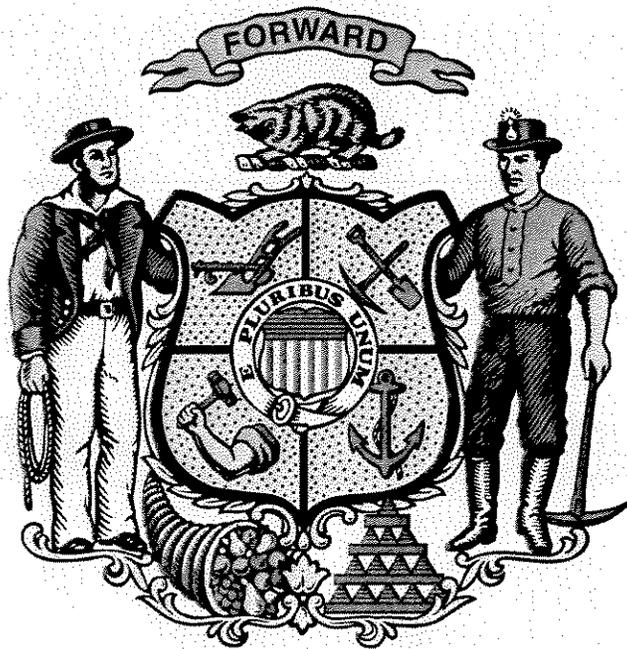
Unfortunately, our existing cooperative law, Chapter 185, has worked well for decades but is not keeping up with the dramatic business changes occurring in our state and across the nation. Many businesses – including cooperative businesses – are under great pressure to compete in a more complex and dynamic marketplace. However, cooperative creation, modernization and growth are often greatly limited because cooperatives must rely on their members' limited equity to reinvest in the business. Because of this limitation, a number of Upper Midwest cooperatives are beginning to convert to limited liability companies or other business forms and, therefore, the resulting entity is no longer legally tied to the cooperative principle that the members own and lead the cooperatives. Moreover, Department of Financial Institution records demonstrate that only a handful of cooperatives have been created in the past ten years while many thousands of Limited Liability Corporations have been created during the same time.

Assembly Bill 327 would authorize patron members to seek outside equity investment in the cooperative in return for limited investor voting rights to provide for more flexible financing alternatives to cooperatives. This proposed new cooperative law is patron-member driven by maintaining 51% minimum control for the Board of Directors. In addition, Assembly Bill 327 would attract outside equity investment for cooperatives in return for limited investor voting.

Assembly Bill 327 would not change the provisions of existing Chapter 185. Rather, our citizens would gain another choice when determining what type of Wisconsin cooperative they wish to create. This legislation would not affect credit unions since they are organized under Chapter 186 of the *Wisconsin Statutes*.

In conclusion, Assembly Bill 327 is modeled after a new law adopted by the 2003 Minnesota Legislature. Similar legislation is being considered by the Iowa Legislature and a number of other legislatures across the nation. If enacted, this new law would place Wisconsin at the forefront of the evolution of national cooperative law. If we do not enact this legislation, we stand the real danger that entrepreneurial cooperatives will choose one of our neighboring states in which to register their new cooperative business. This would have a significant negative impact on our state's economy.

Assembly Bill 327 was passed by the full Assembly on February 28<sup>th</sup> and I sincerely hope the Committee will look favorably upon its contents.



STATEMENT OF BOB BASS IN SUPPORT OF AB 327  
Senate Committee on Agriculture and Insurance  
March 6, 2006

Chairman Kapanke and Committee Members:

I am Bob Bass of Reedsburg, where I operate a 500-acre dairy and feed grain farm. We currently milk 70 cows and will be expanding to close to 100. The farm is undergoing a facility modernization due in part to the dairy investment tax credit that the Legislature enacted last session. Thank you for that wise decision and the decision to extend it to other forms of livestock this session. I am Vice-Chair of the Wisconsin Federation of Cooperatives (WFC) Board. I also serve as First Vice Chairman of the CHS, Inc. (Cenex Harvest States) Board of Directors and have been on that board since 1994. CHS is the largest farmer cooperative in the U.S. today with annual sales of \$12 billion. CHS is a farm supply and grain marketing cooperative that supplies 45% of our nation's farmers with their fuel needs and is the third largest exporter of grain out of the U.S. At CHS, we serve our cooperative stakeholders in this increasingly competitive world by adding value to resources. I hold a B.S. degree in agricultural and extension education from the UW-Madison and am a former high school ag. teacher..

I am convinced that AB 327 is needed to encourage cooperative economic development in the rural and urban areas of our state. This bill enhances the ability of cooperators who have a common purpose to join together to market goods or to create a product or service to members or non-members for a common benefit.

The bill responds to the following issues:

- (1) Cooperatives under Section 185.21(2)c are limited to an 8 percent dividend when raising outside capital and recent preferred stock offerings have had difficulties in attracting sufficient investor interest due to the dividend cap and lack of voting rights in the cooperative;
- (2) Cooperatives have difficulty raising the 40 percent minimum equity from patron members necessary to borrow for capital intensive projects;
- (3) Cooperatives have difficulty retiring member equity when more members are retired than are active; and
- (4) There is a concern that patron-like members of LLCs generally do not have the same protections as do members of cooperatives.

The net result is that few new cooperatives are being created under existing state law, the overall number of cooperatives is static at best due to mergers, conversions and dissolutions, and increasing numbers of Upper Midwest cooperatives are converting to other corporate forms.

There are four main provisions of the bill. First, this bill creates two classes of stock: one for patron members and one for investor members (Section 193.501 – page 100). Many

of the patron members may also be investor members. Furthermore, the patron members may decide who is eligible to be a member in the cooperative's bylaws (Sections 193.241 – page 66 and 193.501 – page 100).

Second, patron members of the cooperative make the decision about how much they are willing to give up in voting and financial rights to bring in outside equity investment (Section 193.501 – page 100). This is not something that is decided by investor members, many of whom are likely to be patron members as well.

Third, patron members retain control of the cooperative and its board of directors. A majority of votes are cast by patron members on general matters of the cooperative and in the board of directors (Sections 193.423 – page 82 and 193.545 – page 112). The investor members are prevented, through collective voting of the patron members, from assuming majority control of the cooperative if a majority of patron members oppose their initiative (Sections 193.423 and 193.545).

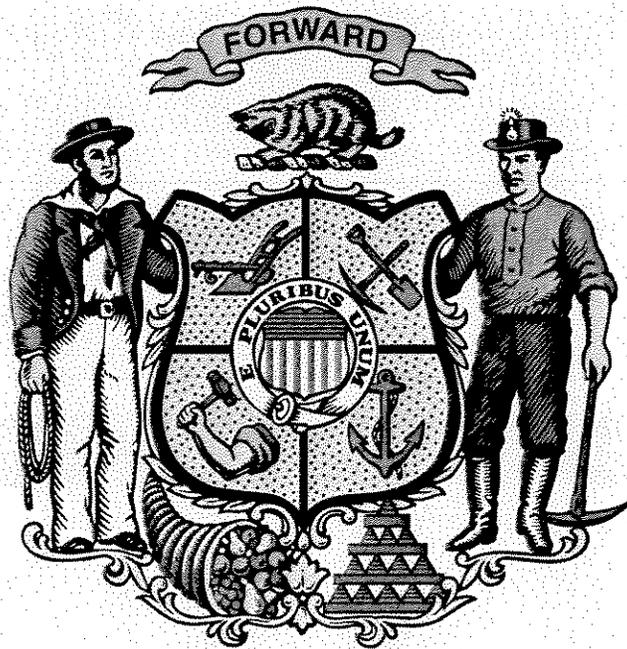
Patron members are entitled to at least 51 percent of the cooperative's profits, unless they vote to reduce their percentage. But, in no case, may they receive less than 30 percent of the cooperative's profits, even if their combined ownership is less than 30 percent (Section 193.601 – page 120).

Fourth, patron members will be placed on at least the same information playing field as investor members. The bill requires continuing financial education of directors (Section 193.478 – page 99), creation of a board audit committee to ensure members have specialized knowledge of the cooperative's finances (Section 193.445 – page 87), and enhanced member access to cooperative records (Section 193.501 – page 101). This bill will also allow for outside directors with no financial interest in the cooperative to be brought in by the patron members to help ensure they have the information necessary to make informed decisions (Section 193.411 – page 78-79).

The alternative to passing this bill is to continue providing patron members with the right to form corporate entities that do not provide the governance, financial and information rights and protections I have outlined above.

We believe Chapter 185 and proposed Chapter 193 represent the preferred form of ownership for Wisconsin businesses. LLCs and other corporate forms may be the preferred corporate form depending on the circumstances of the proposed business. However, we believe that an entity controlled by patron members that is created under this proposed new law will provide significantly more protections for patron members than would other corporate forms. This bill offers our state's residents with the ability to directly participate either as a patron and/or investor member of a Wisconsin cooperative and to participate in meaningful rural and urban economic development.

Thank you for providing me with the opportunity to testify in support of AB 327.



**STATEMENT OF  
BOB TOPEL IN SUPPORT OF AB 327  
Senate Committee on Agriculture & Insurance  
March 6, 2006**

Thank you Chairman Kapanke and committee members for allowing me to testify in support of AB 327. I am Bob Topel, dairy farmer in rural Waterloo and also Vice-Chair of the Foremost Farm USA Board. Foremost Farms USA is a dairy cooperative/processor headquartered in Baraboo. I serve as co-chair of the Wisconsin Federation of Cooperatives (WFC) and Minnesota Association of Cooperatives (MAC) Two-State Dairy Committee. I have just been nominated by DATCP Secretary Nilsestuen to serve on the Livestock Siting Review Board. I appreciate the work and interest of your committee on the subject of livestock facility siting. I serve on the Town of Portland (Dodge County) Plan Commission and previously served on the town's Smart Growth Committee.

Wisconsin cooperatives and their members support AB 327 because of the real barriers the cooperative governing statute, Chapter 185, currently places on farmers and others coming together to form cooperatives. The problem is simply this: capital intensive ventures require substantial upfront equity financing. Typically, lenders require at least 40 percent equity financing—in effect, contributions from farmers and other cooperative members—prior to making the commitment to lend the necessary funds to get the plant constructed. This is a real barrier and is one of the reasons why the Wisconsin value-added industries are not developing as quickly as they have in other states.

This bill allows farmers and others to provide both patron member equity and investment equity into the cooperative. Think for a moment of your local community. If an ethanol or biodiesel plant wants to start there, existing Chapter 185 would authorize only the patron-farmer members of the cooperative to provide equity financing. Is it any wonder why other structural options are viewed as more attractive? Eliminating any option for outside investment for those supporting the cooperative model not only puts more pressure on those farmers, but also means the local banker, veterinarian, grocery store owner, or others who are interested in local economic development cannot financially participate. These are the "investor members" who we need to help us achieve the 40 percent minimum equity threshold.

There can be no better illustration of the problem than the annual new cooperative filings with the Wisconsin Department of Financial Institutions (DFI). As you can see by the chart included with my testimony, only a handful of new cooperatives are registering each year with the state, while many thousands of new "C" corporations, limited liability companies (LLCs) and limited liability partnerships (LLPs) are registering. In 2005, only 11 new cooperatives filed with DFI versus 26,673 LLCs. Even this number, however, does not reflect the full problem since the existing cooperatives in our state are decreasing through mergers, conversions and dissolutions. The percentage of Wisconsin businesses that are cooperatives is on a downward slide, and today account for about 0.20

percent of the total on record at DFI – as a percentage less than half the level of just eight years ago.

The impact of the retreat of cooperatives from the fabric of communities and the state is, and will be, felt by an increasing number of our citizens. Much like the impact of the departure of main street businesses on communities here and across the U.S., the decreased presence of cooperatives leads to all types of negative consequences, including the obvious economic ones. Entities that serve the cooperative community are also at risk if we do not stem this negative trend. This includes attorneys knowledgeable and experienced in cooperative law, and the UW-Madison Center for Cooperatives. The latter has been an academic leader in co-op education and co-op development efforts. As with any industry, we need a healthy stream of new entries to replace those who naturally merge, consolidate or terminate as a business entity. The critical mass of Wisconsin cooperatives needed to support a viable infrastructure is clearly already in question.

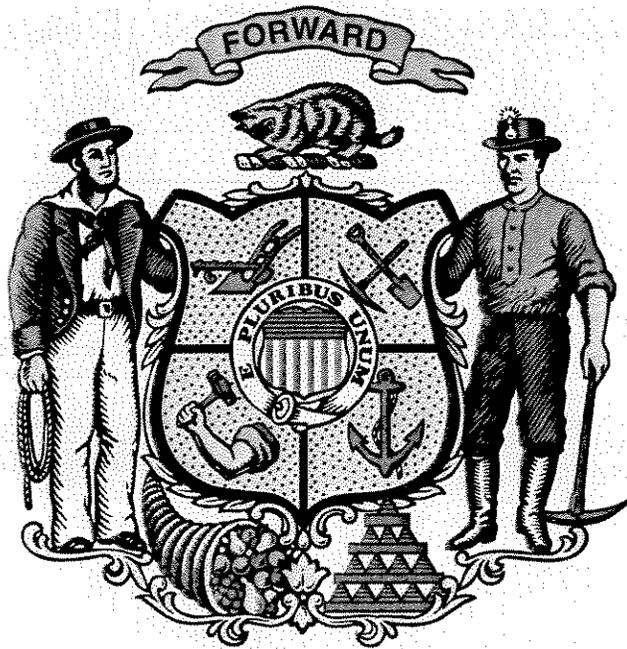
At the same time, under this bill Chapter 185 is not changed at all. This means existing cooperatives will continue to operate under the same law with no impact from the legislation being considered today. Rather, AB 327 would create a new law that would provide alternative financing options for the cooperatives that do not now exist. We support AB 327 because we view it as a reasonable step towards modernizing Wisconsin cooperative law and creating a more flexible statute that will meet the equity needs of Wisconsin cooperatives.

Thank you for allowing me to testify before you today and I respectfully request that you recommend this bill for concurrence by the Senate.

## New Filings in Wisconsin

<b>Year</b>	<b>Total Domestic Corporations</b>	<b>Wis. Non-Stock</b>	<b>LLCs</b>	<b>LLPs</b>	<b>Co-ops</b>
<b>1996</b>	<b>8,533</b>	<b>1,319</b>	<b>3,478</b>	<b>880</b>	<b>14</b>
<b>1997</b>	<b>7,952</b>	<b>1,226</b>	<b>5,567</b>	<b>962</b>	<b>12</b>
<b>1998</b>	<b>7,035</b>	<b>1,352</b>	<b>7,656</b>	<b>787</b>	<b>16</b>
<b>1999</b>	<b>6,767</b>	<b>1,410</b>	<b>9,785</b>	<b>596</b>	<b>8</b>
<b>2000</b>	<b>6,647</b>	<b>1,517</b>	<b>11,674</b>	<b>489</b>	<b>12</b>
<b>2001</b>	<b>5,829</b>	<b>1,431</b>	<b>13,953</b>	<b>424</b>	<b>22</b>
<b>2002</b>	<b>5,766</b>	<b>1,541</b>	<b>17,448</b>	<b>367</b>	<b>14</b>
<b>2003</b>	<b>5,632</b>	<b>1,719</b>	<b>21,356</b>	<b>337</b>	<b>11</b>
<b>2004</b>	<b>5,553</b>	<b>1,927</b>	<b>25,268</b>	<b>342</b>	<b>18</b>
<b>2005</b>	<b>5,098</b>	<b>1,887</b>	<b>26,673</b>	<b>262</b>	<b>11</b>

Source: Bernice Smith, Wis. Dept. of Financial Institutions (608/264-7803)



**STATEMENT OF PHIL PETERSON IN SUPPORT OF AB 327**  
**Senate Committee on Agriculture & Insurance**  
**March 6, 2006**

Good Morning Chairman Kapanke & Members:

Thank you for allowing me to testify today in support of AB 327. I am Phil Peterson from Oregon Wisconsin. I am a retired cash grain and dairy farmer and the former long-time Vice Chair of the Wisconsin Federation of Cooperatives (WFC) Board. I am President of the Middleton Insurance Company, a cooperatively-organized town mutual company. In the past, I was President of the Morning Glory Region of Associated Milk Producers (AMPI), a dairy cooperative. I have been an active member of the Wisconsin Farm Bureau Federation and the Wisconsin Agribusiness Council. Both of these statewide organizations support AB 327.

AB 327 provides a flexible cooperative law alternative that blends the best parts of cooperative law with the best parts of limited liability company law, and also makes some positive changes to cooperative governance. This bill is an outgrowth of the need for cooperatives to obtain equity for the creation of new value-added cooperatives. To date, similar – but not identical – laws have been passed in four states - Wyoming, Tennessee, Minnesota and Iowa

Last session, the 31-member board of the Wisconsin Federation of Cooperatives I served on and more than 300 delegates representing a broad cross-section of our state's cooperatives unanimously voted to support legislation that would create a second Wisconsin cooperative law. Having said this, it is important to say that this bill does not change existing Wisconsin Statutes Chapter 185, the law under which our cooperatives have organized. Therefore, we want to be clear that existing cooperatives would see no change in their legal existence, and an amendment adopted in the State Assembly with WFCs support will bar Chapter 185 cooperatives from converting to the new "Chapter 193" cooperative.

Rather, this bill would apply to cooperators coming together to form a new cooperative. This bill would give them the opportunity to raise equity capital from not only patron members, but also from many of the same people as investor capital. This is vital if we are to see the continued construction of capital intensive value-added plants and formation of other emerging service-oriented cooperatives.

Opponents have alleged that this bill will allow "foreign investors" to come into Wisconsin and "take over" these cooperatives. It is hard to imagine that such investors would feel the best place for their money would be new service and value-added cooperatives in Wisconsin. Among the new cooperatives created under the 2-year old Minnesota "308 B" statute are, Three Rivers Market (natural food), Co-op Metrics (cooperative consulting), Integrated Media Cooperative (magazine publishers) and Premiere Distribution (HVAC contractors). I doubt that much foreign money will seek out these investment opportunities.

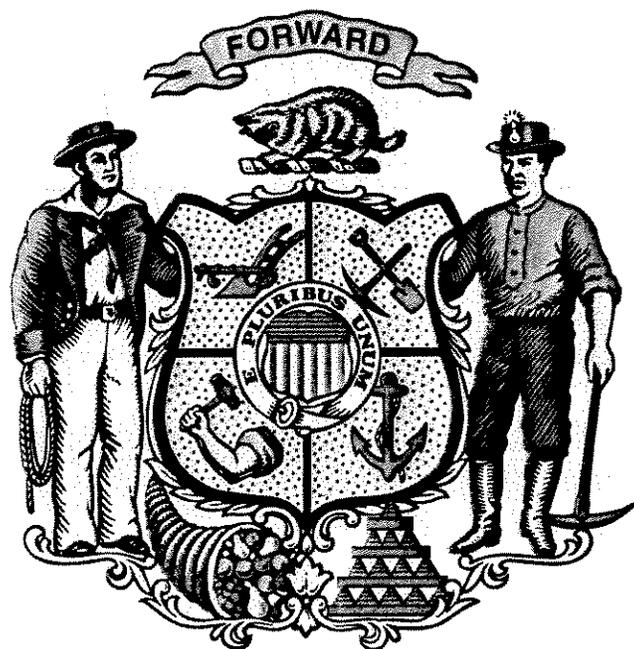
AB 327 states that it is the sole decision of the patron members as to the amount of control they are willing to cede to investor members in return for outside equity investment. Even so, the bill requires that patron members retain at least 51 percent voting control. This, as any student of corporate law and finance will understand, means the patron members will retain real control over the cooperative. We think this improves on the Minnesota and Iowa laws because those states adopted 50 percent as the minimum patron voting floor. This means the patron and investor members will need consensus on significant issues. The tradeoff for Wisconsin is that investors will view our bill as somewhat less desirable in that the patron members can make decisions without obtaining any support from investor-members.

AB 327 further strengthens patron member control by ensuring that the patron members vote collectively on the board of directors. This provision effectively rebuts the fear that some might have that investor members could "pick off" a patron director and "take over the cooperative." This cannot happen under AB 327. Rather, the investor members must obtain a majority of the patron directors to carry an issue. This collective voting provision is also not included in the Minnesota or Iowa laws.

If you did not act affirmatively on this bill, what would be the likely outcome? Any group of cooperators who wanted to form a new type of cooperative could form it under Minnesota or Iowa law. This would likely mean that the cooperative's headquarters would be in one of those two states with the resulting job and tax losses. More important than this, however, is the fact that we believe the Wisconsin bill improves on both the Minnesota and Iowa laws when it comes to member control and cooperative governance.

If AB 327 is adopted into law, it will be seen nationally as a landmark cooperative law. Why? For the first time, cooperative directors will be required to obtain yearly financial education to ensure they are able to fully analyze and discuss significant financial issues with management and members. Second, the board of directors is required to create an Audit Committee. This provision follows the recent federal Sarbanes Oxley law and is intended to ensure that a specialized committee of the board of directors closely analyzes cooperative financial and legal issues. This bill also provides significant member access to cooperative records, access that is not granted under any other type of corporate law.

Passing AB 327 will strengthen the future for cooperatives in this state. Failure to do so will do just the opposite. Thank you for the opportunity to speak in favor of AB 327.



**STATEMENT of  
WISCONSIN FARMERS UNION**

**Presented to the  
SENATE COMMITTEE ON AGRICULTURE AND  
INSURANCE**

**Assembly Bill 327  
“Unincorporated Cooperative Association Act”**

**March 6, 2006  
10:00 a.m.**

**Wisconsin State Capitol  
Room 300 SE  
MADISON, WI**

**Statement of Wisconsin Farmers Union, presented by WFU member Doug Caruso, on behalf of the members of the Wisconsin Farmers Union.**

On behalf of the nearly 2,000 family farm members of the Wisconsin Farmers Union, thank you for the opportunity to provide oral and written testimony today. I am Doug Caruso of Middleton, Wisconsin and a long-time Wisconsin Farmers Union member. Our WFU president Sue Beitlich expresses her apology for not being here today, but had a previous commitment to serve as a delegate to the National Farmers Union Convention in Denver this week.

The Wisconsin Farmers Union (WFU) opposes Assembly Bill 327 creating Unincorporated Cooperative Associations (UCAs). These new entities will be called 'cooperatives', would enjoy the tax, legal and marketing advantages of a cooperative; but are essentially joint ventures and should not be called cooperatives.

Cooperatives are a unique business organizations based on the fundamental principles of ownership and control by member patrons, financing by member patrons, and distribution of benefits to patrons based on their participation in the cooperative business. Any substantial deviation from these fundamental principles has proven fatal to cooperatives and detrimental to their farmer members.

Wisconsin Farmers Union recognizes the real problems cooperatives have in raising capital. Innovative approaches to raising capital have been successful under the existing co-op law, statute 185, including the offering of preferred stock by Organic Valley. We

ask the state to consider efforts to assist cooperatives in raising capital other than the total conversion of cooperatives into investor owned entities.

Co-ops are the only business form where capital does not control the business entity. But this bill will change that. The proposed legislation would substantially alter cooperative principles preserved in existing law. The bill would allow formation of a 'cooperative' with as little as one patron member, as much as 70% financing from corporate investors, and up to 49% control of the board of directors by outside directors. The bill creates a new type of cooperative – the unincorporated cooperative association (UCA). This new entity would be called a cooperative and enjoy the tax, marketing and legal advantages of a cooperative, but could be governed, in part, by foreign investors and return as little as 30% of the earnings to patron members. The proposed change cuts the heart out of the member controlled cooperative. This is NOT a co-op and should not be called a co-op under Wisconsin law.

Wisconsin Farmers Union members are concerned that such a business entity would be torn between what is good for investors and what is good for patron members. We are concerned that local, farmer owned cooperatives would have to compete against 'corporate' co-ops that are actually 'investor owned' corporations. The name 'cooperative' would become meaningless in today's marketplace as consumers associated cooperatives with corporations instead of patron member owned and controlled co-ops. And our members are concerned that decisions will be made to use the equity capital of the farmers for investor purposes and not return the equity capital to the patrons. We are

concerned that farmers will never see their stock retired or their patronage dividends returned.

The Federation of Coops argues that Wisconsin needs to follow other states in adopting a more 'modern' version of cooperative law. The truth is that the bill they are proposing is more radical than the model statutes suggested by the National Conference of Commissioners on Uniform State Laws. The draft uniform law suggests that patron members retain two-thirds to three-quarters of total voting rights while AB 327 allows only 51% patron member voting rights. Wisconsin should lead the nation in strengthening farmer owned cooperatives, not follow Minnesota in the race to the bottom. Further, this bill is unnecessary in Wisconsin as any new cooperative across this nation could charter under Minnesota statutes. You should ask the question of those in support of this, of the 13 new cooperatives formed under the Minnesota statute, how many have outside investors and how many are agriculture-related cooperatives.

Efforts underway at the federal level would change the federal tax code to allow cooperatives to convert to UCAs with no penalties. We fear that the conversion of existing cooperatives to investor co-ops is the ultimate intent of the sponsors. Those who originally drafted the bill have publicly stated that "most cooperatives...are seeking to reorganize into an entity without restrictions, typically an unincorporated association"<sup>1</sup>. While this would provide equity for these co-ops it would destroy the cooperative principles our grandparents worked hard to preserve.

If efforts to change federal law are successful and a corporation seeks to reorganize under this statute and qualifies for a '521 exemption' under federal tax law, that entity is exempt from securities law – a significant advantage for corporations. In addition, some co-ops enjoy the ability to borrow from a lender that is part of the Farm Credit System – another significant advantage. CoBank, the FCS lender, has been attempting to change the federal law to allow lending to investor coops. Given the passage of this state enabling legislation and following reorganization, any corporation, anywhere in the world, could capitalize and control any U.S. cooperative.

Tax advantages, exemption from securities law, borrowing at reduced rates, marketing advantages, are all reasons why financiers and corporations would support AB327.

AB327 threatens farmer control of cooperatives. It also provides protection and benefits for corporations that convert to a UCA, if the new entity meets the federal requirements.

An amendment approved in the original language, takes the electric cooperatives out of the new UCA language. This must tell us that the electric cooperatives do not think this is a good bill. Please take that into consideration.

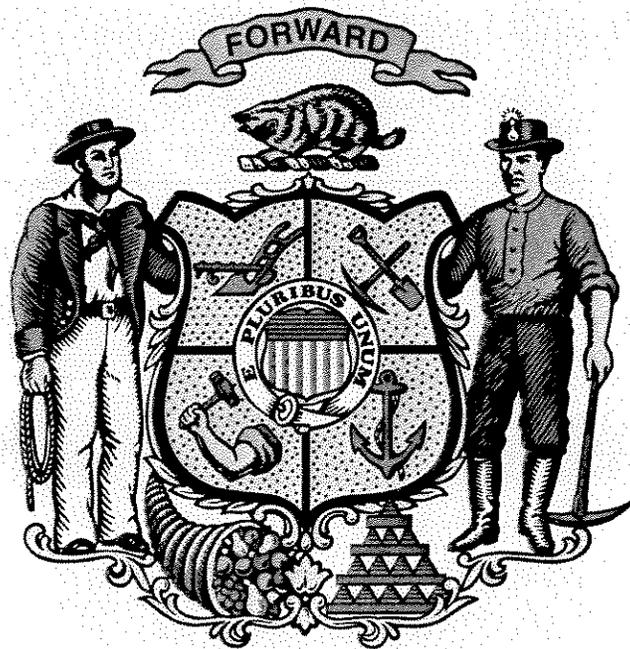
In conclusion, WFU supports innovative efforts to grow Wisconsin's cooperatives without undermining the fundamental business structure of a cooperative. By violating the basic principles of a cooperative, AB327 goes too far. Cooperatives are not Limited Liability Corporations but that is exactly what AB327 creates. Passage of AB327 is not a

decision that the legislature should make lightly. We encourage careful deliberation and public discourse prior to any new policy.

We suggest that the Secretary of Agriculture or the Governor appoint a Blue Ribbon Task Force to address the future of cooperatives and the very real problems of access to capital that Wisconsin cooperatives face.

We suggest that any entity that does not follow the cooperative principles referenced in federal law, not be called a cooperative in the state of Wisconsin. Further, we recommend that any UCA be required to share at least 50% of net proceeds, savings or profits with patron members and be required to have at least three-quarters patron members on the board of directors and retain at least three-quarters voting rights for patron members.

On behalf of the Wisconsin Farmers Union, I thank the committee for their attention to the concerns of Wisconsin farmers and ask their assistance in standing up to the financiers that are threatening farmer control of cooperatives.





## Wisconsin Federation of Cooperatives

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131 West Wilson Street, Suite 400 • Madison, WI 53703-3269  
Phone 608.258.4400 • Fax 608.258.4407 • www.wfcmac.coop

March 6, 2006

Members, Senate Committee on Agriculture & Insurance  
State Capitol  
Madison, WI 53702

Dear Senators:

We are jointly writing you as the elected members of the Wisconsin Federation of Cooperatives (WFC) Board of Directors to ask you to vote to advance AB 327 for full Senate action. Together, we represent more than 700 cooperative businesses owned by more than 2.9 million Wisconsin residents. AB 327 is the current top legislative priority for WFC and recently was passed by a 71-22 vote of the Assembly

Our reasons to endorse AB 327 are many, but they are generally focused on the desire to stimulate more cooperative business development in Wisconsin, the second ranking state in the nation for cooperatives. Unfortunately, few new cooperatives are registering each year with the Department of Financial Institutions. Enacting AB 327 will lead to increased economic activity and services that will benefit the host communities and regions of Wisconsin, in addition to the members and investors in the new cooperatives. At the Assembly hearing on AB 327, the CEO of one of our member cooperatives stated, "A major attraction of AB 327 is the avenue it provides to attract capitalization from others, particularly non-patron community members, while ensuring the business will remain patron-member driven and controlled."

Currently, existing cooperatives can only raise non-patron member capital through preferred stock offerings. However, federal and state laws place a limit on dividends to no more than 8 percent. For this reason, recent preferred stock offerings have had difficulty attracting sufficient investor interest. This difficulty is heightened by the lack of voting rights in the cooperative. Moreover, cooperatives often can not reach the required 40 percent minimum equity from patron members necessary to borrow for capital intensive projects. AB 327 addresses these difficult issues by authorizing needed outside investment in cooperatives in return for limited voting rights.

AB 327 requires at least 51% minimum control for patrons (cooperative members) and the patron members votes are cast collectively. We note that this patron member protection is greater than that provided for in the states which have enacted second or "hybrid" cooperative laws in the last few years, including Wyoming, Minnesota, Tennessee, and Iowa. At the same time, we note that these states have recognized that a new cooperative financial structure is necessary to avoid a static or even rapidly diminishing position in relation to other business types and, by doing so, potentially set up a competitive disadvantage for Wisconsin.

AB 327 offers Wisconsin's residents the ability to directly participate either as a patron and/or investor member of a Wisconsin cooperative and to participate in meaningful rural and urban economic development through the creation of new value-added cooperatives. This means patron members and local residents may join together to begin new value-added cooperative ventures.

This law does not affect existing Chapter 185 cooperatives. In fact, we supported a unanimously adopted author's amendment that will prohibit Chapter 185 cooperatives from converting to the new form (Chapter 193) created under AB 327.

The alternative to passing AB 327 is to continue the trend towards formation of non-cooperative business entities that do not provide the governance, financial, and information rights and protections provided in AB 327.

AB 327 is supported by the Wisconsin Farm Bureau Federation, Wisconsin National Farmers Organization (NFO), Wisconsin Agribusiness Council, Wisconsin Credit Union League, Wisconsin Department of Financial Institutions, and Wisconsin Fertilizer & Chemical Association.

Sincerely,

WFC Board Members



Ed Brooks, Chair



Robert Bass, Vice Chair



Pete Giacomini, Treasurer

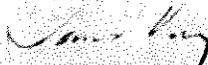


Ed Hass, Secretary

Jim Kinzie



Cheri Gibeaut



James Viney



Bill Averbeck



Gary DeJager



Chuck Lindner



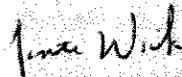
Jeff Bennesch



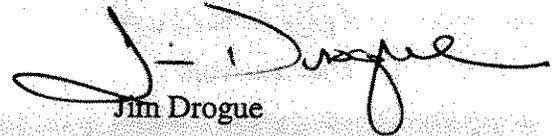
Dave Wantland



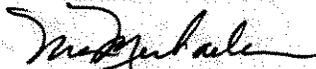
Todd Rosvold



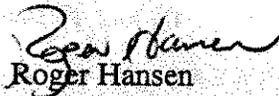
Monte Wick



Jim Drogue



Max Michaelson



Roger Hansen



Carolyn Moon



Jim Hathaway



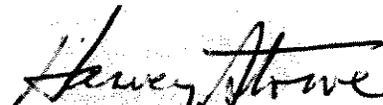
Dave Hischke



Mike Krutza



Alan Albers



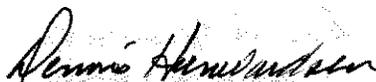
Harvey Slower



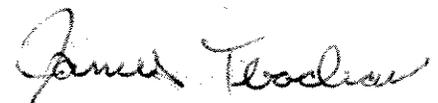
Rod Olson



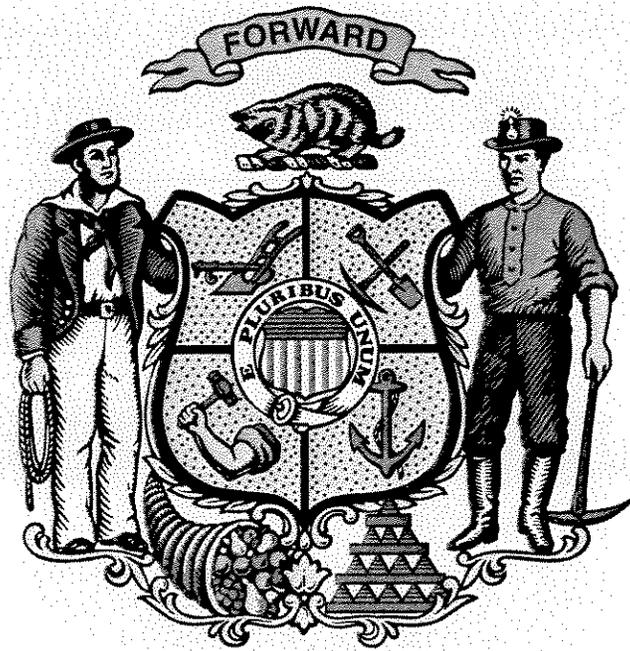
Curt Eischens



Dennis Hunwardsen



Jim Tibodeau





## Wisconsin Federation of Cooperatives

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Date: 3/6/2006  
To: Members, Senate Committee on Agriculture & Insurance  
From: John Manske, Director of Government Relations  
RE: Support for AB 327

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Thank you, Chairman Kapanke for your leadership and timely hearing on AB 327, the Wisconsin Federation of Cooperatives (WFC) initiative to create a second cooperative statute in Wisconsin. WFC is the state trade association for more than 700 cooperative businesses with 2.9 million Wisconsin owners. **The WFC membership has endorsed this initiative through support at successive WFC annual meetings of our resolution 1.22, New Cooperative Law.**

*The resolution reads in part, "the purpose of the new cooperative law will be to ensure cooperatives have a modern, flexible, state law that will keep Wisconsin as one of the top cooperative states in the nation, while remaining true to cooperative principles."*

- ✓ **AB 327 is an idea whose time has come.** The legislation was drafted over almost the entire previous session, and was carefully crafted with the guidance of cooperators who operate in the day-to-day world of cooperative business as well as with the input of cooperative legal specialists who have worked on similar proposals in Minnesota and other states.
- ✓ **AB 327 was introduced last year with 42 bipartisan Assembly and Senate supporters.**
- ✓ **AB 327 enjoys the support of numerous organizations** that understand and work with cooperatives. Supporters include the Wisconsin Farm Bureau Federation, Wisconsin National Farmers Organization, Wisconsin Agribusiness Council, Wisconsin Credit Union League, Department of Financial Institutions and Wisconsin Fertilizer & Chemical Association.
- ✓ **AB 327 was approved in the Assembly** last week by a 71-22 bipartisan vote.
- ✓ **Assembly amendments were adopted that:** prohibit conversion of existing Chapter 185 cooperatives to the new Chapter 193 cooperative; remove various energy cooperatives from AB 327 and require that when a patron member is an individual, there be at least 5 individuals in the cooperative.