

# **Comparing Cooperative Statutes: Kansas, Wisconsin, Minnesota, and the Uniform Limited Cooperative Associations Act**

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# EXECUTIVE SUMMARY

The cooperative business model is one viable approach to promoting community and economic development. The model allows individuals and businesses to achieve something together that would be infeasible or impractical to accomplish alone. In Kansas, cooperative businesses have largely been organized to serve agricultural producers, rural electric utility customers, and telecommunications customers.

The cooperative model could be applied in additional contexts to address other present-day needs of Kansans, but barriers exist, including the state's cooperative laws. While Kansas laws regarding cooperatives in the agricultural and electricity sectors are robust and comprehensive, cooperatives in other sectors lack a clear legal framework. K.S.A. Chapter 17-15, which is generalized for all types of cooperatives, provides little guidance, which may deter people from exploring this business model.

To understand how Kansas might begin to create a more inclusive cooperative ecosystem, this report examines K.S.A. Chapter 17-15 compared to other general cooperative laws, including Chapter 185 in Wisconsin, Chapter 308A in Minnesota, and the Uniform Limited Cooperative Associations Act. For each, we asked and answered 35 questions that are pertinent to the cooperative business model, focusing on key provisions related to formation, governing documents, board of directors, membership, voting, fundraising, profit distribution, mergers, consolidation, and dissolution.

We found that, compared to these other laws, K.S.A. Chapter 17-15 provides no information about 21 of the 35 questions asked. Where information was provided, Kansas was sometimes stricter than the other laws. Namely, Kansas requires 20 incorporators, imposes a 50-year limit on the existence of cooperative businesses, and requires capital to be raised prior to incorporating. These requirements were absent in the other laws reviewed in this report.

To address legal barriers to cooperative development, Kansas could consider several legislative changes. First, it could amend K.S.A. Chapter 17-15 to provide clearer guidance and remove unnecessary burdens. However, given that there are already numerous Kansas businesses already organized under this chapter, doing so may cause them legal or financial challenges. Alternatively, Kansas could adopt an entirely new statute that aligns more closely with traditional cooperative statutes in other states, like Minnesota and Wisconsin. Finally, Kansas could consider adopting the Uniform Limited Cooperative Associations Act, a model law that is gaining traction in other states because it allows corporations to both operate on a cooperative basis and accept outside investments.

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# 1 INTRODUCTION

A cooperative, or co-op, is a type of corporation that is owned by those who use its products or services. Cooperatives can be owned by a group of individuals or other businesses. A core strategy of the business model is to pool resources to address a common need, thereby achieving something together that would be infeasible or impractical to accomplish alone.

The International Cooperative Alliance (ICA) defines a cooperative as an “autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise.” According to the ICA, cooperatives also espouse the values of “self-help, self-responsibility, democracy, equality, equity, and solidarity.”<sup>1</sup>

Cooperatives have three key defining principles<sup>2</sup>:

1. **User-Owner Principle:** Cooperatives are owned by the people who use it. The owners (also referred to as members or member-owners) finance the cooperative, most often through the purchase of stock.
2. **User-Control Principle:** Owners of a cooperative have voting rights and elect the board of directors, who create policies and make decisions for the benefit of member-owners. Unlike other types of investor-owned corporations, each member-owner gets only one vote regardless of how much stock they own in the business.
3. **User-Benefits Principle:** Owners benefit from the cooperative’s existence, as it allows them to access products or services that would be unavailable otherwise. They also benefit because profits generated by the cooperative may be returned to member-owners based on their use of the business. This is known as a patronage distribution.

Grounded in these principles, the structure of a cooperative can be adapted to address the specific needs of member-owners. For instance, cooperatives can be owned by consumers, producers, or workers. A group of businesses might even come together to create a cooperative that they collectively own.

But *why* form a cooperative? The exact answer to this question will be different in every situation, depending on the goals and aspirations of member-owners. They may come together to access products or services, reach larger markets, improve efficiency, increase bargaining power, receive volume discounts, reduce costs, share resources, and more. The versatility of the cooperative business model means it is found in virtually every sector of the economy, by businesses large and small, and in both urban and rural communities around the world.

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<sup>1</sup> International Cooperative Alliance, *Cooperative identity, values & principles*. <https://ica.coop/en/cooperatives/cooperative-identity>.

<sup>2</sup> USDA, *Co-ops 101: An Introduction to Cooperatives*. <https://www.rd.usda.gov/files/cir55.pdf>.

## **1.1 Types of Cooperatives**

### **Producer Cooperatives**

Producer cooperatives are owned by members, often independently-owned businesses, who produce similar products. Such products may include food crops, arts and crafts, carpentry, and more. Through the cooperative, members make use of economies of scale by aggregating their outputs. Collectively increasing their volume allows members to reach bigger markets and get better pricing. For example, many farmers combine their crops to achieve a scale necessary for domestic or international trade. Companies like Land O Lakes, Welch's, and Ocean Spray are cooperatives owned by farmers.

### **Consumer Cooperatives**

Consumer cooperatives are owned by members, who are everyday individuals, that purchase goods and services in common. Consumers may need to purchase goods at the retail level, like groceries, but they may also need things like insurance, housing, electricity, or broadband. The list goes on and on. Credit unions, for instance, are cooperatives that are owned by the people who use their financial services. The consumer cooperative model provides a way for individuals to pool demand in order to bring goods and services into their community, where they are otherwise lacking.

### **Shared Services Cooperatives**

Shared services cooperatives, sometimes referred to as purchasing cooperatives, are owned by businesses or other entities that have common supply or service needs. These entities could include independent retailers, hospitals, schools, childcare centers, and more. For example, perhaps a group of childcare centers within a region have similar business administration needs, like accounting and payroll, so they contract those services together through a cooperative. School districts might come together to share lesson plans, negotiate with vendors, or acquire special education services. Through this model, businesses and other entities increase their purchasing power and save on costs, which in turn improves sustainability.

### **Worker Cooperatives**

Worker cooperatives are owned by the people who work in the cooperative business. Childcare providers could own the childcare center, cab drivers could own the cab company, baristas could own the cafe, cleaners could own the cleaning service. This model expands business ownership and distributes the risk of owning a business. This model is also of interest to many independent business owners who are looking to retire: if a private buyer is unable to be found, the current owner could instead sell the business to their current employees. Converting to a worker-owned cooperative is one way to keep the business and their legacy alive.

## **1.2 Cooperatives in History**

Over centuries, all over the world, and across cultures, humans have cooperated – though it was not always defined in legal terms. In the United States alone, the history of the cooperative model is vast. In 1752, Benjamin Franklin helped organize the first formal cooperative in the U.S.,

called “The Philadelphia Contributionship for the Insurance of Houses from Loss by Fire.” The mutual insurance company still exists today. In the early 1800s, small cheese and dairy farmers began aggregating and collectively selling their products, a model that later gained widespread adoption across agricultural sectors to improve the livelihoods of farmers throughout the country. In the 1930s, most rural areas lacked electricity, as investor-owned utilities were unwilling to build there. Rural communities took matters into their own hands to finance and form cooperatively-owned rural electric utilities, drastically changing the economy and quality of life in rural America. These are just a few key cooperative milestones in the United States.<sup>3</sup>

Another key moment in cooperative history involved the Rochdale Society of Equitable Pioneers, a consumer cooperative developed in England during the Industrial Revolution. This cooperative enabled low-wage workers to buy goods in bulk, improving the price and quality of their purchases.<sup>4</sup> Most notable about this cooperative, however, was its creation of principles to guide its decisions. These principles have been adapted and reworded over time, but they are still widely used to guide cooperatives around the world.<sup>5</sup>

Cooperative principles include:

1. Voluntary and Open Membership
2. Democratic Member Control
3. Member Economic Participation
4. Autonomy and Independence
5. Education, Training, and Information
6. Cooperation Among Cooperatives
7. Concern for Community

### 1.3 Cooperatives Today

Cooperatives are found in virtually every industry, from financial services to health care to agriculture. According to a report by the University of Wisconsin Center for Cooperatives, “Research on the Economic Impact of Cooperatives,” there are nearly 30,000 cooperatives in the United States that generate more than \$650 billion in revenue and provide more than 2 million jobs. Across the country, there are roughly 350 million cooperative memberships (some people are members of more than one cooperative), and these members receive, in aggregate, nearly \$79 billion in patronage distributions and dividends.<sup>6</sup>

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<sup>3</sup> Lynn Pitman, UW Center for Cooperatives, *History Of Cooperatives In The United States: An Overview*. 2018. [https://resources.uwcc.wisc.edu/History\\_of\\_Cooperatives.pdf](https://resources.uwcc.wisc.edu/History_of_Cooperatives.pdf).

<sup>4</sup> Cooperative International Alliance. *The Rochdale Pioneers*. <https://ica.coop/en/rochdale-pioneers>

<sup>5</sup> National Cooperative Business Association, CLUSA International. *7 Cooperative Principles*. <https://nbcbausa.coop/resources/7-cooperative-principles/>

<sup>6</sup> University of Wisconsin Center for Cooperatives, *Research on the Economic Impact of Cooperatives*. <https://reic.uwcc.wisc.edu/summary/>



## 2 GLOSSARY OF TERMS

The following are just some of the cooperative terms you may come across throughout this report and as you further research the cooperative business model. The following definitions are the work of the UW Center for Cooperatives.<sup>7</sup>

**Articles of Incorporation:** A legal document filed with the appropriate state agency showing the purpose, capitalization, address, and names of the incorporators of a cooperative.

**Bylaws:** A standing rule, not included in the articles of incorporation, which specifies operational practice and policy of the cooperative.

**Common Stock:** Ownership capital in a cooperative, divided into shares or stock certificates that carry voting rights (unless otherwise indicated) and are eligible for dividends.

**Director:** One of several members of the cooperative who is elected by the membership to a board of directors to govern or control the affairs of the cooperative.

**Dividend:** A return paid to investors on preferred stock or other invested capital.

**Member:** A person who joins a cooperative organization. The bylaws of a cooperative define the requirements of membership, such as purchasing one share of common stock, paying a membership fee, conducting a minimum annual dollar amount of business with the cooperative, or simply using the services of the cooperative.

**Officers:** The board of directors elect amongst themselves, usually shortly after the annual meeting, a president (or chairperson), vice president (or vice-chair), a secretary, and a treasurer.

**Patron:** A person who purchases products or services from the cooperative, including members and non-members. Cooperatives may have patrons who do not meet the membership requirements. The business from non-member patrons is often simply referred to as “non-member business.”

**Patronage Refund:** An allocation of net margin (savings) distributed to patrons on the basis of patronage (use of the cooperative).

**Preferred Stock:** Capital stock that has a stated dividend rate and takes preference over dividends paid on other stock and/or patronage refunds to members. It is equity capital, since any dividends paid are at the discretion of the board of directors. Preferred stock may be sold to members and nonmembers alike.

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<sup>7</sup> University of Wisconsin Center for Cooperatives, *Co-op Glossary*.  
<https://uwcc.wisc.edu/about-co-ops/co-op-glossary/>

### 3 COMPARISON OF COOPERATIVE LAWS

The cooperative model is a tool for economic and community development. However, outside of the agricultural sector, few businesses in Kansas use this ownership structure. Agricultural cooperatives are governed by the Cooperative Market Act, which was originally passed in 1921 to improve the efficiency of agriculture and reduce the amount of waste. Other types of cooperative businesses are governed by the Cooperative Societies Act, which was passed in 1913 to support other industries beyond agriculture.

After hearing from communities that Kansas cooperative laws are limiting, we decided to compare laws in the Cooperative Societies Act with cooperative laws in other states. We chose to look at two other Midwestern states that are widely recognized to have strong cooperative ecosystems: Wisconsin and Minnesota. In Wisconsin, both Chapter 185 and Chapter 193 govern cooperatives. In this report, we focus on Chapter 185 because it is the classic cooperative statute that is more widely used, while Chapter 193 allows for unincorporated cooperatives. Minnesota also has several chapters on cooperatives: Chapter 308A and Chapter 308B. For the purposes of this report, we focus on Chapter 308A, which focuses on in-state cooperatives, while Chapter 308B allows for outside investors. Furthermore, Chapter 308A is the older statute, meaning there are more cooperatives that use it.

Finally, we also examined the Uniform Limited Cooperative Associations Act (ULCAA). This act was created in 2013 and is an alternative to traditional cooperatives. The ULCAA provides an outline for states to follow that is flexible enough to then be tailored to each state's needs. Furthermore, the ULCAA allows for outside investors. Versions of the ULCAA have been enacted by seven states so far: Colorado, Kentucky, Nebraska, Oklahoma, Utah, Vermont, and Washington. Washington, D.C., has also adopted the ULCAA.<sup>8</sup>

Below, we describe the key provisions of these different cooperative laws. First, we begin with the formation of cooperatives in each state and what a cooperative is bound by. Next, we go into the governing documents needed to form a cooperative. Third, we discuss the board of directors, followed by membership and voting in Section 4. In Section 5, we address statutes relating to fundraising. Section 6 addresses profit distribution. The seventh section discusses what happens in cases of merger, consolidation, and dissolution. Finally, there is a miscellaneous section which addresses laws that were not covered in the previous sections.

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<sup>8</sup> Uniform Law Commission, *Limited Cooperative Association Act*. 2024.  
<https://www.uniformlaws.org/committees/community-home?communitykey=22f0235d-9d23-4fe0-ba9e-10f02ae0bfd0>

## 3.1 Formation

### How many people does it take to incorporate a cooperative business?

**Kansas:** At least 20 people who are residents of Kansas are required.<sup>9</sup>

**Wisconsin:** Five or more adults are required. Only one must be a resident of Wisconsin.<sup>10</sup>

**Minnesota:** One or more people are required.<sup>11</sup>

**ULCAA:** One or more people can act as organizers.<sup>12</sup>

### How long can the cooperative business exist upon forming?

**Kansas:** A cooperative cannot register with an expected duration longer than 50 years.<sup>13</sup>

**Wisconsin:** A cooperative can exist perpetually.<sup>14</sup>

**Minnesota:** A cooperative can exist perpetually.<sup>15</sup>

**ULCAA:** Cooperatives can exist perpetually unless the articles of organization state otherwise.<sup>16</sup>

### What else is required to form a cooperative business?

**Kansas:** A cooperative must have at least 20% of its capital stock paid in cash and a sworn statement saying the stock has been paid must be filed with the secretary of state.<sup>17</sup>

**Wisconsin:** A certificate of incorporation must be attained to show that all requirements to operate have been met.<sup>18</sup>

**Minnesota:** A cooperative must be renewed annually.<sup>19</sup> The cooperative exists once the initial articles of incorporation have been filed with the secretary of state.<sup>20</sup>

**ULCAA:** To begin business, a cooperative is required to have at least two patron members.<sup>21</sup>

### Are cooperative businesses bound by any other state laws?

**Kansas:** If items aren't mentioned in the chapter, then refer to the General Corporate Code.<sup>22</sup>

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<sup>9</sup> Kan. Stat. Ann. § 17-1501.

<sup>10</sup> Wis. Stat. Ann. § 185.043.

<sup>11</sup> Minn. Stat. Ann. § 308A.105.

<sup>12</sup> Ltd. Coop. Ass'n Act § 301.

<sup>13</sup> Kan. Stat. Ann. § 17-1506.

<sup>14</sup> Wis. Stat. Ann. § 185.05.

<sup>15</sup> Minn. Stat. Ann. § 308A.131.

<sup>16</sup> Ltd. Coop. Ass'n Act § 104.

<sup>17</sup> Kan. Stat. Ann. § 17-1509.

<sup>18</sup> Wis. Stat. Ann. § 185.05.

<sup>19</sup> Minn. Stat. Ann. § 308A.027.

<sup>20</sup> Minn. Stat. Ann. § 308A.155.

<sup>21</sup> Ltd. Coop. Ass'n Act § 501

<sup>22</sup> Kan. Stat. Ann. § 17-1520.

**Wisconsin:** Cooperatives are bound to the laws stated in Chapter 408 when addressing securities.<sup>23</sup>

**Minnesota:** Cooperatives can also register under Chapter 308B. Furthermore, cooperatives are bound to Chapter 80A, which are securities laws.<sup>24</sup>

**ULCAA:** The enacting state can decide which other laws may apply to cooperatives under this chapter.<sup>25</sup>

### Must the entity be formed under this statute to be called a cooperative?

**Kansas:** Entities must be in compliance with the Cooperative Societies Act to use cooperative in their names.<sup>26</sup>

**Wisconsin:** Entities must be organized under Chapter 185 or 186 to use the term “cooperative.” Improper usage of the name can lead to fines of up to \$100 per day.<sup>27</sup>

**Minnesota:** Only entities registered under Chapter 308A or other cooperative statutes can be called cooperatives. Misuse of the name is a misdemeanor.<sup>28</sup>

**ULCAA:** The enacting state can decide if they want to allow other entities to be called cooperatives.<sup>29</sup>

## 3.2 Governing Documents

### What is required to be in the articles of incorporation/organization?

**Kansas:** The articles of incorporation must include the name of the corporation, names and residence of the incorporators, purpose of the cooperative, principal place of business, amount of capital stock, number of shares and their par value, number of directors and their names, and how long the cooperative will exist. Kansas puts the limit on existence at 50 years.<sup>30</sup>

**Wisconsin:** The articles of incorporation must include the name of the cooperative, the period that it will exist unless it is perpetual, and the purpose for which the cooperative is being organized. They also must include whether the cooperative will be organized with or without capital stock, the designation of classes of members, as well as the number and par value of shares of each authorized class of stock. If there are multiple classes of stock, then the designation, preferences, limitations, and rights of each class must be described. The articles must clarify which classes of stock qualify as membership stock, the rate of dividends, and any rights the cooperative may reserve to acquire and recall stock. Further, the articles must say what happens upon liquidation of the cooperative. The articles also must include the name and

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<sup>23</sup> Wis. Stat. Ann. § 185.25.

<sup>24</sup> Minn. Stat. Ann. § 308A.505.

<sup>25</sup> Ltd. Coop. Ass'n Act § 107.

<sup>26</sup> Kan. Stat. Ann. § 17-1515.

<sup>27</sup> Wis. Stat. Ann. § 185.95.

<sup>28</sup> Minn. Stat. Ann. § 308A.011.

<sup>29</sup> Ltd. Coop. Ass'n Act § 113.

<sup>30</sup> Kan. Stat. Ann. § 17-1506.

address of the principal office and the registered agent, and the names and addresses of the incorporators, and the original temporary board made up of incorporators.<sup>31</sup>

**Minnesota:** The articles of incorporation must include the name and purpose of the cooperative, the principal place of business, the duration if not perpetual, and the addresses for the registered office and registered agent. If the cooperative is organized on capital stock, the articles of incorporation can, but are not required to have, the total number of shares and the par value of each share. The articles can also include the classification of shares, a description of those classes, and the rights, preferences, and restrictions of each share. Finally, they can include the names, addresses, and terms of the directors of the original board.<sup>32</sup>

**ULCAA:** The articles of organization must include the name of the cooperatives, the purpose of the cooperative, and the street and mailing addresses for the registered agent, principal office, and organizers.<sup>33</sup> The articles of organization may also include the term of existence, limit the acceptance of new members by the initial board, provide the obligations and liability of members, require notice of annual member meetings, determine the requirements of a quorum, and determine what the board may discuss. They may also specify causes of dissolution, allow the board to amend bylaws, require member approval for disposing assets, and limit the liability of directors.<sup>34</sup>

### What is required to be in the bylaws?

**Kansas:** The bylaws must prescribe duties of directors and officers, determine how profits will be distributed, and describe how a person can become a member and “other rules and instructions to its officials and members as will tend to make the corporation an effective business organization.”<sup>35</sup>

**Wisconsin:** There are no express requirements for bylaws. However, Wisconsin does grant the board the ability to adopt emergency bylaws that are only effective in emergencies. These emergency bylaws can change procedures for calling a meeting, conducting a meeting, quorum requirements, deadlines, and the designation of directors.<sup>36</sup>

**Minnesota:** A cooperative is not required to have bylaws. If a cooperative does choose to have bylaws, they can contain “any provision relating to the management or regulation of the affairs of the cooperative that are not inconsistent with law or the articles.”<sup>37</sup>

**ULCAA:** The bylaws must have a statement of the capital structure. This includes stating the classes and their relative rights, preference, and restrictions, and the rights to share and distribute profits. The bylaws must also include how members are admitted, what voting rights and restrictions each member has, and the conditions in which a member’s interest in the cooperative can be transferred, if membership interest is able to be transferred. Bylaws also need a statement with how profits and losses are distributed amongst patrons and investors,

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<sup>31</sup> Wis. Stat. Ann. § 185.05.

<sup>32</sup> Minn. Stat. Ann. § 308A.131

<sup>33</sup> Ltd. Coop. Ass'n Act § 301.

<sup>34</sup> Ltd. Coop. Ass'n Act § 109

<sup>35</sup> Kan. Stat. Ann. § 17-1512

<sup>36</sup> Wis. Stat. Ann. § 185.07.

<sup>37</sup> Minn. Stat. Ann. § 308A.165.

and a statement on if non-members can receive profits and losses. The bylaws also must include the number of directors and the terms they serve.<sup>38</sup>

### What does it take to amend the articles of incorporation/organization?

**Kansas:** Does not mention how to amend the articles of incorporation.

**Wisconsin:** The articles of incorporation can be amended if there was notice of the proposed change and  $\frac{2}{3}$  of member votes approved the amendment.<sup>39</sup> If a person holds stock but is not a member, the stockholder is able to exercise one vote on the amendment if the amendment would affect them. If stockholders are able to vote, then there must be notice of the meeting with an exact copy of the proposed amendment,  $\frac{2}{3}$  member votes approving the amendment, and  $\frac{2}{3}$  stockholder vote approving the amendment.<sup>40</sup>

**Minnesota:** The board must vote on the amendment, then send out notice of the proposed amendment to the cooperative's members. Once a notice is sent out, a quorum of members must be at the meeting and a majority of the member votes must be in favor of the amendment for the amendment to pass. The amendment must then be signed by the board and filed with the Office of the Secretary of State.<sup>41</sup>

**ULCAA:** An amendment must be proposed by the majority of directors or through a petition signed by at least 10% of patron members. A meeting must be called with proper notice to the members.<sup>42</sup> The amendment must be approved by  $\frac{2}{3}$  of the voting members present at the meeting.<sup>43</sup>

### What does it take to amend the bylaws?

**Kansas:** Does not mention how to amend the bylaws.

**Wisconsin:** Bylaws can be adopted or amended by the members unless the members adopt a bylaw saying the board has the power to adopt or amend the bylaws. Adopting or amending the bylaws requires a majority vote by the members unless the bylaws state otherwise.<sup>44</sup>

**Minnesota:** There must be notice of the meeting with a summary of the proposed amendment. A quorum must be present, and the amendment must be approved by the majority of votes cast.<sup>45</sup>

**ULCAA:** An amendment must be proposed by the majority of directors or through a petition signed by at least 10% of patron members. A meeting must be called with proper notice to the

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<sup>38</sup> Ltd. Coop. Ass'n Act § 303.

<sup>39</sup> Wis. Stat. Ann. § 185.51.

<sup>40</sup> Wis. Stat. Ann. § 185.52.

<sup>41</sup> Minn. Stat. Ann. § 308A.135.

<sup>42</sup> Ltd. Coop. Ass'n Act § 401.

<sup>43</sup> Ltd. Coop. Ass'n Act § 405.

<sup>44</sup> Wis. Stat. Ann. § 185.07.

<sup>45</sup> Minn. Stat. Ann. § 308A.165.

members.<sup>46</sup> The amendment must be approved by a majority of the voting members present at the meeting.<sup>47</sup>

### 3.3 Board of Directors

#### Are outside nonmember board members permitted?

**Kansas:** Does not mention nonmember board members.

**Wisconsin:** Cooperatives can have outside directors. Each cooperative is limited to 2 outside directors, or no more than 20% of total directors.<sup>48</sup>

**Minnesota:** Does not mention nonmember board members. This would likely be covered by the other cooperative statute, Chapter 308B, which allows for outside investors.

**ULCAA:** There can be nonmember directors if the articles of organization or bylaws allow for them. There can only be one non-member director if the board has 2-4 directors, two nonmember directors if there are 5-8 total directors, or  $\frac{1}{3}$  of the total number of directors if there are at least nine directors.<sup>49</sup>

#### Are there board qualification requirements?

**Kansas:** Does not mention qualification requirements of the board.

**Wisconsin:** The bylaws of the cooperative shall specify the qualifications for directors.<sup>50</sup>

**Minnesota:** Does not mention qualification requirements for board members.

**ULCAA:** The articles of organization and bylaws can specify qualifications for board members. If the articles of organization and bylaws do not allow for nonmember directors, then every director must be a member.<sup>51</sup>

#### How can directors and officers be removed?

**Kansas:** Does not mention the removal of directors and officers.

**Wisconsin:** In Wisconsin, directors can be removed by a majority vote of all members.<sup>52</sup>

**Minnesota:** Members can remove directors at member meetings as long as they have cause related to the director's performance.<sup>53</sup>

**ULCAA:** Members can remove a director with or without cause. A petition can be submitted and addressed at a meeting, where directors can be removed if the number of votes approving

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<sup>46</sup> Ltd. Coop. Ass'n Act § 401.

<sup>47</sup> Ltd. Coop. Ass'n Act § 405.

<sup>48</sup> Wis. Stat. Ann. § 185.31.

<sup>49</sup> Ltd. Coop. Ass'n Act § 803.

<sup>50</sup> Wis. Stat. Ann. § 185.31.

<sup>51</sup> Ltd. Coop. Ass'n Act § 803.

<sup>52</sup> Wis. Stat. Ann. § 185.31.

<sup>53</sup> Minn. Stat. Ann. § 308A.321.

removal are equal to or greater than the number required to elect a director.<sup>54</sup> The board can remove an officer at any time.<sup>55</sup>

### How many board members are required?

**Kansas:** The board must have at least five directors, all of whom shall be elected by the stockholders. The directors elect the officers, and the required positions are a president, one or more vice-presidents, a secretary and a treasurer. Each officer must be a director except for the secretary.<sup>56</sup>

**Wisconsin:** The board must have at least five directors. There is an exception for a cooperative with less than 50 members, which requires no less than three directors. A cooperative cannot have more than 20% of their directors be outside directors. Outside directors are directors who aren't a member of the cooperative or a representative of a member.<sup>57</sup>

**Minnesota:** The board must have at least five directors. The only exception to this number is for housing corporations, which are required to have at least three.<sup>58</sup>

**ULCAA:** The board must have at least three directors. If the cooperative has less than three members, the number of board members cannot be smaller than the number of members.<sup>59</sup>

### What protection from liability do directors have?

**Kansas:** Does not mention protection from liability for directors.

**Wisconsin:** A cooperative is required to protect directors from liability unless they were liable because of their personal breaches, such as a violation of criminal law, willful misconduct, improper personal benefit, or a conflict of interest.<sup>60</sup> Unless the articles or bylaws provide otherwise, Wisconsin provides several ways that a director can use to determine if they have a right to protection from liability. These ways are (1) there is a quorum and the majority of the board votes in favor; (2) independent legal counsel decides; (3) a panel of three arbitrators; (4) a majority vote by members, or; (5) a court order.<sup>61</sup> If a director has expenses during a court proceeding, they can request in writing to be reimbursed.<sup>62</sup> A court can also order a cooperative to protect a director against liability.<sup>63</sup>

**Minnesota:** The articles of incorporation can limit liability for directors. However, directors don't have limited liability in cases where there was a breach in their duty to be loyal to the

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<sup>54</sup> Ltd. Coop. Ass'n Act § 807.

<sup>55</sup> Ltd. Coop. Ass'n Act § 823.

<sup>56</sup> Kan. Stat. Ann. § 17-1510.

<sup>57</sup> Wis. Stat. Ann. § 185.31.

<sup>58</sup> Minn. Stat. Ann. § 308A.305.

<sup>59</sup> Ltd. Coop. Ass'n Act § 801.

<sup>60</sup> Wis. Stat. Ann. § 185.035.

<sup>61</sup> Wis. Stat. Ann. § 185.036.

<sup>62</sup> Wis. Stat. Ann. § 185.037.

<sup>63</sup> Wis. Stat. Ann. § 185.039.



cooperative, the director acted in bad faith, they improperly personally benefited from an action, or acts or omissions done before the articles limiting liability was put in effect.<sup>64</sup>

**ULCAA:** A director cannot be held personally liable purely because they are a director.<sup>65</sup>

### 3.4 Membership and Voting

#### How does someone become a member of a cooperative?

**Kansas:** The bylaws must state how someone can become a member.<sup>66</sup>

**Wisconsin:** The ways a person can become a member is determined by the bylaws.<sup>67</sup>

**Minnesota:** The bylaws determine how someone can become a member.<sup>68</sup>

**ULCAA:** A person can become a member as provided by the articles of organization or the bylaws, by a transaction under Article 16, or with the consent or affirmative vote of all the members.<sup>69</sup>

#### What does the law say about different membership classes?

**Kansas:** Does not mention different membership classes.

**Wisconsin:** There can be one or more classes of members. The bylaws decide the designation, qualifications, requirements, methods of acceptance, and incidents of membership.<sup>70</sup>

**Minnesota:** Different membership classes are designated by the articles of incorporation. Class is determined by the type of stock purchased.<sup>71</sup>

**ULCAA:** The different classes of members are established by the bylaws, including each class's interests, rights, and limitations.<sup>72</sup>

#### Who gets voting rights?

**Kansas:** Each stockholder gets one vote regardless how much stock they own.<sup>73</sup>

**Wisconsin:** Only members can vote at meetings. The memberships must be fully paid for before voting is allowed.<sup>74</sup>

**Minnesota:** Only common stockholders are entitled to a vote. Each stockholder gets one vote.<sup>75</sup>

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<sup>64</sup> Minn. Stat. Ann. § 308A.325.

<sup>65</sup> Ltd. Coop. Ass'n Act § 802.

<sup>66</sup> Kan. Stat. Ann. § 17-1512.

<sup>67</sup> Wis. Stat. Ann. § 185.11.

<sup>68</sup> Minn. Stat. Ann. § 308A.165.

<sup>69</sup> Ltd. Coop. Ass'n Act § 502.

<sup>70</sup> Wis. Stat. Ann. § 185.11.

<sup>71</sup> Minn. Stat. Ann. § 308A.131.

<sup>72</sup> Ltd. Coop. Ass'n Act §§ 303, 517.

<sup>73</sup> Kan. Stat. Ann. §§ 17-1502, 17-1511.

<sup>74</sup> Wis. Stat. Ann. § 185.12.

<sup>75</sup> Minn. Stat. Ann. § 308A.131.

**ULCAA:** By default, each patron has one vote.<sup>76</sup> However, the articles of organization or the bylaws can change the voting power to be one vote per member, use or patronage, or equity.<sup>77</sup> Each investor also has one vote.<sup>78</sup> For director actions during board meetings, each director has one vote.<sup>79</sup>

### How does voting occur?

**Kansas:** Does not mention how voting occurs.

**Wisconsin:** No person other than a member can vote, meaning that proxy voting is not allowed. If a member is absent from a meeting, they can submit a signed ballot. Electronic voting is allowed only if the bylaws allow for it.<sup>80</sup>

**Minnesota:** A member can vote in person, by mail, or electronically if authorized by the board. Voting by proxy cannot happen unless voting is done by a spouse or the articles or bylaws allow for voting by delegates.<sup>81</sup>

**ULCAA:** Voting by proxy is prohibited unless the articles of organization or the bylaws allow it. If the articles or bylaws allow for proxy voting, only patrons can be a proxy for patrons and only investors can be a proxy for investors. The articles and bylaws can also allow for voting by mail.<sup>82</sup>

### What constitutes a quorum?

**Kansas:** Does not mention what constitutes a quorum.

**Wisconsin:** A quorum is 10% of the first 100 members plus 5% of additional members. The bylaws can fix a larger number, but a quorum can “never be more than 50 members nor less than 5 members or a majority of all members.”<sup>83</sup>

**Minnesota:** A quorum is 10% of the number of members if there are less than 500 members, or 50 members if there are more than 500 members.<sup>84</sup>

**ULCAA:** The members at a meeting constitute a quorum unless the articles or bylaws require a certain number.<sup>85</sup> For director board meetings, a quorum consists of the majority of directors.<sup>86</sup>

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<sup>76</sup> Ltd. Coop. Ass'n Act § 511.

<sup>77</sup> Ltd. Coop. Ass'n Act § 512.

<sup>78</sup> Ltd. Coop. Ass'n Act § 513.

<sup>79</sup> Ltd. Coop. Ass'n Act § 815.

<sup>80</sup> Wis. Stat. Ann. § 185.12.

<sup>81</sup> Minn. Stat. Ann. § 308A.635.

<sup>82</sup> Ltd. Coop. Ass'n Act § 515.

<sup>83</sup> Wis. Stat. Ann. § 185.14.

<sup>84</sup> Minn. Stat. Ann. § 308A.631.

<sup>85</sup> Ltd. Coop. Ass'n Act § 510.

<sup>86</sup> Ltd. Coop. Ass'n Act § 815.

## What are the meeting requirements?

**Kansas:** Only mentions meeting requirements regarding the dissolution of mutual telephone companies. In this situation, a cooperative must publish notice of the meeting in a newspaper published in the county of the principal place of business once a week for three weeks. The publication must have the time and place of the meeting.<sup>87</sup>

**Wisconsin:** Notice must be given in person or by mail. Notice is considered to be given once the letter or newsletter is deposited in the mailbox.<sup>88</sup>

**Minnesota:** Notice can be given through publication in a newspaper, magazine, or other publication, or by mailing notice to each member personally. Notice for a regular members' meeting must be published at least 2 weeks before the meeting date. Member meetings must be held at the cooperative's principal place of business or another conveniently located place as determined by the board or bylaws.<sup>89</sup> Notice for a special meeting works in the same way, but must also include the time, place, and purpose of the meeting.<sup>90</sup>

**ULCAA:** There shall be an annual members meeting, which can be held through any matter of communication as long as the members can communicate with each other.<sup>91</sup> The cooperative is required to notify members with a record of the time, date, and place of the meeting at least 15 days before, but not more than 60 days.<sup>92</sup>

## What does the law say about removing an owner/member?

**Kansas:** Does not mention how members can be removed.

**Wisconsin:** The bylaws can determine how a member can be terminated and the conditions associated with it.<sup>93</sup>

**Minnesota:** A member can be forced to surrender their membership if they knowingly, intentionally, or repeatedly violate the provisions of the bylaws. A stockholder can be forced to surrender their stock for the same reasons.<sup>94</sup>

**ULCAA:** A member can be dissociated if an event specified in the bylaws occurs or the person is expelled under the articles or bylaws.<sup>95</sup>

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<sup>87</sup> Kan. Stat. Ann. § 17-1517.

<sup>88</sup> Wis. Stat. Ann. § 185.15.

<sup>89</sup> Minn. Stat. Ann. § 308A.611.

<sup>90</sup> Minn. Stat. Ann. § 308A.615.

<sup>91</sup> Ltd. Coop. Ass'n Act § 506.

<sup>92</sup> Ltd. Coop. Ass'n Act § 508.

<sup>93</sup> Wis. Stat. Ann. § 185.11.

<sup>94</sup> Minn. Stat. Ann. § 308A.605.

<sup>95</sup> Ltd. Coop. Ass'n Act §1101.

## 3.5 Fundraising

### How do cooperative businesses raise capital?

**Kansas:** Only mentions stock as a way to raise capital. However, stockholders are unable to own more than 5% of the total capital stock.<sup>96</sup>

**Wisconsin:** Cooperatives can raise capital through the issue stock and membership fees.<sup>97</sup>

**Minnesota:** Cooperatives can raise capital through stock. The chapter does not mention other ways to raise capital.<sup>98</sup>

**ULCAA:** Cooperatives can add their capital structure to the bylaws.<sup>99</sup>

### Do cooperative businesses need to offer stock to members?

**Kansas:** Stock “may be offered” but the Cooperative Societies Act does not expand on how a non-stock cooperative would work.<sup>100</sup>

**Wisconsin:** Cooperatives can exist with or without capital stock.<sup>101</sup>

**Minnesota:** Cooperatives can offer stock but are not required to. Cooperatives are considered to be organized on the basis of stock if holding shares of common stock grants the holder a vote.<sup>102</sup>

**ULCAA:** Does not address whether stock is required in the main statutes.

### What does the law say about different classes of stock?

**Kansas:** Does not mention different classes of stock.

**Wisconsin:** Cooperatives can be organized with or without stock.<sup>103</sup> Stock may be divided into two or more classes with designations, preferences, limitations, and relative rights stated in the articles.<sup>104</sup>

**Minnesota:** Classes of stock can be determined by the articles of incorporation and bylaws.<sup>105</sup>

**ULCAA:** Does not address different classes of stock.

### What does the law say about registering securities?

**Kansas:** Does not mention registering securities.

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<sup>96</sup> Kan. Stat. Ann. § 17-1502.

<sup>97</sup> Wis. Stat. Ann. §§ 185.05, 185.09, 185.21.

<sup>98</sup> Minn. Stat. Ann. § 308A.501.

<sup>99</sup> Ltd. Coop. Ass'n Act § 303.

<sup>100</sup> Kan. Stat. Ann. § 17-1502.

<sup>101</sup> Wis. Stat. Ann. § 185.05.

<sup>102</sup> Minn. Stat. Ann. § 308A.125.

<sup>103</sup> Wis. Stat. Ann. § 185.21.

<sup>104</sup> Wis. Stat. Ann. § 185.21.

<sup>105</sup> Minn. Stat. Ann. § 308A.501.

**Wisconsin:** Securities are indebtedness, capital stock, or other equity interest in a cooperative's assets.<sup>106</sup> If a security is missing, the cooperative must duplicate the security at the owner's request.<sup>107</sup> Chapter 408 applies to securities.<sup>108</sup>

**Minnesota:** Securities are subject to Chapter 80A with the exception of 80A.45 and 80A.46.<sup>109</sup>

**ULCAA:** A member or transferee may create an enforceable security interest in its financial rights in a cooperative.<sup>110</sup> The securities of a patron member are subject to the same exemption as provided for substantially similar interests in cooperatives under the state's statute.<sup>111</sup>

### What does the law say about selling/transferring/trading/recalling stock?

**Kansas:** Does not mention selling, transferring, trading, or recalling stock.

**Wisconsin:** Membership stock can be issued or transferred only to a person eligible to become a member. If not restricted by the bylaws, nonmembership stock can be transferred to anyone.<sup>112</sup>

**Minnesota:** Stock can only be transferred or sold with the consent of the board. The cooperative has the first privilege of purchasing stock.<sup>113</sup>

**ULCAA:** Does not mention transferring or selling stock.

### What does the law say about outside investors?

**Kansas:** Does not mention outside investors.

**Wisconsin:** Nonmember stock can be owned by anyone.<sup>114</sup>

**Minnesota:** Does not mention outside investors, however Chapter 308B is made for cooperatives who want outside investors.<sup>115</sup>

**ULCAA:** Outside investors can exist and hold one vote.<sup>116</sup> An investor member is someone who is not a patron but has made contributions to the cooperative.<sup>117</sup>

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<sup>106</sup> Wis. Stat. Ann. § 185.01.

<sup>107</sup> Wis. Stat. Ann. § 185.21.

<sup>108</sup> Wis. Stat. Ann. § 185.25.

<sup>109</sup> Minn. Stat. Ann. § 308A.505.

<sup>110</sup> Ltd. Coop. Ass'n Act § 604.

<sup>111</sup> Ltd. Coop. Ass'n Act § 1009.

<sup>112</sup> Wis. Stat. Ann. § 185.21.

<sup>113</sup> Minn. Stat. Ann. § 308A.501.

<sup>114</sup> Wis. Stat. Ann. § 185.21.

<sup>115</sup> Minn. Stat. Ann. § 308B.

<sup>116</sup> Ltd. Coop. Ass'n Act § 513.

<sup>117</sup> Ltd. Coop. Ass'n Act § 101.

## 3.6 Profit Distribution

### How are profits distributed?

**Kansas:** Profits are distributed by a fixed dividend on stock, then to stockholders based upon usage of the cooperative.<sup>118</sup>

**Wisconsin:** After the net proceeds are calculated, officers and employees can be paid, then stock dividends can be distributed to stockholders. The remainder is distributed to patrons based on their patronage.<sup>119</sup>

**Minnesota:** After dividends have been distributed, profits shall be distributed based on patronage. Income can be distributed in “cash, capital stock credits, allocated patronage equities, revolving fund certificates, or its own or other securities.”<sup>120</sup>

**ULCAA:** Unless the articles or bylaws provide otherwise, all profits and losses are shared by patron members. If there are investors, the majority of distributions must go to the patrons.<sup>121</sup> “Distributions to members may be made in any form, including money, capital credits, allocated patronage equities, revolving fund certificates, and the limited cooperative association’s own or other securities.”<sup>122</sup>

### Are there any provisions on escheat? What happens when it is difficult to find a member to distribute their funds?

**Kansas:** Does not mention escheat or what to do with funds that are difficult to distribute.

**Wisconsin:** Assets that remain unclaimed after three years are forfeited to the cooperative. The owner must be notified of the specific date that the unclaimed property will be forfeited. The cooperative must donate unclaimed funds to educational purposes.<sup>123</sup>

**Minnesota:** Unclaimed property can be distributed to tax-exempt organizations or corporations. The owner can no longer claim the property after distribution if they had notice.<sup>124</sup>

**ULCAA:** The Uniform Limited Cooperative Associations Act leaves the question of escheat or when funds are difficult to distribute up to each state.<sup>125</sup>

### What does the law say about dividends?

**Kansas:** When creating a “cooperative plan” there must be a determination of a fixed dividend for stock.<sup>126</sup>

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<sup>118</sup> Kan. Stat. Ann. § 17-1501.

<sup>119</sup> Wis. Stat. Ann. § 185.45.

<sup>120</sup> Minn. Stat. Ann. § 308A.705.

<sup>121</sup> Ltd. Coop. Ass'n Act § 1004.

<sup>122</sup> Ltd. Coop. Ass'n Act § 1005.

<sup>123</sup> Wis. Stat. Ann. § 185.03.

<sup>124</sup> Minn. Stat. Ann. § 308A.711.

<sup>125</sup> Ltd. Coop. Ass'n Act § 1010.

<sup>126</sup> Kan. Stat. Ann. § 17-1501.

**Wisconsin:** Dividends may be paid upon capital stock as authorized by the articles.<sup>127</sup> The articles can determine the rates of dividends or if the dividend is cumulative.<sup>128</sup>

**Minnesota:** “Dividends may be paid on common stock and nonstock units of equity only if the net income of the cooperative for the previous fiscal year is sufficient.”<sup>129</sup>

**ULCAA:** The Uniform Limited Cooperative Associations Act does not explicitly mention dividends, however it is included in the definition of distribution.<sup>130</sup>

### 3.7 Mergers, Consolidation, and Dissolution

#### What is needed to dissolve a cooperative business?

**Kansas:** Does not mention the dissolution of cooperatives in general, but it does detail dissolution requirements for mutual telephone companies that were organized prior to 1915.<sup>131</sup>

**Wisconsin:** Cooperatives can dissolve at any member meeting if there was proper notice that dissolution would be considered and the dissolution is approved by  $\frac{3}{4}$  of the member votes cast. In this case, stockholders are allowed to vote. If the vote is approved, the board signs the articles of dissolution and liquidates the cooperative’s assets.<sup>132</sup> A court can order the involuntary dissolution of a cooperative if the cooperative’s certificate of association was obtained through fraud, the cooperative exceeds or abuses its authority multiple times, or the cooperative failed to comply with a court order. The court order dissolution can be canceled if the cooperative fixes the errors and pays the fees and penalties that triggered the involuntary dissolution.<sup>133</sup>

**Minnesota:** A cooperative may be dissolved by the members or a court order.<sup>134</sup> The dissolution must be proposed at a member meeting, and approved if there is a quorum with  $\frac{2}{3}$  of votes cast in favor of dissolution.<sup>135</sup> Articles of dissolution must be written and include all debts, obligations, and liabilities remaining, a statement that the remaining assets have been distributed to members, and a statement that there is no current or pending litigation.<sup>136</sup>

**ULCAA:** A cooperative can dissolve in situations provided by the articles or bylaws, upon an action of the board or members, or 90 after the last member has left the cooperative.<sup>137</sup> A court can dissolve a cooperative if the cooperative’s articles were obtained through fraud or continued to abuse its authority, or if a member initiates court proceedings due to deadlock.<sup>138</sup>

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<sup>127</sup> Wis. Stat. Ann. § 185.45.

<sup>128</sup> Wis. Stat. Ann. § 185.05.

<sup>129</sup> Minn. Stat. Ann. § 308A.705.

<sup>130</sup> Ltd. Coop. Ass'n Act § 102 Comment 7.

<sup>131</sup> Kan. Stat. Ann. § 17-1516.

<sup>132</sup> Wis. Stat. Ann. § 185.71.

<sup>133</sup> Wis. Stat. Ann. § 185.72.

<sup>134</sup> Minn. Stat. Ann. § 308A.905.

<sup>135</sup> Minn. Stat. Ann. § 308A.911.

<sup>136</sup> Minn. Stat. Ann. § 308A.931.

<sup>137</sup> Ltd. Coop. Ass'n Act § 1202.

<sup>138</sup> Ltd. Coop. Ass'n Act § 1203.

### How are assets distributed upon liquidation?

**Kansas:** Does not mention the asset distribution of cooperatives in general. For liquidation of mutual telephone companies, it is up to the board to dispose of assets.<sup>139</sup>

**Wisconsin:** The board determines how assets are distributed upon liquidation.<sup>140</sup> If liquidation is done under court supervision, the court gets to determine how assets are distributed.<sup>141</sup>

**Minnesota:** If members authorize liquidation, the board decides how to dispose of assets.<sup>142</sup>

**ULCAA:** Creditors must be paid first, followed by the members. Each member is entitled to distribution based on the proportion of the member's financial interests.<sup>143</sup>

### What does the law say about mergers and consolidation?

**Kansas:** Does not mention mergers and consolidations.

**Wisconsin:** Cooperatives must have a written plan of merger or consolidation, and the articles of the new association. The merger is approved if there is notice of the meeting to vote on the plan, an exact copy of the plan, and a ballot is given to all members and stockholders entitled to vote. The plan is approved if  $\frac{2}{3}$  of members approve and  $\frac{2}{3}$  of stockholders approve.<sup>144</sup>

**Minnesota:** Cooperatives must have a written plan of merger containing the names of both associations, the name of the new association, the manner of converting stock or membership, the term of merger, the proposed effect on members, and, for consolidation, the articles of incorporation for the new association. The plan will be adopted if, at a meeting with a quorum of members,  $\frac{2}{3}$  of the votes cast approve the merger.<sup>145</sup>

**ULCAA:** Cooperatives can merge with a plan of merger containing each entity's name, jurisdiction, and type of entity, the new entity's name, jurisdiction, and type of entity, how current interests are converted into the new entity, and the terms and conditions of the merger.<sup>146</sup> A merger must be approved by a domestic merging limited cooperative association.<sup>147</sup>

## 3.8 Misc.

### What does it take for foreign cooperative businesses to be recognized in the state?

**Kansas:** Does not mention foreign cooperatives.

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<sup>139</sup> Kan. Stat. Ann. § 17-1518.

<sup>140</sup> Wis. Stat. Ann. § 185.71.

<sup>141</sup> Wis. Stat. Ann. § 185.73.

<sup>142</sup> Minn. Stat. Ann. § 308A.901.

<sup>143</sup> Ltd. Coop. Ass'n Act § 1208.

<sup>144</sup> Wis. Stat. Ann. § 185.61.

<sup>145</sup> Minn. Stat. Ann. § 308A.801.

<sup>146</sup> Ltd. Coop. Ass'n Act § 1622.

<sup>147</sup> Ltd. Coop. Ass'n Act § 1623.



**Wisconsin:** Foreign cooperatives can register and operate under Chapter 180. If a cooperative is registered under Chapter 180, the cooperative is entitled to all rights, exemptions and privileges of a cooperative organized in Wisconsin under this chapter.<sup>148</sup>

**Minnesota:** A foreign cooperative is subject to Chapter 303, and cannot do business unless the cooperative is in compliance with that chapter.<sup>149</sup>

**ULCAA:** A foreign cooperative must register with the Secretary of State.<sup>150</sup> To register, a foreign cooperative must deliver a foreign registration statement to the Secretary of State. This statement must include the name of the cooperative, a statement that the cooperative is foreign, the jurisdiction of formation, the street and mailing address of the principal office, and the street and mailing address of the cooperatives named registered agent in the state they are registering in.<sup>151</sup>

### Are there any other cooperative laws or industry-specific laws?

**Kansas:** Chapter 17-15, the Cooperative Societies Act, also has specific statutes for telecommunication.<sup>152</sup> Mutual telephone companies organized prior to 1915 may dispose of its property and assets by adopting a resolution and notifying stockholders by publishing a meeting date in the newspaper.<sup>153</sup> Once a meeting is called, three fourths of stockholders must be in favor of dissolving.<sup>154</sup> After that, the secretary of the corporation may file with the secretary of state saying that all property and assets have been properly disposed of.<sup>155</sup> Any mutual telephone company that held a meeting and sold its assets prior to June 30, 1949, is able to dissolve by filing with the Secretary of State.<sup>156</sup> Kansas has a separate law for agriculture called the Cooperative Marketing Act.<sup>157</sup> There is also a separate chapter for electric cooperatives called the Electric Cooperative Act.<sup>158</sup>

**Wisconsin:** Wisconsin has a chapter for unincorporated cooperatives under Chapter 193. Wis. Stat. § 185.981 through § 185.985 and § 185.99 are specific to healthcare. Wis. Stat. § 185.995 is specific to Electric Cooperatives.

**Minnesota:** Minnesota has a statute specifically regarding board meetings for electric cooperatives.<sup>159</sup> Minnesota also has Chapter 308B which addresses cooperative associations.<sup>160</sup>

**ULCAA:** Due to the flexibility of the Uniform Limited Cooperative Associations Act to be applied to different states, there are no other laws that cooperatives are bound by unless the adopting state decides to bind them.

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<sup>148</sup> Wis. Stat. § 185.81.

<sup>149</sup> Minn. Stat. Ann. § 308A.032.

<sup>150</sup> Ltd. Coop. Ass'n Act § 1502.

<sup>151</sup> Ltd. Coop. Ass'n Act § 1503.

<sup>152</sup> Kan. Stat. Ann. §§ 17-1504, 05, 16-19

<sup>153</sup> Kan. Stat. Ann. § 17-1517.

<sup>154</sup> Kan. Stat. Ann. § 17-1518.

<sup>155</sup> Kan. Stat. Ann. § 17-1519.

<sup>156</sup> Kan. Stat. Ann. § 17-1519.

<sup>157</sup> Kan. Stat. Ann. 17-16.

<sup>158</sup> Kan. Stat. Ann. 17-46.

<sup>159</sup> Minn. Stat. Ann. § 308A.327.

<sup>160</sup> Minn. Stat. Ann. § 308B.

## 4 DISCUSSION

The cooperative business model is one viable approach to promoting community and economic development. By pooling their resources, individuals and businesses can work together to meet their shared needs. Often, cooperatives allow people to achieve something together that would be infeasible or impractical to accomplish alone. Across the country, cooperatives are found in virtually every sector and contribute greatly to the economy.

Yet, in Kansas, cooperative businesses have largely been organized to serve agricultural producers, rural electric utility customers, and telecommunications customers. Several grocery cooperatives also operate in rural and urban communities. However, the cooperative model could be applied in additional contexts to address other present-day needs of Kansans. For instance, child care centers could form a shared services cooperative to lower the cost of payroll and accounting services. Retiring business owners could transition ownership to their employees through a worker cooperative. Many opportunities abound, but a lack of awareness and technical expertise hinders the broader adoption of this model in Kansas.

Another barrier to adoption involves the state's cooperative laws. Every state has its own cooperative statutes, and in Kansas, there are three chapters on cooperatives: 1) Chapter 17-16, which focuses on agricultural cooperatives; 2) Chapter 17-46, which governs electric cooperatives; and 3) Chapter 17-15, which applies to cooperatives in other sectors. Chapters 17-16 and 17-46 are comprehensive, providing thorough explanations of key legal issues specific to cooperatively owned businesses in their respective sectors. A robust legal framework in these sectors has facilitated cooperative formation by providing clarity and guidance for stakeholders. In contrast, Chapter 17-15, which is generalized for other types of cooperatives, is much thinner and leaves many questions unanswered. Without clear legal standards, some individuals may feel confused or hesitant about establishing a cooperative enterprise, even if the model is a good fit for their community.

In this report, we examined the similarities and differences of general cooperative statutes in other states, a necessary step in understanding how Kansas might expand its cooperative ecosystem beyond agriculture and utilities. To do so, we provided side-by-side comparison of key provisions in Chapter 17-15 in Kansas, Chapter 185 in Wisconsin, Chapter 308A in Minnesota, and the Uniform Limited Cooperative Associations Act. The following section presents the findings and considerations based on our comparison.

### 4.1 Kansas Lacks Guidance

Compared to generalized cooperative statutes of Wisconsin, Minnesota, and the ULCAA, the generalized cooperative statute of Kansas lacks significant detail. Of the 35 key provisions that we compared, K.S.A. Chapter 17-15 had no information about 21 of them. It provided no explanation on: amending the articles of incorporation; amending the bylaws; nonmember board members; qualifications of board members; removal of directors and officers; protection from liability; membership classes; voting procedures; quorum requirements; meeting notices;

removal of owners/members; classes of stock; registering securities; nonmember interests; selling, transferring, trading, or recalling stock; outside investors; escheat; dissolution; distribution of assets; mergers and consolidations; and foreign cooperatives.

To make matters more confusing, some of the statutes in K.S.A. Chapter 17-15 pertain only to mutual telephone companies (Kan. Stat. Ann. 17-1504, 05, 16-19). These statutes discuss dissolution and disposal of assets upon liquidation, but this guidance does not apply to cooperative businesses in other sectors.

The other cooperative laws that we reviewed had some information gaps, too, but these were much more limited in scope. Of the 35 items that we compared in this report, Chapter 308A in Minnesota did not address three of them: qualification of board members, nonmember board members, and nonmember interests. Some of these items may be covered in M.S.A. Chapter 308B, which was passed in 2003 to make outside investment easier. Similarly, the Uniform Limited Cooperative Associations Act was missing information on three of the 35 items: whether stock is required, classes of stock, and transferring/selling stock.

The lack of legal clarity is, by far, the most striking difference between K.S.A. Chapter 17-15 and the other laws we reviewed. This has implications for the establishment of cooperatives in Kansas. For instance, unclear liability protections could deter potential directors from getting involved due to uncertainties surrounding their personal legal risks and responsibilities.

## **4.2 Kansas Imposes Stricter Requirements**

Interestingly, where K.S.A. Chapter 17-15 does provide guidance, it is sometimes more restrictive compared to the other laws we reviewed.

Except for agricultural and electric cooperatives, which require at least five incorporators, other types of cooperatives in Kansas must have at least 20 incorporators. Cooperatives organized under Minnesota's Chapter 308B or the Uniform Limited Cooperative Associations Act, on the other hand, require just one incorporator. Cooperatives organized under Wisconsin's Chapter 185 require at least five adults. The number of incorporators matters: it is simply easier to organize a smaller group of people. Furthermore, some types of cooperatives may need only a handful of members to achieve its goals. As an example, consider a group of five rural grocers who want to establish a shared services cooperative so they can purchase product together at lower cost. Under K.S.A. Chapter 17-15, that group of grocers would still need to find an additional 15 people to incorporate – an unnecessary burden.

Kansas law also says cooperatives, except those in agriculture and electric utilities, can only exist for 50 years. In contrast, other statutes we reviewed allow cooperatives to exist perpetually. It is unclear why a 50-year limit was imposed in Kansas, since many cooperatives operate and serve their communities for many more decades. Limiting the duration of cooperatives may unnecessarily constrain the growth of these businesses.

Finally, Kansas law imposes additional stock requirements not found in the other statutes we reviewed. Notably, a Kansas cooperative must already have 20% of its total capital stock on hand before it can incorporate. Capital stock is the dollar amount the cooperative can raise by selling shares – a key strategy for fundraising and growth, especially in the start-up phase. Each cooperative determines its required capital stock based on its unique financial needs, considering various factors like operating expenses, projected income, and debt obligations. Consider a hypothetical grocery cooperative in Kansas that decides its capital stock should be \$500,000. It plans to sell 2,000 shares at \$250 apiece. However, under Kansas law, it must already have \$100,000 on hand (20% of the total stock) just to incorporate. This presents a significant financial challenge, particularly for start-ups that may struggle to secure such a substantial initial investment. Potential members may hesitate to invest in an enterprise that is not yet legally recognized, potentially stalling the cooperative's formation before it even begins.

### **4.3 Future Considerations for Kansas**

Kansas could consider several options to remove barriers to cooperative development and foster a more inclusive cooperative ecosystem. First, it could amend the Chapter 17-15 to provide clearer guidance and remove unnecessary burdens. However, given that there are numerous Kansas businesses already organized under this chapter, doing so may be disruptive to their operations, potentially creating legal or financial challenges. Alternatively, Kansas could adopt an entirely new statute that aligns more closely with traditional cooperative statutes in other states, like Minnesota and Wisconsin, which are widely regarded to be effective. Yet another option could be adopting the Uniform Limited Cooperative Associations Act, a model law that is gaining traction in other states because it allows corporations to both operate on a cooperative basis and accept outside investments – something that traditional cooperatives often limit.

In the meantime, Kansas businesses can work around the limitations of K.S.A. Chapter 17-15 by incorporating as LLCs or other types of corporation and writing cooperative principles, like democratic control and profit sharing, into their bylaws. Still, without a clear legal framework for cooperatives, these businesses may still miss out on the full legal protections and benefits that would come with a dedicated cooperative statute.

## **5 CONCLUSION**

While the cooperative business model is one viable approach to community and economic development, Kansas law may create barriers for individuals and businesses that are interested in this option. In this report, we sought to understand how K.S.A. Chapter 17-15 – which is generalized to cooperatives in all sectors – compares to other cooperative laws, including Chapter 185 in Wisconsin, Chapter 308A in Minnesota, and the Uniform Limited Cooperative Associations Act. We found that, in comparison, K.S.A. Chapter 17-15 provides little guidance and is sometimes stricter than the other laws we examined. To address legal barriers to cooperative development, Kansas could consider several legislative changes, such as amendments or adoption of new statutes.