HOUSE BILL NO. 585

INTRODUCED BY BRADLEY, VAUGHN, E. SMITH, KOLSTAD

IN THE HOUSE

- FEBRUARY 3, 1987 INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR.
- FEBRUARY 14, 1987 COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
- FEBRUARY 16, 1987 PRINTING REPORT.
- FEBRUARY 17, 1987 SECOND READING, DO PASS.
- FEBRUARY 18, 1987 ENGROSSING REPORT.

THIRD READING, PASSED. AYES, 85; NOES, 1.

TRANSMITTED TO SENATE.

ON BUSINESS & INDUSTRY.

INTRODUCED AND REFERRED TO COMMITTEE

- IN THE SENATE
- FEBRUARY 19, 1987
- MARCH 9, 1987
 - , 1987 COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
- MARCH 12, 1987 SECOND READING, CONCURRED IN.
- MARCH 14, 1987 THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 14, 1987 RECEIVED FROM SENATE.

SENT TO ENROLLING.

House BILL NO. 515 INTRODUCED BY Brodley Very for E. Smith Kolstad 1 2 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING RESTRICTIONS 5 ON AREAS THAT MAY BE SERVED BY TELEPHONE COOPERATIVES; 6 AMENDING SECTIONS 35-18-102, 35-18-105, 35-18-106, AND 7 35-18-206, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 <u>NEW SECTION.</u> Section 1. No area restriction --11 telephone cooperatives. A telephone cooperative, regardless 12 of when it was organized pursuant to 35-18-105, is not 13 restricted by population of area served or other criteria to 14 any area of service.

15 Section 2. Section 35-18-102, MCA, is amended to read: 16 "35-18-102. Definitions. (1) Corporations organized 17 under this chapter and corporations which become subject to 18 this chapter in the manner hereinafter provided are 19 hereinafter referred to as "cooperatives".

20 (2) In this chapter, unless the context otherwise21 requires the following definitions apply:

(a) "Cable television system" means a system that
receives and amplifies the signals broadcast by one or more
television stations and redistributes the signals to
subscribing members of the public for a fixed or periodic

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fee by wire, cable, microwave, or other means, whether such
 means are owned or leased.

3 (b) "Broadband" means transmission facilities capable
4 of handling frequencies greater than those required for high
5 grade voice communication (higher than 4 kilohertz).

6 (c) "Member" means each incorporator of a cooperative
7 and each person admitted to and retaining membership therein
8 and shall include a husband and wife admitted to joint
9 membership.

10 (d) "Person" includes any natural person, firm,
11 association, corporation, business trust, partnership,
12 federal agency, state or political subdivision or agency
13 thereof, or any body politic.

14 (e) "Rural area", as applied to all corporations 15 organized under the provisions of 35-18-105(1), means any 16 area not included within the boundaries of any incorporated or unincorporated city, town, village, or borough having a 17 population in excess of 3,500 persons on March 17, 1939, or 18 19 subsequent thereto, and every incorporated municipality in 20 which 95% or more of the premises are served by an electric 21 cooperative on February 1, 1971;-"rural-area";-as-applied-to all---corporations---organized---under---the--provisions--of 22 23 35-18-105(2)7--means--any--area--not--included--within---the 24 boundaries--of--any--incorporated--or-unincorporated-city-or 25 town-having-a-population-in-excess-of-17500--persons--except

> -2- INTRODUCED BILL HB-585

1 that--an--incorporated--or--unincorporated-city-or-town-with population-more-than-17500-persons-is--considered--a--"rural 2 3 area"--for--purposes--of--this--chapter--if--the--system--or facilities-serving-the--persons--in--the--city--or--town--is 4 5 acquired--by--a-cooperative-by-agreement-with-the-company-or 6 entity-serving-the-city-or-town,-or-if-the-city-or-town--was 7 served--by--the-cooperative-when-it-had-a-population-of-less 8 than-1;500-persons-and-subsequently-grew-to--a--population 9 more--than--1,500--persons;--but--for--the--purposes-of-this 10 chapter-a-"rural-area"-means-an-area-not-included-within-the 11 boundary-of-any-incorporated-or-unincorporated-city-or--town 12 having--a-population-in-excess-of-3,500-persons-which-is-not already-being-served-by-a-system-or-facilities." 13

Section 3. Section 35-18-105, MCA, is amended to read:
"35-18-105. Permissible purposes for incorporation.
Cooperative nonprofit membership corporations may be
organized under this chapter for the following purposes:

18 (1) for the purpose of supplying electric energy and
19 promoting and extending the use thereof in rural areas, as
20 provided in this chapter;

(2) for the purposes of making generally available in
 rural--areas adequate telephone service, cable television
 service, or broadband facilities through the improvement and
 expansion of existing telephone, cable television, or
 broadband facilities and the construction and operation of

1	such additional facilities as are required to assure the		
2	availability of such service to the widest practicable		
3	number of rural users thereof."		
4	Section 4. Section 35-18-106, MCA, is amended to read:		
5	"35-18-106. Powers of cooperatives. A cooperative		
6	shall have power to:		
7	 sue and be sued in its corporate name; 		
8	(2) have perpetual existence;		
9	(3) adopt a corporate seal and alter the same at		
10	pleasure;		
11	(4) become a member in one or more other cooperatives		
12	or corporations or to own stock therein;		
13	(5) construct, purchase, take, receive, lease as		
14	lessee, or otherwise acquire and to own, hold, use, equip,		
15	maintain, and operate and sell, assign, transfer, convey,		
16	exchange, lease as lessor, mortgage, pledge, or otherwise		
17	dispose of or encumber electric transmission and		
18	distribution lines or systems, electric generating plants,		
19	electric refrigeration plants, telephone lines, facilities		
20	or systems (but not telegraph or radio broadcasting services		
21	or facilities) as defined by law, lands, buildings,		
22	structures, dams, plants and equipment, and any and all		
23	kinds or classes of real or personal property whatsoever,		
24	which shall be deemed necessary, convenient, or appropriate		
25	to accomplish the purpose for which the cooperative is		

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l organized;

(6) purchase or otherwise acquire and own, hold, use,
and exercise and sell, assign, transfer, convey, mortgage,
pledge, hypothecate, or otherwise dispose of or encumber
franchises, rights, privileges, licenses, rights-of-way, and
easements;

7 (7) borrow money and otherwise contract indebtedness
8 and issue notes, bonds, and other evidences of indebtedness
9 therefor and secure the payment thereof by mortgage, pledge,
10 deed of trust, or any other encumbrance upon any or all of
11: its then owned or after-acquired real or personal property,
12 assets, franchises, revenues, or income;

13 (8) construct, maintain, and operate electric 14 transmission and distribution lines or telephone, cable television, or broadband lines, facilities, or systems 15 16 along, upon, under, and across all public thoroughfares, including without limitation all roads, highways, streets, 17 18 alleys, bridges, and causeways and upon, under, and across 19 all publicly owned lands, subject, however, to the same 20 requirements in respect of the use of such thoroughfares and 21 lands as are imposed by the respective authorities having 22 jurisdiction thereof upon corporations constructing or 23 operating electric transmission and distribution lines or 24 systems or telephone lines, facilities, or systems;

25 (9) exercise the power of eminent domain in the manner

provided by the laws of this state for the exercise of that
 power by corporations constructing or operating electric
 transmission and distribution lines or systems or telephone
 lines, facilities, or systems:

5 (10) conduct its business and exercise any or all of
6 its powers within or without this state;

7 (11) adopt, amend, and repeal bylaws;

8 (12) in the case of corporations organized under the
9 provisions of 35-18-105(1):

(a) generate, manufacture, purchase, acquire,
accumulate, and transmit electric energy and distribute,
sell, supply, and dispose of electric energy in rural areas
to its members, to governmental agencies and political
subdivisions, and to other persons not in excess of 10% of
the number of its members;

(b) make loans to persons to whom electric energy is 16 17 or will be supplied by the cooperative for the purpose of 18 and otherwise to assist such persons in wiring their premises and installing therein electrical and plumbing 19 fixtures, appliances, apparatus, and equipment of any and 20 21 all kinds and character and, in connection therewith, 22 purchase, acquire, lease, sell, distribute, install, and repair such electrical and plumbing fixtures, appliances, 23 apparatus, and equipment and accept or otherwise acquire and 24 25 sell, assign, transfer, endorse, pledge, hypothecate, and

otherwise dispose of notes, bonds, and other evidences of
 indebtedness and any and all types of security therefor;

3 (c) make loans to persons to whom electric energy is
4 or will be supplied by the cooperatives for the purpose of
5 and otherwise to assist such persons in constructing,
6 maintaining, and operating electric refrigeration plants;

7. (13) in the case of corporations organized under the
8 provisions of 35-18-105(2):

9 (a) improve and expand existing telephone lines,
10 facilities, and systems in--rural--areas and construct,
11 acquire, operate, and furnish such additional telephone
12 lines, facilities, and systems as are required to assure the
13 availability of adequate telephone service to the widest
14 practicable number of rural users thereof;

15 (b) make loans to persons to whom telephone service is 16 or will be supplied by the cooperative for the purpose of 17 and otherwise to assist such persons in wiring their 18 premises for telephone service and installing therein 19 telephone fixtures, appliances, apparatus, and equipment of 20 any and all kinds and character and, in connection therewith, purchase, acquire, lease, sell, distribute, 21 22 install, and repair such telephone fixtures, appliances, 23 apparatus, and equipment and accept or otherwise acquire and 24 sell, assign, transfer, endorse, pledge, hypothecate, and 25 otherwise dispose of notes, bonds, and other evidences of

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1 indebtedness and any and all types of security therefor;

2 (14) do and perform any and all other acts and things 3 and have and exercise any and all other powers which may be 4 necessary, convenient, or appropriate to accomplish the 5 purpose for which the cooperative is organized."

Section 5. Section 35-18-206, MCA, is amended to read: 6 "35-18-206. Existing corporations -- reorganization 7 under this chapter -- articles of conversion. Any 8 9 corporation organized under the laws of this state for the purpose, among others, of supplying electric energy in rural 10 areas or telephone service in-rural-areas may become subject 11 to this chapter with the same effect as if originally 12 organized under this chapter by complying with the following 13 14 requirements:

(1) The proposition for the conversion of such 15 corporation into a cooperative under this chapter and 16 17 proposed articles of conversion to give effect thereto shall be first approved by the board of trustees or the board of 18 directors, as the case may be, of such corporation. The 19 20 proposed articles of conversion shall recite in the caption that they are executed pursuant to this chapter and shall 21 22 state:

23 (a) the name of the corporation prior to its24 conversion into a cooperative under this chapter;

25 (b) the address of the principal office of such

1 corporation;

2 (c) the date of the filing of its articles of3 incorporation in the office of the secretary of state;

4 (d) the statute or statutes under which such5 corporation was organized;

6 (e) the name assumed by such corporation;

7. (f) a statement that such corporation elects to become
8 a cooperative, nonprofit, membership corporation subject to
9 this chapter;

10 (g) the manner and basis of converting either
11 memberships in or shares of stock of such corporation into
12 memberships therein after completion of the conversion; and
13 (h) any provisions not inconsistent with this chapter
14 deemed necessary or advisable for the conduct of its
15 business and affairs.

16 (2) The proposition for the conversion of such corporation into a cooperative under this chapter and the 17 18 proposed articles of conversion approved by the board of 19 trustees or board of directors, as the case may be, of such 20 corporation shall then be submitted to a vote of the members 21 or stockholders, as the case may be, of such corporation at 22 any duly held annual or special meeting thereof, the notice of which shall set forth full particulars concerning the 23 24 proposed conversion. The proposition for the conversion of 25 such corporation into a cooperative under this chapter and 1 the proposed articles of conversion, with such amendments thereto as the members or stockholders of such corporation 2 3 shall choose to make therein, shall be deemed to be approved upon the affirmative vote of not less than two-thirds of 4 those members of such corporation voting thereon at such 5 6 meeting or, if such corporation is a stock corporation, upon 7 the affirmative vote of the holders of not less than two-thirds of the capital stock of such corporation 8 9 represented at such meeting.

10 (3) Upon such approval by the members or stockholders 11 of such corporation, articles of conversion in the form 12 approved by such members or stockholders of such corporation 13 shall be executed on behalf of such corporation by its president or vice-president and its corporate seal shall be 14 15 affixed thereto and attested by its secretary or assistant 16 secretary. The president or vice-president executing such 17 articles of conversion on behalf of such corporation shall 18 also make and annex thereto an affidavit stating that the provisions of this section with respect to the approval of 19 20 its trustees or directors and its members or stockholders of the proposition for the conversion of such corporation into 21 22 a cooperative under this chapter and such articles of conversion were duly complied with. 23

24 (4) Such articles of conversion and affidavit shall be25 submitted to the secretary of state for filing as provided

1 in this chapter.

2 (5) The term "articles of incorporation" as used in
3 this chapter shall be deemed to include the articles of
4 conversion of a converted corporation."

5 <u>NEW SECTION.</u> Section 6. Codification instruction. 6 Section 1 is intended to be codified as an integral part of 7 Title 35, chapter 18, part 1, and the provisions of Title 8 35, chapter 18, part 1, apply to section 1.

9 <u>NEW SECTION.</u> Section 7. Effective date. This act is
 10 effective on passage and approval.

-End-

APPROVED BY COMM. ON BUSINESS AND LABOR

House BILL NO. 585 INTRODUCED BY Brodies Very for & Smith Kelstal 1 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING RESTRICTIONS 4 ON AREAS THAT MAY BE SERVED BY TELEPHONE COOPERATIVES; 5

5 ON AREAS THAT MAY BE SERVED BY TELEPHONE COOPERATIVES; 6 AMENDING SECTIONS 35-18-102, 35-18-105, 35-18-106, AND 17 35-18-206, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 <u>NEW SECTION.</u> Section 1. No area restriction --11 telephone cooperatives. A telephone cooperative, regardless 12 of when it was organized pursuant to 35-18-105, is not 13 restricted by population of area served or other criteria to 14 any area of service.

15 Section 2. Section 35-18-102, MCA, is amended to read: 16 "35-18-102. Definitions. (1) Corporations organized 17 under this chapter and corporations which become subject to 18 this chapter in the manner hereinafter provided are 19 hereinafter referred to as "cooperatives".

20 (2) In this chapter, unless the context otherwise21 requires the following definitions apply:

(a) "Cable television system" means a system that
receives and amplifies the signals broadcast by one or more
television stations and redistributes the signals to
subscribing members of the public for a fixed or periodic



1 fee by wire, cable, microwave, or other means, whether such 2 means are owned or leased.

3 (b) "Broadband" means transmission facilities capable
4 of handling frequencies greater than those required for high
5 grade voice communication (higher than 4 kilohertz).

6 (c) "Member" means each incorporator of a cooperative
7 and each person admitted to and retaining membership therein
8 and shall include a husband and wife admitted to joint
9 membership.

10 (d) "Person" includes any natural person, firm,
11. association, corporation, business trust, partnership,
12. federal agency, state or political subdivision or agency
13 thereof, or any body politic.

(e) "Rural area", as applied to all corporations 14 15 organized under the provisions of 35-18-105(1), means any 16 area not included within the boundaries of any incorporated 17 or unincorporated city, town, village, or borough having a population in excess of 3,500 persons on March 17, 1939, or 18 19 subsequent thereto, and every incorporated municipality in 20 which 95% or more of the premises are served by an electric 21 cooperative on February 1, 1971;-"rural-area";-as-applied-to 22 all---corporations---organized---under---the--provisions--of 23 35-18-105(2)7--means--any--area--not--included--within---the 24 boundaries--of--any--incorporated--or-unincorporated-city-or 25 town-having-a-population-in-excess-of-17588--persons--except

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SECOND READING HB-585

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1 that--an--incorporated--or--unincorporated-city-or-town-with population-more-than-17500-persons-is--considered--a--"rural 2 area⁴--for--purposes--of--this--chapter--if--the--system--or 3 4 facilities-serving-the--persons--in--the--city--or--town--is 5 acquired--by--a-cooperative-by-agreement-with-the-company-or б entity-serving-the-city-or-town--or-if-the-city-or-town--was 7 served--by--the-cooperative-whem-it-had-a-population-of-less 8 than-17500-persons-and-subsequently--grew--to--a--population 9 more--than--1,500--persons;--but--for--the--purposes-of-this 10 chapter-a-"rural-area"-means-an-area-not-included-within-the 11 boundary-of-any-incorporated-or-unincorporated-city-or--town 12 having--a-population-in-excess-of-3,500-persons-which-is-not 13 already-being-served-by-a-system-or-facilities."

Section 3. Section 35-18-105, MCA, is amended to read:
"35-18-105. Permissible purposes for incorporation.
Cooperative nonprofit membership corporations may be
organized under this chapter for the following purposes:

18 (1) for the purpose of supplying electric energy and
19 promoting and extending the use thereof in rural areas, as
20 provided in this chapter;

(2) for the purposes of making generally available in
rural--areas adequate telephone service, cable television
service, or broadband facilities through the improvement and
expansion of existing telephone, cable television, or
broadband facilities and the construction and operation of

availability of such service to the widest practicable number of rural users thereof." Section 4. Section 35-18-106, MCA, is amended to read:

such additional facilities as are required to assure the

5 "35-18-106. Powers of cooperatives. A cooperative6 shall have power to:

7 (1) sue and be sued in its corporate name;

8 (2) have perpetual existence;

9 (3) adopt a corporate seal and alter the same at10 pleasure;

(4) become a member in one or more other cooperatives
 or corporations or to own stock therein;

(5) construct, purchase, take, receive, lease as 13 lessee, or otherwise acquire and to own, hold, use, equip, 14 maintain, and operate and sell, assign, transfer, convey, 15 exchange, lease as lessor, mortgage, pledge, or otherwise 16 dispose of or encumber electric transmission and 17 distribution lines or systems, electric generating plants, 18 electric refrigeration plants, telephone lines, facilities 19 or systems (but not telegraph or radio broadcasting services 20 or facilities) as defined by law, lands, buildings, 21 structures, dams, plants and equipment, and any and all 22 23 kinds or classes of real or personal property whatsoever, 24 which shall be deemed necessary, convenient, or appropriate to accomplish the purpose for which the cooperative is 25

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otherwise dispose of notes, bonds, and other evidences of
 indebtedness and any and all types of security therefor;

3 (c) make loans to persons to whom electric energy is
4 or will be supplied by the cooperatives for the purpose of
5 and otherwise to assist such persons in constructing,
6 maintaining, and operating electric refrigeration plants;

7 (13) in the case of corporations organized under the 8 provisions of 35-18-105(2):

9 (a) improve and expand existing telephone lines, 10 facilities, and systems in--rural--areas and construct, 11 acquire, operate, and furnish such additional telephone 12 lines, facilities, and systems as are required to assure the 13 availability of adequate telephone service to the widest 14 practicable number of rural users thereof;

15 (b) make loans to persons to whom telephone service is 16 or will be supplied by the cooperative for the purpose of 17 and otherwise to assist such persons in wiring their premises for telephone service and installing therein 18 19 telephone fixtures, appliances, apparatus, and equipment of 20 any and all kinds and character and, in connection therewith, purchase, acquire, lease, sell, distribute, 21 22 install, and repair such telephone fixtures, appliances, 23 apparatus, and equipment and accept or otherwise acquire and 24 sell, assign, transfer, endorse, pledge, hypothecate, and 25 otherwise dispose of notes, bonds, and other evidences of 1 indebtedness and any and all types of security therefor;

2 (14) do and perform any and all other acts and things
3 and have and exercise any and all other powers which may be
4 necessary, convenient, or appropriate to accomplish the
5 purpose for which the cooperative is organized."

Section 5. Section 35-18-206, MCA, is amended to read: 6 "35-18-206. Existing corporations -- reorganization 7 under this chapter -- articles of conversion. Any 8 9 corporation organized under the laws of this state for the purpose, among others, of supplying electric energy in rural 10 areas or telephone service in-rural-areas may become subject 11 to this chapter with the same effect as if originally 12 13 organized under this chapter by complying with the following 14 requirements:

15 (1) The proposition for the conversion of such 16 corporation into a cooperative under this chapter and 17 proposed articles of conversion to give effect thereto shall be first approved by the board of trustees or the board of 18 directors, as the case may be, of such corporation. The 19 20 proposed articles of conversion shall recite in the caption that they are executed pursuant to this chapter and shall 21 22 state:

23 (a) the name of the corporation prior to its24 conversion into a cooperative under this chapter;

25 (b) the address of the principal office of such

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l organized;

2 (6) purchase or otherwise acquire and own, hold, use,
3 and exercise and sell, assign, transfer, convey, mortgage,
4 pledge, hypothecate, or otherwise dispose of or encumber
5 franchises, rights, privileges, licenses, rights-of-way, and
6 easements;

7 (7) borrow money and otherwise contract indebtedness 8 and issue notes, bonds, and other evidences of indebtedness 9 therefor and secure the payment thereof by mortgage, pledge, 10 deed of trust, or any other encumbrance upon any or all of 11 its then owned or after-acquired real or personal property, 12 assets, franchises, revenues, or income;

13 (8) construct, maintain, and operate electric 14 transmission and distribution lines or telephone, cable television, or broadband lines, facilities, or systems 15 along, upon, under, and across all public thoroughfares, 16 17 including without limitation all roads, highways, streets, 18 alleys, bridges, and causeways and upon, under, and across 19 all publicly owned lands, subject, however, to the same 20 requirements in respect of the use of such thoroughfares and 21 lands as are imposed by the respective authorities having 22 jurisdiction thereof upon corporations constructing or 23 operating electric transmission and distribution lines or 24 systems or telephone lines, facilities, or systems;

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1	provided by the laws of this state for the exercise of that		
2	power by corporations constructing or operating electric		
3	transmission and distribution lines or systems or telephone		
4	lines, facilities, or systems;		
5	(10) conduct its business and exercise any or all of		
6	its powers within or without this state;		
7.	(11) adopt, amend, and repeal bylaws;		
8	(12) in the case of corporations organized under the		
9	provisions of 35-18-105(1):		
10	(a) generate, manufacture, purchase, acquire,		
11	accumulate, and transmit electric energy and distribute,		
12	sell, supply, and dispose of electric energy in rural areas		
13	to its members, to governmental agencies and political		
14	subdivisions, and to other persons not in excess of 10% of		
15	the number of its members;		
16	(b) make loans to persons to whom electric energy is		
17	or will be supplied by the cooperative for the purpose of		
18	and otherwise to assist such persons in wiring their		
19	premises and installing therein electrical and plumbing		
20	fixtures, appliances, apparatus, and equipment of any and		
21	all kinds and character and, in connection therewith,		
22	purchase, acquire, lease, sell, distribute, install, and		
23	repair such electrical and plumbing fixtures, appliances,		
24	apparatus, and equipment and accept or otherwise acquire and		
25	sell, assign, transfer, endorse, pledge, hypothecate, and		

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(9) exercise the power of eminent domain in the manner

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1 corporation;

2 (c) the date of the filing of its articles of3 incorporation in the office of the secretary of state;

4 (d) the statute or statutes under which such5 corporation was organized;

6 (e) the name assumed by such corporation;

7. (f) a statement that such corporation elects to become
8 a cooperative, nonprofit, membership corporation subject to
9 this chapter;

10 (g) the manner and basis of converting either
11 memberships in or shares of stock of such corporation into
12 memberships therein after completion of the conversion; and
13 (h) any provisions not inconsistent with this chapter
14 deemed necessary or advisable for the conduct of its
15 business and affairs.

(2) The proposition for the conversion of such 16 17 corporation into a cooperative under this chapter and the 18 proposed articles of conversion approved by the board of 19 trustees or board of directors, as the case may be, of such corporation shall then be submitted to a vote of the members 20 or stockholders, as the case may be, of such corporation at 21 22 any duly held annual or special meeting thereof, the notice 23 of which shall set forth full particulars concerning the proposed conversion. The proposition for the conversion of 24 such corporation into a cooperative under this chapter and 25

1 the proposed articles of conversion, with such amendments thereto as the members or stockholders of such corporation 2 shall choose to make therein, shall be deemed to be approved 3 4 upon the affirmative vote of not less than two-thirds of 5 those members of such corporation voting thereon at such meeting or, if such corporation is a stock corporation, upon 6 7 the affirmative vote of the holders of not less than 8 two-thirds of the capital stock of such corporation 9 represented at such meeting.

10 (3) Upon such approval by the members or stockholders 11 of such corporation, articles of conversion in the form approved by such members or stockholders of such corporation 12 13 shall be executed on behalf of such corporation by its 14 president or vice-president and its corporate seal shall be 15 affixed thereto and attested by its secretary or assistant secretary. The president or vice-president executing such 16 17 articles of conversion on behalf of such corporation shall 18 also make and annex thereto an affidavit stating that the 19 provisions of this section with respect to the approval of 20 its trustees or directors and its members or stockholders of 21 the proposition for the conversion of such corporation into 22 a cooperative under this chapter and such articles of 23 conversion were duly complied with.

24 (4) Such articles of conversion and affidavit shall be25 submitted to the secretary of state for filing as provided

1 in this chapter.

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2 (5) The term "articles of incorporation" as used in
3 this chapter shall be deemed to include the articles of
4 conversion of a converted corporation."

<u>NEW SECTION.</u> Section 6. Codification instruction.
Section 1 is intended to be codified as an integral part of
Title 35, chapter 18, part 1, and the provisions of Title
35, chapter 18, part 1, apply to section 1.
<u>NEW SECTION.</u> Section 7. Effective date. This act is

10 effective on passage and approval.

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House BILL NO. 515 INTRODUCED BY Brodies Very for G. Smith, Kelstal

4 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING RESTRICTIONS 5 ON AREAS THAT MAY BE SERVED BY TELEPHONE COOPERATIVES; 6 AMENDING SECTIONS 35-18-102, 35-18-105, 35-18-106, AND 17 35-18-206, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." 8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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14 any area of service.

15 Section 2. Section 35-18-102, MCA, is amended to read: 16 "35-18-102. Definitions. (1) Corporations organized 17 under this chapter and corporations which become subject to 18 this chapter in the manner hereinafter provided are 19 hereinafter referred to as "cooperatives".

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1 fee by wire, cable, microwave, or other means, whether such 2 means are owned or leased.

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4 of handling frequencies greater than those required for high
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THIRD READING

1 that--an--incorporated--or--unincorporated-city-or-town-with 2 population-more-than-1;500-persons-is--considered--a--*rural 3 area"--for--purposes--of--this--chapter--if--the--system--or 4 facilities-serving-the--persons--in--the--city--or--town--is 5 acquired--by--a-cooperative-by-agreement-with-the-company-or 6 entity-serving-the-city-or-town;-or-if-the-city-or-town--was 7 served--by--the-cooperative-when-it-had-s-population-of-less 8 than-1,500-persons-and-subsequently--grew--to--a--population 9 more--than--17500--persons;--but--for--the--purposes-of-this 10 chapter-a-"rural-area"-means-an-area-not-included-within-the 11 boundary-of-any-incorporated-or-unincorporated-city-or--town 12 having--a-population-in-excess-of-3;500-persons-which-is-not 13 already-being-served-by-a-system-or-facilities." 14 Section 3. Section 35-18-105, MCA, is amended to read: 15 "35-18-105. Permissible purposes for incorporation. 16 Cooperative nonprofit membership corporations may be 17 organized under this chapter for the following purposes: 18 (1) for the purpose of supplying electric energy and 19 promoting and extending the use thereof in rural areas, as 20 provided in this chapter: 21 (2) for the purposes of making generally available in 22 rural--areas adequate telephone service, cable television 23 service, or broadband facilities through the improvement and 24 expansion of existing telephone, cable television, or

1 such additional facilities as are required to assure the 2 availability of such service to the widest practicable 3 number of rural users thereof." 4 Section 4. Section 35-18-106, MCA, is amended to read: 5 "35-18-106. Powers of cooperatives. A cooperative 6 shall have power to: 7 (1) sue and be sued in its corporate name; 8 (2) have perpetual existence; 9 (3) adopt a corporate seal and alter the same at 10 pleasure: 11. (4) become a member in one or more other cooperatives 12 or corporations or to own stock therein: 13 (5) construct, purchase, take, receive, lease as 14 lessee, or otherwise acquire and to own, hold, use, equip, 15 maintain, and operate and sell, assign, transfer, convey, 16 exchange, lease as lessor, mortgage, pledge, or otherwise 17 dispose of or encumber electric transmission and 18 distribution lines or systems, electric generating plants, 19 electric refrigeration plants, telephone lines, facilities 20 or systems (but not telegraph or radio broadcasting services 21 or facilities) as defined by law, lands, buildings, 22 structures, dams, plants and equipment, and any and all

kinds or classes of real or personal property whatsoever,
which shall be deemed necessary, convenient, or appropriate
to accomplish the purpose for which the cooperative is

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broadband facilities and the construction and operation of

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1 organized;

2 (6) purchase or otherwise acquire and own, hold, use,
3 and exercise and sell, assign, transfer, convey, mortgage,
4 pledge, hypothecate, or otherwise dispose of or encumber
5 franchises, rights, privileges, licenses, rights-of-way, and
6 easements;

7 (7) borrow money and otherwise contract indebtedness
8 and issue notes, bonds, and other evidences of indebtedness
9 therefor and secure the payment thereof by mortgage, pledge,
10 deed of trust, or any other encumbrance upon any or all of
11 its then owned or after-acquired real or personal property,
12 assets, franchises, revenues, or income;

13 (8) construct, maintain, and operate electric transmission and distribution lines or telephone, cable 14 television, or broadband lines, facilities, or systems 15 along, upon, under, and across all public thoroughfares, 16 including without limitation all roads, highways, streets, 17 alleys, bridges, and causeways and upon, under, and across 18 all publicly owned lands, subject, however, to the same 19 requirements in respect of the use of such thoroughfares and 20 lands as are imposed by the respective authorities having 21 jurisdiction thereof upon corporations constructing or 22 operating electric transmission and distribution lines or 23 systems or telephone lines, facilities, or systems; 24

25 (9) exercise the power of eminent domain in the manner

provided by the laws of this state for the exercise of that
 power by corporations constructing or operating electric
 transmission and distribution lines or systems or telephone
 lines, facilities, or systems;

5 (10) conduct its business and exercise any or all of
6 its powers within or without this state;

7. (11) adopt, amend, and repeal bylaws;

8 (12) in the case of corporations organized under the
9 provisions of 35-18-105(1):

(a) generate, manufacture, purchase, acquire,
accumulate, and transmit electric energy and distribute,
sell, supply, and dispose of electric energy in rural areas
to its members, to governmental agencies and political
subdivisions, and to other persons not in excess of 10% of
the number of its members;

16 (b) make loans to persons to whom electric energy is 17 or will be supplied by the cooperative for the purpose of 18 and otherwise to assist such persons in wiring their premises and installing therein electrical and plumbing 19 20 fixtures, appliances, apparatus, and equipment of any and 21 all kinds and character and, in connection therewith, purchase, acquire, lease, sell, distribute, install, and 22 23 repair such electrical and plumbing fixtures, appliances, 24 apparatus, and equipment and accept or otherwise acquire and 25 sell, assign, transfer, endorse, pledge, hypothecate, and

otherwise dispose of notes, bonds, and other evidences of
 indebtedness and any and all types of security therefor;

3 (c) make loans to persons to whom electric energy is
4 or will be supplied by the cooperatives for the purpose of
5 and otherwise to assist such persons in constructing,
6 maintaining, and operating electric refrigeration plants;

7 (13) in the case of corporations organized under the
8 provisions of 35-18-105(2):

9 (a) improve and expand existing telephone lines,
10 facilities, and systems in--rurai--areas and construct,
11 acquire, operate, and furnish such additional telephone
12 lines, facilities, and systems as are required to assure the
13 availability of adequate telephone service to the widest
14 practicable number of rurai users thereof;

15 (b) make loans to persons to whom telephone service is 16 or will be supplied by the cooperative for the purpose of 17 and otherwise to assist such persons in wiring their 18 premises for telephone service and installing therein 19 telephone fixtures, appliances, apparatus, and equipment of any and all kinds and character and, in connection 20 21 therewith, purchase, acquire, lease, sell, distribute, 22 install, and repair such telephone fixtures, appliances, apparatus, and equipment and accept or otherwise acquire and 23 sell, assign, transfer, endorse, pledge, hypothecate, and 24 25 otherwise dispose of notes, bonds, and other evidences of 1 indebtedness and any and all types of security therefor;

2 (14) do and perform any and all other acts and things
3 and have and exercise any and all other powers which may be
4 necessary, convenient, or appropriate to accomplish the
5 purpose for which the cooperative is organized."

6 Section 5. Section 35-18-206, MCA, is amended to read:

7 "35-18-206. Existing corporations -- reorganization 8 under this chapter -- articles of conversion. Any corporation organized under the laws of this state for the 9 purpose, among others, of supplying electric energy in rural 10 areas or telephone service in-rural-areas may become subject 11 to this chapter with the same effect as if originally 12 13 organized under this chapter by complying with the following 14 requirements:

(1) The proposition for the conversion of such 15 corporation into a cooperative under this chapter and 16 proposed articles of conversion to give effect thereto shall 17 18 be first approved by the board of trustees or the board of directors, as the case may be, of such corporation. The 19 proposed articles of conversion shall recite in the caption 20 21 that they are executed pursuant to this chapter and shall 22 state:

23 (a) the name of the corporation prior to its24 conversion into a cooperative under this chapter;

25 (b) the address of the principal office of such

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1 corporation;

2 (c) the date of the filing of its articles of
3 incorporation in the office of the secretary of state;

4 (d) the statute or statutes under which such5 corporation was organized;

6 (e) the name assumed by such corporation;

7 (f) a statement that such corporation elects to become
8 a cooperative, nonprofit, membership corporation subject to
9 this chapter;

(g) the manner and basis of converting either
memberships in or shares of stock of such corporation into
memberships therein after completion of the conversion; and
(h) any provisions not inconsistent with this chapter
deemed necessary or advisable for the conduct of its
business and affairs.

(2) The proposition for the conversion of such 16 corporation into a cooperative under this chapter and the 17 18 proposed articles of conversion approved by the board of trustees or board of directors, as the case may be, of such 19 corporation shall then be submitted to a vote of the members 20 or stockholders, as the case may be, of such corporation at 21 any duly held annual or special meeting thereof, the notice 22 of which shall set forth full particulars concerning the 23 proposed conversion. The proposition for the conversion of 24 such corporation into a cooperative under this chapter and 25

1 the proposed articles of conversion, with such amendments 2 thereto as the members or stockholders of such corporation 3 shall choose to make therein, shall be deemed to be approved 4 upon the affirmative vote of not less than two-thirds of 5 those members of such corporation voting thereon at such 6 meeting or, if such corporation is a stock corporation, upon 7 . the affirmative vote of the holders of not less than 8 two-thirds of the capital stock of such corporation 9 represented at such meeting.

(3) Upon such approval by the members or stockholders 10 11 of such corporation, articles of conversion in the form 12 approved by such members or stockholders of such corporation 13 shall be executed on behalf of such corporation by its 14 president or vice-president and its corporate seal shall be 15 affixed thereto and attested by its secretary or assistant 16 secretary. The president or vice-president executing such 17 articles of conversion on behalf of such corporation shall also make and annex thereto an affidavit stating that the 18 provisions of this section with respect to the approval of 19 20 its trustees or directors and its members or stockholders of 21 the proposition for the conversion of such corporation into 22 a cooperative under this chapter and such articles of 23 conversion were duly complied with.

24 (4) Such articles of conversion and affidavit shall be25 submitted to the secretary of state for filing as provided

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1 in this chapter.

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2 (5) The term "articles of incorporation" as used in
3 this chapter shall be deemed to include the articles of
4 conversion of a converted corporation."

5 <u>NEW SECTION.</u> Section 6. Codification instruction. 6 Section 1 is intended to be codified as an integral part of 7 Title 35, chapter 18, part 1, and the provisions of Title 8 35, chapter 18, part 1, apply to section 1.

9 <u>NEW SECTION.</u> Section 7. Effective date. This act is
10 effective on passage and approval.

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1	HOUSE BILL NO. 585	1	fee by wire, cable, microwave, or other means, whether such
2	INTRODUCED BY BRADLEY, VAUGHN, E. SMITH, KOLSTAD	2	means are owned or leased.
3		3	(b) "Broadband" means transmission facilities capable
4	A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING RESTRICTIONS	4	of handling frequencies greater than those required for high
5	ON AREAS THAT MAY BE SERVED BY TELEPHONE COOPERATIVES;	5	grade voice communication (higher than 4 kilohertz).
6	AMENDING SECTIONS 35-18-102, 35-18-105, 35-18-106, AND	б	(c) "Member" means each incorporator of a cooperative
7	35-18-206, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."	7	and each person admitted to and retaining membership therein
8		8	and shall include a husband and wife admitted to joint
9	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	9	membership.
10	NEW SECTION. Section 1. No area restriction	10	(d) "Person" includes any natural person, firm,
11	telephone cooperatives. A telephone cooperative, regardless	11	association, corporation, business trust, partnership,
12	of when it was organized pursuant to 35-18-105, is not	12	federal agency, state or political subdivision or agency
13	restricted by population of area served or other criteria to	13	thereof, or any body politic.
14	any area of service.	14	(e) "Rural area", as applied to all corporations
15	Section 2. Section 35-18-102, MCA, is amended to read:	15	organized under the provisions of 35-18-105(1), means any
16	"35-10-102. Definitions. (1) Corporations organized	16	area not included within the boundaries of any incorporated
17	under this chapter and corporations which become subject to	17	or unincorporated city, town, village, or borough having a
18	this chapter in the manner hereinafter provided are	18	population in excess of 3,500 persons on March 17, 1939, or
19	hereinafter referred to as "cooperatives".	19	subsequent thereto, and every incorporated municipality in
20	(2) In this chapter, unless the context otherwise	20	which 95% or more of the premises are served by an electric
21	requires the following definitions apply:	21	cooperative on February 1, 1971;-"rural-area";-as-applied-to
22	(a) "Cable television system" means a system that	22	allcorporationsorganizedundertheprovisionsof
23	receives and amplifies the signals broadcast by one or more	23	35-18-105(2)7meansanyareanotincludedwithinthe
24	television stations and redistributes the signals to	24	boundaries-ofanyincorporatedor-unincorporated-city-or
25	subscribing members of the public for a fixed or periodic	25	town-having-a-population-in-excess-of-17500personsexcept
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REFERENCE BILL

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1 that--en--incorporated--or--unincorporated-city-or-town-with 2 population-more-than-17500-persons-is--considered--a--"rural 3 area*--for--purposes--of--this--chapter--if--the--system--or 4 facilities-serving-the--persons--in--the--city--or--town--is acquired--by--a-cooperative-by-agreement-with-the-company-or 5 6 entity-serving-the-city-or-towny-or-if-the-city-or-town--was 7 served--by--the-cooperative-when-it-had-a-population-of-less 8 than-17500-persons-and-subsequently--grew--to--a--population 9 more--than--17500--persons;--but--for--the--purposes-of-this 10 chapter-s-"rurs1-area"-means-an-area-not-included-within-the 11 boundary-of-any-incorporated-or-unincorporated-city-or--town 12 having--a-population-in-excess-of-3,500-persons-which-is-not 13 already-being-served-by-a-system-or-facilities."

Section 3. Section 35-18-105, MCA, is amended to read:
"35-18-105. Permissible purposes for incorporation.
Cooperative nonprofit membership corporations may be
organized under this chapter for the following purposes:

18 (1) for the purpose of supplying electric energy and
19 promoting and extending the use thereof in rural areas, as
20 provided in this chapter;

(2) for the purposes of making generally available in
 rural--areas adequate telephone service, cable television
 service, or broadband facilities through the improvement and
 expansion of existing telephone, cable television, or
 broadband facilities and the construction and operation of

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such additional facilities as are required to assure the availability of such service to the widest practicable number of rural users thereof."

Section 4. Section 35-18-106, MCA, is amended to read:
"35-18-106. Powers of cooperatives. A cooperative
shall have power to:

7 (1) sue and be sued in its corporate name;

8 (2) have perpetual existence;

9 (3) adopt a corporate seal and alter the same at 10 pleasure;

(4) become a member in one or more other cooperatives
 or corporations or to own stock therein;

13 (5) construct, purchase, take, receive, lease as lessee, or otherwise acquire and to own, hold, use, equip, 14 15 maintain, and operate and sell, assign, transfer, convey, 16 exchange, lease as lessor, mortgage, pledge, or otherwise dispose of or encumber electric transmission and 17 distribution lines or systems, electric generating plants, 18 electric refrigeration plants, telephone lines, facilities 19 20 or systems (but not telegraph or radio broadcasting services 21 or facilities) as defined by law, lands, buildings, 22 structures, dams, plants and equipment, and any and all 23 kinds or classes of real or personal property whatsoever, 24 which shall be deemed necessary, convenient, or appropriate to accomplish the purpose for which the cooperative is 25

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l organized;

2 (6) purchase or otherwise acquire and own, hold, use,
3 and exercise and sell, assign, transfer, convey, mortgage,
4 pledge, hypothecate, or otherwise dispose of or encumber
5 franchises, rights, privileges, licenses, rights-of-way, and
6 easements;

7 (7) borrow money and otherwise contract indebtedness 8 and issue notes, bonds, and other evidences of indebtedness 9 therefor and secure the payment thereof by mortgage, pledge, 10 deed of trust, or any other encumbrance upon any or all of 11 its then owned or after-acquired real or personal property, 12 assets, franchises, revenues, or income;

13 (8) construct, maintain, and operate electric 14 transmission and distribution lines or telephone, cable television, or broadband lines, facilities, or systems 15 16 along, upon, under, and across all public thoroughfares, 17 including without limitation all roads, highways, streets, 18 alleys, bridges, and causeways and upon, under, and across 19 all publicly owned lands, subject, however, to the same 20 requirements in respect of the use of such thoroughfares and 21 lands as are imposed by the respective authorities having 22 jurisdiction thereof upon corporations constructing or 23 operating electric transmission and distribution lines or 24 systems or telephone lines, facilities, or systems;

25 (9) exercise the power of eminent domain in the manner

provided by the laws of this state for the exercise of that
 power by corporations constructing or operating electric
 transmission and distribution lines or systems or telephone
 lines, facilities, or systems;
 (10) conduct its business and exercise any or all of

- 6 its powers within or without this state;
- 7 (11) adopt, amend, and repeal bylaws;

8 (12) in the case of corporations organized under the
9 provisions of 35-18-105(1):

(a) generate, manufacture, purchase, acquire,
accumulate, and transmit electric energy and distribute,
sell, supply, and dispose of electric energy in rural areas
to its members, to governmental agencies and political
subdivisions, and to other persons not in excess of 10% of
the number of its members;

(b) make loans to persons to whom electric energy is 16 or will be supplied by the cooperative for the purpose of 17 and otherwise to assist such persons in wiring their 18 19 premises and installing therein electrical and plumbing fixtures, appliances, apparatus, and equipment of any and 20 all kinds and character and, in connection therewith, 21 22 purchase, acquire, lease, sell, distribute, install, and repair such electrical and plumbing fixtures, appliances, 23 24 apparatus, and equipment and accept or otherwise acquire and sell, assign, transfer, endorse, pledge, hypothecate, and 25

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otherwise dispose of notes, bonds, and other evidences of
 indebtedness and any and all types of security therefor;
 (c) make loans to persons to whom electric energy is
 or will be supplied by the cooperatives for the purpose of
 and otherwise to assist such persons in constructing,
 maintaining, and operating electric refrigeration plants;

7 (13) in the case of corporations organized under the
8 provisions of 35-18-105(2):

9 (a) improve and expand existing telephone lines, 10 facilities, and systems in--rural--areas and construct, 11 acquire, operate, and furnish such additional telephone 12 lines, facilities, and systems as are required to assure the 13 availability of adequate telephone service to the widest 14 practicable number of rural users thereof;

15 (b) make loans to persons to whom telephone service is 16 or will be supplied by the cooperative for the purpose of and otherwise to assist such persons in wiring their 17 premises for telephone service and installing therein 18 telephone fixtures, appliances, apparatus, and equipment of 19 any and all kinds and character and, in connection 20 21 therewith, purchase, acquire, lease, sell, distribute, 22 install, and repair such telephone fixtures, appliances, 23 apparatus, and equipment and accept or otherwise acquire and 24 sell, assign, transfer, endorse, pledge, hypothecate, and otherwise dispose of notes, bonds, and other evidences of 25

indebtedness and any and all types of security therefor;

2 (14) do and perform any and all other acts and things 3 and have and exercise any and all other powers which may be 4 necessary, convenient, or appropriate to accomplish the 5 purpose for which the cooperative is organized."

б Section 5. Section 35-18-206, MCA, is amended to read: "35-18-206. Existing corporations -- reorganization 7 under this chapter -- articles of conversion. Any 8 9 corporation organized under the laws of this state for the 10 purpose, among others, of supplying electric energy in rural 11 areas or telephone service in-rural-areas may become subject 12 to this chapter with the same effect as if originally 13 organized under this chapter by complying with the following 14 requirements:

15 (1) The proposition for the conversion of such 16 corporation into a cooperative under this chapter and 17 proposed articles of conversion to give effect thereto shall be first approved by the board of trustees or the board of 18 19 directors, as the case may be, of such corporation. The proposed articles of conversion shall recite in the caption 20 21 that they are executed pursuant to this chapter and shall 22 state:

23 (a) the name of the corporation prior to its
24 conversion into a cooperative under this chapter;

25 (b) the address of the principal office of such

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l corporation;

2 (c) the date of the filing of its articles of3 incorporation in the office of the secretary of state;

4 (d) the statute or statutes under which such5 corporation was organized;

6 (e) the name assumed by such corporation;

7 (f) a statement that such corporation elects to become
8 a cooperative, nonprofit, membership corporation subject to
9 this chapter;

10 (g) the manner and basis of converting either 11 memberships in or shares of stock of such corporation into 12 memberships therein after completion of the conversion; and 13 (h) any provisions not inconsistent with this chapter 14 deemed necessary or advisable for the conduct of its 15 business and affairs.

(2) The proposition for the conversion of 16 such corporation into a cooperative under this chapter and the 17 18 proposed articles of conversion approved by the board of trustees or board of directors, as the case may be, of such 19 20 corporation shall then be submitted to a vote of the members 21 or stockholders, as the case may be, of such corporation at 22 any duly held annual or special meeting thereof, the notice of which shall set forth full particulars concerning the 23 24 proposed conversion. The proposition for the conversion of such corporation into a cooperative under this chapter and 25

the proposed articles of conversion, with such amendments 1 thereto as the members or stockholders of such corporation 2 shall choose to make therein, shall be deemed to be approved 3 4 upon the affirmative vote of not less than two-thirds of those members of such corporation voting thereon at such 5 6 meeting or, if such corporation is a stock corporation, upon 7 the affirmative vote of the holders of not less than 8 two-thirds of the capital stock of such corporation 9 represented at such meeting.

10 (3) Upon such approval by the members or stockholders of such corporation, articles of conversion in the form 11 approved by such members or stockholders of such corporation 12 shall be executed on behalf of such corporation by its 13 president or vice-president and its corporate seal shall be 14 affixed thereto and attested by its secretary or assistant 15 secretary. The president or vice-president executing such 16 17 articles of conversion on behalf of such corporation shall also make and annex thereto an affidavit stating that the 18 provisions of this section with respect to the approval of 19 its trustees or directors and its members or stockholders of 20 the proposition for the conversion of such corporation into 21 22 a cooperative under this chapter and such articles of 23 conversion were duly complied with.

24 (4) Such articles of conversion and affidavit shall be25 submitted to the secretary of state for filing as provided

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1 in this chapter.

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2 (5) The term "articles of incorporation" as used in
3 this chapter shall be deemed to include the articles of
4 conversion of a converted corporation."

NEW SECTION. Section 6. Codification instruction.
Section 1 is intended to be codified as an integral part of
Title 35, chapter 18, part 1, and the provisions of Title
35, chapter 18, part 1, apply to section 1.
NEW SECTION. Section 7. Effective date. This act is

10 effective on passage and approval.

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