

02 June 2006

LEGAL ADVISORY NO. 13

**TO : ALL ELECTRIC COOPERATIVES
ALL NEA OFFICES CONCERNED**

**SUBJECT : SENATE BILL NOS. 215, 881, 899, 1299 AND 1300 AND
HOUSE BILL NO. 4602 (AMENDMENTS TO THE
COOPERATIVE CODE OF THE PHILIPPINES)**

The attention of all electric cooperatives (ECs) is called to the subject legislative amendatory proposals which could have significant and lasting effects on the ECs all over the country.

1. SB No. 215 Introduced by Sen. Serge R. Osmeña III; Section 3 and 4; (ANNEX – A)
2. SB No. 1299 Introduced by Sen. Rodolfo G. Biazon, Section 16; (ANNEX-B)
3. HB No. 4602 Introduced by Representatives Aquino, et al., Section 19. (ANNEX-C)

All ECs are exhorted to carefully study the foregoing proposed provisions and come out with a united stand that will promote and is protective of the goals of the rural electrification program. As additional information, a copy of NEA's Position Paper on the subject proposed bills is hereto attached as ANNEX-D.

The following provisions of the present Cooperative Code of the Philippines should likewise be carefully and extensively studied especially by ECs which intend to consider or are in the process of considering the exercise of the CDA conversion option granted in Sec. 57 of the EPIRA or which will be conducting information dissemination on the pros and cons of the conversion issue:


1. Art. 3. General Concepts.
2. Art. 18. Amendment of Articles of Cooperation and By-Laws.
3. Art. 29. Application.
4. Art. 31. Termination of Membership.

5. Art. 38. Composition of the Board of Directors.
6. Art. 43. Officers of the Cooperative.
7. Art. 61. Tax Treatment of Cooperatives.
8. Art. 62. Tax and Other Exemptions.
9. Art. 77. Shares.
10. Art. 87. Order of Distribution.

While there are many other provisions that need improvement, the foregoing are among those that have greatest potential adverse effect on the growth, viability and competitiveness of electric cooperatives. We have enclosed, as ANNEX-E, some comments on these provisions as inputs for your further review of these statutory provisions.

It is further suggested that all ECs, through their respective regional and national association representatives, should actively participate in the on-going deliberations during Joint House and Senate committee hearings and technical working group committee meetings. The next one will be held on 20 June 2006 at the Pecson Room, 2nd Floor, Senate of the Philippines, GSIS Building, Pasay City.

For your information and guidance.


ATTY. JOHN JOSEPH M. MAGTULOY, CPA
Deputy Administrator for Legal Services

Noted by:


EDITA S. BUENO
Administrator

NATIONAL ELECTRIFICATION
ADMINISTRATION

IN REPLYING, PLEASE REFER TO: #OR008687



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6/13/06

SENATE BILL NO. 215

Sec. 3. The entire provision of Article 61 of the same Code is hereby deleted and a new provision is inserted, to read as follows:

§ 83. *Tax Treatment of Cooperatives.* – Duly registered cooperatives under this Code which do not transact any business with nonmembers or the general public shall not be subject to any government taxes or fees imposed under the internal revenue laws and other tax laws. Cooperatives not falling under this Article shall be governed by succeeding section.]

§ 83. *TAX AND OTHER EXEMPTIONS.* – ALL COOPERATIVES OF SMALL PRODUCERS, SMALL SERVICE PROVIDERS, AND/OR SMALL CONSUMERS REGISTERED PURSUANT TO THIS CODE SHALL DURING THEIR EXISTENCE BE EXEMPTED FROM ALL TAXES, IMPORT LEVIES, PERMITS, FEES, LICENSES, AND OTHER IMPOSITIONS OF WHATEVER NAME AND NATURE WHETHER IMPOSED BY THE NATIONAL GOVERNMENT, ITS AGENCIES AND INSTRUMENTALITIES OR BY THE LOCAL GOVERNMENT UNITS: *PROVIDED*, THAT SUCH COOPERATIVES ARE CERTIFIED BY THE COOPERATIVE DEVELOPMENT AUTHORITY AS COOPERATIVES OF SMALL PRODUCERS, SMALL SERVICE PROVIDERS AND/OR SMALL CONSUMERS: *PROVIDED, FURTHER*, THAT IN ORDER TO AVAIL OF THE TAX AND RELATED EXEMPTION PRIVILEGES ABOVE-MENTIONED, COOPERATIVES SHALL NOT BE REQUIRED TO SECURE ANY CERTIFICATE FROM THE BUREAU OF INTERNAL REVENUE OR FROM THE DEPARTMENT OF FINANCE: *PROVIDED, FINALLY*, THAT THESE TAX AND RELATED EXEMPTION PRIVILEGES MAY BE WITHDRAWN FOR CAUSE AND AFTER

SEC. 4. The entire provision of Article 62 of the same Code is hereby deleted and a new provision is inserted to read as follows:

§ 84. *Vaz and otjer E zem ptions.* – Cooperatives transacting business with both members and non-members shall not be subject to tax on their transactions to members. Notwithstanding the provisions of any law or regulation to the contrary, such cooperatives dealing with nonmembers shall enjoy the following tax exemptions:

x x x]

§ 84. *CANCELLATION OF TAX EXEMPTIONS.* – THE TAX EXEMPTIONS AND PRIVILEGES OF ANY REGISTERED COOPERATIVE WITH MEMBERS WHO ARE NOT SMALL PRODUCERS AND/OR CONSUMERS AS DEFINED IN THIS ACT SHALL, AFTER DUE HEARING BY THE COOPERATIVE DEVELOPMENT AUTHORITY, IMMEDIATELY BE WITHDRAWN. THE COOPERATIVE DEVELOPMENT AUTHORITY SHALL PROMULGATE THE RULES AND REGULATIONS TO IMPLEMENT THIS PROVISION, INCLUDING THE MONITORING OF THE MEMBERS AND OPERATIONS OF COOPERATIVES BY THE AUTHORITY AND THE REGISTRATION OF ALL COOPERATIVES, IF THE SAME IS FOUND BY THE AUTHORITY TO BE IN VIOLATION OF THIS ACT.

ANNEX-B

SENATE BILL NO. 1299

SEC. 16. Chapter XVII of the same Code is hereby amended as follows:

Chapter ~~XIX~~ **XIX**

FINAL PROVISIONS

ART. [122] 151. *Electric Cooperatives.* – Electric cooperatives shall be covered by this Code. However, there shall be a transition period of [three (3) years] **ONE (1) YEAR** within which the [Cooperative Development] Authority and the National Electrification Administration shall help and assist electric cooperatives to qualify under this Code[.]: **PROVIDED, THAT WHILE THE AUTHORITY WILL HAVE GENERAL SUPERVISION OVER THE ELECTRIC COOPERATIVES, PARTICULARLY WITH THEIR INTERNAL AND INSTITUTIONAL CONCERNS, THE NATIONAL ELECTRIFICATION ADMINISTRATION (NEA) WILL MAINTAIN ITS FINANCIAL AND TECHNICAL SUPERVISION OF THE ELECTRIC COOPERATIVES.** The [Cooperative Development] Authority and the National Electrification Administration shall jointly promulgate rules and regulations to the end that the provisions of this law are **EFFECTIVELY IMPLEMENTED AND ARE** harmonized with the provisions of Presidential Decree No. 269.

ART. [123] **152.** *Regulations.* – (1) The [Cooperative Development] Authority may issue regulations to implement those provisions of this Code which expressly call for the issuance thereof. This paragraph shall not apply to those wherein a specific provision of this Code expressly designates particular government agencies which shall issue the regulations called for by any provision of this Code.

- (2) x x x
- (3) x x x
- (a) x x x
- (b) x x x
- (c) x x x
- (d) x x x

ART. [124] **153.** *Penal Provisions.* – The following acts or omissions affecting cooperatives are hereby prohibited:

*3+ Vje vse of tje yord ðcooperatixeö dy any person or of persons or organizations, domestic or foreign, unless duly registered as a cooperative under this Code. In case of violation hereof, the individual or individuals concerned, or in the case of an organization, its officers and directors shall not upon conviction, each suffer the penalty of imprisonment [for one (1) year] **OF NOT LESS THAN TWO (2) YEARS NOR MORE THAN FIVE (5) YEARS** and a fine not exceeding [One thousand pesos (P1,000.00)] **TWENTY THOUSAND PESOS (P20,000.00)** or both at the discretion of the court;

(2) ANY PERSON WHO WILLFULLY ATTEMPTS IN ANY MANNER TO EVADE OR DEFEAT TAX IN VIOLATION OF THE PROVISIONS OF ARTICLES 61 AND 62 OF THIS CODE SHALL, IN ADDITION TO OTHER PENALTIES PROVIDED BY LAW, UPON CONVICTION THEREOF, BE PUNISHED BY A FINE OF NOT LESS THAN THIRTY THOUSAND PESOS (P30,000.00) BUT NOT MORE THAN ONE HUNDRED THOUSAND PESOS (P100,000.00) AND SUFFER IMPRISONMENT OF NOT LESS THAN TWO (2) YEARS BUT NOT MORE THAN FOUR (4) YEARS: PROVIDED, THAT THE CONVICTION OR ACQUITTAL OBTAINED UUNDER THIS SECTION SHALL NOT BE A BAR TO THE FILING OF A CIVIL SUIT FOR THE COLLECTION OF TAXES.

[2](3) Direct or indirect interference or intervention by any official or employee into the internal affairs of a cooperative of which he is not a member, such as, but not limited to, the following:

(a) Influencing the election or appointment of officers, directors, committee members, and employees through public or private endorsement or campaign for or against any person or group of persons;

(b) Requiring prior clearance for any policy or decision within the cooperative;

(c) Requesting or demanding for the creation of positions or organizational units, or recommending any person for appointment, transfer, or removal from his position; or

(d) Any other acts inimical or adverse to the autonomy and independence of cooperatives.

In case of violation of any provision of this subsection, the individual or individuals, and in the case of organizations, its officers and directors shall, upon conviction by a court, each suffer a penalty of not less than [one (1) year] **TWO (2) YEARS** but not more than five (5) years imprisonment or a fine in the amount of not less than [Five thousand pesos (P5,000.00)] **TWENTY THOUSAND PESOS (P20,000.00)**, or both at the discretion of the court. **IN THE CASE OF A PUBLIC OFFICIAL OR**

EMPLOYEE, THE OFFENDER SHALL UPON CONVICTION, SUFFER THE ACCESSORY PENALTY OF TEMPORARY ABSOLUTE DISQUALIFICATION.

[3](4) A director, officer or committee member who violated the provisions of Article [47] 46 (liability of directors, officers and committee members), Article [50] 49 (disloyalty of a director) and Article [51] 50 (illegal use of confidential information) shall upon conviction suffer a fine of not less than Five thousand pesos (P5,000.00) nor more than Five hundred thousand pesos (P500,000.00) or imprisonment of not less than five (5) years nor more than ten (10) years or both at the discretion of the court.

[4](5) Any violation of any provision of this Code for which no penalty is imposed shall be punished by imprisonment of not less than six (6) months nor more than one (1) year and a fine of not less than One thousand pesos (P1,000.00), or both at the discretion of the court.

ART. [125] 154. *Printing and Distribution.* – x x x

ART. [126] 155. *Interpretation and Construction.* – x x x

ART. [127] 156. *Repeals.* – Except as expressly provided by this Code, Presidential Decree No. 175 and all other laws, or parts thereof, inconsistent with any provision of this Code shall be deemed repealed: *Provided, however,* That nothing in this Code shall be interpreted to mean the amendment or repeal of any provision of Presidential Decree No. 269 **WITH REGARD TO THE ORGANIZATION AND STRUCTURE OF THE NATIONAL ELECTRIFICATION ADMINISTRATION (NEA):** *Provided, further,* That the electric cooperatives which qualify as such under this Code shall fall under the coverage thereof.

ART. [128] 157. *Transitory Provisions.* – [All cooperatives registered under Presidential Decree Nos. 175 and 775, and Executive Order No. 398 shall be deemed registered with the Cooperative Development Authority: *Provided however,* That they shall submit to the nearest Cooperative Development Authority office their certificates of registration, copies of their articles or incorporation and by-laws, and their latest duly audited financial statements within one (1) year from the effectivity of this Act, otherwise, their registration shall be cancelled: *Provided further,* That cooperatives created under Presidential Decree No. 269, as amended by Presidential Decree No. 1645, shall be given three (3) years within which to qualify and register with the Authority, *Provided finally,* That after these cooperatives shall have qualified and registered, the provisions of Section 3 and 5 of Presidential Decree No. 1645 shall no longer be applicable to the said cooperatives.]

(1) ALL COOPERATIVES REGISTERED UNDER REPUBLIC ACT NOS. 6938 AND 6939 SHALL BE DEEMED REGISTERED WITH THE AUTHORITY: PROVIDED, THAT ALL COOPERATIVES CREATED UNDER PRESIDENTIAL DECREE NO. 269, AS AMENDED BY PRESIDENTIAL DECREE NO. 1645, SHALL BE GIVEN ONE (1) YEAR FROM THE EFFECTIVITY OF THIS ACT WITHIN WHICH TO QUALIFY AND REGISTER WITH THE AUTHORITY: PROVIDED, HOWEVER, THAT ELECTRIC COOPERATIVES WHICH HAVE

NOT YET CONVERTED AT THE END OF THE ONE-YEAR PERIOD PROVIDED FOR BY THIS ACT SHALL BE PROHIBITED FROM USING THE WORD "COOPERATIVE" IN THEIR NAMES; THEY SHALL INSTEAD BE CALLED "ELECTRIC ASSOCIATIONS" AND SHALL CONTINUE TO BE UNDER THE SUPERVISION OF THE NEA: *PROVIDED, FURTHER,* THAT SUCH ELECTRIC ASSOCIATIONS SHALL HAVE THE OPTION TO CONVERT AND REGISTER WITH THE AUTHORITY AT ANY TIME AS PROVIDED FOR UNDER THIS ACT: *PROVIDED, FINALLY,* THAT AFTER THESE COOPERATIVES SHALL HAVE QUALIFIED AND REGISTERED, THE PROVISIONS OR SECTIONS 3 AND 5 OF PRESIDENTIAL DECREE NO. 1645 SHALL NO LONGER BE APPLICABLE TO SAID COOPERATIVES.

(2) THE BOARD OF DIRECTORS OF ELECTRIC COOPERATIVES WHICH HAVE NOT YET CONVERTED AND QUALIFIED UNDER REPUBLIC ACT NO'S. 6938 AND 6939 SHALL WITHIN TWO (2) MONTHS AFTER THE EFFECTIVITY OF THIS ACT CREATE AND CONVENE A SPECIAL COMMITTEE WHICH SHALL: (A) PREPARE AND DISTRIBUTE TO ALL ITS MEMBERS A PROPOSED ARTICLES OF CONVERSION AND BY LAWS OR AN ACCURATE SUMMARY THEREOF; AND (B) CONDUCT AN INFORMATION AND EDUCATION CAMPAIGN AMONG ITS MEMBERS REGARDING THE PROPOSED CONVERSION: *PROVIDED,* THAT THE SAID COMMITTEE SHALL INCLUDE THE REPRESENTATIVES OF THE AUTHORITY, THE NEA, THE LOCAL COOPERATIVE DEVELOPMENT COUNCILS (CDCS), THE LOCAL GOVERNMENT UNITS (LGUS), THE COOPERATIVE FEDERATIONS AND UNIONS AND CONCERNED NON GOVERNMENT ORGANIZATIONS (NGOs) PEOPLES ORGANIZATIONS (POs) IN THE AREA: *PROVIDED, FURTHER,* THAT THE REPRESENTATIVES OF THE CDCS, COOPERATIVE FEDERATIONS AND UNIONS, NGOs AND POs SHALL BE CHOSEN BY THE RESPECTIVE ORGANIZATIONS FROM THEIR MEMBERS WHO ARE ALSO MEMBERS OF THE ELECTRIC COOPERATIVES."

ANNEX-C

House Bill No. 4602

Se. 19. Chapter XVII on Final Provisions of the same Code is hereby renumbered as Chapter XVIII.

Article 122 thereof is deleted from this Chapter and is transposed to the Special Provisions on Electric Cooperatives as Article 114 under Chapter XII, Subsection C on Special Provisions on Electric Cooperatives.

Articles 123, 124, 125, 126, 127, 128, 129 and 130 of this Chapter are hereby renumbered and amended, and shall now read as follows:

**CHAPTER (XVIII) XVIII
FINAL PROVISIONS**

[ART.122. *Electric Cooperatives.* – Electric cooperatives shall be covered by this Code. However, there shall be a transition period of three (3) years within which the Cooperative Development Authority and the National Electrification Administration shall help and assist electric cooperatives to qualify under this Code. The Cooperative Development Authority and the National Electrification Administration shall jointly promulgate rules and regulations to the end that the provisions of this law are harmonized with the provisions of Presidential Decree No. 269.]

õA T V .]345_ **155. Regulations.** – (1) The [Cooperative Development] Authority [may] **SHALL** issue regulations to implement [those] **THE** provisions of this Code. [which expressly call for the issuance thereof. This paragraph shall not apply to those cases wherein a specific provision of this Code expressly designates particular government agencies which shall issue the regulations called for by any provision of this Code.]

[(2) Where a provision of this Code does not expressly call for nor authorize the issuance of regulation, no regulation shall be issued thereon. Any regulation issued in violation of this paragraph shall be null and void *ab initio*.]

[(3) (2) x x x

(a) x x x

(b) x x x

(c) x x x

(d) x xx.ö

õA T V .]346_ **156. Penal Provisions.** – The following acts or omissions affecting cooperatives are hereby prohibited:

(1) The use of the word 'cooperative' by any person or of persons or organizations, domestic or foreign, unless duly registered as a cooperative under this Code. In case of violation hereof, the individual or individuals concerned, or in the case of an organization, its officers and directors shall, upon conviction, each suffer the penalty of imprisonment [for one (1) year] **OF NOT LESS THAN TWO (2) YEARS NOR MORE THAN FIVE (5) YEARS** and a fine not exceeding [One thousand pesos (P1,000.00)] **TWENTY THOUSAND PESOS (P20,000.00)** or both at the discretion of the court;

(2) **ANY PERSON WHO WILLFULLY ATTEMPTS IN ANY MANNER TO EVADE OR DEFEAT TAX IN VIOLATION OF THE PROVISIONS OF ARTICLES 61 AND 62 OF THIS CODE SHALL, IN ADDITION TO OTHER PENALTIES PROVIDED BY LAW, UPON CONVICTION THEREOF, BE PUNISHED BY A FINE OF NOT LESS THAN THIRTY THOUSAND PESOS (P30,000.00) BUT NOT MORE THAN ONE HUNDRED THOUSAND PESOS (P100,000.00) AND SUFFER IMPRISONMENT OF NOT LESS THAN TWO (2) YEARS BUT NOT MORE THAN FOUR (4) YEARS: PROVIDED, THAT THE CONVICTION OR ACQUITTAL OBTAINED UNDER THIS SECTION SHALL NOT BE A BAR TO THE FILING OF A CIVIL SUIT FOR THE COLLECTION OF TAXES.**

[(2)](3) X X X

(a) X X X

(b) X X X

(c) X X X

(d) X X X

In case of violation of any provision of this [subsection] **ARTICLE**, the individual or individuals, and in the case of organizations, its officers and directors shall, upon conviction by a court, each, suffer a penalty of not less than [one (1) year] **TWO (2) YEARS** but not more than five (5) years imprisonment or a fine in the amount of not less than [Five thousand pesos (P5,000.00)] **TWENTY THOUSAND PESOS (P20,000.00)**, or both at the discretion of the court[;] **IN THE CASE OF A PUBLIC OFFICIAL OR EMPLOYEE, THE OFFENDER SHALL UPON CONVICTION, SUFFER THE ACCESSORY PENALTY OF TEMPORARY ABSOLUTE DISQUALIFICATION.**

[(3)] (4) A director, officer, or committee member who [violated] **VIOLATES** the provisions of Article [47] **46 ON THE** [(l) [l]Liability of [d] Directors, [o] Officers

and [c] Committee [m] Members []], Article [50] **49 ON THE [(d] Disloyalty of a [d] Director[]], and Article [51] **50 ON THE [(i] Illegal [u] Use of [c] Confidential [i] Information []]** shall upon conviction suffer a fine of not less than Five thousand pesos (P5,000.00) nor more than Five hundred thousand pesos (500,000.00) or imprisonment of not less than seven (7) years or more than ten (10) years or both at the court's discretion;**

[(4)] (5) x x x

THE FOLLOWING ARE CONSIDERED OFFENSES PUNISHABLE BY THE PENALTY OF IMPRISONMENT OF NOT LESS THAN ONE (1) YEAR NOR MORE THAN FIVE (5) YEARS OR A FINE OF NOT MORE THAN FIFTY THOUSAND PESOS (P50,000.00) OR BOTH AT THE DISCRETION OF THE COURT:

(A) OMISSION OR REFUSAL TO FURNISH ANY INFORMATION, REPORT OR OTHER DOCUMENT THAT IS REQUIRED TO BE FURNISHED UNDER THIS CODE;

(B) PROVIDING THE AUTHORITY INFORMATION, REPORTS OR OTHER DOCUMENTS THAT ARE REQUIRED UNDER THIS CODE WHICH THE PERSON KNOWS TO BE FALSE OR MISLEADING;

(C) OMISSION OR REFUSAL TO KEEP A BOOK OR REGISTER REQUIRED UNDER THIS ACT OR TO MAKE A REQUIRED ENTRY THEREIN;

(D) MAKING AN ENTRY REQUIRED UNDER THIS CODE IN A BOOK OR REGISTER WHICH THE PERSON KNOWS TO BE FALSE OR MISLEADING;

(E) HINDERING A PETUQN Y J Q, AU PATV QH VJE PETUQN 'U DUTIES, IS CONDUCTING AN INSPECTION, AN AUDIT, AN EXAMINATION OR AN INVESTIGATION UNDER THIS CODE;

(F) FAILURE TO COMPLY WITH AN ORDER OR WRITTEN INSTRUCTIONS ISSUED OR GIVEN BY THE AUTHORITY;

(G) VIOLATION OF THE PROVISIONS REGARDING TRANSACTIONS WITH A RESTRICTED PARTY; AND

(H) ABETTING, COUNSELING, ALLOWING, AUTHORIZING OR COMMANDING ANOTHER PERSON TO COMMIT AN OFFENSE PUNISHABLE BY THIS CODE: *PROVIDED*, THAT, IN CASE THE VIOLATOR IS A COOPERATIVE OR A JURIDICIAL PERSON, THE PENALTY SHALL BE IMPOSED ON ITS DIRECTORS AND OFFICERS.

õA T V .]347_ **157. Printing and Distribution.** – (1) x x x

(2) x x x

õA T V .]348_ **158. Interpretation and Construction.** – x x x

õA T V .]349_ **159.** Repeals. – Except as expressly provided by this Code, Presidential Decree No. 175 and all other laws, or parts thereof, inconsistent with any provision of this Code shall be deemed repealed: *Provided, however,* That nothing in this Code shall be interpreted to mean the amendment or repeal of any provision of Presidential Decree No. 269 **WITH REGARD TO THE ORGANIZATION AND STRUCTURE OF THE NATIONAL ELECTRIFICATION ADMINISTRATION (NEA):** *Provided, further,* That the electric cooperatives which qualify as such under this Code shall fall under the coverage thereof.

õA RT.[128] **160.** Transitory Provisions. – (1) **ALL COOPERATIVES PREVIOUSLY REGISTERED WITH THE AUTHORITY UNDER REPUBLIC ACTS NUMBERED 6938 AND 6939 SHALL BE DEEMED REGISTERED UNDER THIS ACT: PROVIDED, HOWEVER, THAT THEY SHALL SUBMIT TO THE NEAREST EXTENSION OFFICE OF THE AUTHORITY A COPY OF THEIR CERTIFICATE OF REGISTRATION OR CONFIRMATION, THE ARTICLES OF COOPERATION AND BY LAWS AND THE LATEST DULY AUDITED FINANCIAL STATEMENT WITHIN ONE (1) YEAR FROM THE EFFECTIVITY OF THIS ACT, OTHERWISE THEY WILL NOT BE CONSIDERED AS REGISTERED.**

(2) ALL ELECTRIC COOPERATIVES REGISTERED UNDER PRESIDENTIAL DECREE NO. 269, AS AMENDED, ARE GIVEN TWO (2) YEARS FROM THE EFFECTIVITY OF THIS ACT WITHIN WHICH TO REGISTER WITH THE AUTHORITY: *PROVIDED,* THAT THE EXISTING FRANCHISES ISSUED TO THE ELECTRIC COOPERATIVES BY THE NATIONAL ELECTRIFICATION COMMISSION SHALL BE TRANSFERRED TO THOSE ELECTRIC COOPERATIVES REGISTERED: *PROVIDED, HOWEVER,* THAT ELECTRIC COOPERATIVES WHICH HAVE NOT REGISTERED WITH THE AUTHORITY AT THE END OF THE TWO-YEAR PERIOD SHALL BE PROHIBITED FROM USING V J E Y Q T F ÆEQQPETA VKXE' KN VJEKT DWUKNEUU NAO EU, ANF UJANN DE TEHETTEF VQ AU ÆNEEVTK E NVKVKEU' AU FEHKN EF WNFET UEEVKQN 5 QH PRESIDENTIAL DECREE NO. 269, AS AMENDED: *PROVIDED, FURTHER,* THAT SHOULD ELECTRIC COOPERATIVES OPT TO REGISTER WITH THE AUTHORITY AFTER THE TWO-YEAR PERIOD GRANTED UNDER THIS PROVISION SHALL DO SO UNDER RULES AND REGULATIONS TO BE PROMULGATED BY THE AUTHORITY: *PROVIDED, FURTHERMORE,* THAT THE REGISTRATION OF THE ELECTRIC COOPERATIVE UNDER THIS CODE SHALL NOT BE CONSIDERED AS A TRANSFER OF OWNERSHIP OF ITS

ASSETS AND LIABILITIES NOR A CHANGE IN THE NATURE AND STRUCTURE OF THE COOPERATIVE AS A CONDITION FOR THE CONDONATION OF THEIR LOANS UNDER THE ELECTRIC POWER INDUSTRY REFORM ACT: AND *PROVIDED, FINALLY*, THAT UPON THEIR REGISTRATION WITH THE AUTHORITY, THE PROVISIONS OF SECTIONS 3 AND 5 OF PRESIDENTIAL DECREE NO. 1645 SHALL NO LONGER BE APPLICABLE TO SAID COOPERATIVES.

õA T V .]34;_383. *Separability.* – x x x
õA T V .]352_384. *Effectivity.* – x x x

SEC. 20. *Separability Clause.* – If any provision of this Act is subsequently declared unconstitutional, the validity of the remaining provisions hereof shall remain in full force and effect.

SEC. 21. *Repealing Clause.* – The pertinent provisions of the National Internal Revenue Code and Sections 33 and 79 of Republic Act No. 8791, and all other laws, decrees, orders or regulations or parts thereof that are inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 22. *Effectivity Clause.* – This Act shall take effect upon its approval.

Approved.

ANNEX-D

HON. SEN. ALFREDO S. LIM

Chairman

Committee on Cooperatives

Dear Senator:

We respectfully furnish you our comments/suggestions/inputs/position paper on Senate Bill No. 1299 and House Bill No. 4602.

Senate Bill No. 1299

1. The amendments on Article 3 on General Concepts are a big improvement on the true concept of a cooperative. These can ensure that an entity that does not keep faith with the basic cooperative values of self-help, democracy, equality, equity, honesty, openness, social responsibility and caring for others should not be registered as a cooperative. For consistency, we therefore suggest that this Article refer to a cooperative as a duly registered association of persons, with a common bond of interest, who have voluntarily joined together to achieve a lawful common social and economic end. The social and economic ends should not be on the alternative mode but should be both present for an entity to be considered truly a cooperative. This is to prevent the registration of coops who only have economic objectives and no social goals whatsoever and yet they enjoy the privileges of cooperatives.
2. NEA fully supports the provision of a representative assembly since this will allow the coop's general assembly to delegate some powers and decisions to a smaller representative body which otherwise would be physically impossible for a coop with a very big membership to intelligently tackle and/or decide. This can allow coops to be more dynamic, flexible to changes and advances in technology, competitive vis-à-vis their counterparts in the corporate sector.
3. NEA strongly supports the introduction of social audit as an instrument to measure a coops true level of attainment of its social goals and responsibilities. This is bolstered by the fact that a cooperative which has no social goals or which fails to achieve its social goals is a false cooperative.
4. NEA disagrees with the proposed increase in the member of original cooperators from 15 to 30 persons. A newly organized cooperative should

be allowed to start by as few people as possible to avoid complications at the outset and allow the new coop and its members to gradually grow in membership thus giving them more chances to carefully screen their membership and learn from their early membership recruiting mistakes.

5. NEA finds the amendment on Article 7 emphasizing human betterment as most appropriate especially with the proliferation of CDA registered coops which are purely economic in purpose and have no contribution whatsoever to human betterment. Yet such coops are enjoying tax exemption and other privileges intended for those who contribute in governments programmes for human betterment.
6. Empowering coops to form subsidiaries and chapters allows them to be at par with corporations who have been enjoying this power. NEA supports this innovation.
7. The NEA strongly objects to the proposed amendment of Article 156 of the Coop Code. The insertion of the phrase WITH REGARD TO THE ORGANIZATION AND STRUCTURE OF THE NATIONAL ELECTRIFICATION ADMINISTRATION (NEA) entirely changes the original and correct intent of the law which is to ensure that nothing in the Cooperative Code shall be interpreted to mean the amendment or repeal of any provision of Presidential Decree No. 269. With this insertion, some Cooperative Code provisions may now be interpreted to mean the repeal or amendment of some provisions of Presidential Decree No. 269 other than provisions relating to the organization and structure of NEA. This is inconsistent with the provisions of Article [122] 151 (in the proposed bill). Moreover, any such implied repeal of PD 269 by some provisions of the Coop Code is likely to wreak havoc on the rural electrification program which doesn't necessarily have anything to do with CDA-registered cooperatives. Any intentional repeal of PD 269 should be thoroughly studied vis-à-vis the Electric Power Industry Reform Act. And the amendment of the Cooperative Code should not be used to insert a totally alien subject matter such as the repeal of a law on rural electrification.
8. The NEA strongly objects to the amendments proposed for Article [128] 157 on Transitory Provisions. In this proposed provision, electric cooperatives not registered under Republic Act Nos. 6938 and 6939 shall be prohibited from using the word "cooperative" in their names. With all due respect, this is entirely unfair and unkind to our electric cooperatives, who, more than most of their counterpart cooperatives registered with the Cooperative Development Authority (CDA), have been religiously observing and practicing the more important universally accepted cooperative principles such as equitable sharing of the benefits of cooperativism, cooperation among cooperatives, open and voluntary membership, one member one vote, democratic control, cooperative education, non profit and service

oriented and concern for the community and the people. Our electric cooperatives, for the past three decades or more have been providing electricity to our rural folks even if such rural areas are not economically viable. All profit oriented private distribution utilities were not and are not interested to bring electricity to such rural areas because there is no profit in it. It is only the electric cooperatives who ventured into bringing electricity to our rural areas and most remote baranggays and sitios even if such areas are not financially viable because electric cooperatives are non-profit and service oriented. Because of what the electric cooperatives did in the past three decades or more, development and progress in the rural areas has become a reality. That is why electric cooperatives, more than any other organization, deserve to be called cooperatives because they embody the ideals of service before profit (for electric cooperatives it was without profit), empowerment of the rural folks and electricity service for human betterment.

9. Prohibiting electric cooperatives not registered with CDA after the one year period from using the word “cooperative” in their names is tantamount to making registration with CDA mandatory to all electric cooperatives. This run inconsistent with the provisions of EPIRA and violates the very important universally accepted cooperative principle of subsidiarity. Electric cooperatives should be given the choice to choose to continue being registered with NEA or to register with CDA. Government can not presume to know better than the coop what the coop truly needs.
10. Government should not impose its will upon electric cooperatives by making the conversion process as outlined in paragraph 2 of Article 157 mandatory. The members of the electric cooperative who are the owners of the coop should be given the choice on whether or not they want and need to go through such conversion process or conversion info dissemination/consultation process.

House Bill No. 4602

1. The amendment on Article 7 requiring that the cooperatives should have at least one major social goal, and in order to continue to be entitled to the rights and privileges granted to cooperatives, must have a positive impact on such social concerns as: membership education, environment, health, democracy and/or such other aspects of human betterment or empowerment, is a very welcome innovation. This may help in doing away with CDA-registered coops which are purely profit-oriented and serving no social responsibility or human betterment goals whatsoever.
2. NEA strongly objects to the following proposed amendment of Art [128] 160 on Transitory Provision:

- a. The amendments proposed for Article [128] 160 on Transitory Provisions. In this proposed provision, electric cooperatives not registered under Republic Act Nos. 6938 and 6939 shall be prohibited from using the word “cooperative” in their names. With all due respect, this is entirely unfair and unkind to our electric cooperatives, who, more than most of their counterpart cooperatives registered with the Cooperative Development Authority (CDA), have been religiously observing and practicing the more important universally accepted cooperative principles such as equitable sharing of the benefits of cooperativism, cooperation among cooperatives, open and voluntary membership, one member one vote, democratic control, cooperative education, non profit and service oriented and concern for the community and the people. Our electric cooperatives, for the past three decades or more have been providing electricity to our rural folks even if such rural areas are not economically viable. All profit oriented private distribution utilities were not and are not interested to bring electricity to such rural areas because there is no profit in it. It is only the electric cooperatives who ventured into bringing electricity to our rural areas and most remote *baranggays* and *sitios* even if such areas are not financially viable because electric cooperatives are non-profit and service oriented. Because of what the electric cooperatives did in the past three decades or more, development and progress in the rural areas has become a reality. That is why electric cooperatives, more than any other organization, deserve to be called cooperatives because they embody the ideals of service before profit (for electric cooperatives it was without profit), empowerment of the rural folks and electricity service for human betterment.

Prohibiting electric cooperatives not registered with CDA after the two year period from using the word “cooperative” in their names is tantamount to making registration with CDA mandatory to all electric cooperatives. This run inconsistent with the provisions of EPIRA and violates the very important universally accepted cooperative principle of subsidiarity. Electric cooperatives should be given the choice to choose to continue being registered with NEA or to register with CDA. Government can not pressure to know better than the coop what the coop truly needs.

- b. The inserted clause “Provided furthermore, that the registration of electric cooperatives under this Code shall not be considered as a transfer of ownership of its assets and liabilities nor a change in the nature and structure of the cooperative as a condition for the condonation of their loans under the Electric Power Industry Reform Act ...”

Electric cooperatives registered with the NEA under PD 269 are service oriented, non-stock non-profit. That's why the nationwide electrification of unviable rural areas became possible for the past three decades and even up to now. Once an electric cooperative is registered with CDA under RA 6938, it is no longer non stock non profit. It now becomes a stock cooperative as provided in the Cooperative Code where members expect to earn interest on share capital on their capital stock contributions and patronage refund proportionate to their level of electricity consumption. Hence, upon registration with CDA, it loses its missionary orientation and the General Assembly's primordial goal is to maximize interest on share capital and patronage refunds even to the extent of doing away with extending electricity lines and services to unprofitable (unviable) far flung areas. There is therefore, now, no reason for government to condone such coop loans.

We thank you for this opportunity of working with you on these important legislations. More power and warmest regards.

Sincerely yours,

EDITA S. BUENO
Administrator

ANNEX-E

ARTICLE 3. General Concepts. – A Cooperative is a duly registered association of persons, with a common bond of interest, who have voluntarily joined together to achieve a lawful common social or economic end, making equitable contributions to the capital required and accepting a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperative principles.

NEA 'u C qo o gpv<

A genuine coop always have social and economic goals. If it is only economic, it must not enjoy privileges granted to coops because it is just like profit-oriented corporations. If it is only social, it will not be self-reliant and sustainable.

ARTICLE 18. Amendment of Articles of Cooperation and By-laws. – Unless otherwise prescribed by this Code and for legitimate purposes, any provision or matter stated in the articles of cooperation may be amended by two-thirds (2/3) vote of all the members with voting rights, without prejudice to the right of the dissenting members to exercise their right to withdraw their membership under Articles 31 and 32.

The original and amended articles together shall contain all provisions required by law to be set out in the articles of cooperation. Amendments shall be indicated by under-scoring or otherwise appropriately indicating the change or changes made and a copy thereof duly certified under oath by the cooperative secretary and a majority of the directors stating the fact that said amendment or amendments have been duly approved by the required vote of the members. All amendments to the articles of cooperation shall be submitted to the Cooperative Development Authority. The amendments shall take effect upon its approval by the Cooperative Development Authority or within thirty (30) days from the date of filing thereof if not acted upon by the Authority for a cause not attributable to the cooperative.

NEA 'u C qo o gpv:

2/3 vote of all members is practically impossible for big coops. This is unconstitutional as it stunts growth and promotes slowness of action thereby destroying competitiveness.

The title of this Article is inconsistent with its text. The text never, even once, mention about BY-NAY U. Vje pjrase ðfor a cawse not attridwtadle to tje coopsö creates instability and puts coops in the dam or ðstalemateö and it tolerates goxernm ent's ineptness/slowness to act. Coops should not be made to wait indefinitely not knowing whether or not their by-laws was approved. 2/3 vote in a what? (GA, Referendum, election?)

ARTICLE 29. Application. – An applicant for membership shall be deemed a member after approval of his membership by the board of directors and shall exercise the rights of members after having made such payments to the cooperative in respect to membership or acquired interest in the cooperative as may be prescribed in the by-laws. In case membership is refused or denied by the board of directors, an appeal may be made to the general assembly and the latter's decision shall be final.

NEA 'u C qo o gpv<

This appeal to the GA will certainly not be acted promptly. It is likely to have to wait for the next GA. A special GA just to decide on the membership application is certainly costly and impracticable except for very small coops. With big coops, the GA may likely be too big. (unwieldy) a body to intelligently decide acceptance or rejection of applicant member. The law must be practical and flexible enough to allow the GA of very big coops to delegate it to a duly elected representative Assembly.

ARTICLE 31. Termination of Membership.

- (1) A member of a cooperative may, for any reason, withdraw his membership from the cooperative by giving a sixty (60) day notice to the board of directors. The withdrawing member shall be entitled to a refund of his share capital contribution and all other interests in the cooperative: *Provided*, That such refund shall not be made if upon such payment the value of the assets of the cooperative would be less than the aggregate amount of its debts and liabilities exclusive of his share capital contribution.
- (2) The death, insanity, insolvency or dissolution of a member shall be considered an automatic termination of membership.
- (3) A member may be terminated by a vote of the majority of all the members of the board of directors for any of the following causes:
 - (a) When a member has not patronized the services of the cooperative for an unreasonable period of time as may be fixed by the board of directors;
 - (b) When a member has continuously failed to comply with his obligations;
 - (c) When a member has acted in violation of the by-laws and the rules of the cooperative; and
 - (d) For any act or omission injurious or prejudicial to the interest or the welfare of the cooperative.

A member whose membership the board of directors may wish to terminate shall be informed of such intended action in writing and shall be given an opportunity to be heard before the said board makes its decision. The decision of the board shall be in writing and shall be communicated in person or by registered mail to the member and shall be appealable, within thirty (30) days after the decision is promulgated, to the

general assembly whose decision therein, whether in a general or special session, shall be final. Pending a decision by the general assembly, the membership remains in force.

NEA 'u Comment:

The law must be practicable and less restrictive. Big coops must be allowed to have a body who can decide on this instead of the GA. (i.e. Representative Assembly of San Dionesio Credit Cooperative) See comment to Article 29.

An undesirable member who is compromising the interest or welfare of the coop or the members need be terminated as soon as possible to avoid further danger or damages without having to wait for the next GA. Bear in mind that a member is entitled to many rights including right to confidential information.

ARTICLE 38. Composition of the Board of Directors. – The conduct and management of the affairs of a cooperative shall be vested in a board of directors which shall be composed of not less than five (5) nor more than fifteen (15) members elected by the general assembly for a term fixed in the by-laws but not exceeding a term of two (2) years and shall hold office until their successors are duly elected and qualified, or until duly removed. However, no director shall serve for more than three (3) consecutive terms.

NEA 'u C qo o gpv<

Three consecutive terms is too restricting. Take note that many successful coops have practically the same good leaders for decades.

ARTICLE 43. Officers of the Cooperative. – The board of directors shall elect from among themselves only the chairman and vice-chairman, and elect or appoint other officers of the cooperative from outside of the board in accordance with their by-laws. All officers shall serve during good behavior and shall not be removed except for a cause after due hearing. Loss of confidence shall not be a valid ground for removal unless evidenced by acts or omission causing loss of confidence in the honesty and integrity of such officer. No two (2) or more persons with relationships up to the third civil degree of consanguinity or affinity shall serve as elective or appointive officers in the same board.

NEA 'u C qo o gpv<

In most coops particularly small coops, there is difficulty finding qualified volunteers and even qualified D Q F 's. Oftentimes the best man for Treasurer or Secretary is already a BOD. Why deny this option to coops? Coordination is better achieved if other key officers are BOD members with a voice in the BOD.

ARTICLE 61. Tax Treatment of Cooperatives. – Duly registered cooperatives under this Code which do not transact any business with non-members or the general public shall not be subject to any government taxes or fees imposed under the Internal Revenue Laws and other tax laws. Cooperatives not falling under this article shall be governed by the succeeding section.

ARTICLE 62. Tax and Other Exemptions. – Cooperatives transacting business with both members and non-members shall not be subject to tax on their transactions to members. Notwithstanding the provisions of any law or regulation to the contrary, such cooperatives dealing with non-members shall enjoy the following tax exemptions:

(1) Cooperatives with accumulated reserves and undivided net savings of not more than ten million pesos (P10,000,000.00) shall be exempt from all national, city, provincial, municipal or barangay taxes of whatever name and nature. Such cooperatives shall be exempt from customs duties, advance sales or compensating taxes on their importation of machineries, equipment and spare parts used by them and which are not available locally as certified by the Department of Trade and Industry. All tax-free importations shall not be transferred to any person until after five (5) years, otherwise, the cooperative and the transferee or assignee shall be solidarily liable to pay twice the amount of the tax and/or duties thereon.

(2) Cooperatives with accumulated reserves and undivided net savings of more than ten million pesos (P10,000,000.00) shall pay the following taxes at the full rate:

- (a) Income Tax – On the amount allocated for interest on capital. *Provided*, that the same tax is not consequently imposed on interest individually received by members;
- (b) Sales Tax – On sales to non-members. *Provided however*, That all cooperatives, regardless of classification, are exempt from the payment of income and sales taxes for a period of ten (10) years. For cooperatives whose exemptions were removed by Executive Order No. 93, the ten-year period shall be reckoned from the effectivity date of said Executive Order. Cooperatives created after the approval of this Code shall be granted the same exemptions, the period of which shall be reckoned from the date of registration with the Authority: *Provided*, That at least twenty-five percent (25%) of the net income of the cooperatives is returned to the members in the form of interest and/or patronage refunds;
- (c) All other taxes unless otherwise provided herein; and

- (d) Donations to charitable, research and educational institutions and reinvestment to socio-economic projects within the area of operation of the cooperative may be tax deductible.
- (3) All cooperatives, regardless of the amount of accumulated reserves and undivided net savings shall be exempt from payment of local taxes and taxes on transactions with banks and insurance companies: *Provided*, that all sales or services rendered for non-members shall be subject to the applicable percentage taxes except sales made by producers, marketing or service cooperative; *Provided further*, That nothing in this article shall preclude examination of the books of account or other accounting records of the cooperative by duly authorized internal revenue officers for internal revenue tax purposes only, after previous authorization by the Authority.
- (4) Any judge in his capacity as notary public, ex officio, shall render service, free of charge, to any person or group of persons requiring either the administration of oath or the acknowledgment of articles of cooperation of a cooperative applicant for registration and instruments of loan from cooperative not exceeding fifty thousand pesos (P50,000.00).
- (5) Any register of deeds shall accept for registration, free of charge, any instrument relative to a loan made under this Code which does not exceed fifty thousand pesos (P50,000.00) or the deeds of title or any property acquired by the cooperative or any paper or document drawn in connection with any action brought by the cooperative or with any court judgment rendered in its favor or any instrument relative to a bond of any accountable officer of a cooperative for the faithful performance of its duties and obligations.
- (6) Cooperatives shall be exempt from the payment of all court and sheriff's fees payable to the Philippine Government for and in connection with all actions brought under this Code, or where such action is brought by the Cooperative Development Authority before the court, to enforce the payment of obligations contracted in favor of the cooperative.
- (7) All cooperatives shall be exempt from putting up a bond for bringing an appeal against the decision of an inferior court or for seeking to set aside any third party claim: *Provided*, That a certification of the Authority showing that the net assets of the cooperative are in excess of the amount of the bond required by the court in similar cases shall be accepted by the court as sufficient bond.
- (8) Any security issued by a cooperative shall be exempt from the provisions of the Securities Act provided such security shall not be speculative.

NEA 'u C qo o gpv<

The government is helpless in monitoring and enforcing it. Enforcing it will entail huge costs. This opened the floodgates to cooperatives who are really opportunists: the beneficiaries are not the poor common people but the rich and greedy.

ARTICLE 77. Shares. – Vje term òsjareö refers to a unit of capital tje par xalve of which may be fixed at any figure but not less than one peso (P1.00). The share capital of a cooperative is the money paid or required to be paid for to conduct its operations. The method of issuing the share certificates may be prescribed in the by-laws of the cooperative.

NEA 'u C qo o gpv<

Art. 77 – not clear whether or not certificates of share are mandatory. A ceiling for the par value of share must be fixed.

ARTICLE 87. Order of Distribution. – The net surplus of every cooperative shall be distributed as follows:

- (1) An amount for the reserve fund which shall be at least ten percent (10%) of net surplus:
 - (a) The reserve fund shall be used for the stability of the cooperative and to meet net losses in its operations. The general assembly may decrease the amount allocated to the reserve fund when reserve fund already exceeds the share capital.

Any sum recovered on items previously charged to the reserve fund shall be credited to such fund.
 - (b) The reserve fund shall not be utilized for investment, other than those allowed in this Code. Such sum of the reserve fund in excess of the share capital may be used at anytime for any project that would expand the operations of the cooperative upon the resolution of the general assembly.
 - (c) Upon the dissolution of the cooperative, the fund shall not be distributed among the members. The general assembly may resolve:
 - (i) To establish usufructuary trust fund for the benefit of any federation or union to which the cooperative is affiliated; and
 - (ii) To donate, contribute, or otherwise dispose of the amount for the benefit of the community where the cooperative operates. If the members cannot decide upon the disposal of the reserve fund,

the same shall go to the federation or union to which the cooperative is affiliated.

- (2) An amount for the education and training fund, which shall be not more than ten percent (10%) of net surplus. The by-laws may provide that certain fees or fines or a portion thereof be credited to such fund.
 - (a) Half of the amounts transferred to the education and training fund annually under this subsection may be spent by the cooperative for education and training and other purposes; while the other half shall be credited to the cooperative education and training fund of the respective apex organization of which the cooperative is a member. An apex organization may be a federation or a union.
 - (b) Upon the dissolution of the cooperative, the unexpended balance of the education and training fund appertaining to the cooperative shall be credited to the cooperative education and training fund of the above-mentioned apex organization.
- (3) An optional fund, a land and building, community development, and any other necessary fund the total of which may not exceed ten percent (10%).
- (4) The remaining net surplus shall be made available to the members in the form of interest not to exceed the normal rate of return on investments and patronage refunds.

The sum allocated for patronage refunds shall be made available at the same rate to all patrons of the cooperative in proportion to their individual patronage: *Provided, That*;

- (a) In the case of a member patron with paid-up share capital contribution, his proportionate amount of patronage refund shall be paid to him unless he agrees to credit the amount to his account as additional share capital contribution;
- (b) In the case of a member patron with unpaid share capital contribution, his proportionate amount of patronage refund shall be credited to his account until his share capital contribution has been fully paid;
- (c) In the case of a non-member patron, his proportionate amount of patronage refund shall be set aside in a general fund for such patrons and shall be allocated to individual non-member patrons only upon request and presentation of evidence of the amount of his patronage. The amount so allocated shall be credited to such patron toward payment of the minimum capital contribution for membership. When a sum equal to this amount has accumulated at any time within a period specified in the by-laws, such patron shall be deemed and become a member of the cooperative if he so

agrees or requests and complies with the provisions of the by-laws for admission to membership;

- (d) If within any period of time specified in the by-laws, any subscriber who has not fully paid his subscribed share capital or any non-member patron who has accumulated the sum necessary for membership but who does not request nor agree to become a member or fails to comply with the provisions of the by-laws for admission to membership, the amount so accumulated or credited to their account together with any part of the general fund for non-member patrons shall be credited to the reserve fund or to the education and training fund of the cooperative, at the option of the cooperative.

NEA 'u C qo o gpv<

A maximum of ten percent (10%) is too restricting. More so, if we bear in mind that all coop problems can be traced to education. Consider: at least 10% after all joining a coop is for human betterment and not profit. However, only a maximum of 5% of net surplus shall go to the Apex Education Fund.

If the coop hates to remit to his apex because such apex provides no worthwhile services, such coop will be motivated to drastically reduce amount apportioned to ETF.