

# Co-operative Spotlight

April 2011

An overview of  
Saskatchewan co-operative sector  
news and activities

## Election 2011: Make Your Voice Heard on Co-op Issues

With a federal election on May 2, the Canadian Co-operative Association (CCA) has launched a campaign to ensure that parties and candidates are aware of the issues of importance to the co-operative sector.

CCA has created an election page on its website where co-operators can send an email to the candidates in their ridings, or to the party leaders. The email asks candidates to support the International Year of Co-operatives and three proposed 2012 legacy projects: a Co-operative Investment Plan, a co-operative development fund financed jointly by the government and the co-op sector, and a permanent and expanded Co-operative Development Initiative.

CCA has also developed a non-partisan election platform containing 13 recommendations dealing with a wide range of issues of interest to CCA and its member organizations. Copies of the election platform are being sent to candidates, and CCA will post their responses on the website. Visit the site at [http://www.coopscanada.coop/en/gov\\_affair/Election-2011](http://www.coopscanada.coop/en/gov_affair/Election-2011).

The Co-operative Housing Federation of Canada is also urging co-operators to be involved in the upcoming election. The Co-operative Housing Election Centre (<http://www.chfcanada.coop/eng/pages2007/electionhome.asp>) presents the housing issues CHF wants candidates and parties to support, as well as an election blog and an

*Continued on page 2*

## Nominations for Co-op Merit Awards due May 1

The nomination deadline for the 32<sup>nd</sup> Annual Saskatchewan Co-operative Merit Awards is quickly approaching.



Now is the time to consider nominating a member of your board of directors, a volunteer or a staff member for the **Lifetime Co-operative Achievement Award** or the **Co-operative Contribution Award**. You can also nominate a co-operative business for the **Co-operative Enterprise Award** which recognizes excellence in leadership, innovation and achievement in the co-operative sector. If you have exceptional young people involved with your organization, consider nominating them for the **Co-operative Young Leaders Award**.

Details about all the awards as well as nomination forms can be found on the SCA website at [http://www.sask.coop/co-op\\_merit\\_awards.html](http://www.sask.coop/co-op_merit_awards.html).

The awards will be presented at a banquet on October 17, 2011, during National Co-op Week. The event is being held at the Ramada Hotel and Conference Centre in Regina.

Don't miss this opportunity to honour the members of our Saskatchewan co-operative community who have made outstanding contributions!



## Norm Bromberger Research Bursary Application

Credit Union Central of Saskatchewan is pleased to call for applications for the 17th Annual Norm Bromberger Research Bursary. This bursary is awarded in support of research relating to co-operatives and/or credit unions. It has been established in recognition of the outstanding contributions made by Norm Bromberger to the development of credit unions and co-operatives in Saskatchewan and across Canada. Bromberger was Research Director and then Chief Executive Officer of Credit Union Central, for a total of twenty-seven years of service with the credit union system of Saskatchewan. He also played a prominent role in developing Credit Union Central of Canada and establishing other co-operatively owned financial service organizations. More information about the bursary, eligibility and application forms are available on SCA's website at [http://www.sask.coop/whats\\_new.html](http://www.sask.coop/whats_new.html). Application deadline is June 30, 2011.

## Saskatchewan Youth Seek SCYP Sponsors

In just a couple of months, Saskatchewan youth will be heading off to Co-op Camp. With eight camps being offered at five levels, the program has broad appeal to youth age 12 to 18.

At the SCYP office, we are beginning to get calls from youth and parents who are having trouble finding sponsors. Here is how you can help make sure no one gets turned away from camp:

- If you have more participants than you can sponsor, don't turn them away. Please make sure to have them call us, or call another co-op or credit union in your area;
- If you have funds allocated for sponsorships and have not been able to recruit participants, consider sponsoring a youth from outside your area. Contact us if you are willing to do so.
- In addition to sponsoring a low-income youth, consider paying part of the participant registration fee. This frees up sponsorship funds we have available at our office, which we would otherwise use to cover these registration fees.

We are looking forward to another great summer of Co-op Camp and anticipate our 43,000<sup>th</sup> participant in the program this year. This would not be possible without the tremendous support the sector demonstrates for the Saskatchewan Co-operative Youth Program.



### *The Co-operators Releases Guide to Sustainable Meetings*

Did you know that the average meeting produces 20 pounds of garbage per person each day?

The Co-operators has created a 34-page online guide that will help you make your meetings more environmentally sustainable.

"Documents like this guide remind us to do the little things that, we hope, will become second nature over time," said Kathy Bardswick, president and CEO of The Co-operators. "This is information that applies to everyone, and our hope is that others interested in making a difference will make use of it."

Go to [www.cooperators.ca/static/pdf/en/Sustainability/guide-to-sustainable-meetings.pdf](http://www.cooperators.ca/static/pdf/en/Sustainability/guide-to-sustainable-meetings.pdf) to download the guide.

Source: Co-operative News Briefs, April 7, 2011



graur codrin/FreeDigitalPhotos.net

## Manitoba Tweaks Rules Governing Co-operatives

On April 18, 2011, Manitoba tabled legislation making it easier to launch co-operatives. Bill 17, The Co-operative Amendments Act, would allow groups that normally form separate co-ops, such as workers and consumers, to combine their resources to create a co-op together.

"Some people join co-ops because it is in their financial interest, but others join co-ops because they support the values that the co-op stands for," said Family Services and Consumer Affairs Minister Gord Mackintosh.

"If, for example, people want to do more to support [a new co-op] but don't need the services offered, under the new model, supporting members could lend money to the co-op and have a say in its operation."

The proposed amendments would further modernize the existing act by:

- updating provisions for worker co-operatives to enable them to use more flexible business models by allowing volunteers and contracting parties to become members;
- enabling co-ops to hold meetings and vote electronically;
- reforming provisions on access to membership lists to better balance the privacy and democratic rights of members; and
- reforming the special tribunal that hears appeals from members of housing co-ops who face eviction by providing them with enhanced procedural protections.

Mackintosh noted that while the current act works for many co-ops, many want more options to grow and start new co-ops. Source: [www.WinnipegFreePress.com](http://www.WinnipegFreePress.com), April 18, 2011

### *ELECTION - Continued from page 1*

online tool to allow you to send a message to candidates in your riding. The CHF will be monitoring the federal parties to determine their positions and platforms on affordable housing, and will post their promises and statements on the site during the coming weeks.

Source: Co-operative News Briefs, April 7 / [www.chfcanada.coop](http://www.chfcanada.coop)



# Understanding Co-operative and Non-Profit Law

By Robert Dobrohoczki

*The following is the third publication of a work commissioned by Saskatchewan Co-operative Association and Le Conseil de la coopération de la Saskatchewan to clarify the relationship between co-operative law and non-profit and charitable status in Saskatchewan in order to assist professionals and co-op developers. In February, we looked at the myths and facts about the relationship between co-operatives and non-profit status. Last month, we examined the disadvantages and advantages of each co-operative model. Find the complete fact sheet, article and report at [http://www.sask.coop/other\\_resources.html](http://www.sask.coop/other_resources.html).*

Co-operative law in Saskatchewan is unique. Whether one is forming a traditional for-surplus or “for profit” co-operative where dividends flow to members or a non-profit co-operative, or even a co-operative that fulfills charitable purposes, a co-operative must be incorporated under the *Saskatchewan Co-operatives Act*<sup>i</sup>. The purpose of this article is not to give legal advice, but rather explain what is possible with the co-operative model. Co-operatives can become non-profits and they can become charities. Non-co-operative organizations incorporate either under the *Non-Profit Corporations Act*<sup>ii</sup> or, if it is a share company for profit, the *Business Corporations Act*<sup>iii</sup>. Because the *Act* catches all co-operatives, potential co-operators must know all options available under the *Act*, as one of the most important decisions new co-operatives make is the choice of organizational form.

The benefit of incorporation of any co-op is limited liability. The co-op becomes a separate individual under the law. But the status of co-ops and their ability to operate on a non-profit or charitable basis needs to be understood. Given that co-operatives operate, by definition, “for the benefit of their members,” it is not clear from the *Co-operatives Act* alone they can be non-profits. In part this is from a lack of co-operative law resources. A consultation with a lawyer or other professional advisor may lead individuals to a nonprofit corporation, as lawyers tend toward precedents they know and many have little experience with co-operatives. But a non-profit co-operative is always an option.

There are also practical considerations a beginning co-operative must consider. The advantages and disadvantages must be weighed of being for-profit, non-profit, or a charitable co-operative when it concerns decisions about capitalization, usually the most difficult struggle in getting a co-operative started.

## FOR “PROFIT” CO-OPERATIVES

As co-operators will often say, co-ops do not make profit, they make surplus. Surplus is treated differently under the *Income Tax Act*<sup>iv</sup>. While all of the nuanced differences are too complex to go into here, in essence, dividends paid to co-op members are exempt from taxation by the co-operative. Instead they are taxed in the hands of the members, unlike a corporation, where all profits of a corporation are taxed (including dividends), and corporate shareholders receive a “gross-up” on dividends (a set rate that is multiplied to compensate for tax already paid by the corporation) to

avoid double taxation (the tax paid by the corporation and income tax paid by shareholders). The intended policy effect is that corporations with shareholders and co-operatives with members will pay roughly equal tax in aggregate (dividends paid by a co-operative are not multiplied by the “gross up” rate since the co-op is exempt from tax on allocated dividends). The *unallocated* portion of surplus not distributed as dividends to members that is retained by the co-op is treated the same way as profit is in a business corporation (it is taxed as business income). So we can talk about “for-profit co-operatives” as those co-operatives in the business of making surplus for the benefit of members. It should be noted that corporations that pay dividends according to patronage receive the same tax treatment as co-operatives.

**One of the most important decisions new co-operatives make is the choice of organizational form.**

## Advantages

In terms of capitalization, this type of form has great flexibility. These co-operatives can use member loans as a form of capitalization. They can issue equity shares, or make use of the increasingly available option of selling preferred (or special and usually non-voting) shares to non-members who want to invest in the co-operative for a return on investment. The preferred share option is used to attract investors looking for a return on investment, rather than who would use the services of the co-op, and so they are non-voting shares in most circumstances to keep the co-op controlled by its member-users.

## Disadvantages

Incorporation as a for-profit co-op carries higher costs. For smaller co-ops, that may not have a large profit margin, the issuance of shares carries transaction costs and restrictions under securities regulations (depending on the size, nature, and to whom the share issuance is being made) that may not be readily transparent to a layperson. Each time a share or number of shares is offered a cost is involved in issuing them in terms of lawyer’s fees and administration. As well, for offerings outside of specific exceptions in securities legislation, a prospectus may need to be prepared under securities legislation, that incurs a cost. This means small issuances of a few hundred dollars each to many shareholders may not be practical given the transaction costs of each issuance. The costs of incorporation and share issuances should be made apparent at the outset through a consultation with a lawyer.

*Continued on page 4*

## NON-PROFIT CO-OPERATIVES

Non-profit does not mean at cost. Non-profit co-operatives can make surpluses like every other co-operative enterprise. It just means the purposes of the organization are not organized for the reasons of profit. That means there are broader goals to the organization that are characterized as not being commercial in nature.

### Advantages

The major advantage of a non-profit business is an exemption from paying income tax under section 149(1) of the *Income Tax Act* so long as they pursue non-profit objectives. Non-profit co-operatives *can* generally engage in commercial-like activities, so long as the non-commercial purposes of the co-operative are not tied to its commercial success. For example, a retail co-operative that donated its profit to organizations for people with disabilities, would not qualify, because its purpose is contingent on the co-op being commercially successful and making a profit. A retail co-operative that trained people with disabilities as part of its mandate would count, because its non-commercial purpose, to provide training for people with disabilities, is not contingent on its commercial success (i.e. making a surplus or profit). The tax exempt status, without the narrow purpose and reporting criteria attached to charitable status, is the key advantage to non-profit status. Non-profits are also often able to qualify for many government programs and funding.

### Disadvantages

Canada Revenue Agency (CRA) has maintained consistently it is not the form of the organization, but rather the purposes that determine whether it is a non-profit. The Courts have ruled in cases where even a business corporation, under the right circumstances, with the right restrictions in place, qualified as a non-profit<sup>v</sup>. Generally what is required is a provision in the articles of incorporation and bylaws that the co-operative is carrying on business without the purpose of gain for its members and any profit or gain will be used for promoting its objectives. This

invariably means an explicit provision that dividends and interest will not be paid out to members on share equity. In fact, in the Saskatchewan legislation, only community services co-operatives have this prohibition spelled out explicitly under the *Act*,<sup>vi</sup> leading to some to believe only community service co-ops can be non-profits or achieve charitable status. This prohibition on paying dividends or interest on shares hinders capitalization efforts, as well as attracting members, as this is the financial incentive for investing in or joining co-operatives. However, member loans and debt financing is still a possibility, and participation in a non-profit co-operative is usually for some social good. Saskatchewan legislation allows the possibility of forming a co-operative without share capital. Generally, this is seen as how to form a non-profit co-operative. But this is actually not the case in law. CRA only looks toward the purposes of the co-operative, and whether or not any individual will profit from the co-operative. A sufficient prohibition in the articles and bylaws on shares is the test. All charitable organizations are non-profits, but not all non-profits are charities. Those that are not charities will not be able to issue tax receipts on donations, even if they are not taxed on income.

## CHARITABLE STATUS CO-OPERATIVES

A co-operative can be eligible for charitable status if it is established for charitable purposes and devotes substantially all of its resources for such purposes and it is prohibited from paying any dividends or interest on share capital to its members or patronage dividends to its members or patrons. These can be achieved, as we have discussed, by restructuring the articles of incorporation or the founding documents accordingly. A final requirement for charitable status is that assets of the co-op must be transferred to another charity in event of the co-operative's dissolution.<sup>vii</sup>

### Advantages

The major advantage for a co-operative being a charity is being able to issue tax-deductible receipts for donations and to be a qualified

donee, as only they can receive funds from other charities and specifically, charitable foundations, which are often pools of capital. Charitable status also confers a degree of legitimacy on an organization owing to the much more rigorous accounting and reporting procedures required by CRA. As capitalization is historically a major weakness of co-operatives compared to corporations that can issue shares, and non-profit co-ops can not issue shares that pay dividends or interest on share capital to attract shareholders, the capacity to issue tax deductible receipts for donations and tap into pools of capital from charitable foundations allows for capitalization from donations.

### Disadvantages

The rigorous accounting and reporting criteria demanded by CRA is one of the major disadvantages of charitable status. It adds accounting and administrative costs. CRA does not have a preferred corporate form for charities, but rather a registry of charitable organizations. A co-op can be a charity just like any other business form.

**A charitable organization is severely limited in terms of lobbying, advocacy, or political activities.**

To become a registered charity, and reap the benefits of being able to fundraise, issue tax deductible receipts, and receive moneys from charitable foundations as a means of capitalization, a co-operative must fit within much narrower grounds of having a "charitable purpose," and are then restricted to these purposes. These include advancement of education, advancement of religion, the relief of poverty, or "any other purpose beneficial to the community." The latter category is the subject of much of the case law and ambiguity with CRA. The purposes of the co-operative are much more limited as opposed to a non-profit. For instance, a charitable organization is severely limited in terms of lobbying, advocacy, or political activities. A *Continued on page 5*

## The Co-operators Donates \$100,000 to ICA Japan Disaster Recovery Fund

The Co-operators is donating \$100,000 to a fund established by the International Co-operative Alliance (ICA) to help the co-operative movement in Japan rebuild following the recent earthquake and tsunami.

"As a co-operative, our organization is guided by the seven universal co-operative principles, one of which is co-operation among co-operatives," said Kathy Bardswick, president and CEO of The Co-operators.



The ICA fund was established after Japanese co-operatives reached out for assistance to help rebuild affected co-ops. Numerous co-operatives in Japan, especially in Miyagi and Iwate Prefectures, have suffered severe damage. The full extent of that damage is still being assessed by ICA-member organizations in Japan.

Other Canadian co-operative organizations have also contributed to Japan disaster relief, including Desjardins, who contributed \$100,000 to the Canadian Red Cross and are accepting donations at all their caisses populaires. Many credit unions, including all the credit unions in Saskatchewan, are also collecting donations for earthquake victims.



For more information on the ICA fund or to make a donation, go to [www.ica.coop/activities/tsunami/japan2011-appeal.html](http://www.ica.coop/activities/tsunami/japan2011-appeal.html).

Source: Co-operative News Briefs, March 24, 2011

## Recent Retirements

Patrick Lapointe, Administrator of the Saskatoon Community Clinic since 1993, retired on April 15, 2011. Patrick made significant contributions to the health care co-operative as well as the Canadian Health Centre movement. Under his leadership the Saskatoon Community Clinic saw significant growth in the types and range of services provided. Patrick was also a long-time member representative for Saskatchewan Co-operative Association, where his contributions were greatly valued. The Saskatoon Community Clinic welcomes Tim Archer as their new Executive Director.

Also in April, Ian Rea, CEO of Conexus Credit Union, has announced his retirement less than two years after he took over the position. He told the Regina Leader-Post that the recent failure of the proposed merger of Conexus, Innovation and Synergy credit unions "factored into his decision".

The Conexus board will soon begin a national search for a new CEO. Ken Shaw, chief financial officer, will fill the position in the interim. Source: [www.saskatooncommunityclinic.ca/CCA/Newsbriefs](http://www.saskatooncommunityclinic.ca/CCA/Newsbriefs), April 7, 2011 /

### CO-OPERATIVE LAW - Cont. from page 3

charitable co-op may also be curtailed in its ability to issue debt, own shares, or run related businesses, a key decision in capitalization or business planning. Close consultation with a lawyer should be undertaken to ensure the activities of the co-operative fits under the charitable criteria.

### CO-OPERATIVE INNOVATION

One option rarely considered by non-profits is the issuance of shares at zero rate of interest and no dividend rate. With a prohibition on the paying of dividends and interest sufficient in the articles of incorporation and bylaws to ensure no members profit or gain from membership, non-profit co-operatives could issue preferred (or special) non-voting shares at par (or face) value. These shares would pay no interest or dividends, but would still enable the capitalization of a co-operative from benevolent co-operators or investors not interested in a return on investment but in community development. This means non-profit co-ops could get capital investment from those interested in the non-profit purpose and are willing to forego any return on investment, but still want security on the principal investment. With such a capital investment, for instance in real estate, buildings, or equipment, the co-op would be in a better operating position to leverage for more debt.

Canadian legislation is not as progressive as countries like the U.K. and the U.S. that have found new hybrid

economic structures that blend the social purposes of non-profits with the capacity for capitalization and investment. In the UK, a new legislative framework exists to enable the creation of a company for social enterprise known as the "Community Interest Company" or "CIC." In the United States in a number of states legislation exists for a new type of enterprise called the "Low-Profit Limited Liability Company."<sup>viii</sup>

Canadian co-operators must be aware of the full capacities of existing legislation, and should be exploring ways in which the legislation and can be used to achieve the same policy ends in promoting social enterprise and co-operative development. A start is knowing all of the options under the *Co-operatives Act* including the possibility of incorporating a non-profit and the option of achieving charitable status co-operatives, and more importantly, the advantages and disadvantages of each model. By understanding this fully, new co-operatives can make the important and key decision on organizational form at the outset.

<sup>i</sup>Saskatchewan Co-operatives Act, R.S.S. 1996. c. C-37-3

<sup>ii</sup>Saskatchewan Non-Profit Corporations Act, R.S.S. 1995. c. N-4.2.

<sup>iii</sup>Saskatchewan Business Corporations Act, R.S.S. 1978. c. B.-10.

<sup>iv</sup>Income Tax Act, R.S.C. 1985, c. 1

<sup>v</sup>Gull Bay Development Corporation v. H.M.Q. 84 DTC 6040 (F.C.T.D.)

<sup>vi</sup>Saskatchewan Co-operatives Act, R.S.S. 1996. c. C-37-3, section 246.

<sup>vii</sup>See Bridge, R. (2003) Co-operatives and Charity Law. Canadian Co-operative Association, BC Region

<sup>viii</sup>Carter, T. and T.L.M. Man (2009). Business Activities and Social Enterprise: Towards a New Paradigm. The Canadian Bar Association 2009 National Law Symposium. Carters Professional Corporation.



# International Year of Co-operatives 2012

CO-OPERATIVE ENTERPRISES BUILD A BETTER WORLD

LES COOPÉRATIVES, DES ENTREPRISES POUR UN MONDE MEILLEUR

Promotional resources for the International Year of Co-operatives are being made available to help you plan your 2012 events.

- The International Co-operative Alliance recently released the 2012 logo, right. It is available at <http://social.un.org/coopsyear/iyclogo.shtml>.
- Visit [www.2012.coop](http://www.2012.coop) to view a video of Director-General, Charles Gould outlining the ICA campaign for the International Year of Co-operatives.
- Saskatchewan Co-operative Association has produced a 2012 promotional presentation. It is now available upon request from our office.
- Check out the second issue of CCAs IYC newsletter, 2012 Matters, at <http://myemail.constantcontact.com/2012-MATTERS--CCA-IYC-newsletter--March-2011.html?soid=1102316589700&aid=cCKUgEwvIO4>



## CIDA Approves Partnership

Over a four year period, CIDA 's Partnerships with Canadians Branch will contribute nearly \$20 million to CCA's efforts to fight poverty in Asia, Africa and the Americas by supporting co-operatives, credit unions, and other community-owned organizations. For its part, CCA will be expected to contribute more than \$6 million in cash and in-kind. Funds will be raised through the Co-operative Development Foundation, a charitable organization that raises money for poverty reduction through co-operative development.

The new agreement, which came into effect April 1, will allow CCA to continue to engage a broad spectrum of volunteers to share their skills and experience with partners around the world. Last year approximately 70 Canadians did international assignments ranging from a few weeks to several months. These volunteers are a valuable asset in communicating the value of Canada's international development efforts.

"We are delighted that the Canadian International Development Agency and the Government of Canada have chosen to support this initiative," said Carol Hunter, CCA's executive director. "We are very proud of the work that we have done internationally to help people work their way out of poverty, and we see this agreement as validation of that work."

Source: CCA Communiqué, March 29, 2011

## Birthday Greetings

Distinguished Saskatchewan co-operator Harold Chapman is celebrating his 94th birthday this month!

Harold has been active in the co-op sector for many years. He was the first principal of the Co-operative Institute (later the Co-operative College) from 1955 to 1979. After his retirement, he became the member relations director at Federated Co-operatives Limited. Harold remains active in the co-op community, participating in many functions, such as the Co-operative Network of Saskatoon luncheons and the recent Saskatchewan Community Economic Development and Co-operatives Conference.

Congratulations, Harold!

## Conference a Success!

Thank you to everyone who attended the Saskatchewan Community Economic Development and Co-operatives Conference on April 8th in Saskatoon. We have received positive feedback from the event, with strong interest in looking at some next steps and future actions that can be taken from the learning and discussions at the event. Highlights from the workshops and facilitated discussions can be found on our website.



Thanks to all our sponsors for making it such a success.

*Photo: John Restakis began the day with his keynote address, The Crisis of Community*

