

1 **AMENDMENTS RELATED TO FINANCIAL**
2 **INSTITUTIONS**

3 2003 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Jeff Alexander**

6 **This act modifies the Financial Institutions title to address provisions related to credit**
7 **unions and mutual associations and to make technical changes. The act addresses when**
8 **certain taxable credit unions are prohibited from establishing new branches. This act**
9 **addresses voting requirements for mutual associations. This act modifies definitions.**
10 **The act addresses loan limitations. The act addresses credit union service organizations.**
11 **The act addresses mergers involving credit unions. The act addresses operations of**
12 **out-of-state credit unions. The act repeals certain provisions related to fields of**
13 **membership and grandfathering and modifies other provisions related to fields of**
14 **membership. This act provides for credit unions becoming taxable credit unions. This**
15 **act creates a program under which a taxable credit union may elect to pay a competitive**
16 **equity assessment. The act requires the commissioner to consider the community**
17 **reinvestment record of taxable credit unions pursuant to certain guidelines. This act**
18 **requires taxable credit unions to disclose certain information. This act modifies**
19 **corporate franchise and taxable income tax provisions to address the taxation of credit**
20 **unions.**

21 This act affects sections of Utah Code Annotated 1953 as follows:

22 AMENDS:

23 **7-1-403**, as last amended by Chapter 1, Laws of Utah 1986, Fourth Special Session

24 **7-1-708**, as last amended by Chapter 49, Laws of Utah 1995

25 **7-7-10**, as last amended by Chapter 244, Laws of Utah 1985

26 **7-9-3**, as last amended by Chapter 329, Laws of Utah 1999

27 **7-9-5**, as last amended by Chapter 116, Laws of Utah 2001



- 28 **7-9-6**, as last amended by Chapter 329, Laws of Utah 1999
- 29 **7-9-11**, as last amended by Chapter 329, Laws of Utah 1999
- 30 **7-9-12**, as last amended by Chapter 329, Laws of Utah 1999
- 31 **7-9-16**, as last amended by Chapter 329, Laws of Utah 1999
- 32 **7-9-20**, as last amended by Chapter 329, Laws of Utah 1999
- 33 **7-9-24**, as last amended by Chapter 182, Laws of Utah 1996
- 34 **7-9-26**, as last amended by Chapter 182, Laws of Utah 1996
- 35 **7-9-34**, as last amended by Chapter 178, Laws of Utah 1994
- 36 **7-9-37**, as last amended by Chapter 329, Laws of Utah 1999
- 37 **7-9-39**, as last amended by Chapter 329, Laws of Utah 1999
- 38 **7-9-39.5**, as enacted by Chapter 329, Laws of Utah 1999
- 39 **7-9-46**, as last amended by Chapter 49, Laws of Utah 1995
- 40 **7-9-51**, as enacted by Chapter 329, Laws of Utah 1999
- 41 **59-7-102**, as last amended by Chapters 76 and 286, Laws of Utah 2002

42 ENACTS:

- 43 **7-9-55**, Utah Code Annotated 1953
- 44 **7-9-56**, Utah Code Annotated 1953
- 45 **7-9-57**, Utah Code Annotated 1953

46 REPEALS:

- 47 **7-9-52**, as enacted by Chapter 329, Laws of Utah 1999
- 48 **7-9-53**, as enacted by Chapter 329, Laws of Utah 1999
- 49 **7-9-54**, as enacted by Chapter 329, Laws of Utah 1999

50 *Be it enacted by the Legislature of the state of Utah:*

51 Section 1. Section **7-1-403** is amended to read:

52 **7-1-403. Funds and balances paid to treasurer -- Separate account -- Use of**
53 **funds.**

54 ~~[Unexpended]~~ (1) Except as provided in Section 7-9-56, unexpended balances and all
55 funds accruing to the department shall be:

- 56 (a) deposited by the commissioner with the state treasurer monthly; and
- 57 (b) constitute a separate account within the General Fund.

58 (2) No part of the separate account described in Subsection (1) may revert to the

59 General Fund except an amount as required by law to be transferred for general government
60 and administrative costs.

61 (3) With the approval of the director of the Division of Finance, the commissioner may
62 withdraw sums from the separate account to:

63 (a) pay costs and expenses of administration incurred in proceedings under Title 7,
64 Chapters 1, 2, and 19[;]; or [tø]

65 (b) use in connection with the rehabilitation, reorganization, or liquidation of an
66 institution under the jurisdiction of the department.

67 Section 2. Section **7-1-708** is amended to read:

68 **7-1-708. Establishing branches and relocating offices -- Application and**
69 **procedure for approval -- Limitations on taxable credit unions.**

70 (1) A Utah depository institution or an out-of-state depository institution with a Utah
71 branch or seeking to acquire a branch in this state may establish one or more branches, or
72 relocate a branch office or its main office in this state, subject to the prior approval of the
73 commissioner.

74 (2) [~~Approval~~] The approval of the commissioner required by Subsection (1) may be
75 obtained by:

76 (a) filing an application with the department in a form the commissioner prescribes;
77 and

78 (b) supplementing the application with information the commissioner considers
79 material to determining whether to approve the application.

80 (3) (a) The commissioner shall approve or disapprove [~~the~~] an application within 30
81 days after accepting [~~it~~] the application as complete.

82 (b) If the commissioner does not approve or disapprove an application within [~~this~~] the
83 time[;it] stated in Subsection (3)(a), the application is considered approved.

84 (4) (a) The commissioner shall cause a supervisor to make an investigation of the facts
85 relevant or material to [~~the~~] an application.

86 (b) The supervisor that conducts the investigation required by Subsection (4)(a) shall
87 submit written findings and recommendations to the commissioner.

88 (5) [~~The~~] An application, any supplemental information furnished by the applicant, and
89 the findings and recommendations of the supervisor may be inspected by any person at the

90 department's office, except those portions of the application the commissioner declares to be
91 confidential to prevent a clearly unwarranted invasion of privacy, pursuant to the applicant's
92 request.

93 (6) To protect the safety and soundness of the applicant, the commissioner may:

94 (a) approve an application subject to the terms and conditions the commissioner
95 considers necessary; or

96 (b) disapprove an application.

97 (7) (a) The commissioner's approval of any application under this section is considered
98 revoked, unless the office is opened and operating within one year of the date approved by the
99 commissioner for commencement of operations.

100 (b) The commissioner may~~[-, upon written application made before the expiration of~~
101 ~~that period and for good cause shown,]~~ extend the date for activation for up to two additional
102 periods of not more than six months each[-];

103 (i) upon written application made before the expiration of a period; and

104 (ii) for good cause shown.

105 (8) An out-of-state depository institution with a branch in Utah is not subject to the
106 requirements of this section if the office or branch to be established or relocated is located
107 outside of Utah.

108 (9) (a) Notwithstanding the other provisions of this section, an application of a taxable
109 credit union to establish a branch that is to be located outside of the county in which the taxable
110 credit union has the greatest number of branches may not be approved unless prior to the
111 approval of the application the taxable credit union files a notice of election to pay a
112 competitive equity assessment as provided in Section 7-9-56.

113 (b) For purposes of this Subsection (9), a taxable credit union is considered to be
114 establishing a branch if the taxable credit union establishes:

115 (i) a loan production office; or

116 (ii) any other office or facility that:

117 (A) is owned or operated by:

118 (I) the taxable credit union; or

119 (II) a credit union service organization in which the taxable credit union holds an
120 ownership interest;

121 (B) is open to the public; and

122 (C) provides any product or service of the taxable credit union to a member of the
123 taxable credit union.

124 Section 3. Section **7-7-10** is amended to read:

125 **7-7-10. Meetings of mutual association members -- Voting -- Notice.**

126 (1) (a) An annual meeting of the members of each mutual association shall be held at
127 the time and place fixed in the bylaws of the association.

128 (b) Special meetings may be called as provided in the bylaws.

129 (2) (a) The members entitled to vote at any meeting of the members shall be those who
130 are members of record at the end of the calendar month next preceding the date of the meeting
131 of members, except those who have ceased to be members.

132 (b) The number of votes [~~which members shall be~~] that a member is entitled to cast
133 shall be determined in accordance with the books on the date determinative of entitlement to
134 vote.

135 (3) In the determination of all questions requiring action by the members, each member
136 shall be entitled to cast:

137 (a) one vote [~~; plus an additional vote for each \$100 or fraction thereof of the~~
138 ~~withdrawal value of savings accounts, if any, held by the member. No member, however, may~~
139 ~~cast more than 50 votes.]; and~~

140 (b) any additional vote that the member may cast under the bylaws of the association.

141 (4) [At] (a) (i) Subject to Subsection (4)(a)(ii), at any meeting of the members, voting
142 may be:

143 (A) in person; or

144 (B) by proxy [~~; but no~~].

145 (ii) Notwithstanding Subsection (4)(a)(i), a proxy [shall be] is not eligible to be voted
146 at any meeting unless the proxy has been filed with the secretary of the association, for
147 verification, at least five days before the date of the meeting.

148 (b) Every proxy shall:

149 (i) be in writing; and

150 (ii) be signed by the member or [his] the member's duly authorized attorney in fact
151 [~~and, when filed with the secretary, shall, if so specified in the proxy.];~~

- 152 (iii) continue in force from year to year;
- 153 (A) when filed with the secretary;
- 154 (B) if so specified in the proxy; and
- 155 (C) until;
- 156 (I) revoked by a writing duly delivered to the secretary; or [~~until~~]
- 157 (II) superseded by subsequent proxies.

158 (5) (a) At an annual meeting or at any special meeting of the members, any number of
 159 members present in person or by proxy eligible to be voted constitutes a quorum.

160 (b) A majority of all votes cast at any meeting of members shall determine any
 161 question unless this chapter specifically provides otherwise.

162 (6) (a) No notice of annual meetings of members need be given to members. [~~Notice~~]

163 (b) Subject to Subsection (6)(c), notice of each special meeting of members shall:

164 (i) state:

165 (A) the purpose for which the meeting is called[;];

166 (B) the place of the meeting[;]; and

167 (C) the time when [~~it~~] the meeting shall convene[;]; and [~~shall~~]

168 (ii) (A) be published:

169 (I) once a week for two consecutive calendar weeks (in each instance, on any day of the
 170 week) before the date on which the special meeting shall convene[;]; and

171 (II) in a newspaper of general circulation in the county in which the home office of the
 172 association is located[. ~~In addition to publication of the notice, a copy of the notice shall~~; and

173 (B) be posted in a conspicuous place in all offices of the association during the 30 days
 174 immediately preceding the date on which the special meeting convenes[; ~~provided, however,~~
 175 ~~that~~].

176 (c) No notice need be given of a meeting if all the members entitled to vote, vote in
 177 favor of an action at [~~any~~] the meeting of the members[. ~~no notice need be given~~].

178 Section 4. Section 7-9-3 is amended to read:

179 **7-9-3. Definitions.**

180 As used in this chapter:

181 (1) (a) "Association" means a group of persons that:

182 [~~(a) has a similar:~~]

- 183 ~~[(i) interest;]~~
184 (i) constitute the members of a formal association organized for:
185 (A) an identifiable interest;
186 (B) an identifiable purpose;
187 ~~[(ii) (C) a specific profession; or~~
188 ~~[(iii) (D) a specific occupation; or~~
189 ~~[(iv) formal association with an identifiable purpose; or]~~
190 ~~[(b) is] (ii) are employed by a common employer.~~
191 (b) "Association" does not include a group of persons that is:
192 (i) identified or created primarily on the basis of a relationship between any person
193 and:
194 (A) a consumer;
195 (B) a customer; or
196 (C) a client; or
197 (ii) created primarily for the purpose of expanding the membership in a credit union.
198 (2) "Capital and surplus" means:
199 (a) shares;
200 (b) deposits;
201 (c) reserves; and
202 (d) undivided earnings.
203 (3) "Corporate credit union" means any credit union organized pursuant to any state or
204 federal act for the purpose of serving other credit unions.
205 (4) "Credit union service organization" means a service organization that provides any
206 of the following to the credit unions holding an ownership interest in that service organization:
207 (a) data processing services;
208 (b) promotion marketing;
209 (c) general management support services;
210 (d) access to accounting systems;
211 (e) nonprofit debt counseling services;
212 (f) management training and education to credit union personnel;
213 (g) services related to processing, originating, selling, or servicing loans;

- 214 (h) credit card services;
- 215 (i) automated teller machine services;
- 216 (j) insurance agency services;
- 217 (k) discount brokerage services;
- 218 (l) shared branch facilities; or
- 219 (m) other services that are commonly associated with the routine operations of the
- 220 credit unions holding an ownership interest in the service organization.

221 [~~(4)~~] (5) "Deposits" means that portion of the capital paid into the credit union by
222 members on which a specified rate of interest will be paid.

223 (6) "~~[limited field]~~ Field of membership" means persons designated as eligible for
224 credit union membership in accordance with:

225 (a) Section 7-9-51 [~~or 7-9-53~~]; and

226 (b) the bylaws of the credit union.

227 [~~(5)~~] (7) "Immediate family" means parents, spouse, surviving spouse, children, and
228 siblings of the member.

229 [~~(7)~~] (8) (a) "Member-business loan" means any loan, line of credit, or letter of credit,
230 the proceeds of which will be used for:

231 (i) a commercial purpose;

232 (ii) other business investment property or venture purpose; or

233 (iii) an agricultural purpose.

234 (b) "Member-business loan" does not include an extension of credit:

235 (i) that is fully secured by a lien on a one- to four- family dwelling that is the primary
236 residence of a member;

237 (ii) that is fully secured by:

238 (A) shares or deposits in the credit union making the extension of credit; or

239 (B) deposits in other financial institutions;

240 (iii) the repayment of which is fully insured or fully guaranteed by, or where there is an
241 advance commitment to purchase in full by, an agency of:

242 (A) the federal government;

243 (B) a state; or

244 (C) a political subdivision of a state; or

245 (iv) that is granted by a corporate credit union to another credit union.

246 [~~(8) "Service center" means a single location at which multiple credit unions can~~
247 ~~provide products or services directly to their members.]~~

248 (9) "Share drafts," "deposit drafts," and "transaction accounts" mean accounts from
249 which owners are permitted to make withdrawals by negotiable or transferable instruments or
250 other orders for the purpose of making transfers to other persons or to the owner.

251 (10) "Shares" means that portion of the capital paid into the credit union by members
252 on which dividends may be paid.

253 (11) "Taxable credit union" means a credit union that is a taxable credit union under
254 Section 7-9-55.

255 Section 5. Section **7-9-5** is amended to read:

256 **7-9-5. Powers of credit unions.**

257 In addition to the powers specified elsewhere in this chapter and subject to any
258 limitations specified elsewhere in this chapter, a credit union may:

259 (1) make contracts;

260 (2) sue and be sued;

261 (3) acquire, lease, or hold fixed assets, including real property, furniture, fixtures, and
262 equipment as the directors consider necessary or incidental to the operation and business of the
263 credit union, but the value of the real property may not exceed 7% of credit union assets, unless
264 approved by the commissioner;

265 (4) pledge, hypothecate, sell, or otherwise dispose of real or personal property, either in
266 whole or in part, necessary or incidental to its operation;

267 (5) incur and pay necessary and incidental operating expenses;

268 (6) require an entrance or membership fee;

269 (7) receive the funds of its members in payment for:

270 (a) shares;

271 (b) share certificates;

272 (c) deposits;

273 (d) deposit certificates;

274 (e) share drafts;

275 (f) NOW accounts; and

276 (g) other instruments;

277 (8) allow withdrawal of shares and deposits, as requested by a member orally to a third
278 party with prior authorization in writing, including, but not limited to, drafts drawn on the
279 credit union for payment to the member or any third party, in accordance with the procedures
280 established by the board of directors, including, but not limited to, drafts, third-party
281 instruments, and other transaction instruments, as provided in the bylaws;

282 (9) charge fees for its services;

283 (10) extend credit to its members, at rates established in accordance with the bylaws or
284 by the board of directors;

285 (11) extend credit secured by real estate;

286 (12) (a) subject to Subsection (12)(b), make co-lending arrangements, including loan
287 participation arrangements [with other credit unions, credit union organizations, or financial
288 organizations if], in accordance with written policies of the board of directors[;] with one or
289 more:

290 (i) other credit unions;

291 (ii) credit union service organizations; or

292 (iii) other financial organizations; and

293 (b) make co-lending arrangements, including loan participation arrangements, in
294 accordance with Subsection (12)(a) subject to the following:

295 (i) the credit union or credit union service organization that originates a loan for which
296 [participation] co-lending arrangements are made [retains] shall retain an interest of at least
297 10% of the loan;

298 (ii) on or after May 5, 2003, the originating credit union or credit union service
299 organization may sell to a credit union an interest in a co-lending arrangement that involves a
300 member-business loan only if the person receiving the member-business loan is a member of
301 the credit union to which the interest is sold; and

302 (iii) on or after May 5, 2003, the originating credit union or credit union service
303 organization may sell to a credit union service organization an interest in a co-lending
304 arrangement that involves a member-business loan only if the person receiving the
305 member-business loan is a member of a credit union that holds an interest in the credit union
306 service organization to which the interest is sold;

307 (13) sell and pledge eligible obligations in accordance with written policies of the
308 board of directors;

309 (14) engage in activities and programs of the federal government or this state or any
310 agency or political subdivision of the state, when approved by the board of directors and not
311 inconsistent with this chapter;

312 (15) act as fiscal agent for and receive payments on shares and deposits from the
313 federal government, this state, or its agencies or political subdivisions not inconsistent with the
314 laws of this state;

315 (16) borrow money and issue evidence of indebtedness for a loan or loans for
316 temporary purposes in the usual course of its operations;

317 (17) discount and sell notes and obligations;

318 (18) sell all or any portion of its assets to another credit union or purchase all or any
319 portion of the assets of another credit union;

320 (19) invest funds as provided in this title and in its bylaws;

321 (20) maintain deposits in insured depository institutions as provided in this title and in
322 its bylaws;

323 (21) (a) hold membership in corporate credit unions organized under this chapter or
324 under other state or federal statutes; and

325 (b) hold membership or equity interest in associations and organizations of credit
326 unions, including credit union service organizations;

327 (22) declare and pay dividends on shares, contract for and pay interest on deposits, and
328 pay refunds of interest on loans as provided in this title and in its bylaws;

329 (23) collect, receive, and disburse funds in connection with the sale of negotiable or
330 nonnegotiable instruments and for other purposes that provide benefits or convenience to its
331 members, as provided in this title and in its bylaws;

332 (24) make donations for the members' welfare or for civic, charitable, scientific, or
333 educational purposes as authorized by the board of directors or provided in its bylaws;

334 (25) act as trustee of funds permitted by federal law to be deposited in a credit union as
335 a deferred compensation or tax deferred device, including, but not limited to, individual
336 retirement accounts as defined by Section 408, Internal Revenue Code;

337 (26) purchase reasonable accident and health insurance, including accidental death

338 benefits, for directors and committee members through insurance companies licensed in this
339 state as provided in its bylaws;

340 (27) provide reasonable protection through insurance or other means to protect board
341 members, committee members, and employees from liability arising out of consumer
342 legislation such as, but not limited to, truth-in-lending and equal credit laws and as provided in
343 its bylaws;

344 (28) reimburse directors and committee members for reasonable and necessary
345 expenses incurred in the performance of their duties;

346 (29) participate in systems which allow the transfer, withdrawal, or deposit of funds of
347 credit unions or credit union members by automated or electronic means and hold membership
348 in entities established to promote and effectuate these systems, if:

349 (a) the participation is not inconsistent with the law and rules of the department; and

350 (b) any credit union participating in any system notifies the department as provided by
351 law;

352 (30) issue credit cards and debit cards to allow members to obtain access to their
353 shares, deposits, and extensions of credit;

354 (31) provide any act necessary to obtain and maintain membership in the credit union;

355 (32) exercise incidental powers necessary to carry out the purpose for which a credit
356 union is organized;

357 (33) undertake other activities relating to its purpose as its bylaws may provide;

358 (34) engage in other activities, exercise other powers, and enjoy other rights,
359 privileges, benefits, and immunities authorized by rules of the commissioner;

360 (35) act as trustee, custodian, or administrator for Keogh plans, individual retirement
361 accounts, credit union employee pension plans, and other employee benefit programs; and

362 (36) advertise to the general public the products and services offered by the credit
363 union if the advertisement prominently discloses that to use the products or services of the
364 credit union a person is required to:

365 (a) be eligible for membership in the credit union; and

366 (b) become a member of the credit union.

367 Section 6. Section **7-9-6** is amended to read:

368 **7-9-6. Formation of corporation to conduct credit union -- Approval of**

369 **commissioner.**

370 (1) (a) Ten or more incorporators belonging to the same group of 200 persons or more
371 having a [limited] field of membership may, with the approval of the commissioner, form a
372 corporation to conduct a credit union under:

373 (i) this chapter;

374 (ii) Title 16, Chapter 10a, Utah Revised Business Corporation Act; and

375 (iii) Chapter 1, General Provisions.

376 (b) This chapter takes precedence over conflicting provisions of other state law

377 governing:

378 (i) the formation of the corporation; and

379 (ii) the duties and obligations of:

380 (A) the corporation;

381 (B) the corporation's officers; and

382 (C) the corporation's shareholders or members.

383 (2) The commissioner may grant the approval referenced in Subsection (1) if the
384 commissioner finds that:

385 (a) the proposed [limited] field of membership is favorable to the success of the credit
386 union;

387 (b) the standing of the proposed membership will give assurance that its affairs will be
388 administered in accordance with this chapter;

389 (c) the proposed credit union has a reasonable promise of financial viability; and

390 (d) formation of the credit union would not result in a substantial adverse financial
391 impact on an existing credit union having the same or substantially the same [limited] field of
392 membership.

393 (3) (a) Except as provided in Subsection (3)(b) and in addition to the requirements of
394 Subsections (1) and (2), Section 7-1-704 governs the formation of a credit union.

395 (b) Notwithstanding Subsection (3)(a):

396 (i) if the proposed credit union has a [limited] field of membership that does not base
397 eligibility on residence in a county, the persons seeking formation of the proposed credit union
398 are not required to provide the notice required under Subsection 7-1-704(3); and

399 (ii) a credit union may not be required to obtain federal insurance if the credit union

400 complies with Subsection 7-9-45(2).

401 Section 7. Section **7-9-11** is amended to read:

402 **7-9-11. Bylaws and amendments to be approved.**

403 (1) A credit union may not receive payments on shares, deposits, or certificates, or
404 make any loans or other transactions, until its bylaws have been approved in writing by the
405 commissioner.

406 (2) An amendment to a credit union's bylaws does not become operative until the
407 amendment to the bylaws is approved by the commissioner.

408 ~~[(3)(a) If the amendment to the bylaws of a credit union expands the limited field of~~
409 ~~membership of a credit union as described in Subsection 7-9-52(1), the commissioner's~~
410 ~~approval of the amendment is subject to Section 7-9-52.]~~

411 ~~[(b) If the amendment to the bylaws of a credit union terminates the grandfathering of a~~
412 ~~limited field of membership under Section 7-9-54, the commissioner's approval of the~~
413 ~~amendment is subject to Section 7-9-54.]~~

414 ~~[(c)]~~ (3) If the bylaws or an amendment to the bylaws of a credit union adds an
415 association to the ~~[limited]~~ field of membership of the credit union, the commissioner may
416 require that the credit union provide written confirmation from the association that the
417 association has agreed to be served by the credit union.

418 Section 8. Section **7-9-12** is amended to read:

419 **7-9-12. Contents of bylaws.**

420 The bylaws of a credit union shall specify at least the following:

- 421 (1) the name of the credit union;
- 422 (2) the purpose for which ~~[it]~~ the credit union was formed;
- 423 (3) a ~~[limited]~~ field of membership of the credit union that complies with Section
424 7-9-51 ~~[or 7-9-53]~~;
- 425 (4) the number of directors and procedures for their election;
- 426 (5) the term of directors;
- 427 (6) whether a credit manager, credit committee, or combination of both shall be
428 responsible for credit functions of the credit union;
- 429 (7) the duties of the officers;
- 430 (8) the time of year of the annual meeting of members;

- 431 (9) the manner in which members shall be notified of meetings;
432 (10) the number of members which shall constitute a quorum at meetings;
433 (11) the manner of amending;
434 (12) the manner in which officers may act as surety; and
435 (13) such other matters, rules, and regulations as the board of directors consider
436 necessary.

437 Section 9. Section **7-9-16** is amended to read:

438 **7-9-16. Members -- Eligibility -- Liability -- Grounds for closing account -- Denial**
439 **of membership.**

440 (1) A person within the [~~limited~~] field of membership of a credit union may be admitted
441 to membership, upon:

- 442 (a) payment of any required entrance or membership fee;
443 (b) payment for one or more shares; and
444 (c) compliance with this chapter and the bylaws of the credit union.

445 (2) A member who is eligible for membership in a credit union at the time the member
446 is admitted as a member but who is no longer in the [~~limited~~] field of membership of the credit
447 union may retain membership in the credit union unless otherwise provided in the bylaws of
448 the credit union.

449 (3) A member of the credit union may not be held personally or individually liable for
450 payment of the credit union's debts.

451 (4) The credit union may close the account of any member whose actions have resulted
452 in any financial loss to the credit union.

453 (5) Denial of membership is not considered a denial of credit.

454 Section 10. Section **7-9-20** is amended to read:

455 **7-9-20. Board of directors -- Powers and duties -- Loan limitations.**

456 (1) At annual meetings the members shall elect from their number a board of directors
457 consisting of an odd number of not less than five members.

458 (2) The bylaws may provide balloting by:

- 459 (a) mail;
460 (b) ballot box; or
461 (c) both mail and ballot box.

462 (3) Voting may not be by proxy.

463 (4) Members of the board of directors shall hold office for the terms prescribed in the
464 bylaws.

465 (5) The board of directors shall meet at least monthly.

466 (6) The board of directors shall have the general management of the affairs, funds, and
467 records of the credit union. In particular, the board of directors shall:

468 (a) act upon applications for membership;

469 (b) act upon expulsion of members;

470 (c) fix the amount of surety bond required of each officer or employee having custody
471 of funds;

472 (d) determine the rate of interest or dividend allowed on shares and deposits;

473 (e) determine the terms and conditions of credit granted to members;

474 (f) lend money, borrow money, and pledge security for any borrowing;

475 (g) fill vacancies in the board of directors or in the credit committee, if applicable, or in
476 the supervisory committee until the election and qualification of officers to fill those vacancies;

477 (h) appoint up to two alternate directors as provided in the bylaws;

478 (i) fix the amount of the entrance fee;

479 (j) declare dividends and their amount;

480 (k) make recommendations to meetings of the members relative to amendments to the
481 articles of incorporation, and transact any other business of the credit union; and

482 (l) fix the maximum amount of credit, secured and unsecured, that may be extended to
483 any one member, up to the limitations described in ~~[Subsection]~~ Subsections (7) and (8).

484 (7) (a) The credit that may be outstanding or available by a credit union at any one time
485 is subject to the limitations described in ~~[Subsections]~~ this Subsection (7)~~[(b) and (c)]~~:

486 (i) except as provided in Subsection ~~[(7)(d) through (7)(f)]~~ (8); and

487 (ii) except that the board of directors may:

488 (A) set a lower limit than the limit in Subsection (7)(b)(i) or (7)(b)(ii)(B); or

489 (B) require that a person described in Subsection (7)(b)(ii)(A) be a member of the
490 credit union for more than six months before the date a member-business loan is extended.

491 (b) (i) A credit union may not extend credit that is not a member-business loan to a
492 member if as a result of that extension of credit the total credit that is not a member-business

493 loan that the credit union has issued to that member exceeds at any one time:

494 (A) for a credit union with less than \$2,000,000 in capital and surplus, the greater of:

495 (I) \$1,000; or

496 (II) 15% of capital and surplus up to a total of \$25,000; or

497 (B) for a credit union with \$2,000,000 or more in capital and surplus, the greater of:

498 (I) \$25,000;

499 (II) 1% of capital and surplus; or

500 (III) 25% of the regular reserve.

501 (ii) Beginning March 24, 1999, a credit union may not extend a member-business loan
502 to a person:

503 (A) (I) if the person is a business entity, unless at least one individual having a
504 controlling interest in that business entity has been a member of the credit union for at least six
505 months prior to the date of the extension of the member-business loan; or

506 (II) if the person is an individual, unless the individual is a member of the credit union
507 for at least six months prior to the date of the extension of the member-business loan; or

508 (B) if as a result of the extension of the member-business loan, the total amount
509 outstanding for all member-business loans that the credit union has extended to that person at
510 any one time exceeds the lesser of:

511 (I) 10% of the credit union's capital and surplus; or

512 (II) \$250,000.

513 (c) (i) Beginning March 24, 1999, a credit union may not extend a member-business
514 loan if as a result of that member-business loan the credit union's aggregate member-business
515 loan amount calculated under Subsection (7)(c)(ii) at any one time exceeds 1.25 times the sum
516 of:

517 (A) the actual undivided earnings; and

518 (B) the actual reserves other than the regular reserves.

519 (ii) For purposes of Subsection (7)(c)(i), the aggregate member-business loan amount
520 of a credit union equals:

521 (A) the sum of the total amount financed under all member-business loans outstanding
522 at the credit union; minus

523 (B) the amount of the member-business loans described in Subsection (7)(c)(ii)(A):

524 (I) that is secured by share or deposit savings in the credit union; or

525 (II) for which the repayment is insured or guaranteed by, or there is an advance
526 commitment to purchase by an agency of the federal government, a state, or a political
527 subdivision of the state.

528 (d) Except as provided in Subsection (8)(d), beginning 90 days after the day on which a
529 credit union becomes a taxable credit union under Section 7-9-55, a taxable credit union may
530 not:

531 (i) extend a member-business loan;

532 (ii) renew a member-business loan that is extended before the day on which the taxable
533 credit union is prohibited under this Subsection (7)(d) from extending a member-business loan;
534 or

535 (iii) extend the maturity date or increase the amount of a member-business loan that is
536 extended before the day on which the taxable credit union is prohibited under this Subsection
537 (7)(d) from extending a member-business loan.

538 (e) (i) A credit union service organization may extend credit to a member of a credit
539 union holding an ownership interest in the credit union service organization only if the credit
540 union in which the person is a member is not prohibited from extending that credit to that
541 member under this Subsection (7) and Subsection (8).

542 (ii) For purposes of determining whether under this Subsection (7) a credit union may
543 extend credit, the total amount outstanding of credit extended by a credit union service
544 organization to a person shall be treated as if the credit was extended by the credit union in
545 which the person is a member.

546 (iii) If a person seeking an extension of credit from a credit union service organization
547 is a member of more than one credit union holding an ownership interest in the credit union,
548 the person shall specify the credit union to which the extension of credit is attributed under
549 Subsection (7)(e)(ii).

550 (iv) This Subsection (7)(e) effects only an extension of credit:

551 (A) that is extended on or after May 5, 2003; and

552 (B) by:

553 (I) a credit union service organization; or

554 (II) a credit union organized under this chapter.

555 ~~[(d)]~~ (8)(a) A credit union may extend credit that is not a member-business loan in an
556 amount that exceeds the limits described in Subsection (7)(b)(i) only if the excess portion is
557 fully secured by share or deposit savings in the credit union.

558 ~~[(e)]~~ (b) (i) Except as provided in Subsection ~~[(7)(e)]~~ (8)(b)(ii), a credit union may
559 extend a member-business loan in an amount that exceeds the limits described in Subsection
560 (7)(b)(ii)(B) only if:

561 (A) that portion that is in excess of the limits described in Subsection (7)(b)(ii)(B) is
562 secured by share or deposit savings in the credit union; or

563 (B) the repayment of that portion that is in excess of the limits described in Subsection
564 (7)(b)(ii)(B) is insured or guaranteed by, or there is an advance commitment to purchase that
565 excess portion by, an agency of:

566 (I) the federal government;

567 (II) a state; or

568 (III) a political subdivision of the state.

569 (ii) Notwithstanding Subsection ~~[(7)(e)]~~ (8)(b)(i), a credit union may not extend a
570 member-business loan if the total amount financed by the credit union exceeds \$1,000,000.

571 ~~[(f)]~~ (c) For a member-business loan that is extended through a loan participation
572 arrangement in accordance with Subsection 7-9-5(12):

573 (i) in applying the limitation of Subsection (7)~~[(e)]~~ (d), each credit union participating
574 in the member-business loan may extend up to \$1,000,000 of the amount financed; and

575 (ii) the requirement of Subsection (7)(b)(ii)(A) applies to membership in any credit
576 union that participates in the loan participation arrangement for the member-business loan.

577 (d) Notwithstanding Subsection (7)(d), a taxable credit union may extend a
578 member-business loan prohibited under Subsection (7)(d) on or after the day on which the
579 taxable credit union files a notice of election to pay a competitive equity assessment in
580 accordance with Section 7-9-56.

581 ~~[(8)]~~ (9) As provided in this chapter or in the credit union bylaws, the board of
582 directors:

583 (a) within 30 days following the annual meeting of the members, shall appoint a
584 supervisory committee consisting of not less than three members;

585 (b) within 30 days after the annual meeting of the members, shall appoint:

- 586 (i) a credit committee consisting of not less than three members; or
587 (ii) a credit manager in lieu of a credit committee;
588 (c) shall appoint a president to serve as general manager;
589 (d) shall have an executive committee;
590 (e) may appoint an investment officer;
591 (f) shall elect a secretary;
592 (g) may appoint other officers and committees that it considers necessary;
593 (h) shall establish written credit policies, loan security requirements, loan investment,
594 personnel, and collection policies; and
595 (i) on or before January 31 of each year, shall provide for:
596 (i) share insurance for the shares and deposits of the credit union from the National
597 Credit Union Administration or successor federal agency; or
598 (ii) security expressly pledged for the payment of the shares and deposits in accordance
599 with Section 7-9-45.
- 600 [~~9~~] (10) A person may not be a member of more than one committee except as
601 otherwise provided in this chapter or in the credit union bylaws.
- 602 [~~10~~] (11) The president and secretary may not be the same person.
- 603 Section 11. Section **7-9-24** is amended to read:
- 604 **7-9-24. Compensation of directors, committee members, and president -- Expense**
605 **reimbursement.**
- 606 (1) A member of the board of directors, credit committee, or supervisory committee
607 may not receive any compensation for services [~~as such~~], except that the reimbursement of
608 reasonable expenses incurred in the execution of the duties of the position may not be
609 considered compensation.
- 610 (2) Any member of a credit union who incurs any expenses or performs any service
611 authorized by the board of directors may be compensated or reimbursed for the expenses or
612 services in an amount approved by the board of directors.
- 613 (3) The board of directors shall determine the compensation for a president appointed
614 as general manager.
- 615 (4) (a) Beginning 90 days after the day on which a credit union becomes a taxable
616 credit union under Section 7-9-55, the taxable credit union shall inform any member of the

617 credit union at the request of that member of:

618 (i) the expenses compensated or reimbursed by the taxable credit union in accordance
619 with Subsection (1) or (2); and

620 (ii) the amount of compensation, expenditures, or reimbursed expenses paid by the
621 taxable credit union to the five highest compensated officers or executives of the taxable credit
622 union.

623 (b) This Subsection (4) may not be considered to limit the rights of members provided:

624 (i) in any other provision of this chapter; or

625 (ii) under Title 16, Chapter 10a, Utah Revised Business Corporation Act.

626 (c) The commissioner shall make rules in accordance with Title 63, Chapter 46a, Utah
627 Administrative Rulemaking Act, to provide the requirements under this Subsection (4)

628 regarding:

629 (i) the timing of providing information;

630 (ii) the manner of providing information; and

631 (iii) the scope of information to be provided.

632 Section 12. Section **7-9-26** is amended to read:

633 **7-9-26. Loans to members -- Investment officers -- Investments.**

634 (1) ~~[The]~~ Subject to Subsections 7-9-20(7) and (8), capital and surplus of the credit
635 union shall be loaned to the members for the purposes and upon the endorsements or security
636 and the terms as the bylaws provide.

637 (2) Within 30 days after the annual meeting of the members the board of directors may
638 appoint one or more investment officers who shall have responsibilities for the credit union
639 investment portfolio based upon policy established by the board of directors and as provided in
640 this chapter or in the bylaws.

641 (3) The credit union by action of its board of directors may invest its funds as follows:

642 (a) in securities, obligations, or other instruments of, or issued by, or fully guaranteed
643 as to principal and interest by, the United States of America or any of its agencies, or in any
644 trusts established by investing directly or collectively in these instruments;

645 (b) in obligations of any state of the United States, the District of Columbia, the
646 Commonwealth of Puerto Rico, and the territories organized by Congress, or any of their
647 political subdivisions;

648 (c) in certificates of deposit or accounts issued by a federally insured state or national
649 depository institution;

650 (d) in loans to, or in shares or deposits of, other federally insured credit unions, central
651 credit unions, corporate credit unions, or a central liquidity facility established under state or
652 federal law;

653 (e) in shares, stocks, loans, or other obligations of any organization, corporation, or
654 association, if the membership or ownership of the organization, corporation, or association is
655 primarily confined or restricted to credit unions, and if the purpose for which it is organized is
656 to strengthen or advance the development of credit unions or credit union organizations; and

657 (f) in other investments that are reasonable and prudent.

658 Section 13. Section **7-9-34** is amended to read:

659 **7-9-34. Tax exemption of credit unions.**

660 (1) Except as [~~otherwise~~] provided in [~~this section~~] Subsection (2), a credit [unions]
661 union organized under this chapter [or prior law are] is exempt from [taxation] Title 59,
662 Chapter 7, Corporate Franchise and Income Taxes.

663 [~~(2) Any real property or any tangible personal property owned by the credit union~~
664 ~~shall be subject to taxation to the same extent as other similar property is taxed.]~~

665 [~~(3) For purposes of the corporate tax, credit unions shall be governed by Section~~
666 ~~59-7-102.]~~

667 [~~(4) This section does not exempt credit unions from sales or use taxes, or fees owed to~~
668 ~~the department in accordance with this title and rules of the department.]~~

669 (2) In accordance with Section 59-7-102, a taxable credit union is subject to Title 59,
670 Chapter 7, Corporate Franchise and Income Taxes, beginning on the first day of the month
671 immediately following the day on which the credit union becomes a taxable credit union under
672 Section 7-9-55.

673 Section 14. Section **7-9-37** is amended to read:

674 **7-9-37. Transfer of members of dissolved, merged, consolidated, transferred, or**
675 **acquired credit union.**

676 Members of a dissolved, merged, consolidated, transferred, or acquired credit union
677 may become members of another existing credit union with a related [~~limited~~] field of
678 membership as approved by the commissioner.

679 Section 15. Section **7-9-39** is amended to read:

680 **7-9-39. Voluntary merger.**

681 (1) Any credit union may merge with another credit union under the existing charter of
682 the other credit union when all of the following have occurred:

683 (a) the majority of the directors of each merging credit union votes in favor of the
684 merger plan;

685 (b) the commissioner approves the merger plan;

686 (c) the majority of the members of each merging credit union present at a meeting
687 called for the purpose of considering the merger plan votes to approve the merger plan, but a
688 vote of the membership of the surviving credit union is not required if its board of directors
689 determines that the merger will not have any significant effect on the organization,
690 membership, or financial condition of the credit union; and

691 (d) (i) the National Credit Union Administration or its successor federal deposit
692 insurance agency approves the merger plan and commits to insure deposits of the surviving
693 credit union; or

694 (ii) the commissioner approves the surviving credit union to operate without federal
695 deposit insurance in accordance with Section 7-9-45.

696 (2) Upon merger, the chair of the board and secretary of each credit union shall
697 execute, and file with the department, a certificate of merger setting forth:

698 (a) the time and place of the meeting of the board of directors at which the plan was
699 approved;

700 (b) the vote by which the directors approved the plan;

701 (c) a copy of the resolution or other action by which the plan was approved;

702 (d) the time and place of the meeting of the members at which the plan was approved;

703 (e) the vote by which the members approved the plan; and

704 (f) the effective date of the merger, which shall be:

705 (i) the date on which the last approval or vote required under Subsection (1) was
706 obtained; or

707 (ii) a later date specified in the merger plan.

708 (3) On the effective date of any merger:

709 (a) all property, property rights, and interests of the merged credit union shall vest in

710 the surviving credit union without deed, endorsement, or other instrument of transfer; and

711 (b) all debts, obligations, and liabilities of the merged credit union are considered to
712 have been assumed by the surviving credit union.

713 [~~(4) Except as provided in Subsection (5)(b), if the surviving credit union is chartered
714 under this chapter, the residents of a county in the limited field of membership of the merging
715 credit union may not be added to the limited field of membership of the surviving credit union,
716 except that the surviving credit union:]~~

717 [~~(a) may admit as a member any member of the merging credit union that is not in the
718 limited field of membership of the surviving credit union if the member of the merging credit
719 union was a member of that credit union at the time of merger; and]~~

720 [~~(b) may service any member-business loan of the merging credit union until the
721 member-business loan is paid in full.]~~

722 [(5)(a)] (4) This section shall be interpreted, whenever possible, to permit a credit
723 union chartered under this chapter to merge with a credit union chartered under any other law if
724 the preservation of membership interest is concerned.

725 [(b) The commissioner may under Subsection (1)(b) approve a merger plan that
726 includes the addition of the residents of a county in the limited field of membership of the
727 merging credit union to the limited field of membership of the surviving credit union if the
728 commissioner finds that:]

729 [(i) the expansion of the limited field of membership of the surviving credit union is
730 necessary for that credit union's safety and soundness; and]

731 [(ii) the expanded limited field of membership of the surviving credit union meets the
732 criteria stated in Subsection 7-9-52(3)(c).]

733 [(6) If the commissioner approves a merger plan under Subsection (5)(b) under which
734 the surviving credit union's limited field of membership after the merger will include residents
735 of more than one county, Subsections (6)(a) through (c) apply to the surviving credit union.]

736 [(a) The domicile-county of the surviving credit union is:]

737 [(i) if the credit union does not have a limited field of membership under Subsection
738 7-9-53(2)(c) or (2)(d), the county in which the credit union has located the greatest number of
739 branches as of the date the merger is effective; or]

740 [(ii) if the credit union has a limited field of membership under Subsection

741 ~~7-9-53(2)(c) or (2)(d), the county that is the domicile-county of the surviving credit union~~
742 ~~under Section 7-9-53;]~~

743 ~~[(b) Within the surviving credit union's domicile-county, the surviving credit union~~
744 ~~may establish, relocate, or otherwise change the physical location of the credit union's:]~~

745 ~~[(i) main office; or]~~

746 ~~[(ii) branch.]~~

747 ~~[(c) Within a county other than the domicile-county that is in the limited field of~~
748 ~~membership of the surviving credit union after the merger, the surviving credit union may not:]~~

749 ~~[(i) establish a main office or branch if the main office or branch was not located in the~~
750 ~~county as of the date that the merger is effective;]~~

751 ~~[(ii) participate in a service center in which it does not participate as of the date that the~~
752 ~~merger is effective; or]~~

753 ~~[(iii) relocate the surviving credit union's main office or a branch located in the county~~
754 ~~as of the date that the merger is effective unless the commissioner finds that the main office or~~
755 ~~branch is being relocated within a three-mile radius of the original location of the main office~~
756 ~~or branch.]~~

757 ~~[(d) After the merger, the surviving credit union may admit as a member:]~~

758 ~~[(i) a person in the surviving credit union's limited field of membership after the date~~
759 ~~that the merger is effective; or]~~

760 ~~[(ii) a person belonging to an association that:]~~

761 ~~[(A) is added to the limited field of membership of the credit union; and]~~

762 ~~[(B) resides in the domicile-county of the surviving credit union, as defined in Section~~
763 ~~7-9-53.]~~

764 ~~[(e) In addition to any requirement under this Subsection (6), a surviving credit union~~
765 ~~shall comply with any requirement under this title for the establishment, relocation, or change~~
766 ~~in the physical location of a main office or branch of a credit union.]~~

767 (5) Except as provided in Section 7-9-39.5, the commissioner may not approve a
768 merger plan under which the surviving credit union is a taxable credit union unless the merger
769 plan requires that the surviving credit union file a notice of election to pay a competitive equity
770 assessment:

771 (a) in accordance with Section 7-9-56; and

772 (b) on or before the day on which the merger is effective.

773 Section 16. Section **7-9-39.5** is amended to read:

774 **7-9-39.5. Supervisory merger.**

775 [~~If~~] Notwithstanding Subsection 7-9-39(5), a taxable credit union [is merged] may
776 merge with another credit union as a result of a supervisory action under Chapter 2 or 19[~~, the~~
777 ~~commissioner may permit the surviving credit union to have a limited field of membership that~~
778 ~~is larger than a limited field of membership permitted under Section 7-9-51]~~.

779 Section 17. Section **7-9-46** is amended to read:

780 **7-9-46. Out-of-state credit unions -- Authorization to do business in state --**
781 **Supervision -- Examination.**

782 (1) As used in this section "out-of-state credit union" means any credit union whose
783 home state is not Utah.

784 (2) An out-of-state credit union may maintain a branch in this state only if:

785 (a) maintaining the Utah branch is permissible under applicable law, including

786 Sections 7-1-702 and 7-1-708 in the case of a state chartered credit union; [~~and~~]

787 (b) the branch has been authorized by:

788 (i) the department and the chartering authority of the credit union's home state in the
789 case of a state chartered credit union; or

790 (ii) the National Credit Union Administration or successor agency in the case of a
791 federally chartered credit union[~~]; and~~

792 (c) the branch will not serve a member of the out-of-state credit union who is a
793 member of the credit union based solely on the member residing in a geographic area located in
794 whole or in part in Utah.

795 (3) The commissioner may examine and supervise all out-of-state credit unions with a
796 branch in the state, except federal credit unions, in the same manner as the commissioner
797 examines and supervises credit unions in this state.

798 Section 18. Section **7-9-51** is amended to read:

799 **7-9-51. Field of membership.**

800 (1) [~~Except as provided in Subsection (3), the limited]~~ The field of membership of a
801 credit union may include only the following:

802 (a) the immediate family of a member of the credit union;

- 803 (b) the employees of the credit union;
- 804 (c) residents of [~~a single county~~] one or more counties; and
- 805 (d) one or more associations.

806 (2) A credit union may have a [~~limited~~] field of membership that is more restrictive
807 than the [~~limited~~] field of membership described in Subsection (1).

808 [~~(3) A credit union may have a limited field of membership that is less restrictive than~~
809 ~~the limited field of membership described in Subsection (1) if the limited field of membership~~
810 ~~of the credit union:]~~

811 [~~(a) is determined under Subsection 7-9-53(2)(c) or (2)(d);]~~

812 [~~(b) is approved by the commissioner after a merger under Subsection 7-9-39(5); or]~~

813 [~~(c) is permitted by the commissioner after a merger in accordance with Section~~
814 ~~7-9-39.5:]~~

815 [~~(4) If a credit union includes the residents of one county in its limited field of~~
816 ~~membership, the credit union may not change its limited field of membership to include a~~
817 ~~different county than the county that is first included in the limited field of membership of the~~
818 ~~credit union:]~~

819 Section 19. Section **7-9-55** is enacted to read:

820 **7-9-55. Taxable credit unions.**

821 (1) For purposes of this section, "related credit unions" means two or more credit
822 unions:

823 (a) that:

824 (i) each have a main office in this state; and

825 (ii) are established in whole or in part with assets from a credit union that as of May 5,
826 2003, has a field of membership that includes all residents of two or more counties; and

827 (b) if:

828 (i) the names of the two or more credit unions include one or more similar words,
829 except for "credit union"; or

830 (ii) the two or more credit unions hold an ownership interest in an association or
831 organization described in Subsection 7-9-5(21) except for:

832 (A) a corporate credit union;

833 (B) a trade association; or

834 (C) an association representing credit unions generally.

835 (2) (a) Subject to Subsection (2)(c), a credit union organized under this chapter is a
836 taxable credit union under this section on the day on which:

837 (i) if the credit union is not a related credit union:

838 (A) the credit union files a quarterly report in accordance with Section 7-1-317 if the
839 quarterly report is the second consecutive quarterly report that shows that the assets of the
840 credit union equal or exceed \$100,000,000; and

841 (B) the credit union has a field of membership that includes all residents of two or
842 more counties; or

843 (ii) the related credit union files a quarterly report in accordance with Section 7-1-317
844 if the quarterly report is the second consecutive quarterly report that shows assets that if
845 aggregated with the assets of all related credit unions equal or exceed \$100,000,000.

846 (b) For purposes of Subsection (2)(a)(i)(B) only, residents of a county that is added to
847 the field of membership of a credit union as a result of a supervisory action under Chapter 2 or
848 19 are not considered to be within the field of membership of that credit union.

849 (c) (i) In determining whether two consecutive quarterly reports meeting the
850 requirements of Subsection (2)(a) have been filed, a credit union shall include the last two
851 quarterly reports filed by the credit union in accordance with Section 7-1-317 as of May 5,
852 2003.

853 (ii) If by including in accordance with this Subsection (2)(c) the last two quarterly
854 reports filed with the commissioner as of May 5, 2003 the credit union would become a taxable
855 credit union under Subsection (2)(a) on a day before May 5, 2003, that credit union becomes a
856 taxable credit union on May 5, 2003.

857 (3) If a credit union becomes a taxable credit union under this section, the taxable
858 credit union is a taxable credit union:

859 (a) for as long as the credit union is organized under this chapter; and

860 (b) notwithstanding whether after the day on which the taxable credit union becomes a
861 taxable credit union the taxable credit union meets the requirements of Subsection (2)(a).

862 Section 20. Section **7-9-56** is enacted to read:

863 **7-9-56. Competitive equity assessment.**

864 (1) For purposes of this section, "competitive equity assessment" means an amount

865 calculated for each fiscal year by:

866 (a) multiplying by 30% the credit union's net income for a fiscal year reported on the
867 taxable credit union's report of condition required by Section 7-1-317; and

868 (b) subtracting from the amount calculated under Subsection (1)(a) any federal income
869 taxes paid by a taxable credit union for that fiscal year.

870 (2) A taxable credit union may elect to pay a competitive equity assessment by filing
871 with the commissioner a notice of election to pay a competitive equity assessment.

872 (3) If a taxable credit union files a notice of election to pay a competitive equity
873 assessment, the taxable credit shall pay the competitive equity assessment:

874 (a) to the commissioner;

875 (b) for each fiscal year beginning with the fiscal year in which the notice of election to
876 pay a competitive equity assessment is filed with the commissioner; and

877 (c) by no later than the March 31 following the fiscal year for which the competitive
878 equity assessment is being paid.

879 (4) A taxable credit union may not revoke an election to pay a competitive equity
880 assessment after the day on which the taxable credit union files a notice of election to pay a
881 competitive equity assessment with the commissioner.

882 (5) Amounts collected under this section shall be deposited into the Uniform School
883 Fund.

884 (6) A taxable credit union that elects to pay a competitive equity assessment that fails
885 to pay the competitive equity assessment is subject to Subsection 7-1-402(6).

886 Section 21. Section **7-9-57** is enacted to read:

887 **7-9-57. Community reinvestment.**

888 (1) For purposes of this section, "community reinvestment record" means a taxable
889 credit union's record of meeting the credit needs of the local communities in where the
890 members of the taxable credit union reside.

891 (2) (a) The commissioner shall assess the community reinvestment record of a taxable
892 credit union consistent with the safe and sound operation of the taxable credit union when
893 conducting an examination under this title of the taxable credit union.

894 (b) The commissioner shall take into account the community reinvestment record of a
895 taxable credit union consistent with the safe and sound operation of the taxable credit union

896 when the commissioner is evaluating an application by the taxable credit union to:

897 (i) establish or relocate a branch under Section 7-1-708; or

898 (ii) merge in accordance with Section 7-9-39.

899 (3) (a) Subject to the other provisions of this section, in accordance with Title 63,

900 Chapter 46a, Utah Administrative Rulemaking Act, the commissioner may make rules to

901 implement this section.

902 (b) Subject to the requirements of this section, in making a rule under this Subsection

903 (3), the commissioner:

904 (i) shall consider the need for competitive equality among all depository institutions in
905 this state;

906 (ii) shall impose community reinvestment standards and requirements on a taxable
907 credit union that are similar to those imposed on state and national banks operating in this
908 state; and

909 (iii) may not impose standards or requirements on a taxable credit union that are more
910 stringent than the standards or requirements adopted by the Federal Deposit Insurance
911 Corporation under:

912 (A) 12 C.F.R. Part 345; or

913 (B) Community Reinvestment Act, 12 U.S.C. 2901 et seq.

914 Section 22. Section **59-7-102** is amended to read:

915 **59-7-102. Exemptions.**

916 (1) Except as provided in this section, the following are exempt from this chapter:

917 (a) an organization exempt under Section 501, Internal Revenue Code;

918 (b) an organization exempt under Section 528, Internal Revenue Code;

919 (c) an insurance company that is otherwise taxed on the insurance company's premiums
920 under Chapter 9, Taxation of Admitted Insurers;

921 (d) a building authority as defined in Section 17A-3-902;

922 (e) a farmers' cooperative; or

923 (f) a public agency, as defined in Section 11-13-103, with respect to or as a result of an
924 ownership interest in:

925 (i) a project, as defined in Section 11-13-103; or

926 (ii) facilities providing additional project capacity, as defined in Section 11-13-103.

927 (2) Notwithstanding any other provision in this chapter or Chapter 8, Gross Receipts
928 Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, a
929 person not otherwise subject to the tax imposed by this chapter or Chapter 8 is not subject to
930 the tax imposed by Sections 59-7-104, 59-7-201, 59-7-701, and 59-8-104, because of:

931 (a) that person's ownership of tangible personal property located at the premises of a
932 printer's facility in this state with which the person has contracted for printing; or

933 (b) the activities of the person's employees or agents who are:

934 (i) located solely at the premises of a printer's facility; and

935 (ii) performing services:

936 (A) related to:

937 (I) quality control;

938 (II) distribution; or

939 (III) printing services; and

940 (B) performed by the printer's facility in this state with which the person has contracted
941 for printing.

942 (3) Notwithstanding Subsection (1), an organization, company, authority, farmers'
943 cooperative, or public agency exempt from this chapter under Subsection (1) is subject to Part
944 8, Unrelated Business Income, to the extent provided in Part 8.

945 (4) Notwithstanding Subsection (1)(b), to the extent the income of an organization
946 described in Subsection (1)(b) is taxable for federal tax purposes under Section 528, Internal
947 Revenue Code, the organization's income is also taxable under this chapter.

948 (5) Notwithstanding Subsection (1)(a), a taxable credit union, as defined in Section
949 7-9-3, is not exempt from this chapter beginning on the first day of the month immediately
950 following the day on which the taxable credit union becomes a taxable credit union under
951 Section 7-9-55.

952 Section 23. **Repealer.**

953 This act repeals:

954 Section 7-9-52, **Expansion of a limited field of membership.**

955 Section 7-9-53, **Grandfathering.**

956 Section 7-9-54, **Electing to terminate grandfathering.**

Legislative Review Note
as of 1-17-03 5:01 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

AMENDED NOTE

State Impact

This bill could increase funding to the Uniform School Fund by \$15,419,400 if all eligible state chartered credit unions remain state chartered. If all credit unions that would become subject to the competitive equity fee become federally chartered there is a potential loss of \$212,000 restricted revenue to Financial Institutions and a loss of sales taxes from those institutions. The loss to Financial Institutions would not affect the operation of the Department.

| | <u>FY 04 Approp.</u> | <u>FY 05 Approp.</u> | <u>FY 04 Revenue</u> | <u>FY 05 Revenue</u> |
|---------------------|----------------------|----------------------|----------------------|----------------------|
| Uniform School Fund | \$0 | \$0 | \$15,419,400 | \$15,419,400 |
| TOTAL | \$0 | \$0 | \$15,419,400 | \$15,419,400 |

Individual and Business Impact

Eligible credit unions will pay additional Corporate Franchise taxes and Competitive Equity fees.

Office of the Legislative Fiscal Analyst