

**JOINT RESOLUTION RELATED TO  
FINANCIAL INSTITUTIONS**

2005 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jeff Alexander**

Senate Sponsor: Dan R. Eastman

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**LONG TITLE**

**General Description:**

This resolution affirms certain actions taken by the Legislature and urges congressional action regarding financial institutions.

**Highlighted Provisions:**

This resolution:

- ▶ urges Congress to examine the rulings of the National Credit Union Administration and take appropriate action;
- ▶ urges Congress to recognize and affirm the authority of states and local governments to determine whether federally chartered credit unions may be taxed the same as state chartered credit unions;
- ▶ urges Congress to provide a principled, fair, and equitable tax structure for financial institutions that allows the state to determine what state and local taxes shall apply to financial institutions;
- ▶ requests that if Congress elects to retain the current tax structure for financial institutions unchanged, it provide Utah and other states with a reasoned explanation;
- ▶ requests that Congress in determining monies provided to the state by the federal government take into account revenues that may be lost to the state as a result of federal tax policy and regulations related to financial institutions;
- ▶ urges Congress to fully and carefully consider the principles, policies, circumstances, and conditions identified and referenced in this resolution and promptly act; and

- ▶ provides for the distribution of the resolution.

**Special Clauses:**

None

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*Be it resolved by the Legislature of the state of Utah:*

WHEREAS, the financial institution industry is a critical part of Utah's economy;

WHEREAS, the state is benefitted by and relies upon a diversity of financial institutions within the state including the existence of a strong credit union industry and a healthy commercial bank industry;

WHEREAS, nationally, the competitive environment for banks and credit unions has changed significantly since the first credit unions were formed in the early 1900's;

WHEREAS, the rise and scope of federal credit unions is rooted in the Federal Credit Union Act of 1934, as amended over the years;

WHEREAS, the early credit unions started as small groups of people who shared a close and meaningful "common bond" such as occupations, the neighborhood where they lived, or a church they attended;

WHEREAS, such persons were less able to obtain loans from other financial institutions because of low income and the perceived high risk of default and were, therefore, especially vulnerable to usury lending practices by those that might unfairly take advantage of such conditions;

WHEREAS, a credit union chartered in this state is required to be a cooperative, nonprofit association, incorporated to:

- (1) encourage thrift among its members;
- (2) create sources of credit at fair and reasonable rates of interest; and
- (3) provide an opportunity for its members to use and control their resources on a democratic basis in order to improve their economic and social condition;

WHEREAS, Congress has previously found that:

- (1) the credit union movement in America began as a cooperative effort to serve the

productive and provident credit needs of individuals of modest means;

(2) maintaining a meaningful affinity or common bond between members is critical to the fulfillment of the public mission of credit unions including promoting thrift and credit extension; and

(3) credit unions are exempt from federal and most state taxes because they are member-owned, democratically operated, not-for-profit cooperative organizations generally managed by volunteer boards and because they have historically had the specified mission of meeting the credit and savings needs of their members, especially persons of modest means;

WHEREAS, financial institutions are subject to regulation by different federal governmental entities depending on their structure, charter, and identity as a financial institution;

WHEREAS, the National Credit Union Administration charters and regulates federally chartered credit unions and as insurer oversees state chartered credit unions;

WHEREAS, commercial banks are subject to a variety of federal regulators depending on their charter including the Office of the Comptroller of the Currency, the Federal Reserve Board, or the Federal Deposit Insurance Corporation;

WHEREAS, the National Credit Union Administration has expanded its determination of what has historically constituted a well-defined local community for purposes of defining a field of membership to include large geographic areas;

WHEREAS, the broad field of membership established by the National Credit Union Administration allows state chartered credit unions to easily convert to a federal charter, allowing for:

- (1) differences in tax treatment of federally chartered credit unions; and
- (2) differences in the regulations of member business lending;

WHEREAS, the U.S. Supreme Court held in 1998 that the original intent of the Federal Credit Union Act was to require a more narrow interpretation of credit unions' common bond and field of membership than what now exists under legislation adopted by Congress;

WHEREAS, commercial banks are subject to taxes on the federal, state, and local level;

WHEREAS, under the Internal Revenue Code, federal or state chartered credit unions are

exempt from paying federal income taxes;

WHEREAS, under the Federal Credit Union Act, as amended in 1937, states are prohibited from imposing certain taxes on federal credit unions;

WHEREAS, in Utah, federally chartered and state chartered credit unions do not pay state income taxes;

WHEREAS, credit unions pay property taxes;

WHEREAS, federally chartered credit unions do not pay sales and use taxes;

WHEREAS, the state and not the federal government should control and determine public policy affecting the imposition of state taxes;

WHEREAS, all taxes on financial institutions, including both credit unions and commercial banks, should be examined to determine whether a different and more principled approach to taxing could lessen the tax burden wherever possible;

WHEREAS, federal tax policies and regulations related to financial institutions can result in the erosion of state and local tax bases;

WHEREAS, the possible erosion of the state tax base because of federal tax policy and regulations related to financial institutions can result in lost revenues to the state;

WHEREAS, the loss of revenues to the state impacts the state's ability to meet the essential needs of its citizens including the funding of education;

WHEREAS, all income tax revenues collected by the state are constitutionally dedicated in Utah to funding education;

WHEREAS, the funding of education is a top priority of the Legislature and, therefore, all exemptions from paying income tax are carefully scrutinized by the Legislature;

WHEREAS, the federal encroachment into state policy areas regarding financial institutions is not limited to taxation but also includes preemption of state regulation of the business activities of financial institutions within the state;

WHEREAS, this federal encroachment raises constitutional issues under the 10th Amendment and the Supremacy Clause; and

WHEREAS, the Financial Institutions Task Force has found that because of the

conversion of many state chartered credit unions to federally chartered credit unions, significant issues of tax policy and competitive fairness among financial institutions now need to be addressed at the federal level:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah affirms its decision to differentiate between traditional credit unions and those that have lost a meaningful affinity or bond and encourages Congress to consider a similar approach.

BE IT FURTHER RESOLVED that the Legislature urges Congress to examine the rulings of the National Credit Union Administration regarding "common bond" and field of membership to determine whether those rulings are overbroad and inconsistent with the original intent of the Federal Credit Union Act.

BE IT FURTHER RESOLVED that the Legislature urges Congress to recognize and affirm the authority of states and local governments to determine whether federally chartered credit unions may be taxed the same as state chartered credit unions according to state law and related policy considerations.

BE IT FURTHER RESOLVED that the Legislature urges Congress to provide a principled, fair, and equitable tax structure for financial institutions, including credit unions and commercial banks alike, that allows the states to determine what state and local taxes shall apply to financial institutions whether state or federally chartered.

BE IT FURTHER RESOLVED that once a principled, fair, and equitable tax structure for financial institutions is adopted, Congress should examine whether the economic circumstances have changed since the enactment of the Federal Credit Union Act such that credit unions should have a broader role in the current financial marketplace.

BE IT FURTHER RESOLVED that the Legislature requests that if Congress elects to retain the current tax structure for financial institutions unchanged, it provide Utah and other states with a reasoned explanation for maintaining that tax structure without alteration.

BE IT FURTHER RESOLVED that the Legislature requests that Congress in determining monies provided to the state by the federal government for programs, including education programs, take into account revenues that may be lost to the state as a result of federal tax policy

and regulations related to financial institutions.

BE IT FURTHER RESOLVED that the Legislature urges Congress to fully and carefully consider the principles, policies, circumstances, and conditions identified and referenced in this resolution and promptly act as needed in order to remedy the same.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and the members of Utah's congressional delegation.