AN ACT to repeal 186.11 (2) (b) and 186.22; to renumber and amend 186.11 (2) (a), 186.235 (16) and 186.70; to amend 186.071 (1) (e), 186.113 (8), 186.12 (3), 186.13, 186.235 (7m) and 186.70 (title); to repeal and recreate 186.17; and to create 186.01 (4), 186.07 (8), 186.235 (7) (b) 3., 186.235 (16) (b) and 186.70 (2) of the statutes; relating to: credit union operations and modifying rules promulgated by the Department of Financial Institutions.

Analysis by the Legislative Reference Bureau

This bill makes various statutory and administrative rule changes related to the operations of credit unions. Among the statutory changes, the bill does all of the following:

1. Specifies that a credit union must maintain sufficient reserves to meet anticipated withdrawals, commitments, and loan demand and must maintain at least the level of reserves required by the National Credit Union Administration (NCUA).

2. Creates an exception to the requirement that the Office of Credit Unions in the Department of Financial Institutions conduct an examination of the records and accounts of each credit union at least once every 18 months, allowing, in lieu of this examination, the OCU to accept an examination conducted by the NCUA.

3. Removes a limit under current law on the amount that a credit union may make in donations and grants approved by the credit union’s board of directors.
4. Creates provisions relating to director conflict of interest transactions, defined as a transaction with the credit union in which a director of the credit union has a direct or indirect interest. The bill specifies that a conflict of interest transaction is not voidable by the credit union solely because of the director’s interest in the transaction if the transaction was fair to the credit union or if the material facts were disclosed or known and the transaction was authorized, approved, or ratified in the manner specified in the bill.

5. Provides a procedure under which a group of credit union members have a right to inspect and copy nonconfidential portions of the credit union’s accounting books and records and the minutes of credit union proceedings.

6. Authorizes credit unions and the OCU to provide confidential examination reports to the credit union’s attorneys, independent certified public accountants, or other consultants or advisers who have agreed in writing to maintain the confidentiality of the report.

7. Revises the contents of the oath of office that credit union directors, officers, committee members, and employees must take with respect to personal pecuniary interests and conflicts of interest.

8. Provides that a member expelled from a credit union may petition the board of directors in writing for reconsideration of the member’s expulsion, but no longer has a right to a hearing.

9. Repeals a statutory provision authorizing ten or more credit unions, with the OCU’s approval, to form the Credit Union Finance Corporation.

10. Repeals a statutory provision imposing a limit on the value of a building used for credit union operations.

The bill also makes the following changes to DFI’s administrative rules:
1. The bill allows a credit union to provide written notice, instead of obtaining express or implied prior approval, before placing and operating an automated teller machine at a location away from a credit union office.
2. The bill removes loan officers from the prohibition against preferential treatment for loan transactions involving directors, executive officers, and credit committee members.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 186.01 (4) of the statutes is created to read:

186.01 (4) “Net worth” means the aggregate of retained earnings of a credit union, as determined according to generally accepted accounting principles, and other forms of capital approved by the director of the office of credit unions.

SECTION 2. 186.07 (8) of the statutes is created to read:
186.07 (8) DIRECTOR CONFLICT OF INTEREST. (a) In this subsection, “conflict of interest transaction” means a transaction with the credit union in which a director of the credit union has a direct or indirect interest.

(b) A conflict of interest transaction is not voidable by the credit union solely because of the director’s interest in the transaction if any of the following is true:

1. The material facts of the transaction and the director’s interest were disclosed or known to the board of directors or a committee of the board of directors and the board of directors or committee authorized, approved, or specifically ratified the transaction under par. (d).

2. The transaction was fair to the credit union.

(c) For purposes of this subsection, the circumstances in which a director of the credit union has an indirect interest in a transaction include a transaction under any of the following circumstances:

1. Another entity in which the director has a material financial interest or in which the director is a general partner is a party to the transaction.

2. Another entity of which the director is a director, officer, or trustee is a party to the transaction and the transaction is or, because of its significance to the credit union, should be considered by the board of directors of the credit union.

(d) For purposes of par. (b) 1., a conflict of interest transaction is authorized, approved, or specifically ratified if it receives the affirmative vote of a majority of the directors on the board of directors or on the committee acting on the transaction who have no direct or indirect interest in the transaction. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this subsection. The presence of, or a vote cast by, a director with a direct or indirect
interest in the transaction does not affect the validity of any action taken under par.
(b) 1. if the transaction is otherwise authorized, approved, or ratified as provided in
this subsection.

SECTION 3. 186.071 (1) (e) of the statutes is amended to read:

186.071 (1) (e) Avoid initiating or participating in any action that may be in
that person’s present to that person a personal pecuniary conflict of interest.

SECTION 4. 186.11 (2) (a) of the statutes is renumbered 186.11 (2) and amended
to read:

186.11 (2) CREDIT UNION PROPERTY. Subject to par. (b), a credit union may
purchase, hold, and dispose of property as necessary for or incidental to its
operations.

SECTION 5. 186.11 (2) (b) of the statutes is repealed.

SECTION 6. 186.113 (8) of the statutes is amended to read:

186.113 (8) DONATIONS. Make donations and grants, the total of which may not
exceed 1.0 percent of regular reserves within a given year, if the board of directors
approves any such donation or grant and the approval is based on a determination
that the donation or grant is in the best interest of the credit union and is reasonable
given the size and financial condition of the credit union.

SECTION 7. 186.12 (3) of the statutes is amended to read:

186.12 (3) EXPENDITURES. To the extent permitted by a credit union’s
bylaws, the officers elected by the board of directors, and the members of the credit
committee and loan officers may receive such compensation as the board authorizes,
but the expenditures of the credit union for all purposes shall be paid from its
earnings.

SECTION 8. 186.13 of the statutes is amended to read:
186.13 Expulsion. If the board of directors adopts a written policy, a credit union may expel a member if the member neglects or refuses to comply with this chapter or the credit union bylaws or if the board has other just cause. The credit union shall provide notice to the member in writing of the reason for expulsion. The notice shall include a description of the member’s right to petition the board for reconsideration of the member’s expulsion and the time period for the member to request a hearing. If a member requests a hearing, the board shall give the member an opportunity to be heard on reconsideration the expulsion within 90 days after the date of the expulsion notice.

Section 9. 186.17 of the statutes is repealed and recreated to read:

186.17 Reserves. A credit union shall maintain sufficient reserves to meet anticipated withdrawals, commitments, and loan demand. A credit union shall maintain at least the level of reserves required for it by the national credit union administration. The office of credit unions may prescribe additional reserve requirements for an individual credit union based on examination findings or other reports available to the office.

Section 10. 186.22 of the statutes is repealed.

Section 11. 186.235 (7) (b) 3. of the statutes is created to read:

186.235 (7) (b) 3. Provide examination reports to a credit union’s attorneys, independent certified public accountants, or other consultants or advisers who have agreed in writing to maintain the confidentiality of the reports.

Section 12. 186.235 (7m) of the statutes is amended to read:

186.235 (7m) Return of examination reports. Examination reports possessed by a credit union are confidential, remain the property of the office of credit unions,
and shall be returned to the office of credit unions immediately upon request. This
subsection does not prohibit a credit union from providing an examination report to
its attorneys, independent certified public accountants, or other consultants or
advisers who have agreed in writing to maintain the confidentiality of the report.

SECTION 13. 186.235 (16) of the statutes is renumbered 186.235 (16) (a) and
amended to read:

186.235 (16) (a) At Except as provided in par. (b), at least once every 18 months,
the office of credit unions shall examine the records and accounts of each credit
union. For that purpose the office of credit unions shall have full access to, and may
compel the production of, each credit union’s records and accounts. The office of
credit unions may administer oaths to and examine each credit union’s officers and
agents.

SECTION 14. 186.235 (16) (b) of the statutes is created to read:

186.235 (16) (b) In lieu of the examination under par. (a), the office of credit
unions may accept an examination conducted by the national credit union
administration.

SECTION 15. 186.70 (title) of the statutes is amended to read:

186.70 (title) Record search; members’ inspection of records.

SECTION 16. 186.70 of the statutes is renumbered 186.70 (1) and amended to
read:

186.70 (1) A credit union is entitled to reimbursement for expenses and costs
incurred in searching for, reproducing and transporting books, papers, records and
other data required to be produced by legal process, unless otherwise prohibited by
law from collecting these expenses and costs or unless the person seeking the
production is a government unit, as defined in s. 108.02 (17). The expenses and costs
shall be paid by persons seeking such production. If a credit union is entitled to reimbursement under this section subsection, a credit union may not be required to produce books, papers, records and other data in response to legal process unless the expenses and costs, identified in an itemized invoice to be provided by the credit union, are paid or unless payment is tendered to the credit union in cash or by certified check or draft.

SECTION 17. 186.70 (2) of the statutes is created to read:

186.70 (2) (a) A group of members of a credit union has the right, upon submission of a petition to the credit union that satisfies the requirements under par. (b), to inspect and copy nonconfidential portions of all of the following:

1. The credit union’s accounting books and records.
2. The credit union’s minutes of the proceedings of the credit union’s members, board of directors, and committees of directors.

(b) The petition under par. (a) shall describe the particular records to be inspected and state a proper purpose for the inspection, which must be a purpose related to the protection of the members’ financial interests in the credit union. The petition shall state that the petitioners as a whole, or certain named petitioners, agree to pay the direct and reasonable costs associated with search and duplication of requested material. The petition shall also state that the inspection is not desired for any purpose other than the stated purpose; that the members signing the petition will not sell or offer for sale any information obtained from the credit union; and that the members signing the petition have not within 5 years immediately preceding the signature date sold or offered for sale any information acquired from the credit union or aided or abetted any person in procuring any information from the credit union for purposes of sale. The petition shall name one member, and one alternate member,
who shall represent the petitioners on issues such as inspection procedures, costs, 
and potential disputes. At least one percent of the credit union’s members, with a 
minimum of 20 members and a maximum of 500 members, must sign the petition. 
Each member who signs the petition must have been a member of the credit union 
for at least 180 days at the time the petitioners submit the petition to the credit 
union.

(c) 1. A credit union shall respond to petitioners within 14 days of receiving a 
petition under par. (b). In its response, a credit union shall inform petitioners either 
that it will provide inspection of the requested material and, if so, when, or, if a credit 
union is going to withhold all or part of the requested material, it shall inform 
petitioners what part of the requested material it intends to withhold and the 
reasons for withholding the requested material. As soon as possible after receiving 
a petition, a credit union shall schedule inspection and copying of nonconfidential 
requested material it determines petitioners may inspect and copy.

2. Inspection may be made in person or by agent or attorney and at any 
reasonable time. The credit union may, at its option, skip inspection and deliver 
copies of requested documents directly to the petitioners. Member inspection rights 
under this subsection are in addition to any other member inspection rights afforded 
by the credit union’s charter or bylaws or other statutory provisions or rules.

3. If the credit union denies inspection because the petitioners have failed to 
obtain the minimum number of valid signatures, the credit union shall inform the 
petitioners which signatures were not valid and why.

(d) Members do not have the right to inspect any portion of the books, records, 
or minutes of a credit union if any of the following applies:

1. Statutory provisions or rules prohibit disclosure of that portion.
2. The publication of that portion could cause the credit union predictable and substantial financial harm.

3. That portion contains nonpublic personal information, as defined in 12 CFR 1016.3.

4. That portion contains information about credit union employees or officials the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

   (e) A credit union may charge petitioners the direct and reasonable costs associated with search and duplication. The credit union may not charge for other costs, including indirect costs or attorney fees.

   (f) In the event of a dispute between a credit union and its members concerning a petition for inspection or the associated costs, either party may submit the dispute to the director of the office of credit unions. The director, after obtaining the views of both parties, shall direct the credit union either to withhold the disputed materials or to make them available for member inspection and copying. The director may place conditions upon release. The decision of the director is a final agency decision and is not appealable to the credit union review board.

SECTION 18. DFI-CU 63.03 of the administrative code is amended to read:

DFI-CU 63.03 Advance notice and approval required. Each credit union proposing to engage in an activity authorized under s. 186.113 (15), Stats., or proposing to change the place or manner in which it engages in such an activity, shall file with the director an application containing such information as the director may from time to time prescribe. If the director regularly receives information on additions, deletions or changes in locations of remote terminals from a supplier, a credit union is excused from filing an application merely
to change the place at which it offers the services. No credit union may commence any such activity unless the place and manner in which the activity is conducted has been approved by the director in writing or the director does not take written objection to the credit union’s completed application within 30 days after it has been filed until the credit union has filed the written notice under this section. A credit union may not commence or continue to engage in any activity authorized under s. 186.113 (15), Stats., if, in the opinion of the director, the activity is beyond the financial or management capabilities of the credit union, would result in unfair competition among financial institutions, or is otherwise in violation of this chapter.

SECTION 19. DFI-CU 69.02 of the administrative code is amended to read:

DFI-CU 69.02 Definition. In this chapter, “official” means any director, executive officer, loan officer, credit committee member or internal auditor of a credit union.