



CREDIT UNION COMMISSION MEETING

*Credit Union Department Building
914 East Anderson Lane
Austin, Texas*

**March 21, 2025
9:00 a.m.**

AGENDA

This meeting of the Texas Credit Union Commission will be held at the Credit Union Department Building at 914 E. Anderson Ln., Austin, Texas 78752 and is open to the public. Only onsite testimony will be allowed; however, the meeting will be transmitted live through a link on the Department's webpage at www.cud.texas.gov on the day of the meeting, March 21, 2025 at 9:00 a.m.

An electronic copy of the agenda is now available at www.cud.texas.gov under Credit Union Commission, Commission Meetings, along with a copy of the meeting materials. A recording of the meeting will be available after March 28, 2025. To obtain a recording, please contact Isabel Velasquez at 512-837-9236.

Public comment on any agenda item or issue under the jurisdiction of the Credit Union Commission is allowed. Unless authorized by a majority vote of the meeting quorum, the comments of any person wishing to address the Commission will be limited to no more than ten (10) minutes.

The Commission may discuss and/or take action regarding any item on this agenda.

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Adjournment

Executive Session: The Credit Union Commission may go into executive session (close its meeting to the public) on any agenda item if appropriate and authorized by the Open Meetings Act, Texas Government Code, Chapter 551.

Meeting Recess: In the event the Commission does not finish deliberation of an item on the first day for which it was posted, the Commission might recess the meeting until the following day at the time and place announced at the time of recess.

Meeting Accessibility: Under the Americans with Disabilities Act, the Credit Union Commission will accommodate special needs. Those requesting auxiliary aids or services should notify Joel Arevalo, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752--(512) 837-9236, as far in advance of the meeting as possible.

A

CALL TO ORDER

TEXAS CREDIT UNION COMMISSION MEMBERS

- ***Jim Minge, Chair***
- ***Elizabeth L. “Liz” Bayless, Vice Chair***
- ***Becky L. Ames***
- ***David Bleazard***
- ***Karyn C. Brownlee***
- ***Beckie Stockstill Cobb***
- ***Cody R. Huggins***
- ***David F. Shurtz***
- ***Kay Rankin Swan***

Legal Counsel

- ***Karen L. Miller***

Staff

- ***Michael S. Riepen***
- ***Robert W. Etheridge***
- ***Joel Arevalo***
- ***Isabel Velasquez***
- ***Brenda Medina***

B

CREDIT UNION COMMISSION MEETING MINUTES

Draft copies of the minutes for October 25, 2024, and November 8, 2024, meetings, and the corresponding follow-up action report, are located under **Tab B**.

RECOMMENDED ACTION: The Department requests that the Commission approve the minutes as presented.

RECOMMENDED MOTION: I move that the minutes of the Commission's special and regular meetings of October 25, 2024, and November 8, 2024, be approved as presented.

CREDIT UNION COMMISSION SPECIAL MEETING MINUTES
Credit Union Department Building
914 East Anderson Lane, Austin, Texas
October 25, 2024

A. CALL TO ORDER -- Chair Jim Minge called the meeting to order at 9:01 a.m. in the conference room of the Credit Union Department Building, Austin, Texas, pursuant to Chapter 551 of the Texas Government Code, and declared that a quorum was present. Other members present included, Liz Bayless, Karyn Brownlee, and David Shurtz; attending by remote connection was Becky L. Ames, Kay Rankin-Swan, Cody Huggins, Beckie Stockstill Cobb and David Bleazard. The Chair introduced Karen L. Miller, General Counsel and Assistant Attorney General, Melissa Juarez. Representing the Department staff were Commissioner Michael S. Riepen, Director of Information and Technology Joel Arevalo, and Executive Assistant Isabel Velasquez. Chair Minge appointed Isabel Velasquez as Recording Secretary. The Chair inquired and the Commissioner confirmed that the notice of the meeting was properly posted with the Secretary of State (**October 15, 2024 TRD# 2024006041 and Revised #2024006035**).

❖ **RECEIVE REQUESTS AND MOTIONS FOR EXCUSED ABSENCES** –
There were none.

❖ **WELCOME GUESTS** Zachary Rhines, Assistant Attorney General representing the department at a SOAH appeal and Casey Bell, attorney for Cooperative Teachers Credit Union.

B. CONSIDERATION OF THE PROPOSAL FOR DECISION OF THE STATE OFFICE OF ADMINISTRATIVE HEARINGS (SOAH) IN THE MATTER OF THE APPLICATION TO AMEND BYLAWS OF COOPERATIVE TEACHERS CREDIT UNION, NO 469-23-07487 -- The

Chair referred the members to the two notebooks with the record of the SOAH hearing, Notebook 2, being the hearing transcript and exhibits filed of record, and Notebook 1 of the pleadings and orders in the case. Notebook 1 contained the Proposal for Decision (PFD) under tab 27.

The Chair recognized Karen Miller, General counsel for the Department to provide a background of the case. She explained when the original order approving the application (which modified the geographical request) was appealed to SOAH under the rules for Credit Union's it was withdrawn.

The appeal reviewed the application de novo. The SOAH judge made the recommendation that the Commissioner enter an order approving the application without any geographical modification. The Commissioner has the exclusive power to grant or deny a bylaw amendment under Section 122.011 of the Credit Union Act. The application must go back to the Commissioner for a final order subject to appeal under 122.007 of the Credit Union Act.

Counsel Miller noted department rules related to a SOAH appeal of a preliminary order on field of membership were amended in 2018. Prior to that time the SOAH recommendation went to the Commissioner, however those amendments changed the process to require the Commission to review the SOAH decision, with the power to adopt or decline to adopt the PFD or Commissioner's decision or to Remand to the Commissioner for further review. This meeting was necessary because the prior rule requiring the Commissioner to review and make a determination within 30 days was changed to require the Commission to review the Proposal For Decision in 30 days. Since the preliminary order was withdrawn when the Credit Union appealed to SOAH, there is no Commissioner's order in the record.

C. GRANT OR DENIAL OF ORAL ARGUMENT– The Commission considered whether to allow oral argument by the representative of the parties. Mr. David Schurtz moved to allow oral argument and Mr. David Bleazard seconded. The motion passed.

The Chair recognized Zachary Rhines. He noted that the expansion request was for all counties in Texas, this was exceptional and unprecedented. Cooperative Teachers Credit Union (CTCU) had only standard services and branches in the area of Tyler Texas. Digital services were similar to those many other credit unions offer. Allowing a geographic expansion from one county to the entire state would undermine the purpose of a geographic field of membership, setting a precedent that almost any credit union could expand statewide, eliminating a geographical requirement. Expansion to the entire state of Texas ignores the requirement in the Act and Rules for Credit Unions that credit union membership is tied to a unifying characteristic and simply being “Texan” does not rise to this level.

Further the applicant is at a capital rate just above 7% and below that subjects a credit union to prompt corrective action.

Lastly, the only option offered for prospective members would be digital services, with no in person offerings, which would not allow availability of service equally for all the member group requested, those who live work or worship in any county of Texas.

The original order limiting the expansion to 8 counties was reasonable, which would allow CTCU the ability to demonstrate they could serve remote populations. The expansion request desires to go from operating in one county with physical locations to serving the entire state of Texas.

There were no questions of Mr. Rhines.

The Chair acknowledged Mr. Bell for rebuttal. Mr. Bell noted the arguments were extensively briefed in the SOAH record. He argued that the rules allowed for appeal of the Commissioner's decision to SOAH, who weighed all the evidence and found that CTCU met the statutory and regulatory requirements. The standard for any change to those findings were outlined in Government Code 2001.058. This is the standard to review any final order of the Commissioner. CTCU requests that the statute be followed in the Commissions' recommendation to the Commissioner for a final order.

Mr. Schurtz requested to ask a few questions. He is concerned that the Administrative Law Judge (ALJ) got the burden of proof wrong. In the PFD, on page 9 the last sentence reads that the record does not establish an inability to serve a larger group or that there are operational or management concerns to warrant a geographical limitation". The burden appears wrong, as the burden is that the applicant proves they have the ability to serve a larger group. Why do you think the ALJ made that statement?

Counsel Bell responded the Commissioner's discretion was not one of the requirements which are later in the rule in subpart g. Only the five items in subpart g required proof.

Mr. Schurtz asked how did they demonstrate that the entire state of Texas had unifying characteristics? Attorney Bell referred to the ALJ analysis on Pages 9& 10 of the PFD.

The panel asked if CTCU could demonstrate that a capital ratio of 7% was sufficient to support an ability to serve the entire State of Texas. Counsel Bell introduced his client representative, Tim Miller to address that question. He stated that some credit unions consider capital ratios of 10% to 20% excessive and 7% is the minimum to enter prompt corrective action. CTCU has the technology to add additional members without additional expenses. They could manage asset growth successfully. They already have members across the State of Texas. (it was noted by a commission member, this was because they joined locally, but later moved).

Mr. Shurtz asked Counsel Bell to explain how, when reviewing the ALJ opinion versus that of the Commissioner and Deputy commissioner of the Department, with over 80 years' experience in the Credit Union industry, should the ALJ's opinion have more weight than that of the Commissioners?

Counsel Bell responded that the ALJ looked at the evidence and found that none of the financial information indicated to her there would be an inability to serve the larger group. He referred to Mr. Miller's testimony and documentation in the record. The SOAH findings of fact are reviewed by the Commissioner who makes the decision if he will change any of those.

When asked if it was the Commissioner's decision to agree or disagree with the PFD and to adopt or decline to adopt the PFD was the next step, Counsel Bell agreed, stating the right was reserved to the Commission and Commissioner by rule.

Mr. Schurtz asked what was driving the desire to expand to all counties. Counsel Bell referred to his client, Tim Miller for the answer. He testified that the desire to expand was for opportunity. Smith County only has 250,000 people, while they lend

to people of moderate credit or low credit they need to have members with good credit to pay back loans and market and grow the credit union.

A follow up question was asked as to why the expansion approved of 6-8 counties would not give the ability to grow in a safe and sound manner. Mr. Miller answered “no”, that Tyler is the only non-rural location in Smith County, in the 8 additional counties there are no major cities with enough population where you can be more selective. It was asked how you expand to all counties in Texas without having “financial deserts”. Mr. Miller stated they would start with the greatest opportunity, they would not “go out” to counties with a limited number of people because that wouldn’t provide good returns, they would go after the “low hanging fruit first”.

Mrs. Kay Swan, commission member, explained she did a little math, if we got 10 members to do an average of a \$50,000 car loan, one from each county, that would be \$128 million of new loans, do you think you could fund those loans and absorb the capital hit from that large of an influx?

Mr. Miller responded they would look to participations but questioned if it was reasonable to get ten people from each county and that growth could be controlled by marketing. It is not reasonable that each county would produce 10 customers because even in Smith county they don’t take the Credit Union up on offers.

Commission members asked Mr. Miller to discuss his reduction of staff the last two years. He explained that was due to decreased mortgage lending and they were down 1/3 of staff numbers the last two years. They did not anticipate the expansion would take so long (3 years). It was asked if he considered Longview, population of 81,000 to be an urban area since that county was included in the modified approval. The answer was that it is pretty rural outside of Longview.

Commission members asked about the comment to go after low hanging fruit and that it appeared to sound as if even if the expansion were approved, CTCU did not intend to attempt to serve all 254 counties requested. The response was that they planned to go after a select group of people. They would not offer stamp medallions or payday loans.

Mr. Bleazard, (remote), commented the ALJ in the PFD only focused on the capital ratio, he questioned if the only thing that speaks to the safety and soundness would be the net worth ratio and should the financial ability to serve the larger group be considered in the Commissioner's decision. Counsel Bell responded that financial metrics could play a role. He invited Mr. Miller who said that there were a lot of metrics in the call report but the only one is the statute is the net worth ratio (*it is believed he was referring to the Prompt Corrective Action –federal rule*) and they could successfully serve a broader field of membership, as considered by the ALJ.

At 10:01 a.m. the commission convened into Executive Session in order to discuss legal issues until 10:56 a.m.

The Commission reconvened at 11:02 a.m.

Motion was made for the application and PFD to be remanded to the Commissioner to issue a final order by Ms. Liz Bayless; seconded by Ms. Karyn Brownlee. The motion passed.

ADJOURNMENT – There being no further business for the Credit Union Commission, Chair Minge adjourned the meeting at 11:06 a.m.

Jim Minge
Chairman

Isabel Velasquez
Recording Secretary

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Legislative Reference Library

DRAFT

CREDIT UNION COMMISSION MEETING MINUTES
Credit Union Department Building
914 East Anderson Lane, Austin, Texas
November 8, 2024

A. CALL TO ORDER -- Chair Jim Minge called the meeting to order at 9:05 a.m. in the conference room of the Credit Union Department Building, Austin, Texas, pursuant to Chapter 551 of the Texas Government Code, and declared that a quorum was present. Other members present included Becky L. Ames, Liz Bayless, David Bleazard, Karyn Brownlee, Beckie Stockstill Cobb, David Shurtz and Kay Rankin-Swan. The Chair introduced Karen L. Miller, General Counsel for the Department, who will serve as legal counsel for the commission at the meeting. Representing the Department staff were Commissioner Michael S. Riepen, Director of Information and Technology Joel Arevalo, and Executive Assistant Isabel Velasquez. Chair Minge appointed Isabel Velasquez as Recording Secretary. The Chair inquired and the Commissioner confirmed that the notice of the meeting was properly posted with the Secretary of State (**October 28, 2024 TRD#2024006297**).

❖ **GENERAL PUBLIC COMMENT --** Chair Minge invited public input on matters that were not scheduled items on the agenda for possible future consideration by the Commission. No public comments were received.

❖ **RECEIVE REQUESTS AND MOTIONS FOR EXCUSED ABSENCES --** Chair Minge inquired if there were any requests or motions to excuse an absence. Mrs. Bayless moved to excuse commission member Cody R. Huggins from the Commission meeting on November 8, 2024. Mr. Bleazard seconded the motion, and the motion was unanimously adopted.

B. MINUTES OF PREVIOUS MEETINGS (July 19, 2024) -- The Chair referred the members to the draft minutes of the previous meeting included in the

agenda packet and asked for any proposed edits. Chair Minge reported having a correction to the draft minutes. He explained there was some confusion as to who was on the Commissioner Evaluation Committee and asked that the minutes reflect Beckie Stockstill Cobb serving on the committee instead of David Shurtz. Mrs. Cobb moved for approval of the minutes as amended of July 19, 2024. Mrs. Ames seconded the motion, and the Commission carried the motion unanimously.

C. IN THE MATTER OF THE APPLICATION TO AMEND BYLAWS FOR COOPERATIVE TEACHERS CREDIT UNION'S SOAH DOCKET NO. 469-23-07487; CONTESTED ORDER OF CUD 22-0333-01, ORDER APPROVING APPLICATION – ORDER TO REMAND TO COMMISSIONER – General Counsel, Karen Miller reported that the reason we are doing this is out of an abundance of caution because we did not have a quorum physically present at the October 25th meeting. We are asking the Commission to ratify at this meeting the actions taken.

After a short discussion, Mrs. Brownlee moved that the Commission ratify the previous action to REMAND the Proposal for Decision in Docket No. 469-23-07487 to the Credit Union Department Commissioner for issuance of a Final Order addressing the Application of Cooperative Teachers Credit Union to amend its bylaws and to authorize General Counsel of the Credit Union Department to execute and distribute appropriate orders to document the Remand. Mr. Shurtz seconded the motion, and the Commission carried the motion unanimously.

D. COMMISSIONER EVALUATION COMMITTEE - Chair Brownlee reported that the Commissioner Evaluation Committee met on November 7, 2024, in a public meeting. It is the Committee's responsibility to develop, establish and review the policies, procedures and forms that are used to carry out the

Commissioner's annual performance review. It is also the Committee's responsibility to make recommendations to the Commission regarding performance standards for the upcoming fiscal year. The Committee is to oversee the process and ensure its completion as outlined. And at the last Commission meeting of each calendar year, the Committee is to present related recommendations to the Commission for approval.

As such, the committee has the following report:

- ✚ The Commissioner's Performance Evaluation Report was completed and approved for presentation to the Commission.
- ✚ Potential adjustments to the Commissioner's salary for FY 2025 were discussed and the committee approved a recommendation to the Commission.
- ✚ The FY 2025 Performance Standards and Leadership Goals for the Commissioner were discussed and the committee approved recommendations to the Commission.
- ✚ Updates to the FY 2025 Commissioner Evaluation Process Document were discussed and the committee approved recommendations to the Commission.

Because these are personnel matters, Chair Brownlee requested an executive session for private deliberation prior to taking any action.

Chair Minge officially announced that under the Texas Open Meetings Act, Texas Government Code, Section 551.074 for this agenda item, the Commission will now enter Executive Session to deliberate on personnel matters for this agenda item. The Commission entered Executive Session at 9:13 a.m.

At 11:06 a.m., the Commission returned to open session. Chair Minge inquired if there were any members who wished to bring forth any motion. Chair Brownlee thanked the Commissioner for a very good year leading our department. You are commended for the significant progress made in several key areas such as strategic staffing and budgeting. Your polite, professional and knowledgeable demeanor has advanced our great state's credit union system.

- ✚ Mrs. Brownlee moved to adopt the Commissioner Evaluation Performance Evaluation report for FY 2024 and to approve the salary of \$217,360 for the Commissioner to begin on January 1, 2025.
- ✚ Additionally, Mrs. Brownlee moved to approve the FY 2025 Performance Standards and Leadership Goals for the Commissioner as discussed in executive session.
- ✚ And finally, Mrs. Brownlee moved to approve the updates and formatting changes to the Commissioner Performance Evaluation Process Document for FY 2025 as discussed in executive session.

Entered on a motion of a standing committee, a second was not needed and the motion passed unanimously.

E. DEPARTMENT'S FY 2024 BUDGET AND FINANCIAL PERFORMANCE – Commissioner Riepen reported that in 2022 the Commission adopted a strategic plan for Fiscal Years 2023-2027. The \$5.6 million FY 2024 budget approved by the Commission in August 2023 includes the maintenance and operating budget and capital improvement budget in support of the Strategic Plan.

At the end of August 2024, total expenditures were \$518,477 or approximately 9.5 percent less than budgeted projections. The primary expense

categories below budget estimates include Personnel Expenses (\$298,379), Professional Services and Fees (\$148,925) and Travel Expenses (\$89,591).

After a brief discussion, the Commission took no action.

F. STATUS OF THE STATE CREDIT UNION SYSTEM – Commissioner Riepen briefly discussed that the Texas economy continues to withstand the current economic pressures in Texas and the United States very well. Overall, the Texas economy is the eighth largest when compared to other nations throughout the world. In accordance with the Bureau of Economic Analysis, the Texas economy expanded at an annualized rate of 7.4 percent in 2023, far exceeding the nation's expansion rate of 2.9 percent. While inflationary pressures have resulted in higher interest rates and labor costs, recent trends reflect the easing of interest rates by the Federal Reserve. If the Federal Reserve continues with its plan to further lower interest rates in the coming year, it is anticipated that the Texas economy will continue to perform well.

Currently, the unemployment rate matches the national average of 4.1 percent and is similar to the 3.9 percent level in Texas twelve months ago.

The financial performance of Texas credit unions for the first six months of 2024 has declined slightly but remains sound overall. Although average net worth ratios for Texas charters are at an all-time high of 11.44 percent, several other key financial trends have weakened. Loan delinquencies and loan losses have continued to increase over the last twelve months and are at the highest level in seven years. The Return on Average Assets Ratio (ROAA), a measurement of earnings performance, has declined to 0.54 percent and is only one-half the ROAA recognized by Texas credit unions in 2021. It is important to note that the deterioration in

financial trends has slowed, and with recent and expected interest rate reductions by the Federal Reserve it is anticipated that financial performance will improve in 2025.

After a short discussion of some of the key financial trends, no formal action was taken by the Commission.

G. AMENDMENTS TO SECTION 151.1 (RELATING TO INTERPRETATION PROCEDURES) IN 7 TAC, CHAPTER 151, CONCERNING HOME EQUITY LENDING PROCEDURES – Commissioner Riepen reported that the Texas Finance Commission and the Texas Credit Union Commission (“commissions”) adopted amendments to §151.1 (relating to Interpretation Procedures) concerning Home Equity Lending Procedures. The commissions received no official comments on the proposed amendments.

After a brief discussion, Mrs. Cobb moved that the Commission approve for adoption the proposed 7 TAC, Part 8 §151.1 without changes to the proposed text as published in the *Texas Register*. Mrs. Bayless seconded the motion, and the Commission carried the motion unanimously.

H. ADVISORY COMMITTEE OR INFORMAL SOLICITATION PRIOR TO RULE REVIEWS – General Counsel Karen Miller reported that there has been a suggestion that we seek additional public and industry input on issues related to rule revisions, specifically on issues discussed at our special meeting regarding how appeals are handled and the potential need for revisions to field of membership rules. When there are rule reviews coming up, it was suggested to creating channels for stakeholders to provide informal public input on the rules that could then be considered by a Commission Committee, Department staff and the Commission.

After a short discussion, the Commission took no action.

I. PENDING LITIGATION – Commissioner Riepen reported to the Commission that the department is seeking protection from a letter advice ruling by the Attorney General related to an information request under the Public Information Act (PIA). A draft motion for summary judgement has been prepared and should be filed in the next few weeks. We anticipate a resolution by the end of the year or early next year.

After a brief discussion, the Commission took no action.

As for Cooperative Teachers Credit Union (CTCU) v. Texas Credit Union Department, (Department), SOAH docket 469-23-07487, the application has been remanded to the Commissioner for a final decision and order.

J. INTERNAL AUDIT UPDATE - Commissioner Riepen reported that the Audit report presented and accepted at the last commission meeting has been sent to the State Auditor's Office, Legislative Budget Board and Governor's office on October 30, 2024. The report has also been posted on our website at www.cud.texas.gov.

K. FUTURE COMMISSION MEETINGS – Chair Minge inquired if anyone had any suggested agenda items for our March 21, 2025, meeting. No requests were received.

ADJOURNMENT – There being no further business for the Credit Union Commission, Chair Minge adjourned the meeting at 11:20 a.m.

Jim Minge
Chairman

Isabel Velasquez
Recording Secretary

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FOLLOW-UP ACTION REPORT

CREDIT UNION COMMISSION MEETINGS

**MINUTES DATE AND
REFERENCE/TOPIC**

**FOLLOW-UP
ACTION REQUIRED**

**STATUS
(As of 02-27-2025)**

November 8, 2024

7 TAC, Part 8, Chapter 151.1
Interpretation Procedures

Published in *Texas Register* as
adopted rule

Published in *Texas Register*
on 11/08/2024

C

PROCEDURES FOR ADOPTING A PROPOSED RULE

1. A proposed rule is prepared by Credit Union Department staff and presented to legal counsel (Attorney General) for review.
2. The proposed rule is presented to the commission for consideration.
3. The commission reviews, amends, adopts, refers back to staff, or tables the proposed rule.
4. The proposed rule is adjusted by staff (if required), furnished to legal counsel, and transmitted to the **Texas Register** for publication as a "proposed" rule.
5. A 30-day comment period follows initial publication which also is made in the Department's monthly newsletter or by a special mailing to credit unions.
6. The commission may reconsider the rule any time after the 30-day comment period. Any comments received are considered and the rule is available for adoption as "final" if no substantive changes are made. Any substantive change will result in the rule reverting to step four.
7. The rule is adopted as "final" and transmitted to the ***Texas Register*** for publication as a final rule. The rule becomes effective 20 days following filing for publication.
8. The rule is published or announced through the Department's newsletter.

EMERGENCY RULES

Rules, which are approved by the commission for emergency adoption, are transmitted to the ***Texas Register*** for filing. These rules become effective immediately upon filing unless another effective date is specified. They can be effective only for 120 days with a renewal provision for an additional 60 days a maximum of 180 days. "Day one" is the day of filing or the date specified as the effective date. While these emergency rules are in effect, regular rules should be initiated using the normal procedure described above. The Department rarely adopts emergency rules.

PROCEDURES FOR REQUIRED RULE REVIEW

Section 2001.39, Government Code, requires that a state agency review and consider for re-adoption each rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. To comply with this requirement, the Commission follows the procedure below:

1. Every four years, the Commission adopts and publishes a Rule Review Plan, which establishes a date for the required review of each existing rule.
2. At least sixty days prior to a particular rule's scheduled review date, the Department publishes notice in the Newsletter reminding interested persons of the review and encouraging comments on the rules up for review.
3. Staff reviews each rule to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule's structure as well as the specific language used is both clear and understandable.
4. If in reviewing existing rules, staff believe certain amendments may be appropriate, it provides an informal comment phase on any potential substantive amendments to all interested persons via its RuleRemarks blog on the Department's webpage.
5. After consideration of the informal comments, proposed amendments are prepared by staff and presented to the Rules Committee for review.
6. At a public meeting, the Rules Committee accepts public testimony on each rule subject to review and considers staff recommended changes. The Committee reviews each rule and then amends the staff proposal and refers it to the Commission, refers the proposal back to staff, or refers to the proposal, as recommended by staff, to the Commission.
7. The Committee's recommendation is presented to the Commission for consideration.
8. The Commission reviews, amends, approves the proposal for publications, refers it back to the Committee, or tables the proposed amendment.
9. If the Commission approves the proposal for publication, it is transmitted to the *Texas Register* for publication as a "proposed" rule amendment.
10. A 30-day comment period follows initial publication which also is announced in the Department's monthly newsletter.
11. The commission may reconsider the rule any time after the 30-day comment period. Any comments received are considered and the rule is available for adoption as "final" if no substantive changes are made. Any substantive change will result in re-publication of the proposal.

The rule as amended is adopted and transmitted to the *Texas Register* for publication as a final rule. The rule becomes effective 20 days following filing for publication.

13. The amended rule is announced through the Department's newsletter and copies are made available to credit unions.

RULES COMMITTEE

The Rules Committee is a standing committee of the Commission. It has been charged with the managing, the review, and development of Commission rules and, as appropriate, proposes any legislative changes that may be necessary to preserve the attractiveness of a Texas charter.

COMMITTEE MEMBERS

- ❖ Elizabeth L. “Liz” Bayless, Chair
- ❖ Becky Ames
- ❖ David Shurtz
- ❖ Jim Minge, Ex-Officio

The Rules Committee met on March 20, 2025, in a public meeting to discuss four items. The Committee will report on its activities for consideration and possible vote by the Commission.

PROCEDURES FOR ADOPTING A PROPOSED RULE

1. A proposed rule is prepared by Credit Union Department staff and presented to legal counsel (Attorney General) for review.
2. The proposed rule is presented to the commission for consideration.
3. The commission reviews, amends, adopts, refers back to staff, or tables the proposed rule.
4. The proposed rule is adjusted by staff (if required), furnished to legal counsel, and transmitted to the **Texas Register** for publication as a "proposed" rule.
5. A 30-day comment period follows initial publication which also is made in the Department's monthly newsletter or by a special mailing to credit unions.
6. The commission may reconsider the rule any time after the 30-day comment period. Any comments received are considered and the rule is available for adoption as "final" if no substantive changes are made. Any substantive change will result in the rule reverting to step four.
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3. Staff reviews each rule to determine whether it is obsolete, whether the rule reflects current legal and policy considerations, and whether the rule's structure as well as the specific language used is both clear and understandable.
4. If in reviewing existing rules, staff believe certain amendments may be appropriate, it provides an informal comment phase on any potential substantive amendments to all interested persons via its RuleRemarks blog on the Department's webpage.
5. After consideration of the informal comments, proposed amendments are prepared by staff and presented to the Rules Committee for review.
6. At a public meeting, the Rules Committee accepts public testimony on each rule subject to review and considers staff recommended changes. The Committee reviews each rule and then amends the staff proposal and refers it to the Commission, refers the proposal back to staff, or refers to the proposal, as recommended by staff, to the Commission.
7. The Committee's recommendation is presented to the Commission for consideration.
8. The Commission reviews, amends, approves the proposal for publications, refers it back to the Committee, or tables the proposed amendment.
9. If the Commission approves the proposal for publication, it is transmitted to the *Texas Register* for publication as a "proposed" rule amendment.
10. A 30-day comment period follows initial publication which also is announced in the Department's monthly newsletter.
11. The commission may reconsider the rule any time after the 30-day comment period. Any comments received are considered and the rule is available for adoption as "final" if no substantive changes are made. Any substantive change will result in re-publication of the proposal.

The rule as amended is adopted and transmitted to the *Texas Register* for publication as a final rule. The rule becomes effective 20 days following filing for publication.

13. The amended rule is announced through the Department's newsletter and copies are made available to credit unions.

RULEMAKING MATTER

Four items are being presented to the Commission for its information, consideration, and/or possible action. Specifically, the Commission will discuss, consider, and possibly take action on:

- a. Adoption of the Rule Review of 7 TAC, Part 6, Chapter 97, Subchapter A (General Provisions), Subchapter B (Fees), Subchapter C (Department Operations, Subchapter D (Gifts and Bequests), Subchapter E (Advisory Committees), and Subchapter F (Rulemaking) and Readoption of Rules.
- b. Proposed Amendments to 7 TAC, Part 6, Chapter 97, Subchapter A, Section 97.107 (Related Entities).
- c. Proposed Amendments to 7 TAC, Part 6, Chapter 97, Subchapter B, Section 97.113 (Fees and Charges).
- d. Proposed Amendments to 7 TAC, Part 6, Chapter 91, Subchapter A, Section 91.101 (Definitions and Interpretations).

RECOMMENDED ACTION: The Rules Committee recommends that the Commission take action as indicated in the documents contained in **TAB C**.

MANDATORY RULE REVIEW

C. (1) Discussion, Consideration and Possible Vote to Recommend that the Commission take action on the completed Rule Review of 7 TAC, Part 6, Chapter 97, Subchapter A (General Provisions), Subchapter B (Fees), Subchapter C (Department Operations), Subchapter D (Gifts and Bequests), Subchapter E (Advisory Committees), and Subchapter F (Rulemaking) and Readoption of Rules.

BACKGROUND: Section 2001.039, Government Code, requires that a state agency review and consider for readoption each rule not later than the fourth anniversary of the date on which the rule took effect and every four years after that date. As provided in the noted section, the reviews must include, at a minimum, an assessment by the agency as to whether the reason for adopting the rule continues to exist. At its March 22, 2024, meeting, the Commission approved a plan which establishes a date for the required review for each of the affected rules. In accordance with that plan, staff has reviewed 7 TAC, Part 6, Chapter 97, Subchapter A, (General Provisions), Subchapter B (Fees), Subchapter C (Department Operations), Subchapter D (Gifts and Bequests), Subchapter E (Advisory Committees), and Subchapter F (Rulemaking) and believes certain revisions are appropriate and necessary. Amendments to the noted chapters are being separately presented for proposal.

Notice of the review and a request for comments on the rules in this chapter was published in the February 28, 2025, issue of the *Texas Register*. No comments were received regarding the review. The Department believes that the reasons for adopting the noted rules continue to exist.

RECOMMENDED ACTION: The Committee recommends that the Commission adopt the rule review as the reasons for these rules continue to exist.

NOTE: Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

The Credit Union Commission (Commission) has completed its review of Chapter 97 Subchapter A (General Provisions); Subchapter B (Fees); Subchapter C (Department Operations); Subchapter D (Gifts and Bequests); Subchapter E (Advisory Committees), and Subchapter F (Rulemaking).

The rules were reviewed as a result of the Department's general rule review under Texas Government Code Section 2001.039.

Notice of the review of 7 TAC, Part 6, Chapter 97, Subchapters A, B, C, D, E, and F were published in the *Texas Register* as required on February 28, 2025 (50 TexReg 1703). The Department received no formal comment on the notice of intention to review.

This concludes the review of Chapter 97.

CHAPTER 97

Subchapter A. General Provisions

§97.101. Meetings.

The time and place of regular and special meetings of the Commission and its committees shall be determined by the applicable chair and posted in accordance with the Open Meetings Act (Government Code, Chapter 551). The minutes of each meeting shall be in writing, shall be posted on the Department's website, and shall be available to any person to examine during the Department's regular office hours.

§97.102. Delegation of Duties.

The Commissioner is authorized to complete all filings necessary to facilitate the rule making powers of the Commission. The Commissioner may draft and sign final adoption orders and other such instruments where delegation is not restricted by statute or rule. Notwithstanding other provisions of this rule, this authority is conveyed only to promote administrative efficiency and to expedite properly approved decisions of the Commission.

§97.103. Recusal or Disqualification of Commission Members.

- (a) A commission member may not vote on or otherwise participate in the deliberation or decision of a matter pending before the commission:
 - (1) in which the commission member has a personal or private interest; or
 - (2) which directly affects the credit union of which the commission member is an officer, director, or member.
- (b) The term "personal or private interest" shall be given the meaning as prescribed in Texas Government Code, Section 572.058, and includes a direct personal or financial interest in a credit union or other matter which is the subject of commission action.
- (c) A commission member who is disqualified under subsection (a) of this section shall publicly disclose the fact to the commission in a meeting called and held in compliance with the Open Meetings Act, Texas Government Code, Chapter 551. The disclosure shall be entered in the minutes of the meeting.
- (d) A commission member who is recused or disqualified will be counted in determining a quorum.

§97.105. Frequency of Examination.

The department shall perform an examination of each credit union authorized to do business under the Act at least once during each 12-month period. Annual examination intervals may be extended by the Department to a maximum 18 months, subject to safety and soundness considerations. Intervals between examinations shall not exceed 18 months, unless a longer interval is authorized in writing by the commission. In lieu of conducting an examination required by this rule, the commissioner in the exercise of discretion may accept examinations or reports from other credit union supervisory agencies or insuring organizations.

§97.107. Related Entities.

(a) Definition. For the purposes of this section, a related entity is defined as:

- (1) a credit union service organization in which a credit union has a material interest by contracting with, lending to or investing in the organization;
- (2) a subsidiary or affiliate of a credit union service organization that is wholly owned or controlled by a credit union;
- (3) an organization engaged primarily in the business of managing a credit union; and
- (4) third-party contractors providing electronic data processing, electronic fund transfers, or other member services to or on behalf of a credit union.

(b) General Supervision. A credit union should perform a thorough analytical assessment to identify, measure, monitor, and establish controls to manage the risks associated with related entities and avoid excessive risk-taking that may threaten the safety and soundness of a credit union. The department may review the risks associated with any related entity and its activities together with other credit union risks using its supervision-by-risk framework. The department shall assess the effectiveness of a credit union's oversight program of related entities, including its strategic planning, third-party selection process, and ongoing monitoring.

(c) Examination. A credit union's use of related entities to achieve its strategic goals does not diminish the responsibility of the department to ensure that the activity is conducted in a safe and sound manner and in compliance with applicable law. Although in most situations, these activities should be conducted in the same manner that would be expected if the credit union were conducting the activities directly, the department shall consider the following factors in determining whether to examine exam related entities:

- (1) the high risk or unusual nature of the activities conducted by the related entity for the credit union;
- (2) the significance of the activities conducted by the related entity for the credit union to the credit union's operations and income; and
- (3) the extent to which the credit union has sufficient systems, controls, and personnel to adequately monitor, measure, and control risks arising from activities conducted by the related entity. The department may examine a related entity, as the commissioner deems necessary to ensure that a credit union is not assuming excessive risk.

(d) Examination Fee. The related entity shall pay a supplemental examination fee as prescribed in §97.113(e) of this title (relating to Supplemental examination fees). A credit union may elect to pay the fee on behalf of the related entity. The supplemental examination fee for a related entity may be waived or reduced if the commissioner determines it is appropriate.

Subchapter B. Fees

§97.113. Fees and Charges.

(a) Remittance of fees.

(1) Each credit union authorized to do business under the Act shall remit to the department an annual operating fee. The fee shall be paid in semi-annual installments, billed effective September 1 and March 1 of each year. The final installment may be adjusted as provided by subsection (d) of this section. Installments received after September 30 or March 30 of each year will be subject to a monthly 10% late fee unless waived by the commissioner for good cause.

(2) Credit unions that exit the Texas credit union system on or before August 31 or February 28 of a given year, will not be subject to the semi-annual assessment for the period beginning

September 1 or March 1, respectively. Only those credit unions leaving the state credit union system prior to the close of business on those dates avoid paying the semi-annual assessment for the period beginning September 1 or March 1, as applicable.

(b) Calculation of operating fees. The schedule provided in this section shall serve as the basis for calculating operating fees. The base date shall be June 30 of the year in which operating fees are calculated. The asset base may be reduced by the amount of reverse-repurchase balances extant on the June 30 base date. The commissioner is authorized to increase the fee schedule once each year as needed to match revenue with appropriations. An increase greater than 5% shall require prior approval of the commission. The commissioner shall notify the commission of any such adjustment at the first meeting of the commission following the determination of the fee schedule.

For Credit Unions with Total Assets Of:

The Operating Fee is:

Less than \$200,000	\$200
\$200,000 but less than \$1M	\$200 plus .001625 of excess over \$200,000
\$1M but less than \$10M	\$1,500 plus .00034 of excess over \$1M
\$10M but less than \$25M	\$4,560 plus .00014 of excess over \$10M
\$25M but less than \$50M	\$6,660 plus .00017 of excess over \$25M
\$50M but less than \$100M	\$10,910 plus .00019 of excess over \$50M
\$100M but less than \$500M	\$20,410 plus .000080 of excess over \$100M
\$500M but less than \$1,000M	\$52,410 plus .000072 of excess over \$500M
\$1,000M but less than \$2,000M	\$88,410 plus .000069 of excess over \$1,000M
\$2,000M and over	\$157,410 plus .000062 of excess over \$2,000M

(c) Waiver of operating fees. The commissioner is authorized to waive the operating fee for an individual credit union when good cause exists. The commissioner shall document the reason(s) for each waiver of operating fees and report such waiver to the commission at its next meeting.

(d) Adjustment of an installment. The commissioner in the exercise of discretion may, after review and consideration of actual revenues to date and projected revenues for the remainder of the fiscal year, lower the amount of the final installment due from credit unions.

(e) Supplemental examination fees.

(1) If the commissioner or deputy commissioner schedules a special examination in addition to the regular examination, the credit union is subject to a supplemental charge to cover the cost of time and expenses incurred in the examination.

(2) The credit union shall pay a supplemental fee of \$50 for each hour of time expended on the examination. The commissioner may waive the supplemental fee or reduce the fee, individually or collectively, as he deems appropriate. Such waiver or reduction shall be in writing and signed by the commissioner. The department shall fully explain the time and charges for each special examination to the president or designated official in charge of operations of a credit union.

(f) Foreign credit union branches. Credit unions operating branch offices in Texas as authorized by §91.210 of this title (relating to Foreign Credit Unions) shall pay an annual operating fee of \$500 per branch office.

(g) Credit union conversion fee. A credit union organized under the laws of the United States or of another State that converts to a credit union organized under the laws of this State shall remit to the department an annual operating fee within 30 days after the issuance of a charter by the commissioner. The schedule provided in subsection (b) of this section shall serve as the basis for calculating the operating fee. All provisions set forth in subsection (b) of this section shall apply to converting credit unions with the following exceptions:

(1) Should the effective date of the conversion fall on or after October 31, the base date shall be the calendar quarter end immediately preceding the issuance date of a charter by the commissioner.

(2) The amount of the operating fee calculated under this section will be prorated based upon the number of full months remaining until September 1. For example, should the effective date of the conversion be January 31, the converting credit union will remit seven-twelfths of the amount of the operating fee calculated using December 31 base date.

(3) Any fee received more than 30 days after the issuance of a charter will be subject to a monthly 10% late fee unless waived by the commissioner for good cause.

(h) Mergers/Consolidations. In the event a credit union in existence as of June 30 merges or consolidates with another credit union and the merger/consolidation is completed on or before August 31, the surviving credit union's asset base, for purposes of calculating the operating fee prescribed in subsection (b) of this section, will be increased by the amount of the merging credit union's total assets as of the June 30 base date.

(i) Special assessment. The commission may approve a special assessment to cover material expenditures, such as major facility repairs and improvements and other extraordinary expenses.

(j) Foreign credit union fee for field of membership expansion. A foreign credit union applying to expand its field of membership in Texas shall pay a fee of \$200. This fee shall be paid at the time of filing to cover the cost of processing the application. In addition, the applicant shall pay any cost incurred by the department in connection with a hearing conducted at the request of the applicant.

(k) Foreign credit union examination fees.

(1) If the commissioner schedules an examination of a foreign credit union, the credit union is subject to supplemental charges to cover the cost of time and expenses incurred in the examination.

(2) The foreign credit union shall pay a fee of \$50 for each hour of time expended by each examiner on the examination. The commissioner may waive the examination fee or reduce the fee as he deems appropriate.

(3) The foreign credit union shall also reimburse the department for actual travel expenses incurred in connection with the examination, including mileage, public transportation,

food, and lodging in addition to the fee set forth in paragraph (2) of this subsection. The commissioner may waive this charge at his discretion.

(l) Contract Services. In addition, the commissioner may charge, or otherwise cause to be paid by, a credit union, a foreign credit union or related entities the actual cost incurred by the department for an examination or a review of all or part of the operations or activities of a credit union, a foreign credit union or related entity that is performed under a personal services contract entered into between the department and third parties.

§97.114. Charges for Public Records.

(a) Reproduction Charges. Copies of documents not excepted from disclosure by the Texas Public Information Act (Government Code, Chapter 552) may be obtained upon written request to the department at rates established by the Office of the Attorney General in 1 TAC Sections §§70.1-70.12 (relating to Cost of Copies of Public Information) or other applicable law.

(b) Request for Information. The following guidelines apply to requests for records under the Public Information Act (Government Code, Chapter 552).

(1) Request must be in writing and reasonably identify the records requested.

(2) Records access will be by appointment only.

(3) Records access is available only during the regular business hours of the department.

(4) Generally, unless confidential information is involved, review may be by physical access or by duplication, at the requestor's option. Any person, however, whose request would be unduly disruptive to the ongoing business of the office may be denied physical access and will be provided only the option of receiving copies by duplication.

(5) When the safety of any public record is at issue, physical access may be denied, and the records will be provided by duplication as previously described.

(6) Confidential files will not be made available for inspection or for duplication unless required by a court order or Attorney General decision.

(c) Waiver of Fees or Charges. The commissioner may waive or reduce an established charge when, in his or her discretion, a waiver or reduction of the fee is in the public interest because furnishing the information primarily benefits the general public. The fee may also be waived if the cost of processing the collection of a charge will exceed the amount of the charge.

§97.115. Reimbursement of Legal Expenses.

(a) The commissioner may seek reimbursement of expenses from an individual credit union for legal fees incurred solely and necessarily because the credit union acted in an unreasonable or egregious manner or acted outside the course and scope of what is permitted by statute or regulation. To ensure that the rights and interest of all parties are protected, this section shall not apply to any adjudicative proceedings in which the legal rights, duties, or privileges of the credit union are being determined by the Department after an opportunity for hearing. This section also does not apply to court proceedings where the individual credit union's legal rights, duties, or privileges are being determined as against the Department.

(b) The credit union has thirty days from the date it receives the assessment to pay in full or to appeal in writing to the Commission.

(c) If a credit union files a written notice of appeal, the Commission shall hear the appeal at its next regularly scheduled meeting. In making its decision, the Commission shall consider whether the credit union acted reasonably under the circumstances or acted within its legal rights.

(d) When possible, the Department will notify a credit union before the Department requests legal assistance which may be charged to a credit union under this section.

§97.116. Recovery of Costs for Extraordinary Services Not Related to an Examination.

(a) The commissioner may seek reimbursement from an individual credit union for non examination-related expenses incurred solely and necessarily because the credit union acted in an unreasonable or egregious manner, or acted outside the course and scope of what is permitted by statute or regulation. Expenses can include personnel costs, transportation costs, meals, lodging, and other incidental expenses. If the commissioner determines that recovery of costs is appropriate, the Department shall provide advance notice to the credit union of its intention to recover the expenses.

(b) In seeking reimbursement, the commissioner shall consider the amount of the costs involved, the nature of the credit union's conduct, the service provided, the financial impact on the credit union, and the impact of the activity on other Department services. The commissioner may reduce the charges and bill the credit union less than the full amount of the costs.

(c) The credit union has thirty days from the date it receives the assessment to pay in full or to appeal in writing to the Commission.

(d) If a credit union files a written notice of appeal, the Commission shall hear the appeal at its next regularly scheduled meeting. In making its decision, the Commission shall consider whether the credit union acted reasonably under the circumstances or acted within its legal rights.

Subchapter C. Department Operations

§97.200. Employee Training Program.

(a) Components of program. The employee training program for the department consists of one or more of the following components:

(1) Agency-sponsored training to include in-house training sessions and on-the-job training;

(2) Formal training program conducted through the National Credit Union Administration as administrator of the National Credit Union Share Insurance Fund.

(3) Seminars and conferences; and

(4) Formal course of study at an accredited institution of higher education.

(b) In order for the cost of training and the time related to that training to be reimbursed by the department, the employee must demonstrate that the course has direct applicability to the employee's job with the department. Attendance at an approved training session described in subsection (a)(1)-(3) will be considered part of the employee's normal work duties and will not require the employee to use accrued leave to attend.

(c) Requests to attend an external training program, seminar or conference pursuant to this section must be approved by the commissioner. Approval of a request is contingent upon availability of funds. If limited funds are available, and more than one employee wishes to participate, a decision regarding who will attend will be based upon the extent of their previous use of funds, the training's merit and its value to the department's operations.

(d) Continuing education courses. Continuing education courses required by licensing or certifying bodies for employees to maintain a professional license or designation will only be reimbursed if such courses relate directly to the employee's job duties with the department and there are funds available.

(e) Tuition reimbursement. The Commissioner must authorize in writing the reimbursement of tuition in accordance with this subsection.

(1) The department may reimburse full-time employees for part or all of tuition and required fees for formal courses of study described in subsection (a)(4) provided the eligibility criteria set forth below are met.

(A) An employee must have completed 24 consecutive months of full-time employment with the department prior to requesting approval to receive tuition reimbursement. However, the 24-month requirement may be waived if the commissioner finds that the employee needs a particular course to fulfill his or her work duties.

(B) An employee must be performing consistently above that normally expected or required and must have achieved an overall performance rating of at least 3.50 on the employee's most recent performance evaluation.

(C) An employee must not have been subject to formal disciplinary action for at least twelve months prior to requesting approval. As used in this section, "disciplinary action" includes a formal written reprimand, suspension without pay, or salary reduction for disciplinary reasons.

(D) The course work must be related to a current or prospective duty assignment within the department.

(E) An employee, before the course begins, must agree in writing to the repayment requirement stated in this subsection.

(F) At the time of the request for approval to receive tuition reimbursement, comparable training must not be scheduled to be offered in-house or through the National Credit Union Administration during the period of time covered by the tuition reimbursement.

(G) The employee's participation must not adversely affect workload or performance.

(H) The employee must complete the course within the semester for which tuition reimbursement was requested.

(I) The employee must receive a passing grade in the course. A passing grade is a grade which will entitle the employee to receive credit for the course from the educational institution offering the course.

(2) Reimbursable costs. Criteria addressing the extent to which cost of tuition may be reimbursed are as follows:

(A) The maximum amount an employee may be reimbursed for an approved tuition reimbursement request is \$250 per semester, not to exceed \$500 per fiscal year. The maximum amount of reimbursement may be increased up to \$400 per semester for good cause shown upon approval by the commissioner.

(B) Reimbursable costs include tuition, related fees, and required textbooks and workbooks. Employees will not be reimbursed for auditing a course.

(C) Costs described in subparagraph (B) of this paragraph will be paid to the employee at the completion of the course upon the employee submitting proof that the course was completed and a passing grade was received.

(3) Repayment. Should an employee separate from department service within 12 months of completion of the course, the employee must reimburse the department for all reimbursable costs expended by the department for that course in accordance with section 656.103 of the Texas Government Code (relating to Restrictions on Certain Training Costs). The commission may adopt an order waiving this requirement upon finding that such action is in the best interest of the department or is warranted because of an extreme personal hardship suffered by the employee.

(4) Prohibition on use of state resources. Employees may not use department equipment, such as computers, calculators or typewriters to complete course work.

§97.205. Use of Historically Underutilized Businesses.

Pursuant to Chapter 2161 of the Government Code, the Department hereby incorporates by reference the rules of the Comptroller of Public Accounts, 34 TAC §§20.11-20.28 (relating to Historically Underutilized Business Program), or any successor rules, regarding historically underutilized businesses. The Department shall comply, to the extent applicable, with the requirements of these rules when purchasing goods and services that are paid for with State appropriated money.

§97.206. Posting Of Certain Contracts: Enhanced Contracts And Performance Monitoring.

(a) Pursuant to section 2261.253 of the Texas Government Code, the Department will implement the following procedures for contracts for the purchase of goods or services from private vendors:

(1) The Department will list information pertaining to its contract with private vendors on its website. The information will include:

- (A) The name of the vendor with whom the contract is made;
- (B) A description of the competitive bidding process for the contract, or, if the contract did not involve competitive bidding, a citation and explanation of the legal authority supporting exemption from the competitive bidding process;
- (C) A link to a copy of the request for proposal for the contract, if applicable until the contract expires or is completed; and
- (D) A link to a copy of the contract with the vendor until the contract expires or is completed.

(2) Enhanced contract or performance monitoring procedure until the contract expires or is completed.

(A) For each contract whose value is greater than \$25,000, the Commissioner and the Department Procurement Director will evaluate whether enhanced contract or performance monitoring is appropriate. Criteria that may be considered include:

- (i) Total cost of the contract.
- (ii) Risk of loss to the Department under the contract.
- (iii) Department resources available for enhanced contract or performance monitoring.

(B) After evaluation of the contract, the Commissioner will immediately report to the Commission Members:

- (i) The basis for determination as to whether enhanced contract or performance monitoring is appropriate;
- (ii) Include any serious issues or risks identified with the contract, if applicable; and
- (iii) If enhanced contract or performance monitoring is appropriate, the Department's plan for carrying out the enhanced contract or performance monitoring.

(C) Commission members may agree to convene a special commission meeting for the purposes of discussion or deciding upon matters related to enhanced contract or performance monitoring of Department contracts. This meeting would be conducted in conformity with the Texas Open Meetings Act.

(b) This rule applies only to contracts for which the request for bids or proposals is made public on or after September 1, 2015; or, if the contract is exempt from competitive bidding, where the contract is entered into on or after September 1, 2015. This rule does not apply to memorandums of understanding, interagency contracts, interlocal agreements or contracts that do not involve a cost to the Department.

§97.207. Contracts for Professional or Personal Service.

(a) In connection with the authority granted to the commissioner to negotiate, contract or enter into an agreement for professional or personal services under §15.414, Texas Finance Code, the Department hereby incorporates by reference the procurement rules of the Comptroller of Public Accounts, 34 TAC Chapter 20 (relating to Texas Procurement and Support Services), or any successor rules, regarding soliciting and awarding contracts. The Department shall comply, to the extent applicable, with the requirements of these rules when contracting for professional or personal services that are paid for with State appropriated money or paid by credit unions pursuant to 7 TAC §97.113(l) of this title (relating to Fees and Charges).

(b) Any professional or personal service contracts between the Department and entities that receive funds from the State of Texas shall contain the following language regarding the authority of the State Auditor's Office to conduct an audit or investigation in connection with those funds: "Contractor understands that acceptance of funds under this contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Contractor further agrees to cooperate fully with the State Auditor's office or its successor in the conduct of the audit or investigation, including providing all records requested. Contractor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Contractor and the requirements to cooperate is included in any subcontract it awards."

(c) Any professional or personal service contracts between the Department and entities that receive funds from the State of Texas shall contain the following language regarding dispute resolution: "The parties shall attempt to resolve any dispute arising under this contract by using the Department's dispute resolution process." The Department hereby incorporates by reference as its dispute resolution process the rules found in 1 TAC Chapter 68 (relating to Negotiation and Mediation of Certain Contract Disputes), or any successor rules.

Subchapter D. Gifts and Bequests

§97.300. Gifts of Money or Property.

(a) The department may accept money or property by gift, bequest, devise, or otherwise ("Donation"), only from an organization described in Section 501(c)(3), Internal Revenue Code of 1986, for the purposes of funding or performing any authorized activity ("Donor").

(b) All Donations must be accepted in an open meeting by a majority of the commission members present and reported in the minutes of the meeting setting forth the name of the Donor and the purpose of the Donation. Before accepting a Donation, the commission may require the Donor to provide information that the commission deems reasonable and necessary to ensure itself that the Donation is not being conveyed to directly or indirectly influence an official act of the department or the commission.

(c) The department may not solicit money or property from any person or organization to settle an administrative action or to keep the department from taking formal enforcement action.

Subchapter E. Advisory Committees

§97.401. General Requirements.

- (a) **Definition.** For purposes of this rule, the term “advisory committee” means a committee, council, board, task force, or other entity with multiple members established to provide advice and counsel to the commission.
- (b) **Creation.** The commission may establish advisory committees to advise the commission on issues within the jurisdiction of the department.
- (c) **Function.** Unless otherwise provided by law, an advisory committee’s responsibility is limited to those matters about which advice or counsel is sought. An advisory committee will have no authority to make rules or establish department policy.
- (d) **Expiration of advisory committee.** Unless expressly provided in this subchapter or other law, an advisory committee will expire on the fourth anniversary of the date of its creation. The date of creation shall be the effective date of the rule establishing the advisory committee.
- (e) **Membership and Quorum.** The chairman may appoint a maximum of 24 individuals to serve on an advisory committee. A majority of those individuals shall constitute a quorum. Unless otherwise provided by specific statute, the appointments shall be balanced to ensure representation of credit unions regulated by the department and consumers of services provided by those credit unions. Each advisory committee shall include at least one department employee as an ex officio member. This employee shall not be considered a committee member for purposes of establishing the maximum number of members or for purposes of determining a quorum.
- (f) **Term of members.** Unless expressly provided in this subchapter or other law, each member of an agency advisory committee will serve a term of four years. The terms may be staggered. Members’ terms will expire at the end of four years or upon the termination of the advisory committee, whichever is earlier. Members may be reappointed. Members serve at the will of the chairman and may be removed at any time by the chairman.
- (g) **Presiding officer.** The presiding officer of each advisory committee shall be selected by the members of the advisory committee from its membership. The chairman may make a recommendation to the advisory committee regarding the presiding officer.
- (h) **Meetings.** Meetings shall be subject to the requirements of Chapter 551 of the Government Code. Each committee shall meet at least annually, but may meet as often as necessary. The department ex officio member of each advisory committee shall work with the presiding officer to schedule advisory committee meetings and provide adequate notice to department staff and to other members.
- (i) **Reports.** On or before October 1 of each year, each advisory committee shall submit a report to the commission. Upon receipt of the report, the commission shall evaluate the advisory committee’s work, usefulness, and costs related to the committee’s existence, including the cost of department staff time spent in support of the committee’s activities. Each report shall include the following:
 - (1) a summary or minutes of meetings conducted during the previous fiscal year (September 1-August 31);
 - (2) a summary of recommendations from the advisory committee; and
 - (3) other information determined by the advisory committee or the chairman to be appropriate and useful.
- (j) **Expenses.** Members of each advisory committee will serve without compensation or reimbursement for travel or other out-of-pocket expenses.

(k) Rules. For each advisory committee appointed, the commission shall adopt rules that address the purpose of the advisory committee and membership qualifications, including experience requirements, geographic representation, and training requirements. Such rules may also address the terms of service, operating procedures, and other standards to ensure the effectiveness of an advisory committee appointed under this subchapter.

Subchapter F. Rulemaking

§97.500. Petitions to Initiate Rulemaking Proceedings.

(a) Petitions to initiate rulemaking proceeding pursuant to Government Code, §2001.021, must be submitted to the Department in writing. A petition must include:

(1) a brief explanation of the proposed rule;

(2) the full text of the proposed rule, and, if the petition is to amend an existing rule, the text of the rule that clearly identifies any words to be added or deleted from the existing text by underlining new language and striking through language to be deleted; and

(3) a concise explanation of the legal authority to adopt the proposed rule, including a specific reference to the particular statute or other authority that authorizes it.

(b) When the Department receives a rulemaking petition, the Department shall review it for compliance with the requirements of subsection (a) of this section. If the petition is determined to comply, the Department shall notify the applicant that the petition has been accepted for filing and will be processed in accordance with Government Code, §2001.021(c). If it is determined the petition does not comply with subsection (a), the Department shall notify the applicant in writing of all deficiencies found and give the petitioner an opportunity to cure them by filing an amended petition. If no amended petition curing the deficiencies is filed with the Department by 5:00 p.m. on the 15th calendar day following the date that the Department mailed a notice of deficiencies to the petitioner, the petition shall be deemed denied for the reasons stated in the deficiency notice without the necessity of further action.

(c) If the petition is accepted for filing, within 60 days of the date that a petition is accepted for filing, the Department must either deny the petition for reasons stated in writing or initiate a rulemaking proceeding.

§97.501. Hearing on Proposed Rules.

(a) The Department shall grant an opportunity for a public hearing before adoption of any substantive rule as required by Government Code, §2001.029(b), or other applicable statute.

(b) The hearing may be held by the commissioner or by any other person designated by the commissioner. In the exercise of discretion, the commissioner may impose reasonable time limits on presentation of evidence and argument, determine the order of the presentations, and conduct the hearing in a manner suitable to the particular proceeding. Public hearings on proposed rules are neither contested cases nor full legal adversary proceedings. Ex parte prohibitions do not apply.

RELATED ENTITIES

C. (2) Proposed Amendments to 7 TAC, Part 6, Chapter 97, Subchapter A, Section 97.101 (Related Entities).

BACKGROUND: It has been determined that no action is needed on this item.

RECOMMENDED ACTION: No action needed.

FEES AND CHARGES

C. (3) Proposed Amendments to 7 TAC, Part 6, Chapter 97, Subchapter B, Section 97.113.

BACKGROUND: The proposed amendments to 97.113 will better organize the fees section, allow adjustments based on the budget for both semiannual assessments instead of only the second assessment and add the ability to recover direct contractual obligations related to expenditures paid to third parties. Lastly, we request a mechanism to charge user-based fees, subject to Commission approval.

Operating fees: Much of the current rule relates to operating fees, however these provisions are not grouped together and are scattered. The proposed changes will list all details of operating fees under the same section, (a).

A change was made to the installment adjustment provisions to allow for adjustment of either the first or final operating fee installment. This is in response to a recommendation in the Sunset Commission review.

The hourly rate for supplemental or special examinations is requested to be increased from \$50 to \$100, to more appropriately reflect staff costs.

Foreign credit unions: Fees for foreign credit unions are also not grouped in the current rule amendments group applicable rules together. Recommended changes group these fees so they are all under part (d) of the rule. It increases the administrative fees for branch offices from \$500 to \$1,000 and membership expansion requests from \$200 to \$1,000.

Contract Services: Amendment is requested for the Commissioner to charge a credit union contract expense incurred by the department solely related to regulating that specific credit union and paid to third parties. It would allow the recovery of direct costs incurred, such as administrative appeals to SOAH, as opposed to those expenses being borne by all regulated credit unions through their operating fee assessment.

User Fee: This would allow the Commissioner to propose certain user fees to offset costs involved in administrative functions. We are not recommending any user fees at this time.

The rule change allows an additional tool during the annual budgeting process should we anticipate expenditures in excess of normal operating fee assessments. Fees would be considered as an alternative to assessing a discretionary operating fee increase to be paid by all credit unions.

In fiscal year 2024, only 25% of regulated credit unions required any complaint processing and approximately half of the complaints processed were related to only 8 credit unions, less than 5% of state charters. Less than 25% of regulated credit unions requested bylaw amendments and less than 5% requested merger related approvals. All of these services require significant staff resources, particularly as credit union operations and expansion requests have become more complex.

Any proposed fees would require official Commission approval and review at least every two years.

RECOMMENDED ACTION: The Committee recommends that the Commission approve the proposed amendments for publication and comment.

NOTE: Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

The Credit Union Commission (the Commission) proposes amendments to 7 TAC, Chapter 97, Section 97.113 concerning fees and charges.

Specifically, the proposed amendments will:

- Organize the rule by grouping the types of fees authorized.
- Clarify that the costs for professional, dispute resolution and legal fees can be passed on to any regulated Credit Union directly causing the expense.
- Increase the hourly rates for special examinations from \$50 to \$100 per hour.
- Increase fees charged to foreign credit unions.
- Provide for the ability of the Commission to implement user-based fees in the future.

The amendments are proposed because of the Department's general rule review.

Texas Finance Code, Section 15.402 (c), authorizes the Commission to establish reasonable and necessary fees for the administration of the Credit Union Department.

STATE AND LOCAL GOVERNMENTS

Karen Miller, General Counsel, has determined that for the first five-year period that the rule changes are in effect there will be no fiscal implications for state and local government as a result of enforcing or administering the rule changes.

STATEMENT OF PUBLIC COST AND BENEFITS

Karen Miller has also determined that for each year of the first five years the rules are in effect, the public will benefit from the adoption of the proposed amendments because it will allow the Department to recover costs directly related to special services provided to regulated credit unions in lieu of those costs being paid by all regulated credit unions.

SMALL AND MICRO BUSINESSES AND RURAL COMMUNITIES

Karen Miller has also determined that for each year of the first five years the rule changes are in effect, there will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

GOVERNMENT GROWTH IMPACT STATEMENT

Except as may be described below to the contrary, for each year of the first five years that the rules will be in effect, changes to the rules will not:

- Create or eliminate a government program;
- Require the creation of new employee positions or the elimination of existing employee positions;
- Require an increase or decrease in future legislative appropriations for the agency;
- Create new regulations;
- Expand, limit, or repeal an existing regulation;
- Increase or decrease the number of individuals subject to the rule's applicability; or

- Positively or adversely affect this state's economy.

COMMENTS

Written comments on the proposed amendments may be submitted to Karen Miller, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to CUDMail@tud.texas.gov. To allow the Commission sufficient time to fully address all the comments it receives, all comments must be received on or before 5:00 p.m. on the 31st day after the date the proposal is published in the *Texas Register*.

AUTHORITY

The rule changes are proposed under the Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code Title 2, Chapter 15 and Title 3, Subtitle D.

The statutory provision authorizing the proposed amendments is the Texas Finance Code, Section 15.402 (c), establishing reasonable and necessary fees for the administration of the Credit Union Department.

§97.113. Fees and Charges.

(a) **Operating Fee [Remittance of fees].**

(1) Each credit union authorized to do business under the Act shall remit to the department an annual operating fee. The fee shall be paid in semi-annual installments, billed effective September 1 and March 1 of each year. **Either [The final]** installment may be adjusted as provided by subsection (d) of this section. **[Installments received after September 30 or March 30 of each year will be subject to a monthly 10% late fee unless waived by the commissioner for good cause.]**

(2) Credit unions that exit the Texas credit union system on or before August 31 or February 28 of a given year, will not be subject to the semi-annual assessment for the period beginning September 1 or March 1, respectively. Only those credit unions leaving the state credit union system prior to the close of business on those dates avoid paying the semi-annual assessment for the period beginning September 1 or March 1, as applicable.

(3) [(b)] Calculation of operating fees. The schedule provided in this section shall serve as the basis for calculating operating fees. The base date shall be June 30 of the year in which operating fees are calculated. The asset base may be reduced by the amount of reverse-repurchase balances extant on the June 30 base date. **[The commissioner is authorized to increase the fee schedule once each year as needed to match revenue with appropriations. An increase greater than 5% shall require prior approval of the commission. The commissioner shall notify the commission of any such adjustment at the first meeting of the commission following the determination of the fee schedule.]**

For Credit Unions with Total Assets Of:

The Operating Fee is:

Less than \$200,000	\$200
\$200,000 but less than \$1M	\$200 plus .001625 of excess over \$200,000
\$1M but less than \$10M	\$1,500 plus .00034 of excess over \$1M
\$10M but less than \$25M	\$4,560 plus .00014 of excess over \$10M
\$25M but less than \$50M	\$6,660 plus .00017 of excess over \$25M
\$50M but less than \$100M	\$10,910 plus .00019 of excess over \$50M

\$100M but less than \$500M	\$20,410 plus .000080 of excess over \$100M
\$500M but less than \$1,000M	\$52,410 plus .000072 of excess over \$500M
\$1,000M but less than \$2,000M	\$88,410 plus .000069 of excess over \$1,000M
\$2,000M and over	\$157,410 plus .000062 of excess over \$2,000M

(4) The commissioner is authorized to increase the fee schedule once each year as needed to match revenue with appropriations. An increase greater than 5% shall require prior approval of the commission. The commissioner shall notify the commission of any such adjustment at the first meeting of the commission following the determination of the fee schedule.

(5) [(c)] Waiver of operating fees. The commissioner is authorized to waive the operating fee for an individual credit union when good cause exists. The commissioner shall document the reason(s) for each waiver of operating fees and report such waiver to the commission at its next meeting.

(6) [(d)] Adjustment of an installment. The commissioner in the exercise of discretion may, after review and consideration of **anticipated and** actual revenues **[to date]** and projected revenues **[for the remainder of the fiscal year, lower]** **adjust** the amount of **either [the final]** installment due from credit unions.

(7) Late Fee. Installments received after September 30 or March 30 of each year will be subject to a monthly 10% late fee (calculated on the balance due) unless waived by the commissioner for good cause.

(8) Credit union conversion. A credit union organized under the laws of the United States or of another State that converts to a credit union organized under the laws of this State shall remit to the department an annual operating fee within 30 days after the issuance of a charter by the commissioner. The schedule provided in subsection (a)(4) of this section shall serve as the basis for calculating the operating fee. All provisions set forth in subsection (a)(4) of this section shall apply to converting credit unions with the following exceptions:

(A) Should the effective date of the conversion fall on or after October 31, the base date shall be the calendar quarter end immediately preceding the issuance date of a charter by the commissioner.

(B) The amount of the operating fee calculated under this section will be prorated based upon the number of full months remaining until September 1. For example, should the effective date of the conversion be January 31, the converting credit union will remit seven-twelfths of the amount of the operating fee calculated using December 31 base date.

(C) Any fee received more than 30 days after the issuance of a charter will be subject to a monthly 10% late fee unless waived by the commissioner for good cause.

(9) Mergers/Consolidations. In the event a credit union in existence as of June 30 merges or consolidates with another credit union and the merger/consolidation is completed on or before August 31, the surviving credit union's asset base, for purposes of calculating the

operating fee prescribed in subsection (b) of this section, will be increased by the amount of the merging credit union's total assets as of the June 30 base date.

(b) [(e)] Supplemental examination fees.

(1) If the commissioner or deputy commissioner schedules a special examination in addition to the regular examination, the credit union is subject to a supplemental charge to cover the cost of time and expenses incurred in the examination.

(2) The credit union shall pay a supplemental fee of **\$100 [\$50]** for each hour of time expended on the examination. The commissioner may waive the supplemental fee or reduce the fee, individually or collectively, as he deems appropriate. Such waiver or reduction shall be in writing and signed by the commissioner. The department shall fully explain the time and charges for each special examination to the president or designated official in charge of operations of a credit union.

[(f) Foreign credit union branches. Credit unions operating branch offices in Texas as authorized by §91.210 of this title (relating to Foreign Credit Unions) shall pay an annual operating fee of \$500 per branch office.]

[(g) Credit union conversion fee. A credit union organized under the laws of the United States or of another State that converts to a credit union organized under the laws of this State shall remit to the department an annual operating fee within 30 days after the issuance of a charter by the commissioner. The schedule provided in subsection (b) of this section shall serve as the basis for calculating the operating fee. All provisions set forth in subsection (b) of this section shall apply to converting credit unions with the following exceptions:]

[(1) Should the effective date of the conversion fall on or after October 31, the base date shall be the calendar quarter end immediately preceding the issuance date of a charter by the commissioner.]

[(2) The amount of the operating fee calculated under this section will be prorated based upon the number of full months remaining until September 1. For example, should the effective date of the conversion be January 31, the converting credit union will remit seven-twelfths of the amount of the operating fee calculated using December 31 base date.]

[(3) Any fee received more than 30 days after the issuance of a charter will be subject to a monthly 10% late fee unless waived by the commissioner for good cause.]

[(h) Mergers/Consolidations. In the event a credit union in existence as of June 30 merges or consolidates with another credit union and the merger/consolidation is completed on or before August 31, the surviving credit union's asset base, for purposes of calculating the operating fee prescribed in subsection (b) of this section, will be increased by the amount of the merging credit union's total assets as of the June 30 base date.]

[(c) [(i)] Special assessment. The commission may approve a special assessment to cover material expenditures, such as major facility repairs and improvements and other extraordinary expenses.

[(d) [(j)] Foreign credit unions.

(1) Branches. Credit unions operating branch offices in Texas as authorized by §91.210 of this title (relating to Foreign Credit Unions) shall pay an annual operating fee of \$1,000 per branch office.

(2) Field of membership expansion **[fee for]**. A foreign credit union applying to expand its field of membership in Texas shall pay a fee of **\$1,000 [\$200]**. This fee shall be paid at the time of filing to cover the cost of processing the application. In addition, the applicant shall pay any cost incurred by the department in connection with **any [a]** hearing conducted **[at the request of the applicant]**.

(3)(k) Foreign credit union examination fees.

(A) [(1)] If the commissioner schedules an examination of a foreign credit union, the credit union is subject to supplemental charges to cover the cost of time and expenses incurred in the examination.

(B) [(2)] The foreign credit union shall pay a fee of **\$100 [\$50]** for each hour of time expended by each examiner on the examination. The commissioner may waive the examination fee or reduce the fee as he deems appropriate.

(C) [(3)] The foreign credit union shall also reimburse the department for actual travel expenses incurred in connection with the examination, including mileage, public transportation, food, and lodging in addition to the fee set forth in paragraph (2) of this subsection. The commissioner may waive this charge at his discretion.

(e) [(l)] Contract Services. **The [In addition, the]** commissioner may charge, or otherwise cause to be paid by, a credit union, a foreign credit union or related entities the actual **reasonable** cost **paid [incurred]** by the department for **legal fees, adjudication fees or** an examination or a review of all or part of the operations or **applications [activities]** of a credit union, a foreign credit union or related entity, that is performed under a **[personal services]** contract entered into between the department and third parties.

(f) User Fees. The Commissioner may implement, subject to approval by the Commission, a fee schedule to offset administrative costs incurred for activities such as processing complaints, applications, and other administrative functions. Any administrative fee schedule shall be reviewed and approved by the Commission at least every two years. Any fee schedule approved by the Commission shall be included with the credit union's operating fee statement, prior to the effective date, and published on the Department's website.

DEFINITIONS AND INTERPRETATIONS

C. (4) Proposed Amendments to 7 TAC, Part 6, Chapter 91, Subchapter A, Section 91.101 (Definitions and Interpretations).

BACKGROUND: This requested amendment replaces the phrase “political jurisdiction” with “political subdivision”. It also adds a definition for political subdivision. This is necessary to avoid confusion about unifying characteristics and provide consistency with other provisions in the rules referencing “political subdivision” which number seven. This is the only instance in the rules that mentions “political jurisdiction”.

RECOMMENDED ACTION: The Committee recommends that the Commission approve the proposed amendments for publication and comment.

NOTE: Coming upon a recommendation from the Rules Committee, a Standing Committee of the Commission, no second is needed to consider and vote on the issue.

The Credit Union Commission (the Commission) proposes amendments to §91.101, relating to Definitions and Interpretations. The proposed amendment would define the term "political subdivision", change the definition of Unifying Characteristics to include a political subdivision instead of political jurisdiction, and renumber the definitions to reflect the additional definition.

The Commission proposes the following amendment to §91.101. The language is presented to clearly define the terms involved to both the industry and Department staff.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENTS. Karen Miller, General Counsel has determined that for the first five-year period the proposed amendments are in effect, there are no reasonably foreseeable implications relating to cost or revenues of state or local governments, under Government Code §2001.024(a)(4), as a result of enforcing or administering these amendments, as proposed.

PUBLIC BENEFIT/COST NOTE. Ms. Miller has determined, under Government Code §2001.024(a)(5) that for the first five-year period the amended rules are in effect, the public benefit of rule clarity will provide improved guidance to the industry. He further has determined there will be no probable economic cost to the credit union system or to persons required to comply with the rule.

IMPACT ON LOCAL EMPLOYMENT OR ECONOMY. There is no reasonably forecasted effect on local economy for the first five years that the proposed amendments are in effect. Therefore, no economic impact statement, local employment impact statement, nor regulatory flexibility analysis is required under Texas Government Code §§2001.022 or 2001.024(a)(6). **COST TO REGULATED PERSONS (COST-IN/COST-OUT).** This rule proposal is not subject to Texas Government Code §2001.0045, concerning increasing costs to regulated persons, because this agency is a Self-Directed Semi-Independent (SDSI) agency under Finance Code Chapter 16 and is exempt from that cost provision.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Kolhoff has also determined that for each year of the first five years the proposed amendment is in effect, there will be no reasonably forecasted adverse economic effect on small businesses, micro-businesses, or rural communities as a result of implementing these amendments, and, therefore, no regulatory flexibility analysis, as specified in the Texas Government Code §2006.002 is required.

GOVERNMENT GROWTH IMPACT STATEMENT. In compliance with the Texas Government Code §2001.0221, the Board has prepared a government growth impact statement. Unless indicated below, for each year of the first five years that the rule will be in effect, the rule will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;

- lead to an increase or decrease in the fees paid to the department;
- create new regulations;
- expand, limit or repeal existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability; or
- positively or adversely affect this state's economy.

TAKINGS IMPACT ASSESSMENT. No private real property interests are affected by this proposal, and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action. Therefore, the rule does not constitute a taking under Texas Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. Written comments on the proposed amendments may be submitted in writing to Karen Miller, General Counsel, Credit Union Department, 914 East Anderson Lane, Austin, Texas 78752-1699 or by email to [CUDMail@cud.texas.gov](mailto:CUDMail@ cud.texas.gov). To be considered, a written comment must be received on or before 5:00 p.m. on the 31st day after the date the proposal is published in the *Texas Register*.

STATUTORY AUTHORITY. The amendments are proposed pursuant to the Texas Finance Code, Section 15.402, which authorizes the Commission to adopt reasonable rules for administering Texas Finance Code, Title 2, Chapter 15 and Title 3, Subtitle D.

STATUTORY SECTIONS AFFECTED. The statutory provisions affected by the proposed amendments are contained in Texas Finance Code Chapter 15 and Title 3, Subtitle D.

CHAPTER 91

Subchapter A. General Rules

§91.101. Definitions and Interpretations.

(a) Words and terms used in this chapter that are defined in Finance Code §121.002, have the same meanings as defined in the Finance Code. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Act--the Texas Credit Union Act (Texas Finance Code, Subtitle D).

(2) Allowance for loan and lease losses (ALLL)--a general valuation allowance that has been established through charges against earnings to absorb losses on loans and lease financing receivables. An ALLL excludes the regular reserve and special reserves.

(3) Applicant--an individual or credit union that has submitted an application to the commissioner.

(4) Application--a written request filed by an applicant with the department seeking approval to engage in various credit union activities, transactions, and operations or to obtain other relief for which the commission is authorized by the act to issue a final decision or order subject to judicial review.

(5) Appraisal--a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of a specifically described asset as of a specific date, supported by the presentation and analysis of relevant market information.

(6) Automated teller machine (ATM)--an automated, unstaffed credit union facility owned by or operated exclusively for the credit union at which deposits are received, cash dispensed, or money lent.

(7) Community of interest--a unifying factor among persons that by virtue of its existence, facilitates the successful organization of a new credit union or promotes economic viability of an existing credit union. The types of community of interest currently recognized are:

(A) Occupational--based on an employment relationship that may be established by:

(i) employment (or a long-term) contractual relationship equivalent to employment) by a single employer, affiliated employers or employers under common ownership with at least a 10% ownership interest;

(ii) employment or attendance at a school; or

(iii) employment in the same trade, industry or profession (TIP) with a close nexus and narrow commonality of interest, which is geographically limited.

(B) Associational--based on groups consisting primarily of natural persons whose members participate in activities developing common loyalties, mutual benefits, or mutual interests. In determining whether a group has an associational community of interest, the commissioner shall consider the totality of the circumstances, which include:

(i) whether the members pay dues;

(ii) whether the members participate in furtherance of the goals of the association;

(iii) whether the members have voting rights;

(iv) whether there is a membership list;

(v) whether the association sponsors activities;

(vi) what the association's membership eligibility requirements are; and
(vii) the frequency of meetings. Associations formed primarily to qualify for credit union membership and associations based on client or customer relationships, do not have a sufficient associational community of interest.

(C) Geographic--based on a clearly defined and specific geographic area where persons have common interests and/or interact. More than one credit union may share the same geographic community of interest. There are currently four types of affinity on which a geographic community of interest can be based: persons, who:

(i) live in;
(ii) worship in;
(iii) attend school in; or
(iv) work in that community. The geographic community of interest requirements are met if the area to be served is in a recognized single political **subdivision [jurisdiction], as defined in this rule [e.g., a city or a county, or a portion thereof]**.

(D) Other--The commissioner may authorize other types of community of interest, if the commissioner determines that either a credit union or foreign credit union has sufficiently demonstrated that a proposed factor creates an identifiable affinity among the persons within the proposed group. Such a factor shall be well-defined, have a geographic definition, and may not circumvent any limitation or restriction imposed on one of the other enumerated types.

(8) A credit union service organization (CUSO)--an organization authorized by §91.801 (relating to Investments in Credit Union Service Organizations). A consolidated CUSO is one where control or ownership by a credit union requires consolidation of the credit union and CUSO financial statements to comply with Generally Accepted Accounting Principles.

(9) Day--whenever periods of time are specified in this title in days, calendar days are intended. When the day, or the last day fixed by statute or under this title for taking any action falls on Saturday, Sunday, or a state holiday, the action may be taken on the next succeeding day which is not a Saturday, Sunday, or a state holiday.

(10) Department newsletter--the monthly publication that serves as an official notice of all applications, and by which procedures to protest applications are described.

(11) Field of membership (FOM)--refers to the totality of persons a credit union may accept as members. The FOM may consist of one group, several groups with a related community of interest, or several unrelated groups with each having its own community of interest.

(12) Finance Code or Texas Finance Code--the codification of the Texas statutes governing financial institutions, financial businesses, and related financial services, including the regulations and supervision of credit unions.

(13) Imminent danger of insolvency--a circumstance or condition in which a credit union is unable or lacks the means to meet its current obligations as they come due in the regular and ordinary course of business, even if the value of its assets exceeds its liabilities; or the credit union has a positive net worth ratio equal to two percent or less of its assets.

(14) Improved residential property--residential real estate containing on-site, offsite or other improvements sufficient to make the property ready for primarily residential construction, and real estate in the process of being improved by a building or buildings to be constructed or in the process of construction for primarily residential use.

(15) Interactive teller machine (ITM) -- a video-based interactive technology which allows members to conduct transactions and credit union services driven by a centrally based teller, in a real time video or audio interaction.

(16) Indirect financing--a program in which a credit union makes the credit decision in a transaction where the credit is extended by the vendor and assigned to the credit union or a loan transaction that generally involves substantial participation in and origination of the transaction by a vendor.

(17) Loan and extension of credit--a direct or indirect advance of funds to or on behalf of a member based on an obligation of the member to repay the funds or repayable from the application of the specific property pledged by or on behalf of the member. The terminology also includes the purchase of a member's loan or other obligation, a lease financing transaction, a credit sale, a line of credit or loan commitment under which the credit union is contractually obligated to advance funds to or on behalf of a member, an advance of funds to honor a check or share draft drawn on the credit union by a member, or any other indebtedness not classified as an investment security.

(18) Loan-to-value ratio--the aggregate amount of all sums borrowed and secured by the collateral, including outstanding balances plus any unfunded commitment or line of credit from another lender that is senior to the credit union's lien divided by the current value of the collateral.

(19) Manufactured home--a HUD-code manufactured home as defined by the Texas Manufactured Housing Standards Act. The terminology may also include a mobile home, house trailer, or similar recreational vehicle if the unit will be used as the member's residence and the loan is secured by a first lien on the unit, and the unit meets the requirements for the home mortgage interest deduction under the Internal Revenue Code (26 U.S.C. Section 163(a), (h)(2)(D)).

(20) Market Value--the most probable price which an asset should bring in a competitive and open market under an arm's-length sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of ownership from seller to buyer where:

- (A) Buyer and seller are typically motivated;
- (B) Both parties are well informed or well advised, and acting in their own best interests;
- (C) A reasonable time is allowed for exposure in the open market;
- (D) Payment is made in cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- (E) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

(21) Metropolitan Statistical Area (MSA)--a geographic area as defined by the director of the U.S. Office of Management and Budget.

(22) Mobile office--a branch office that does not have a single, permanent site, including a vehicle that travels to various public locations to enable members to conduct their credit union business.

(23) Office--includes any service facility or place of business established by a credit union at which deposits are received, checks or share drafts paid, or money lent. This definition includes a credit union owned branch, a mobile branch, an office operated on a regularly scheduled weekly basis, a credit union owned ATM, or a credit union owned ITM or other electronic facility that meets, at a minimum, these requirements; however, it does not include the credit union's Internet website. This definition also includes a shared branch or a shared branch network if either:

(A) the credit union has an ownership interest in the service facility either directly or through a CUSO or similar organization; or

(B) the service facility is local to the credit union and the credit union is an authorized participant in the service center.

(24) Overlap--the situation which exists when a group of persons is eligible for membership in two or more state, foreign, or federal credit unions doing business in this state. Notwithstanding this provision, no overlap exists if eligibility for credit union membership results solely from a family relationship.

(25) Pecuniary interest--the opportunity, directly or indirectly, to make money on or share in any profit or benefit derived from a transaction.

(26) Person--an individual, partnership, corporation, association, government, governmental subdivision or agency, business trust, estate, trust, or any other public or private entity.

(27) Political Subdivision--a county, municipality, special district, school district, junior college district, housing authority, or other political subdivision of this state or any other state.

(28) [(27)] Principal office--the home office of a credit union.

(29) [(28)] Protestant--a credit union that opposes or objects to the relief requested by an applicant.

(30) [(29)] Real estate or real property--an identified parcel or tract of land. The term includes improvements, easements, rights of way, undivided or future interest and similar rights in a tract of land, but does not include mineral rights, timber rights, growing crops, water rights and similar interests severable from the land when the transaction does not involve the associated parcel or tract of land.

(31) [(30)] Remote service facility--an automated, unstaffed credit union facility owned or operated by, or operated for, the credit union, such as an automated teller machine, cash dispensing machine, point-of-sale terminal, or other remote electronic facility, at which deposits are received, cash dispensed, or money lent.

(32) [(31)] Reserves--allocations of retained earnings including regular and special reserves, except for any allowances for loan, lease or investment losses.

(33) [(32)] Resident of this state--a person physically located in, living in or employed in the state of Texas.

(34) [(33)] Respondent--a credit union or other person against whom a disciplinary proceeding is directed by the department.

(35) [(34)] Secured credit--a loan made or extension of credit given upon an assignment of an interest in collateral pursuant to applicable state laws so as to make the enforcement or promise more certain than the mere personal obligation of the debtor or promisor. Any assignment may include an interest in personal property or real property or a combination thereof.

(36) [(35)] Shared service center--a facility which is connected electronically with two or more credit unions so as to permit the facility, through personnel at the facility and the electronic connection, to provide a credit union member at the facility the same credit union services that the credit union member could lawfully obtain at the principal office of the member's credit union.

(37) [(36)] TAC--an acronym for the Texas Administrative Code, a compilation of all state agency rules in Texas.

(38) [(37)] Title or 7 TAC--Title 7, Part VI of the Texas Administrative Code Banking and Securities, which contains all of the department's rules.

(39) [(38)] Underserved area--a geographic area, which could be described as one or more contiguous metropolitan statistical areas (MSA) or one or more contiguous political subdivisions, including counties, cities, and towns, that satisfy any one of the following criteria:

(A) A majority of the residents earn less than 80 percent of the average for all wage earners as established by the U. S. Bureau of Labor Statistics;

(B) The annual household income for a majority of the residents falls at or below 80 percent of the median household income for the State of Texas, or the nation, whichever is higher; or

(C) The commission makes a determination that the lack of available or adequate financial services has adversely affected economic development within the specified area.

(40) [(39)] Uninsured membership share--funds paid into a credit union by a member that constitute uninsured capital under conditions established by the credit union and agreed to by the member including possible reduction under §122.105 of the act, risk of loss through operations, or other forfeiture. Such funds shall be considered an interest in the capital of the credit union upon liquidation, merger, or conversion.

(41) [(40)] Unsecured credit--a loan or extension of credit based solely upon the general credit financial standing of the borrower. The term shall include loans or other extensions of credit supported by the signature of a co-maker, guarantor, or endorser.

(b) The same rules of construction that apply to interpretation of Texas statutes and codes, the definitions in the Act and in Government Code §2001.003, and the definitions in subsection (a) of this section govern the interpretation of this title. If any section of this title is found to conflict with an applicable and controlling provision of other state or federal law, the section involved shall be void to the extent of the conflict without affecting the validity of the rest of this title.

D

COMMISSIONER EVALUATION COMMITTEE REPORT

D. The Commissioner Evaluation Committee is a standing committee of the Commission. The Committee will report on their activities and recommendations to the Commission.

- (1) Commissioner Succession Plan Implementation
- (2) Commissioner Applicants and Hiring Process

RECOMMENDED ACTION: The Department recommends that the Commission accept the Committee's report as presented.

NEW BUSINESS

D. (1) Commissioner Succession Plan Implementation.

Review the Process of Selecting a New Credit Union Commissioner

BACKGROUND: Given the planned retirement of the Commissioner, the Commissioner Evaluation Committee (the “Committee”) assumes responsibility for the process associated with choosing the next Commissioner. The Committee also serves as the Commission’s search committee for the purpose of carrying out the Commissioner succession plan.

This agenda item provides the Commission with an opportunity to review, discuss expectations, and ask questions about the current succession plan.

RECOMMENDED MOTION: No formal action is anticipated.

CREDIT UNION DEPARTMENT, STATE OF TEXAS COMMISSIONER SUCCESSION PLAN

Purpose. The purpose of this succession plan (“the Plan”) is to have a process for choosing a Commissioner in the event of a planned or unplanned departure of the incumbent.

Definitions.

A *planned departure* is a voluntary retirement or resignation, or a resignation requested by the Commission with an effective date of thirty days or more.

An *unplanned departure* is one that results by reason of death, an immediate termination of an incumbent Commissioner by the Commission, or the inability of the Commissioner to discharge the duties of the office. An unplanned departure may also be deemed to occur in the event of the Commissioner’s resignation or retirement with an effective date of less than 30 days.

Inability of the Commissioner to discharge the duties of the office can be signified upon either:

1. A written declaration of the Commissioner that he or she is unable to discharge the duties and responsibilities of the office of Commissioner; or
2. Receipt by the Commission of information, which leads the Commission to conclude, in its sole judgment, that the Commissioner is unable to discharge the duties and responsibilities of the office of Commissioner.

Implementation. When this Plan becomes operative, the Commissioner Evaluation Committee (“the Committee”) shall immediately assume responsibility for the succession process. The Committee will also serve as the Commission’s search committee for purposes of carrying out the Plan. As soon as possible, the Chair of the Committee shall call for a meeting of the Committee to consider its action plan. This action plan should address, at least, the following matters:

1. If the incumbent Commissioner will continue in office, the effective date of the retirement or resignation. The date should be acceptable to the Commission and the Commissioner, should provide a reasonable time to search for a successor, and should be sufficiently in the future to permit the orientation of the new Commissioner in an orderly transition.
2. If the incumbent Commissioner continues in office, whether there should be a change in the authority, duties, and responsibilities of the office.
3. The extent to which the Committee wishes to call upon the incumbent Commissioner and other staff members to assist the Committee during the transition to an interim or permanent Commissioner.

4. Whether an interim Commissioner will be required and, if so, the date upon which the person should assume office.
5. The identification of possible candidates for interim Commissioner and procedures for the selection of an interim Commissioner. The job description of the Deputy Commissioner specifies that he or she may exercise the powers and prerogatives of the Commissioner during the Commissioner's absence or inability to act.
6. Whether a search should be undertaken and, if so, how broad the search should be.
7. If a search is to be undertaken, whether to engage a consultant or search firm to assist the Committee with the search, and, if so, engaging the consultant or firm in accordance with State procurement requirements.
8. The Committee should also determine the specifics of the application process such as the deadline for applications, the confidentiality of its proceedings, procedures for identifying and interviewing candidates, whether to do background checks, procedures for narrowing the list of candidates, for checking references and for final interviews, whether final interviews should be conducted by the full Commission, and procedures for making an offer of employment.

Interim Commissioner. If the Committee determines that the appointment of an Interim Commissioner is necessary or advisable, the Chair of the Commission shall call for a meeting of the Commission to consider the matter. Any person appointed by the Commission as Interim Commissioner shall have the full authority for decision-making and independent action as the incumbent Commissioner. The Interim Commissioner shall receive a temporary salary increase to the entry-level salary of the Commissioner position or to 5% above his or her current salary, whichever is greater. In no event, however, may the interim Commissioner salary exceed the amount indicated in the Appropriations Act for Department's "Schedule of Exempt Positions".

Transition Planning. In the case of any planned or unplanned departure of the incumbent Commissioner, the Chair of the Commission, the Chair of the Committee, and the incumbent or interim Commissioner shall meet as often as necessary to plan, among other matters, the following:

1. The availability of funds for the transition, including the potential compensation package to be offered to a Commissioner candidate.
2. The orderly transition of the duties and responsibilities of the office of Commissioner to any successor; and
3. The manner in which succession events (concerns with confidentiality, departure, selection process, press releases) are to be announced, including the notification of key interested persons.

Attributes. Candidates should have the requisite personal attributes for the office of Commissioner, including:

- Sufficient experience, stature, and reputation in the credit union movement, regulation, or professional life to command respect as Credit Union Commissioner.
- Professional and business management skills, preferably gained in a credit union or regulatory agency.
- Experience of relationships at Board level in one or more major bodies.
- Intellectual strength, sound business acumen, integrity, and an ability to consider and discuss issues laterally and strategically.
- Awareness of political, regulatory, market, and consumer issues together with an understanding about not-for-profit cooperative financial institutions.
- Sound interpersonal skills and an ability to make good judgments of people.

Plan Review. The Committee shall review the Plan annually in the context of current affairs within and outside of the Department. The annual review of the Plan should include a review of the most recent position description for the Commissioner. It should also include recommendations to the full Commission for any amendments to the Plan or to the Commissioner position description. In addition, after each use of the Plan, the Committee shall meet to discuss how the Plan worked and shall make recommendations for modifications to the Plan based on its experience with the Plan.

NEW BUSINESS

D. (2) Commissioner Applicants and Hiring Process.

Hiring Plan and Selection for Credit Union Department Commissioner

BACKGROUND: The Commissioner Succession Plan provides, when such Plan becomes operative, that the Commissioner Evaluation Committee (the “Committee”) assumes responsibility to serve as the Commission’s search committee. In addition, the Succession Plan prescribes that the Committee will develop an action plan for carrying out its responsibilities. Staff have created a proposed Hiring Plan & Selection Process for the Commissioner.

RECOMMENDED MOTION: I move that the Commission ratify the proposed hiring plan as presented [amended].

CUD Hiring Plan & Selection Process for Credit Union Department Commissioner

GOAL: Focus on transparency, fairness, and efficiency, including a detailed job description, open application period, standardized screening, and transparent evaluation criteria, culminating in a public announcement of the selected Commissioner.

1. Define the Role and Requirements:

- **Job Description:** Develop a clear and concise job description outlining the Commissioner's responsibilities, required qualifications, and key competencies.
- **Selection Criteria:** Establish objective and measurable criteria for evaluating candidates, ensuring fairness and consistency in the selection process.
- **Timeline:** Set a clear timeline for each stage of the selection process, from posting the position to announcing the selection.

2. Recruitment and Application:

- **Public Announcement:** Make a public announcement of the Commissioner position vacancy, specifying the application requirements and timeline.
 - Posting in 3 places – CUD Website, CU Today, and NASCUS
- **Application Form:** Provide a user-friendly application form with all necessary fields and instructions.
- **Open Application Period:** Maintain an open application period for a reasonable duration to allow diverse candidates to apply.
- **Online Application:** Facilitate online application to reach a wider audience and improve efficiency.

3. Screening and Shortlisting:

- **Screening:** Establish a team to review applications, ensuring a consistent approach to filtering candidates based on the predetermined criteria.
- **Shortlist:** Develop a short list of qualified candidates for further evaluation.

4. **Evaluation and Interview** (If Necessary):

- **Evaluation:** Conduct thorough evaluations of candidates, considering their experience, qualifications, and suitability for the role.
- **Interview Process (Optional):** If interviews are part of the process, establish standardized interview questions and evaluation criteria to ensure fairness and consistency.
- **Background Check:** Conduct background checks on shortlisted candidates to ensure suitability for the position.

5. **Selection and Announcement:**

- **Selection Committee:** Establish a selection committee to evaluate candidates and make recommendations.
- **Decision:** Finalize the selection and ensure transparency in the decision-making process.
- **Public Announcement:** Make a public announcement of the selected Commissioner, including any required documentation or procedures.

6. **Onboarding:**

- **Welcome Letter:** Send a welcome letter to the newly selected Commissioner, outlining their responsibilities and next steps.
- **Training:** Provide appropriate training and orientation to ensure the Commissioner is well-prepared for their role.

7. **Key Considerations:**

- **Transparency:** Maintain transparency throughout the selection process to ensure public confidence and trust.
- **Fairness:** Ensure a fair and equitable selection process for all candidates.
- **Efficiency:** Optimize the process to minimize delays and ensure timely selection and onboarding.
- **Accessibility:** Make the application process accessible to all applicants, including individuals with disabilities.

DEPARTMENT'S FY 2025 BUDGET FINANCIAL PERFORMANCE

E. Discussion and Consideration of the Department's FY 2025 Budget and Financial Performance.

BACKGROUND: Commissioner Riepen reported that in 2024 the Commission adopted a strategic plan for Fiscal Years 2025-2029. The \$5.9 million FY 2025 budget approved by the Commission in July 2024 includes the maintenance and operating budget and capital improvement budget in support of the Strategic Plan.

The following report highlights the Department's FY 2025 financial results for the period ending January 31, 2025. At the end of five months total expenditures were \$245,447 or approximately 10.2 percent less than budgeted projections. The primary expense categories below budget estimates include Personnel Expenses (\$150,438) and Travel Expenses (\$61,646).

RECOMMENDED ACTION: No action is anticipated.

Credit Union Department
BY 2025 Budget Analysis
For the Period Ended 1/31/25 Final

	BY 2025 Budget	BY 2025 YTD Budgeted	BY 2025 YTD Actual	Budget Variance	Percent of YTD Budget
REVENUES:					
Operating Income					
Operating Fees	\$5,948,556	\$2,974,278	\$2,974,276	(\$2)	100%
Out-of-State Branch Fees	\$0	\$0	\$10,500	\$10,500	100%
Examination Fees	\$0	\$0	\$0	\$0	
Application Fees	\$0	\$0	\$0	\$0	
Penalties	\$0	\$0	\$331	\$331	
Other	(\$100,000)	(\$100,000)	(\$100,000)	\$0	
Operating Income Subtotal	\$5,848,556	\$2,874,278	\$2,885,107	\$10,829	100%
Interest Income (Operating Acct)	\$0	\$0	\$58,574	\$58,574	
Interest Income (Contingency Acct)	\$0	\$0	\$25,697	\$25,697	
TOTAL REVENUES - FUNDS AVAILABLE TO COVER EXPENDITURES	\$5,848,556	\$2,874,278	\$2,969,379	\$95,101	103%
EXPENDITURES:					
Personnel Expenses:					
Salaries and Wages	\$3,631,638	\$1,497,849	\$1,401,785	\$96,064	94%
Employee Benefits	\$1,110,313	\$462,630	\$408,256	\$54,374	88%
Total Personnel Expenses	\$4,741,951	\$1,960,480	\$1,810,041	\$150,438	92%
Travel Expenses:					
In State					
Examinations			\$0		
Training/Conferences			\$8,283		
Meetings			\$2,102		
Public Forums			\$0		
Other			\$1,125		
Total In-State	\$462,020	\$192,508	\$146,369	\$46,139	76%
Out-of-State	\$25,000	\$10,417	\$2,920	\$7,496	28%
Commission	\$24,000	\$10,000	\$1,989	\$8,011	20%
Total Travel Expenses	\$511,020	\$212,925	\$151,279	\$61,646	71%
Other Operating Expenses:					
Communication/Utilities	\$65,989	\$27,495	\$18,468	\$9,028	67%
Professional Services/Fees	\$236,183	\$98,410	\$77,942	\$20,468	79%
Supplies/Materials	\$74,532	\$31,055	\$41,949	(\$10,894)	135%
Printing and Reproduction	\$1,000	\$417	\$0	\$417	0%
Repairs/Maintenance	\$50,165	\$20,902	\$2,866	\$18,036	14%
Rentals and Leases	\$4,900	\$2,042	\$1,909	\$133	93%
Other Operating	\$162,817	\$43,257	\$47,082	(\$3,825)	109%
Total Other Operating Expenses	\$595,586	\$223,578	\$190,215	\$33,362	85%
TOTAL EXPENDITURES	\$5,848,557	\$2,396,982	\$2,151,535	\$245,447	90%
REMAINING FUNDS TO COVER EXPENDITURES (Actuals)			\$817,843		

**DEPARTMENT'S GENERAL BUDGET ASSUMPTIONS AND
PARAMETERS**

F. Budget Assumptions and Parameters to be used in Guiding the Development of the Department's FY 2026 Budget.

BACKGROUND: Finance Code Section 16.003 gives the Commission the exclusive responsibility for approving the Department's budget each year. Since the budget must be adopted at the July meeting, staff is seeking approval of guidelines for developing the FY 2026 budget to present at the July meeting.

RECOMMENDED ACTION: The Department recommends that the Commission adopt the necessary budget policies and guidelines for the FY 2026 budget.

RECOMMENDED MOTION: I move that the Commission adopt the proposed budget assumptions and parameters for FY 2026 as recommended by staff.

BUDGET ASSUMPTIONS FOR BUDGET YEAR 2026

The following broad assumptions will establish the foundation for the development of the Department's Budget Year (BY) 2026 budget and provide a framework to staff and the Commission for setting priorities, determining service levels, and allocating limited financial resources.

1. **Balance Budget** – In accordance with Commission policy, the budget will be balanced using BY 2025 ending reserve balance funds exceeding the aggregate contingency reserves limit.
2. **Contingency Fund Reserve** – The budget will provide for the funding of the Department's Contingency Fund Reserve account, in accordance with the Commission's Reserve Policy.
3. **Contractual Obligations** – The Department intends to meet all contractual obligations. Purchase orders or contracts which were placed and committed prior to the end of Fiscal Year (FY) 2025 for which the requested services performed until after the start of FY 2026 are considered obligated funds. The budget authority for these obligated funds will automatically be carried over to BY 2026 and the BY 2026 budget will be increased by an amount exactly equal to the obligated amount.
4. **Compliance** – The budget shall provide enough funding to continue compliance with all applicable statutes, governmental requirements, administrative rules, and Department policy in regulating and supervising the safety and soundness of credit unions.
5. **Strategic Plan Initiatives** – Consistent with the FY 2026-2030 strategic plan, the budget will provide appropriate funding to implement the delineated initiatives for FY 2026.
6. **Salary and Benefits** – The expenditures for FY 2026 will be based on authorized and existing positions as of April 30, 2025 and include any scheduled salary increases/promotions based on the satisfactory performance and progression of staff. Filled positions will be budgeted at the actual salary for the individual in that position and vacant examiner positions will be budgeted at the base salary level for a Financial Examiner (FE) III position. Vacant office positions and above FEIII level examiner positions will be budgeted at the midpoint of the salary range for those positions. Employee Benefits will be automatically calculated on all salaries with the appropriate benefit rates established for state agencies. The Department will also monitor legislative initiatives which could result in required legislative pay increases for State of Texas employees.
7. **Merit Increases** – To foster, support, and reward outstanding performance and to retain key high performing staff, aggregate merit increase awards

for staff are estimated at an amount equivalent to 4.00% of the total salaries for those positions and will be awarded based on the established merit pay tiers. The corresponding increase in Employee Benefits, resulting from the proposed merit awards, will also be properly reflected in the budget. Funds for anticipated promotions for FY 2026 will be submitted as a separate strategic initiative in the FY 2026 budget which is proposed to the commission for consideration.

8. **Retiree Insurance Cost** – Retiree Insurance Cost are a result of staff retiring from the Department. Changes in retiree insurance costs are anticipated to be allowable budget adjustments.
9. **Inflation Factor** –No additional inflationary increases are anticipated, except for increases in the cost of utilities and in state staff travel. Increases in utility costs will be based on the prior year ending Consumer Price Index for the U.S. published by the U.S. Bureau of Labor Statistics. In-state travel costs will be adjusted based on the ability of examination staff to complete 40% of their work remotely.
10. **Statewide Indirect Cost** – Statewide indirect cost allocations are a result of a statewide plan established by the Comptroller of Public Accounts. Changes in indirect cost allocations are anticipated to be allowable budget adjustments.
11. **Out-of-State Travel** – Out of state travel related to examinations, conferences, training, or other authorized purposes. Includes travel for office staff and the Commissioner to NASCUS and other relevant regulatory related meetings. The annual budget for this category is currently \$25,000.
12. **Commission Travel** – The number of preplanned commission meetings is currently three per year. The budgeted annual travel costs for these meetings are estimated at \$12,000. Additional audit committee travel costs of \$12,000, which were included within the FY 2023 and 2024 budget, are being removed. The commission meeting travel budget has been sufficient to cover all commission travel costs.
13. **Internal Audit Services** – As outlined in the Sunset Advisory Commission's (SAC) report on the Department and the SAC's recommendation, the budget will provide funding for annual audits (i.e., third-party internal audits) of the Department, including other related costs, etc.
14. **Electronic Document Management System (EDMS)** – The budget shall provide for the costs associated with the ongoing development and maintenance of our EDMS (e.g., SharePoint).
15. **Information Technology** – The budget shall provide enough funding for computer network upgrades and computer equipment replacement in accordance with the Department's technology needs.
16. **Improvements** – The budget shall provide enough funding for scheduled maintenance and repairs in accordance with the Replacement/Capital

Improvement Plan. Strategic initiatives will be detailed in the final budget for the most significant anticipated items.

17. **NASCUS Dues** – The budget shall provide enough funding to accommodate the projected increase in the professional association's dues.
18. **Accreditation Fees** – The budget shall provide enough funding to accommodate the fees associated with the Department's continued NASCUS accreditation.
19. **Overnight Travel Stipend** – The budget shall provide enough funding to pay examiners an overnight travel stipend in accordance with the qualifying conditions included in the Department's policy. The stipend will not be considered a one-time merit award and may be paid to the eligible examiners regardless of their last merit pay or promotion action.
20. **Examiners' Laptops and Support** – The budget will be adequate to provide laddered funding for the replacement of Department laptops (office and field staff) every three years. Under this assumption, up to 12 laptops will be replaced each fiscal year at an average cost of \$2,500 each. The budgeted amount includes costs associated with the purchase and set-up of each laptop and procuring all software licensing, security, and support for the new machines. The Department will exercise diligence and discretion with this assumption and whenever possible, the life of certain laptops may be extended (i.e., from 3 to 4 years, etc.).
21. **Legal Research Tools** – The budget will provide funding to provide the Department's General Counsel with the funds to obtain the necessary research tools (i.e., legal subscriptions, etc.) to perform the duties of the position.

STATUS OF THE STATE CREDIT UNION SYSTEM

G. Status of the State Credit Union System.

BACKGROUND: The Texas economy performed well throughout 2024, with employment growth of 1.7 percent during the year. According to the Federal Reserve of Dallas, total jobs added during 2024 reflected strong gains in the oil and gas, financial services and construction sectors. Furthermore, the Texas Employment Forecast indicates jobs will rise by 1.6 percent during 2025, which implies that approximately 225,000 new jobs will be added during the year.

The unemployment rate for Texas was 4.2 percent as of year-end 2024, representing a slight increase from the 3.9 percent level from twelve months earlier. The Texas Workforce Commission reported that Texas ended 2024 with approximately 14,318,700 non-farm jobs, reflecting job growth for the year of 284,200, or 2.0 percent. Texas jobs increased by 37,500 during December 2024. The Governor's Office reports that Texas led the nation for jobs over the twelve months ending December 2024 and reached a historic high for Texans working of 14.92 million. The Texas economy remains the eighth largest compared to nations of the world and is valued at \$2.6 trillion. Also, the unemployment rate for our four metropolitan areas ranged between 3.1 percent and 4.1 percent at year-end, with each area below the overall level for Texas. In addition, the unemployment rates for three of the four largest metropolitan areas remain well below the national average of 4.0 percent.

While the financial performance of Texas credit unions remained satisfactory during 2024, there was some weakening of several key financial trends. Specifically, Texas credit unions experienced a notable rise in loan delinquencies and losses, as well as an ongoing decline in earnings performance. Increased delinquencies are concentrated mostly in the unsecured/credit card, used auto, residential and the commercial loan segments, while the rise in loan losses consists primarily of used vehicle and unsecured loans/credit cards. The reduction in earnings has been primarily due to elevated credit loss expenses and increases in operating expenses and the cost of funds. However, the rise in funding costs during 2024 was offset by increased income from loan and investment yields. A financial trend worth noting is the ongoing strengthening of net worth ratios for Texas chartered credit unions, as capital growth has outpaced asset growth each of the last five years. Several key trends for Texas chartered credit unions are depicted below:

Key Ratio	2019	2020	2021	2022	2023	2024
Net Worth/Total Assets	11.11	10.37	10.43	10.84	11.36	11.56
Delinquent Loans to Total Loans	0.71	0.75	0.52	0.61	0.81	1.02
Net Charge Offs to Average Loans	0.69	0.57	0.36	0.37	0.59	0.79
Return on Average Assets	0.88	0.70	1.08	0.96	0.69	0.56

While the financial performance outlook for Texas industry remains satisfactory, it will remain essential for credit unions to adapt to the ever-changing political events and economic trends to safeguard the financial interests of Texas credit unions and their four million members.

INDUSTRY STATUS: On **December 31, 2024**, there were **162** state-chartered credit unions in Texas, down four charters from one year ago. Total assets in these credit unions are **\$58.87 billion**, an increase of **\$1.21 billion** since **December 31, 2023**, for an annualized growth rate of **2.1 percent**. The average net worth ratio is **11.56 percent**, a 23-basis point increase from **11.33 percent** twelve months ago.

Loans for Texas chartered credit unions totaled **\$42.92 billion** as of **December 31, 2024**. This is an increase of **\$0.11 billion** since **December 31, 2023**, for an annualized growth rate of **0.2 percent**.

Shares for Texas chartered credit unions totaled **\$49.62 billion** as of **December 31, 2024**. This is a slight increase of **\$1.29 billion**, or **2.7 percent** since **December 31, 2023**.

The Texas chartered credit unions' average loan delinquency ratio has increased **21 basis points** to **1.02 percent** as of **December 31, 2024**, compared to a ratio of **0.81 percent** as of **December 31, 2023**.

As of **December 31, 2024**, **162** state-chartered credit unions reported aggregate net income of **\$324.3 million**. This is a **17.8 percent** decline from the net income level of **\$394.6 million** at **year-end 2023**. A breakdown by the number of credit unions with positive earnings performance, by asset category, is as follows:

Assets Size	# of CUs	# Profitable	% Profitable (12-31-2024)	% Profitable (12-31-2023)	% Profitable (12-31-2022)	% Profitable (03-31-2021)
\$1 Billion & over	17	17	100%	100%	94%	100%
\$500 to \$999.9 Million	16	13	81%	80%	100%	100%
\$250 to \$499.9 Million	13	9	69%	100%	100%	100%
\$100 to \$249.9 Million	25	21	84%	88%	96%	96%
\$50 to \$99.9 Million	19	19	100%	85%	95%	91%
\$10 to \$49.9 Million	42	37	88%	89%	81%	88%
Under \$10 Million	30	26	87%	77%	59%	68%
Totals	162	142	88%	87%	86%	89%

PROBLEM INSTITUTIONS: As of **December 31, 2024**, there were **22** credit unions assigned a CAMELS rating of 3 or higher, compared to **25** credit unions as of **December 31, 2023**. Credit unions in this category are monitored through a combination of off-site monitoring, regular on-site or remote contacts, and ongoing reviews for compliance with outstanding Documents of Resolution and other supervisory agreements or orders.

ENFORCEMENT ISSUES: The Department had the following administrative sanctions outstanding as of **December 31, 2024:**

Dividend Restrictions	0
LUAs	0
Determination Letters	3
Conservatorships	0
Cease and Desist	3

CHARTERING ACTIVITY

New Charters* **0**

***Since last commission meeting**

RECOMMENDED ACTION: No formal action is anticipated.

ANNUAL RISK ASSESSMENT REPORT

H. Department's Annual Risk Assessment Report for FY 2025 as Required by Section 2102.004, Government Code.

BACKGROUND: Section 2102.013 of the Texas Government Code requires state agencies which meet certain requirements to conduct a formal risk assessment each year and submit the assessment to the State Auditor's Office. The Department has completed the internal risk review and has prepared the required written assessment of the risks for submission to the State Auditor's Office.

RECOMMENDED ACTION: The Department recommends that the Commission approve the 2025 Internal Risk Assessment Report and authorize its submission to the State Auditor's Office.

RECOMMENDED MOTION: I move that the Commission approve the Department's Internal Risk Assessment Report for FY 2025 and authorize its submission to the State Auditor's Office.

Small Agency Risk Assessment - Fiscal Year 2025
Activities from Brainstorming - Credit Union Department

1	perform regular and remedial credit union examinations	13	purchasing (equipment, supplies, services)	25	approve/ deny applications	37	maintain security of office building	49	
2	monitor credit unions	14	report to state agencies	26	pay bills	38	work with federal regulator(s)	50	
3	answer questions from credit unions and public	15	prepare, edit and issue examination reports	27	maintain financial records	39	work with state regulating agencies	51	
4	hire employees	16	manage office paperwork	28	prepare/submit financial reports to applicable parties	40	prepare for new programs	52	
5	maintain employee policies & records	17	comply with state/ federal regulations	29	maintain the agency's server, desktop/laptop computer security	41	maintain NASCUS accreditation	53	
6	manage employees	18	respond to credit union member complaints (of credit union and agency)	30	cybersecurity-raising awareness and educating users	42	maintain building and its infrastructure	54	
7	manage/monitor examiner travel	19	manage computer system, including hardware and software	31	Maintain agency website	43	maintain all agency's asset inventory	55	
8	manage examination schedule	20	issue interpretations and opinions	32	Meet the IT requirements of the agency and all stakeholders	44	maintain agency's consumable supply inventory	56	
9	meet with industry representatives	21	review, revise rules	33	Inventory and maintain database of IT infrastructure and IT assets	45	Maintain Risk Management program	57	
10	hold Commission & committee meetings	22	publishing rules	34	Maintain agency procedures and policies	46	Maintain Continuity of Operations Plan	58	
11	hold public hearings	23	provide new rules to credit unions	35	Report to Legislature	47	Maintain and enforce the Department's Enterprise Information Security Policy	59	
12	report to Commission	24	receive, review, & publish applications	36	draft legislation	48		60	

Small Agency Risk Assessment - Fiscal Year 2025
Consolidated Activities - Credit Union Department

CONSOLIDATED ACTIVITIES		PRIORITIZED CONSOLIDATED ACTIVITIES
Finance and Accounting		1 Perform Cost-Effective Comprehensive Examinations of Credit Unions
Purchasing		2 Process, Investigate, and Evaluate Applications
IT Infrastructure and cybersecurity		3 Information Technology Infrastructure and cybersecurity
Human Resources Management		4 Finance and Accounting
Process, Investigate, and Evaluate Applications		5 Purchasing
Complaints and Education		6 Human Resources: Develop staff as part of succession plan
Perform Cost-Effective Comprehensive Examinations of Credit Unions		7 Complaints and Education
		8

Small Agency Risk Assessment - Fiscal Year 2025
Risk Assessment Table - Pre-Controls - Credit Union Department

[illegible]

Small Agency Risk Assessment - Fiscal Year 2025
Risk Management Table - Credit Union Department
Consolidated Activity

<div> <div>RISKS →</div> <div>CONTROL STEPS ↓</div> </div>	Inconsistent enforcement	Employee turnover/ inexperienced staff/morale issues	Inconsistent exam procedures/ exam integrity	Loss of Agency Credibility	Lack of adequate training for staff	Failure of CUs	Failure to meet deadlines	Loss of CUs as low cost financial institutions	
Standardized exam software program	x		x	x	x	x	x		
Review of all exam reports by Department (random sample reviewed by Field Supervisors)	x		x	x	x	x	x	x	
NASCUS accreditation & annual review	x		x	x	x	x		x	
Joint oversight with deposit insurer	x		x	x	x	x		x	
Training program (including OTJ training and specialized courses)	x	x	x	x	x	x	x	x	
Regular employee performance evaluations	x	x	x	x	x		x		
Quarterly monitoring of CU financial data by both field and office staff	x	x	x	x	x	x		x	
Periodic rule review by Commission	x		x	x		x		x	
Career ladder/merit raises		x		x					
Experienced management oversight	x	x	x	x	x	x	x	x	
Examiner's Guide	x		x	x	x	x		x	
Performance measures	x			x	x		x		
Management information systems	x		x	x	x		x		
Technology tools for field examiners	x	x	x	x	x	x	x	x	

Small Agency Risk Assessment - Fiscal Year 2025
Risk Assessment Table - Post-Controls - Credit Union Department

[illegible]

Small Agency Risk Assessment - Fiscal Year 2025
Significant Changes in
Risk Assessment - Credit

NEW Activities, Risks, and/or Controls from Prior Year Submission List by Consolidated Activity	Multifactor authentication implemented

Small Agency Risk Assessment - Fiscal Year 2025
Audit History - Credit Union Department

Fiscal Year Conducted	Type of Audit/Review	Audited/Reviewed Activity	Entity Conducting Audit/Review
2018	Post Payment Audit	Payroll, Purchasing, Procurement and Travel Expenditures compliance with state laws and regulations	Comptroller of Public Accounts
2019	Risk Management Program Review	<ul style="list-style-type: none"> • The SORM-200 data for FY18 was reviewed for completeness and accuracy. • The agency's Annual Report, COOP Plan, Emergency Procedures Manual, Safety & Health Manual, and Personnel Manual were reviewed. • The Risk Evaluation and Planning System Questions (REPS) were reviewed. • SORM reviewed and discussed the following workers' compensation insurance data and claims with CUD during the consultation. • SORM conducted an On-Site Consultation (OSC) of CUD, performing a walkthrough of the agency. 	State Office of Risk Management
2020	SORM Building Risk Management	Credit Union Department building inspection and walk-through. Findings and recommendations were implemented.	State Office of Risk Management
2022	NASCUS accreditation review	Accreditation standards in these five areas: 1. Agency Administration & Finance 2. Personnel and Training 3. Examination 4. Supervision 5. Legislative Powers	The National Association of State Credit Union Supervisors (NASCUS)
2023	Internal audit for the Credit Union Department	Perform internal auditing services for the Credit Union Commission's supervision of the Credit Union Department	External Auditor (Planning phase - Procurement of services)
2023	Risk Management Program Review	To identify the exposures to property and liability losses including workers' compensation losses. Additionally, the State Office of Risk Management is charged with the responsibility of reviewing, verifying, monitoring, and approving risk management programs adopted by state agencies.	State Office of Risk Management (SORM)
2024	Texas Cybersecurity Framework Assessment	To address and manage cybersecurity risk. The TCF is intended to help an organization to better understand, manage, and reduce its cybersecurity risks. Part of the TCF structure is determining the maturity of each security control objective.	Texas Department of Information Resources (DIR)
2024	Internal audit for the Credit Union Department	Perform internal audit services (annual risk assessment, annual audit plan, and an annual audit report) that comply with the Texas Finance Code, the Texas Internal Auditing Act, & other applicable state law. Audit period 9/1/2023-8/31/2024	Weaver & Tidwell, LLP
2025	Information Technology (IT) Internal audit for the Credit Union Department	Perform internal audit services of all IT environment and systems that are hosted by the Department or hosted by another agency and cloud services 2/17/2025 through 6/30/2025	Weaver & Tidwell, LLP

LITIGATION UPDATE

I. Pending Litigation and Administrative Appeals.

Credit Union Department v. Ken Paxton, Attorney General of Texas, Cause No. D-1-GN-21-007168.

The Credit Union Department is seeking protection from a letter of advice ruling by the Attorney General related to an information request under the Public Information Act (PIA). It is an active case in Travis County District Court.

A Motion for Summary Judgment was filed in February. We continue to work with the open records division to settle this issue.

RECOMMENDED ACTION: No formal action of the Commission is anticipated.

Cooperative Teachers Credit Union (CTCU) v. Texas Credit Union Department, (Department), SOAH docket 469-23-07487.

A final order was issued by the Commissioner. CTCU has requested to appeal that order to the Commission. The rule addressing appeal of a final order was repealed and we are reviewing the appropriate process to be followed.

§93.203. Ex Parte Communications.

(a) Upon receipt of a request for hearing and continuing until the time a motion for rehearing is denied, the time for ruling on such a motion has expired, or the proceeding is otherwise final, the commissioner and members of the commission may not communicate directly or indirectly with any party or a representative of a party in a contested case in connection with any issue of fact or law in the contested case except upon notice and opportunity for each party to participate.

(b) The commissioner and members of the commission may communicate ex parte with employees of the department who did not participate in any hearing in the case in order to utilize special skills or knowledge of the department's staff in evaluating the record in the case. Prohibited ex parte communications shall not include any written communication if the communicator contemporaneously serves copies of the communication on all parties to the contested case.

RECOMMENDED ACTION: No formal action of the Commission is anticipated at this time.

FUTURE COMMISSION MEETINGS

J Next Commission Meeting – The next regular meeting of the Commission has been tentatively scheduled for July 18, 2025.

ADJOURNMENT

FUTURE CREDIT UNION COMMISSION MEETING DATES

Friday, July 18, 2025

Friday, November 7, 2025

Friday, March 20, 2026

All regular scheduled meetings will begin at 9:00 a.m. unless notified differently.

If anyone has conflicts with the proposed dates, please contact Brenda Medina or Isabel Velasquez at (512) 837-9236.