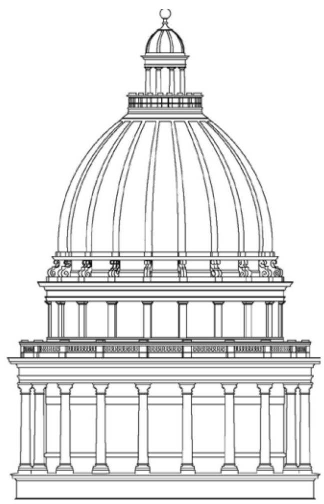
REPORT TO THE

UTAH LEGISLATURE

Number 2018-08



An In-Depth Budget Review of The Utah State Tax Commission

September 2018

Office of the
LEGISLATIVE AUDITOR GENERAL
State of Utah

STATE OF UTAH

Office of the Legislative Auditor General

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AUDITOR GENERAL

September 2018

TO: THE UTAH STATE LEGISLATURE

Transmitted herewith is our report, **An In-Depth Budget Review of the Utah State Tax Commission** (Report #2018-08). A digest is found on the blue pages located at the front of the report. The objectives and scope of the audit are explained in the Introduction.

We will be happy to meet with appropriate legislative committees, individual legislators, and other state officials to discuss any item contained in the report in order to facilitate the implementation of the recommendations.

Sincerely,

John M. Schaff

John M. Schaff, CIA
Auditor General

JMS/lm

Digest of
An In-Depth Budget Review of
The Utah State Tax Commission

The Utah State Tax Commission (Tax Commission) is authorized in the ***Utah Constitution* Article XIII**, Section 6 to, among other duties, administer and supervise the state's tax laws on behalf of the state. In doing so, the Tax Commission is involved in processing state tax revenue, collecting delinquent taxes, auditing tax returns, overseeing the registration and titling of motor vehicles, and regulating the motor vehicle industry. In calendar year 2017, the Tax Commission collected and distributed $9.3 billion in state and local revenues, up nearly 6 percent from the previous year.

Our in-depth budget review focuses on some operational improvements that can be made at the Tax Commission, including ways to better collect taxes. We report on key performance metrics tracked by Tax Commission divisions and address some issues in managing license plate production, another one of the Tax Commission's varied duties. Select budget areas are also reviewed in this report, including concerns we found regarding the use of nonlapsing balances to fund long-term projects.

Chapter II
Taxpayer Services Could Do More to
Collect State's Delinquent Tax Debt

The Tax Commission is charged with administering state tax laws and collecting delinquent taxes on behalf of the state. The tax payment gap, or the difference between what is owed in state taxes and what has been paid, indicates that $552 million has yet to be paid from fiscal years 2013 to 2017, and more taxes can be collected. A division within the Tax Commission, Taxpayer Services (TPS), continues to make improvements to effectively collect taxes, though more can be done. To do this, this chapter offers several recommendations to help standardize TPS' processes and increase their potential ability to collect by funding additional collection agents, using multiple third-party outside collection agencies (OCAs), and working with the Legislature to determine if the statutory waiting period for sending cases to OCAs could be reduced.

Chapter III
Tax Commission Performance Measures
Show Program Improvements

We reviewed performance measures in four of the Tax Commission's seven divisions. We found improvements in the Motor Vehicle Enforcement, Taxpayer Services, and Processing divisions. The Motor Vehicle Division also shows improvement but should continue striving to achieve wait-time goals while meeting the needs of a growing program. We are recommending the Tax Commission establish and track the necessary performance measures to provide more meaningful metrics. In addition, the divisions should make continued efforts to improve performance in current metrics.

Chapter IV
Better Accounting Needed as License Plate Issuance Increases

Newly issued license plates have increased 39 percent since 2015, including both standard and specialty plates. In a January 2018 Business, Economic Development, and Labor Appropriations Subcommittee meeting, a question was asked about the number of license plates Utah offers, and a comment was made that new plates are created every year. We looked into this issue to understand basic license plate costs to the Tax Commission and the number of plates offered and issued. License plate issuance is increasing, and we believe a restricted account is needed to identify all license plate costs. We also identified a conflict between current law and a newly passed bill authorizing the creation of a black-and-white license plate. Current law requires all plates to be fully reflective which prohibits a black-and-white plate because black is not reflective. We recommend the Legislature study this contradiction to determine which should take precedence.

Chapter V
Additional Cost Increases We Reviewed Are Justified

In our initial risk assessment of the Tax Commission's budget, we identified three areas of initial concern warranting review. We were concerned with the increasing cost of services provided by the Department of Technology (DTS), credit card processing companies, and Utah Interactive, LLC (UII). We found that increases in DTS costs were due to increased services and legislatively approved rate increases. Credit card and UII cost increases were also due to the increased use of services. Despite heightened costs, the Tax Commission has adequate internal controls for mitigating risks in these expense categories.

Finally, in reviewing the Tax Commission's budget, we included the expenses allocated to the Tax Commission's multi-year tax system modernization project. A portion of this system was funded with nonlapsing funds. However, nonlapsing balances are not intended to fund long-term projects. In addition, we identified how the use of nonlapsing funds could be more transparent through better reporting. This chapter offers three recommendations (to The Office of the Legislative Fiscal Analyst, the Tax Commission, and the Division of Finance) to help resolve the issues identified in this chapter.

REPORT TO THE UTAH LEGISLATURE

Report No. 2018-08

An In-Depth Budget Review of The Utah State Tax Commission

September 2018

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Chapter V

Chapter I
Introduction

The Utah State Tax Commission (Tax Commission) is authorized in the ***Utah Constitution* Article XIII**, Section 6 to, among other duties, administer and supervise the state's tax laws on behalf of the state. In doing so, the Tax Commission is involved in processing state tax revenue, collecting delinquent taxes, auditing tax returns, overseeing the registration and titling of motor vehicles, and regulating the motor vehicle industry. In calendar year 2017, the Tax Commission collected and distributed $9.3 billion in state and local revenues, up nearly 6 percent from the previous year.

In addition to processing, collecting, and auditing the state's tax revenue, the Tax Commission performs other duties, such as overseeing the registration and titling of motor vehicles.

Our in-depth budget review focuses on some operational improvements that can be made at the Tax Commission, including ways to better collect taxes. We report on key performance metrics tracked by Tax Commission divisions and address some issues in managing license plate production, another one of the Tax Commission's varied duties. Select budget areas are reviewed in this report. This introductory chapter provides a brief overview of the Tax Commission's budget, structure, and major expenses, primarily from fiscal years 2013 to 2017.

The Tax Commission's Budget Has Several Funding Sources

The Tax Commission's $89.5 million budget for fiscal year 2017 comes from general, education, and transportation funds, along with a variety of smaller sources.

The Tax Commission's budget is composed of a variety of sources, with roughly one-third coming from the state General Fund, one-third from the Education and Transportation major special funds,[1] and the other third from a variety of smaller sources. The Tax Commission also facilitates a small portion of pass-through funds through its budget for other purposes. The fiscal year 2017 budget ($89.5 million) was approximately 1 percent of all taxes collected. The largest portion of the Tax Commission's budget ($80.3 million) was allocated

[1] According to The Office of the Legislative Fiscal Analyst, the Tax Commission receives some funding from the Education Fund due to its role in collecting individual and corporate income taxes. It also receives funding from the Transportation Fund due to its role in collecting taxes for fuel, motor vehicle registration fees, and other revenue sources that remit to the fund.

to the Tax Administration line item. Since 2013, the Tax Administration line item's budget increased 11 percent, compared to a 5 percent increase in the Bureau of Labor Statistics Consumer Price Index (CPI) over that same period. Figure 1.1 provides a summary of the Tax Commission's four line items from 2017.

Along with funding the operational budget, the Legislature provides the Tax Commission with funds in three separate line items to assist with the costs of substance and alcohol abuse, rural hospital costs, and for license plate production.

Figure 1.1 Except for License Plate Distribution Funds, the Tax Commission Utilizes One Major Line Item to Fund All Operations. Two other line items are intended for pass-through purposes only.

Line Item	FY 2017 Budget	Explanation of Line item
Tax Administration	$ 80,341,300	Operating Budget: Funded from multiple sources for Tax Commission operations
Liquor Profit Distribution	5,406,400	Pass-Through Funds: Used for alcoholic beverage & substance abuse enforcement
License Plate Production	3,579,800	Dedicated Credits: Used to pay for the production of vehicle license plates and decals
Rural Health Care Facilities Distribution	218,800	Pass-Through Funds: Appropriated from the General Fund to be distributed to certain rural hospitals for operating expenses

Source: Compendium of Budget Information (COBI) and interim meeting materials from the July 26, 2017 Business, Economic Development, and Labor Appropriations Subcommittee meeting

About 6 percent of all funds the Tax Commission receives (shown in Figure 1.1) are passed through the Tax Commission and used for other purposes. These pass-through funds are distributed to city and county governments to assist in alcohol and substance abuse enforcement and to aid in some rural health care facility costs. As the state taxing entity, the Tax Commission does not largely rely on federal funds for state tax collection. License plate production revenues and costs will be discussed in further detail in Chapter IV.

Tax Commission Division Budgets and Functions Vary Greatly

The Tax Commission is overseen by four commissioners and has seven divisions (including the Executive Director's Office) which make up the operating budget, most of which come under the Tax

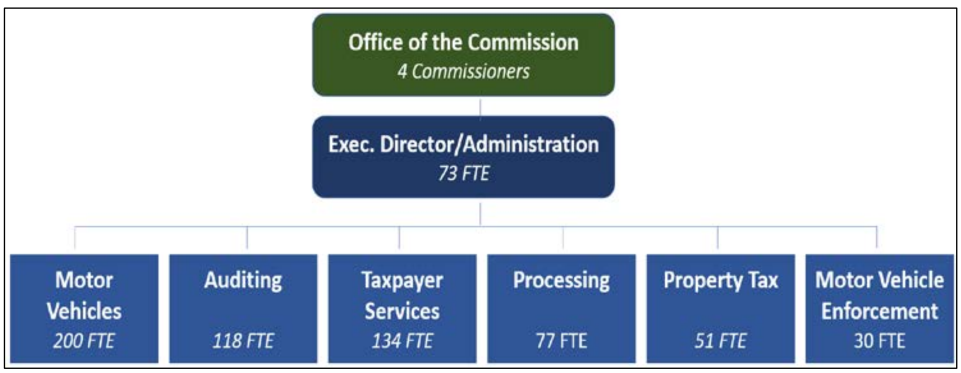
Administration line item. Each operational division serves a unique and important function. Six of the divisions report to an executive director. Division expenditures between fiscal years 2013 and 2017 have varied, ranging from $3 million in one division to $22 million in another.

Structure of Tax Commission Includes Commissioners, Executive Team, and Divisions

In addition to their other duties, the four commissioners are charged with administering and supervising the state's tax laws. The commissioners' responsibilities include conducting quasi-judicial hearings on state tax matters, including appeals. The remainder of the Tax Commission is structured into seven operating divisions and is managed by an executive director, as shown in Figure 1.2.

The Tax Commission's four commissioners oversee an executive director, six divisions, and nearly 700 FTEs, in addition to performing other statutory duties.

Figure 1.2 Four Commissioners Provide Oversight to the Tax Commission. Six operating divisions report to the executive director/administration office, all of which are accountable to the commissioners**.**



Source: Tax Commission and FINET data

The Tax Commission's full-time equivalents (FTEs), shown in Figure 1.2, total about 700 employees throughout the department. A majority (nearly 57 percent) of the Tax Commission's fiscal year 2017 budget was spent on personnel. Total FTEs decreased by 3.5 percent (approximately 25 positions) between fiscal years 2013 and 2017.

Tax Commission Divisions Perform a Variety of Functions

Each division at the Tax Commission provides a unique function to the state. Some of the duties that each division performs, as well as each division's fiscal year 2017 expended funds, are as follows:

The DMV employs 29 percent of all Tax Commission's FTEs and its budget is the largest of all the divisions at approximately $23 million.

Motor Vehicles or DMV ($22.6 Million): The DMV titles, registers, and licenses motor and other vehicles. This division collects all taxes and fees for vehicle registrations and interstate motor carriers. There are 36 DMV offices throughout the state.

Auditing ($11.5 Million): The Auditing Division identifies individuals and businesses not licensed or filing tax returns and audits returns for compliance. Auditors are located in Ogden, Salt Lake City, Provo, and Hurricane.

Taxpayer Services or TPS ($11.0 Million): TPS assists taxpayers in filing their returns and collects delinquent taxes in a variety of ways. The division has a call center and offices in Ogden, Salt Lake City, Provo, and Hurricane.

Processing ($6.2 Million): The Processing Division receives and deposits state and local tax revenue, images tax documents, and distributes tax forms and records.

Property Tax ($5.1 Million): The Property Tax Division certifies county and entity tax rates and provides technical assistance and training. It also appraises centrally assessed properties, such as mines and utilities.

Motor Vehicle Enforcement or MVED ($3.7 Million): MVED licenses and regulates motor vehicle businesses and investigates motor vehicle theft and fraud.

Major System Improvements Have Been a Large Budget Driver for the Tax Commission

Over the course of a 10-year period—fiscal years 2007 through 2016—the Tax Commission directed a large amount of funding toward modernizing its internal tax systems. These funds were a combination of legislative appropriations (about $18 million) and nonlapsing balances (about $7.9 million). When appropriations for the modernization project began in fiscal year 2007, the estimated cost was $30 million, with a completion date in fiscal year 2010.

However, the Tax Commission reports that the modernization project's cost was about $26 million, and it was completed in fiscal year 2016. Figure 1.3 shows the activities and costs for the modernization project from fiscal years 2007 to 2016.

Figure 1.3 A System Modernization Project Spanning 10 Years Cost the Tax Commission $25.9 Million. The project was needed to enhance customer services and improve data security.

Fiscal Year	Total Cost	Year's Primary System Project
2007	$4,161,800	Income tax
2008	5,186,100	Sales tax
2009	5,580,000	Corporate, Withholding, IFTA, IRP
2010	1,685,200	TAP system & Miscellaneous taxes
2011	480,000	Other miscellaneous taxes
2012	1,400,000	Other miscellaneous taxes
2013	2,147,000	Motor vehicle and MVED
2014	4,269,700	Motor vehicle and MVED
2015	596,000	Property tax
2016	351,800	Modernization project finalized
Total Cost	**$25.9 Million**	

Source: Tax Commission data

The Tax Commission spent nearly $26 million on system upgrades over a 10-year period.

Other major budget drivers identified during the audit (between fiscal years 2013 and 2017) were Department of Technology Services' service costs, credit card processing fees, and costs associated with online transactions and increased production of license plates. These costs will be discussed in more detail in Chapter V.

Scope and Objectives

This audit was requested in accordance with ***Utah Code*** 36-12-15.1, which authorizes in-depth budget reviews of state entities and requires our office to determine whether an entity is diligent in its stewardship of state resources. Chapter I of this report has addressed the mission, structure, and budget of the Utah State Tax Commission. The remaining chapters address the following issues:

- **Chapter II:** The Division of Taxpayer Services can do more to collect the $552 million in taxes owed over five years.

- **Chapter III:** Performance metrics show program improvements, but better measures may be possible.

- **Chapter IV:** License plate management could improve and foster greater transparency.

- **Chapter V:** Cost increases that we reviewed appear justified and well managed. In addition, we address concerns regarding the use of nonlapsing balances to fund long-term projects.

This audit did not review and assess for risk the Auditing and Property Tax divisions, as those were under review and released by our office in July of 2018.

Chapter II
Taxpayer Services Could Do More to Collect State's Delinquent Tax Debt

The Utah State Tax Commission (the Tax Commission) is charged with administering state tax laws and collecting delinquent taxes on behalf of the state. The tax payment gap, or the difference between what is owed in state taxes and what has been paid, indicates that $552 million has yet to be paid from fiscal years 2013 to 2017, and more taxes can be collected. A division within the Tax Commission, Taxpayer Services (division or TPS), continues to make improvements to effectively collect taxes, though more can be done. To do this, TPS should ensure standardized collection practices among districts and agents, such as the amount of time to contact a taxpayer or garnish their wages, are utilized. In addition, this chapter offers three suggestions for how TPS can improve the collection of delinquent taxes.

Approximately $552 million in delinquent taxes have yet to be collected over the last five years.

The Tax Payment Gap Indicates More Delinquent Taxes Can Be Collected

In conjunction with TPS, we calculated what we term the "tax payment gap,"[2] or the difference between what is owed in taxes and what has actually been paid (whether paid on time or after the due date) and the amount that has yet to be paid. Of the total delinquent taxes, $552 million, or 19 percent, is still outstanding. Over the last few years, TPS has made several changes to help improve the collection of taxes owed, including a new case selection process and standardization of many collection procedures. However, we believe even more can be done to reduce the amount of outstanding taxes.

In recent years, the Taxpayer Services Division has made great progress in collecting the state's tax debts; however, we believe more can be done.

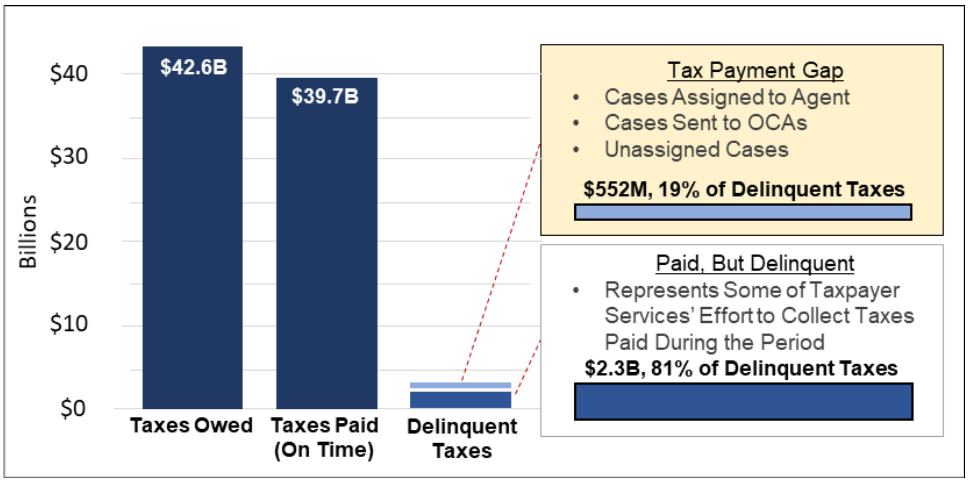
Regarding the tax payment gap, Figure 2.1 shows three columns: taxes owed, taxes paid on time, and delinquent taxes. TPS focuses its efforts in the delinquent taxes area, collecting tax debts on behalf of

[2] The model somewhat mirrors the "tax gap" concept estimated by the IRS. Key differences between the two models are 1) the tax payment gap (our model) is not inclusive of estimates associated with taxpayers nonfiling or underreporting noncompliance, and 2) it does not include property taxes.

Although approximately 19 percent of delinquent taxes have yet to be collected, full collection of this debt is unlikely.

the state. An estimated 19 percent of delinquent taxes have yet to be paid and represent more work for TPS to perform[3]. This $552 million gap of taxes still owed is relatively small compared to all the tax debt that was owed but paid. However, this amount (as shown in light blue in Figure 2.1) could provide substantial additional funding for important state operations, though we acknowledge that some of this debt is likely not collectible even after some improvements are made.

Figure 2.1 Taxpayer Services Is Working to Reduce the $552 Million Tax Payment Gap Covering 2013 to 2017*. These taxes currently available for collection are either assigned to agents, outside collection agencies (OCA), or are currently not assigned for collection. The Tax Commission can do more to collect this debt.



Source: Auditor and Taxpayer Services calculation. This figure represents only known delinquent tax debt and includes all tax, penalty, interest, and debts considered to be uncollectable, bad debt, or not currently collectable due to hardship. It does not include property taxes, estimates, cases in bankruptcy, appeals or other exclusions
**Figures have been rounded.*

Figure 2.1 shows that between fiscal years 2013 and 2017, most taxpayers paid their tax debt voluntarily and on time. TPS routinely works with those who have not paid their taxes in a timely manner. The director over Taxpayer Services stated that Utah's compliance is better than many other states whose representatives he has spoken with, although this is a number that states do not typically share or publish. While it is impossible for Taxpayer Services to fully collect all tax debt, the division is continually addressing the tax payment gap in a variety of ways. This chapter discusses a few additional improvements the division can implement.

[3] Approximately 81 percent of all delinquent taxes have been paid.

Improvements Have Been Made to Increase Collections

Taxpayer Services is actively working on reducing the payment gap, and improvements have been made. Since our last audit, the division has made great improvements in its collections by implementing a new case selection process and standardizing its collection activities. In our 2003 audit, we reported that the case selection and assignment process (the process the division uses to determine which cases to assign to agents for collection) was flawed. Most cases at that time were not assigned to agents but were worked on by any number of the division's staff, resulting in less effective collections.

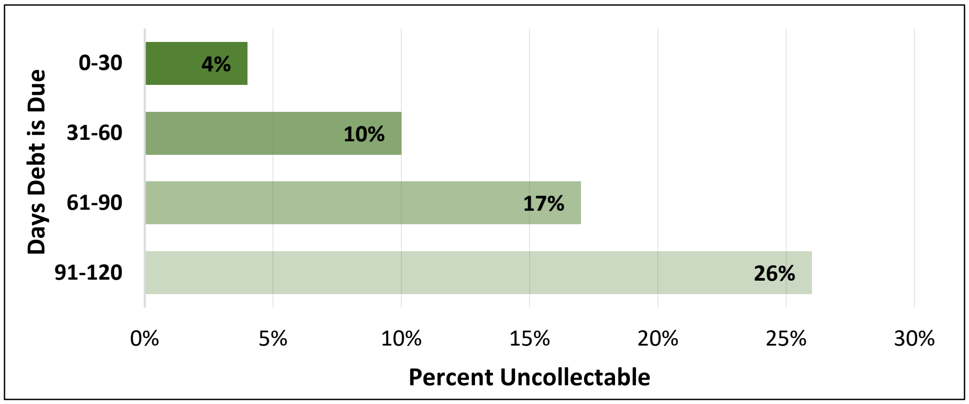
Additional changes the division has made since our last audit include system upgrades resulting from the massive department-wide modernization project (discussed in Chapter V) and changes to some of the division's management team.

As a general rule, the collectability of debt diminishes with time, demonstrating the need to collect debt in a timely manner.

TPS Has a New Case Selection Process. Recently, TPS implemented two new strategies to aid in delinquent tax collection. The first was in 2015, when the division implemented a more sophisticated process that determines the collectability of a case by scoring it on several factors, including known assets, known sources of income, and age of debt. This new case selection process weighs all active cases on a variety of these and other factors. We believe this new process has aided in the collection of debt and better aligns with research regarding the collectability of debt. However, some of TPS' cases are found to be uncollectable, especially as they continue to age.

A U.S. Department of Commerce study states that the collectability of debt decreases with time. The study found that the percentage of uncollectable debt increases from 4 percent within 30 days of being due to 26 percent after 91 days, as shown in Figure 2.2.

Figure 2.2 The Collectability of Debt Diminishes with Time. A U.S. Department of Commerce study suggests that debt older than 91 days diminishes in collectability by an estimated 26 percent.



Source: Donald E. Kieso, Jerry J. Weygandt, and Terry D. Warfield, Intermediate Accounting, *14th ed. (Hoboken, NJ: 2012).*

TPS data similarly shows that 43 percent of delinquent taxes collected by agents are collected within the first 90 days, and then the amount collected diminishes with time. TPS' 43 percent calculation should not be applied to the delinquent amount represented in Figure 2.1. The 43 percent calculation reflects only one year of taxes collected, whereas Figure 2.2 reflects five years of data and also includes other revenue from collection activities. Therefore, TPS must focus its efforts on collecting debt as early as possible to increase the chance of collecting tax revenue.

Taxpayer Services now selects the most collectible cases based on a variety of factors and is in the process of better standardizing its process.

TPS Is in the Process of Standardizing Collection Practices. The second collection strategy was implemented in 2017, when Taxpayer Services began a standardization process among its collection agents. The process is intended to ensure the division's agents handle collections in an appropriate and timely manner by requiring collection tasks to be performed within specified time frames. Training has begun on this new process, but implementation was too recent to observe any positive changes to date.

Although the two changes discussed above were beneficial, the Tax Commission has also instituted budget cuts that reduced the number of collection agents between 2009 and 2014 by five FTEs. We believe these budget cuts could have diminished the division's ability to collect some taxes during this time frame. Further, we believe with more agents and a standardized process, the division can do more to reduce the tax payment gap.

Taxpayer Services Could Benefit from Standardized Collection Practices

Variations among TPS regional office outputs suggest that the division could improve its potential for collecting taxes by using a more standardized approach. Despite achieving similar outcomes in fiscal year 2013, regional districts have had variations in productivity and collections in recent years. For example, in fiscal year 2017, agents in one district closed an average of 438 cases per agent, compared to an average of 331 cases closed in another district. Variations in individual agent performance should also be addressed.

Regional Districts Have Variations In Productivity and Collections

Taxpayer Services provides assistance and education for taxpayers, primarily through a centralized call center and among seven districts located in four locations[4] throughout the state. The TPS offices are located in Ogden, Salt Lake City, Provo, and Hurricane. Agents in each location contact individuals and businesses owing taxes to help them comply with state law and avoid further penalties and interest.

The division is divided by regional districts, located in Ogden, Salt Lake City, Provo, and Hurricane.

Variations in performance outputs among the Ogden, Provo, and Hurricane districts indicate a lack of uniformity in how they are managed. As a result, some districts may not be maximizing the collection of taxes assigned to their agents. For example, the manager who oversees both the Provo and Hurricane districts is based in Salt Lake City, while the Ogden district is managed by a dedicated, on-site supervisor. Based on our observation and conversations with division management, we believe this situation has placed strain and added responsibilities on some agents in Provo and Hurricane, resulting in sporadic district performance outputs over the last five years.

A lack of a full-time manager in two districts partially accounts for variations in performance measures among the districts.

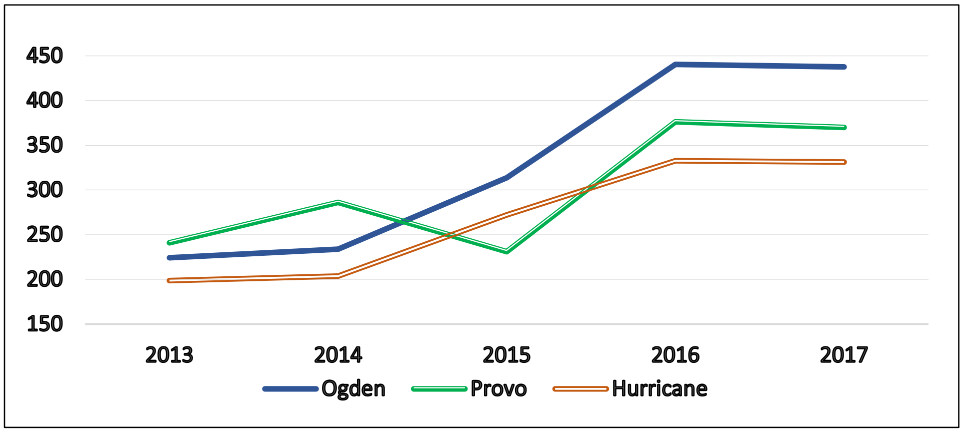
Three indicators Taxpayer Services uses to evaluate district performance are 1) the number of cases closed to a zero balance, 2) the amount of tax dollars collected, and 3) the age of cases in each agent's workload. Figure 2.3 shows that although all three districts were closing nearly the same number of cases per agent in 2013, in

[4] Ogden, Provo, and Hurricane are comparable because these districts collect on income and corporate taxes and have a front counter to assist regional taxpayers. All other districts are in the Salt Lake City office and were not included in this analysis.

2017 Ogden closed 438 cases per agent (on average) compared to Hurricane's 331.

Although in 2013 the three districts had a similar number of closed cases per collection agent, Ogden outpaced Provo and Hurricane in 2017.

Figure 2.3 Three Regional Offices Show Variability in Success in Number of Cases Closed. These variations are, in part, due to insufficient leadership among two districts.

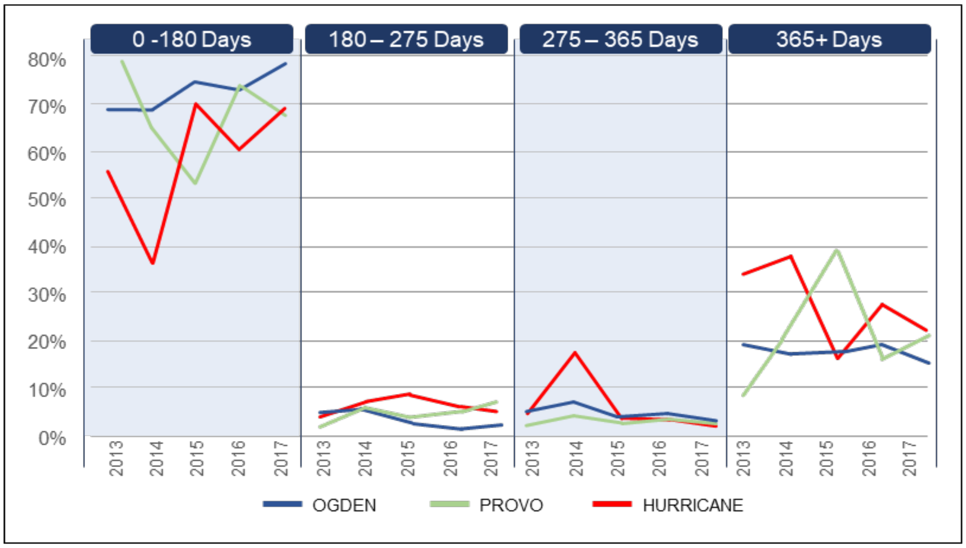


Source: Auditor analysis of Taxpayer Services data. One manager oversees the Provo and Hurricane districts.

Although Figure 2.3 shows that Provo and Hurricane have not kept pace with Ogden in cases closed since 2013 (which is the first performance indicator), Provo has collected more dollars per employee on average (performance indicator number two) than Ogden and Hurricane in all but one year. One explanation may be that Provo has more corporate tax cases (11 percent more than Ogden), which typically bear higher amounts of debt than individual income accounts.

The third performance indicator, shown in Figure 2.4, shows erratic year-to-year shifts in the age of agent caseload for Provo and Hurricane offices, while Ogden agents appear to show more consistent caseload management.

Figure 2.4 The Average Age of District Agents' Caseload Shows Provo (Green) and Hurricane (Red) Struggle to Consistently Collect, While Ogden (Blue) Steadily Improves. This indicates Ogden agents do better at managing their caseloads.



Source: Auditor analysis of Taxpayer Services data.

Figure 2.4 shows that comparing the Provo and Hurricane offices, shown in green and red, to Ogden (in blue) shows variability in the age of an agent's caseload. This suggests Ogden agents are doing better at managing the accounts assigned to them, and are closing more of them, than are agents in other offices. It also indicates a need for standardized collection practices, which will be discussed in the next section.

The manager of the Provo and Hurricane offices operates primarily from Salt Lake City, putting strain on the district agents to operate without the supportive role of a leader.

Along with variations in collection outputs, Provo has also seen greater employee turnover than has Ogden, despite their agents' salaries being similar. We believe the instability shown in Provo compared to consistency in Ogden is, in part, tied to the lack of consistent management in each district, though this is likely not the only explanation. Therefore, we recommend that Taxpayer Services reduce district variability by ensuring managers are located full-time within the district they oversee.

Variations in Agent Performance Should Be Addressed

In addition to general district variations, collection practices among agents also vary.

In addition to variations in performance outputs among districts, we also observed variations in collection practices among agents. We randomly sampled 24 cases from January 2018 that were cleared to a zero balance and found seven cases where agents did not follow collection protocol and unnecessarily delayed the collection process. We found one case that went 192 days without any activity, then had five months of collection activity, and then went another 472 days without any activity. In total, it took 877 days (2.4 years) to collect debt on this one account that we believe could have been worked and resolved sooner. Because timing is crucial to the collectability of debt, it is concerning that some of these cases are extended longer than necessary.

Some agents conduct field visits and garnish wages more quickly than other agents, while one agent unnecessarily delayed collection on an account by nearly two years.

In observing agents, we found that some contact taxpayers or garnish wages quicker and utilize field visits more consistently than others. An agent conducts a field visit with a taxpayer in an attempt to make face-to-face contact and resolve any delinquent taxes. Some agents explained this is a useful tool for collection, but others have not made it a priority. We understand and appreciate the unique approaches each agent takes to assist taxpayers in resolving their delinquent accounts; however, we believe variations that prolong or diminish the division's ability to collect taxes should be addressed.

As mentioned earlier, Taxpayer Services has tried to standardize the collection process, beginning in 2017, by training agents on the correct timing for assigning a case and placing a lien, and on developing a payment plan with a taxpayer. We believe this training has been good; however, due to the issues identified during this audit, more training is needed. Particularly, we believe managers could benefit from additional training on assisting agents in this process, as there is great variability among the districts. We recommend Taxpayer Services continue to standardize its collection process by providing adequate training for district managers and agents.

Finally, we observed variations in the monthly goals two districts set for their agents. Specifically, one district's goals appeared dynamic, pushing agents to clear more cases above the prior year's results. However, the other district created a set number of cases to clear each month which in some cases was lower than the prior year's results. We recommend Taxpayer Services review and standardize district goal setting.

Taxpayer Services must continue to develop a more standardized approach to the collection of the tax payment gap.

Options Exist for Taxpayer Services to Improve Delinquent Tax Collection

Taxpayer Services is currently operating on a model for tax collection that utilizes district agents and one outside collection agency (OCA) on state contract. This collaborative effort appears to be working well and allows for some of the more difficult collections to go to the OCA. However, we identified three ways that TPS could reduce the payment gap even further:

1) Increase the number of collection agents.
2) Use multiple OCAs in order to promote competition.
3) Change the statute to reduce the time that must transpire before cases can be sent to OCAs.

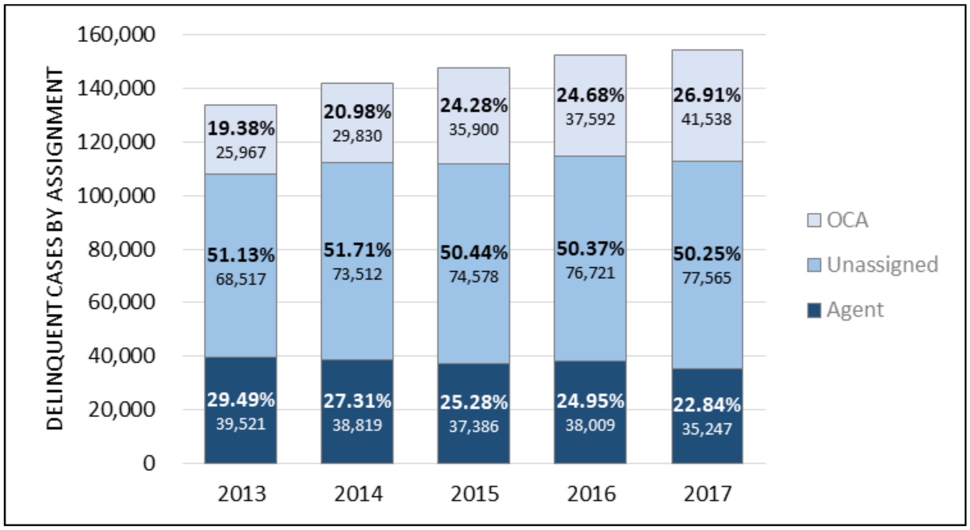
TPS' Collection Model Incorporates the Use of Outside Collection Agencies

As is the case with the IRS and three other states we contacted, Utah has contracted with outside third-party collection agencies to assist with the collection of some state debts. The use of these contracted vendors in Utah varies greatly by agency. For example, we found that the Utah Office of State Debt Collection (OSDC) uses six OCAs, while Taxpayer Services uses one.

TPS has increased the number of cases sent to its OCA over the last five years while slightly reducing the number of cases assigned to agents. However, of greater concern is the growing number of unassigned cases between fiscal years 2013 and 2017. Figure 2.5 shows the percentage of cases allocated to collection agents, OCAs, and those that remained unassigned for the month of December each year.

Figure 2.5 Taxpayer Services Data Shows that Cases Assigned to Agents Decreased over a Five-Year Span, While Cases Sent to the OCA Increased. Unassigned cases are available to be assigned to agents; however, the longer they sit without agent action, the less collectable they will become.

Although the division now works on the most collectible cases, a large number of cases were not assigned for active collection from 2013 to 2017.



Source: Auditor analysis of Taxpayer Services data

Figure 2.5 shows that unassigned cases, though static as a percentage of total cases (approximately 50 percent), have increased by nearly 13 percent in the month of December over five years. Additionally, nearly 16,000 more cases, on average, were sent to the OCA for collection. Although unassigned cases are not actively collected by an agent or the OCA, some automated collection activity, including mailed notices and liens, still occurs.

TPS' model of utilizing both collection agents and an OCA balances the following advantages:

Realizing benefits of both, Taxpayer Services uses state employees and contracted vendors to collect the state's tax debt.

- **Advantages of Using Agents Include Lower Cost of Tax Collection.** With the new case selection process, the division can address the most collectable tax debts at a lower cost. Taxpayer Services estimated a benefit of $1.00 collected for every $0.02 in personnel expense, compared to the 14 to 19 percent commission that is currently paid to the OCA. The division also benefits from partnerships with other state agencies. For example, the Department of Workforce Services generates employment matches on its database and shares this information with Taxpayer Services.

- **Advantages of Using OCAs Include Passing More Difficult-to-Collect Cases on to Vendors.** OCAs are companies that often utilize their own proprietary collection processes. Because OCAs work in volume, they may subscribe to major databases with greater, farther-reaching data capacity to find possible collection sources. These resources enable OCAs to manage large volumes of cases, including the more difficult-to-collect delinquent cases in the division's inventory.[5]

Another strategy states have utilized to collect taxes owed is known as a tax amnesty program. The intent of these programs is to encourage taxpayers to resolve tax debt without penalty or interest if done in a defined time frame. An estimated 18 states have used these programs since 2013. However, the Taxpayer Services director does not think this is a viable long-term solution for Utah because the state already has a high tax compliance rate, and tax amnesty may create an undesired incentive for taxpayers to pay delinquent taxes without penalty. Although we did not review the possibility of using an amnesty program in Utah, we do believe there are options available that may better assist TPS in reducing the tax payment gap. These options are outlined in the remainder of this chapter.

The Tax Commission Could Increase The Number of Collection Agents

While the total number of delinquent accounts continues to rise, the number of collection agents has fluctuated in the last several years. According to the Tax Commission, prior years' full-time equivalent employee (FTE) reductions were a result of mandatory budget cuts across the entire department. Although the Tax Commission continued to receive budgeted funds for employees no longer working at the department (because the FTE position was still being funded), a Tax Commission employee stated that the use of these personnel funds was diverted for use in a massive project to modernize the department's systems. This funding strategy was approved by the Legislature and will be discussed in Chapter V. However, the decision

Investing department funds into major system upgrades may have created a tradeoff that diminished the collectability of some state tax debts.

[5] The state contract with the OCA requires it to keep private and confidential all taxpayer information as protected under state and federal law. Additionally, the Tax Commission's service-level agreement with its OCA requires it to abide by the Federal Trade Commission's Fair Debt Collection Practices, which protect taxpayers from abusive collection practices.

to invest these funds into system modifications rather than collections created a tradeoff that may have diminished the collectability of some state taxes, although the amount is unclear.

In a 2006 joint study between the Office of the Legislative Auditor General and the Legislative Fiscal Analyst's office, the statistical impact of additional collection agents was measured against the potential collection of state revenue. The report's authors concluded that they could not "prove or disprove" that additional collectors alone would result in increased collections. However, the report further states that "while additional . . . collectors still may generate more revenue than they cost, the report demonstrates that they will not likely generate the same average return as existing . . . collectors."

We concur with the analysis of this study and look to it as a valuable resource in considering the need for additional collection agents within TPS. However, at the time of the report, Taxpayer Services did not have the sophisticated scoring process it has now to determine the debts most likely to be collected; this scoring process was implemented in 2015. Therefore, while the report's findings were valid in 2006, we question whether the study's results would still hold true today if only the most collectible cases were being addressed.

Taxpayer Services has not yet seen a point of diminishing returns on its ability to collect state taxes, and it is our recommendation that the Legislature consider funding additional agents to reduce the number of unassigned cases.

Considering this, the director over Taxpayer Services indicated that he has not yet seen a point of diminishing returns with current staffing and that the scoring can help prioritize the best cases for collection. While observing the large increases in the number of unassigned cases and the high quality of some delinquent accounts (according to the scoring criteria) we believe this to be true, though we do not determine how many additional collection agents are needed to meet the point of diminishing returns. We recommend the Legislature consider funding additional collection agents to reduce both the tax payment gap and the number of unassigned cases in Taxpayer Services' inventory.

Taxpayer Services Could Use More OCAs Currently on State Contract

Taxpayer Services may also see increased collections by utilizing multiple third-party collection vendors. Doing so could encourage competition and better collectability on some taxes, especially as the number of cases Taxpayer Services has sent to just one OCA has increased by nearly 60 percent over the last five years. However, the use of OCAs is varied in both out-of-state and in-state entities. While the Arizona Department of Revenue only uses OCAs to collect income taxes (after a brief 40-day waiting period), the IRS and three of the four tax departments in other states that we reviewed use both agents and OCAs for collections. In-state entities also use OCAs to varying degrees. Figure 2.6 illustrates several entities' utilization of OCAs.

The division could also benefit from the use of additional third-party collection agencies already on state contract.

Figure 2.6 The Tax Commission Utilizes Only One Outside Collection Agency, While Other Entities Use Multiple Vendors. Taxpayer Services may be missing out on the competitive outcomes and collection procedures other vendors offer.

Collection Entity	Uses OCA (number)	Uses Internal Agents
Internal Revenue Service	Yes (4)	Yes
Arizona Department of Revenue	Yes (7)	No
Colorado Department of Revenue	Yes (2)	Yes
Idaho Department of Revenue	No	Yes
Oregon Department of Revenue	Yes (Multiple)	Yes
Utah Collection Entities:		
Tax Commission—Taxpayer Services	Yes (1)	Yes
Administrative Services—Office of State Debt Collection[6]	Yes (6)	No*
Human Services—Office of Recovery Services[7]	No	Yes

Source: Auditor analysis among other states and in-state entities
** OSDC does not utilize collection agents to contact debtors but has a legal team that collects through legal means, including placing garnishments.*

Collection comparisons among state entities are difficult, as each collects different types of debt. The Office of State Debt Collection (OSDC) has, for example, approximately $728 million (302,000 accounts) placed in six OCAs, while Taxpayer Services has $132 million (41,500 accounts) in one OCA. However, comparing the use

[6] ***Utah Code*** 63A-3-501 authorizes OSDC to collect any amount due to a state agency that includes unpaid fees, licenses, taxes, loans, overpayments, fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to victims, third-party claims, sale of goods, sale of services, claims, and damages.

[7] ***Utah Code*** 62A-11-101 creates within the Department of Human Services the Office of Recovery Services (ORS). ORS collects on both child support payments and Medicaid reimbursements.

of OCAs among these entities, as has been done in Figure 2.6, may prove useful.

OSDC reports great success in creating a competitive environment among the OCAs it utilizes. For example, OSDC gives more cases to the best performing vendor(s), which incentivizes each vendor to excel at collecting state debt. The Colorado Department of Revenue has also found competition among OCAs to be useful. This same department indicated that differences in collection appropriations can be beneficial because one OCA may be able to collect on a debt, even though another is unable to do so.

Taxpayer Services, which discontinued the use of a second vendor in 2015 due to its noncompliance with state contract, only uses one OCA because it is integrated with the Tax Commission's systems, while the others are not. However, according to OSDC data and OSDC representatives, the vendor used by TPS is one of the lowest-performing vendors used by OSDC. This may be due to the specialty or strategy of the OCA and may not reflect its performance. However, TPS will never know the effectiveness (or comparative ineffectiveness) of OCAs that it does not use. We recommend Taxpayer Services utilize multiple OCAs already on state contract (that meet Tax Commission system requirements) to encourage competition and to best maximize the collection of state tax debt. The division agrees that there are benefits to having multiple vendors and is in the process of upgrading its systems and participating in the procurement process to facilitate this change.

A Statutory Change Could Reduce the Time Required Before Sending Cases to OCAs

A third way Taxpayer Services could improve collections is to work with the Legislature to reduce the statutory timeframe required before cases may be sent to an OCA. As mentioned earlier, the number of delinquent accounts continues to increase, with many aging cases waiting to be actively collected by an agent or OCA. However, ***Utah Code*** 59-1-1101(1) prevents the division from sending cases to an OCA before one year. Perhaps the intent behind requiring the division to wait a year provides the opportunity to exhaust the less expensive, internal collection efforts before sending cases to the costlier OCAs. However, because there are so many cases, Taxpayer Services' internal collection agents cannot actively work all delinquent cases. A reduction

Because the number of delinquent (and unassigned) accounts is increasing, the Legislature should consider reducing the statutory one-year waiting period for sending cases to third-party collectors.

in the statutory waiting period could be beneficial by allowing these cases to be worked sooner.

A few entities, including those from other states, vary in how long they wait before sending cases to OCAs. For example,

- The OSDC does not have a statutory limit governing the use of OCAs and sends debts to them as early as four months from invoice.
- The Oregon Department of Revenue may send delinquent accounts to an OCA at any time but is statutorily required to send its debts to an OCA within one year from the date of the most recent payment on the account.
- As required by statute, the Colorado Department of Revenue sends cases involving out-of-state taxpayers to an OCA as early as six months from invoice, while in-state cases can be handled by an OCA after one year.

Since the collectability of debt diminishes with time, and as unassigned cases must wait one year to be sent to an OCA, the state could be missing out on potential tax revenue. We recommend the Tax Commission work with the Legislature to consider reducing the time required before TPS may send cases to an OCA. Addressing the issues identified in this chapter could potentially speed the time to collection and reduce the $552 million tax payment gap.

Recommendations

1. We recommend the Taxpayer Services Division reduce district variability by ensuring collection managers are located full-time in the districts they oversee.

2. We recommend the Taxpayer Services Division continue to standardize their collection process by providing adequate training for collection managers and agents.

3. We recommend the Taxpayer Services Division standardize its districts' goal setting process.

4. We recommend the Legislature consider funding additional collection agents to collect more of the tax payment gap and to reduce the number of unassigned cases.

5. We recommend the Taxpayer Services Division utilize multiple third-party collection agencies already on state contract.

6. We recommend the Utah State Tax Commission work with the Legislature to determine if statutory waiting periods for cases sent to third-party collection agencies could be reduced.

Chapter III
Tax Commission Performance Measures Show Program Improvements

We reviewed performance measures in four of the Utah State Tax Commission's (Tax Commission) seven divisions. We found improvements in the Motor Vehicle Enforcement (MVED), Taxpayer Services (TPS), and Processing divisions. The Motor Vehicle Division (DMV) also shows improvement but should continue striving to achieve wait-time goals while meeting the needs of a growing program.

This chapter details our review of performance metrics in four of the seven Tax Commission divisions.

Improvements Shown in Motor Vehicle Enforcement Program Changes

Two years ago, the Tax Commission redirected MVED's enforcement activities to provide more balance to the program and better reflect its intent.[8] MVED is required to both regulate and enforce the motor vehicle industry laws. Since then, performance measures show increased productivity in the areas believed to be a better focus for the program, such as an increase of 32 percent in cases closed and a 24 percent increase in cases opened.

MVED is charged with a broad range of duties related to regulating the motor vehicle industry, including managing and issuing business and individual licenses, temporary permits and dealer license plates, collecting fees, investigating issues concerning certificates of vehicle title, advertising fraud, general policing duties for the DMV, and more. Division efforts can result in civil and/or criminal penalties.

Redirection of MVED Program Provides More Balance

MVED is funded by the automotive industry through the sale of temporary dealer permits. The MVED program was redirected in 2016 to provide more balance to ensure the division adequately regulated the industry as required under ***Utah Code***. According to

[8] The Motor Vehicle Business Regulation Act, ***Utah Code*** Title 41, Chapter 3, provides the authority for the MVED. However, MVED is also required to regulate violations under ***Utah Code*** 41-1a, the Motor Vehicle Act.

both the Tax Commission's executive director and the MVED division director, the original intent of the program was to serve the dealers and regulate the automobile industry in Utah, which is the focus of Title 41-3.

According to the Tax Commission's executive director, the division was straying away from focusing on its regulatory responsibilities and was focusing more on policing activities, such as finding stolen vehicles. The current chair of the Motor Vehicle Advisory Board[9] agrees and reports that he believes the division now operates with more oversight and transparency. As desired by the dealers, MVED officers are now more responsive and provide more enforcement of the industry.

The Motor Vehicle Enforcement Division, which regulates the motor vehicle industry, recently restructured its operations and reclassified some employee positions.

Although all MVED investigators are required to be certified peace officers, with the change in division direction in 2016 they moved from wearing uniforms to being plain-clothed officers. The Tax Commission and the dealers desired this change. They both reported that when a uniformed police officer shows up at a dealer's place of business, it alarms customers and can be seen as a scare tactic instead of an attempt to solve a problem.

From 2013 to 2017, MVED's costs increased from $3.41 million to $3.65 million (7 percent). The largest increases were attributable to retirement and insurance benefits, while salaries decreased by almost 6 percent. Full-time equivalent employees (FTEs) also decreased by almost 10 percent. The MVED director reported that the salary decrease is due in part to the reclassification of two officer positions as support staff positions. He believes that the nature of work did not require certified police officers, who are paid more and can retire after 20 years, instead of 30.

Performance Measures Show Increased Productivity

Due to the change in direction, we reviewed the division's performance measures between 2014 and 2017. We were unable to start at fiscal year 2013 because MVED's data prior to 2014 was

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[9] The Motor Vehicle Advisory Board, created in ***Utah Code*** 41-3-106, assists and advises the administrator in the administration and enforcement of the Motor Vehicle Business Regulation Act. The five board members are representatives from the motor vehicle industry and are appointed by the Governor to serve four-year terms.

under an old system and was irretrievable. We found that due to the budget and FTE adjustments, the cost per output shows a decrease of 18 or 23 percent depending on the metric, while the output per FTE increased by 37 and 46 percent (as shown in Figures 3.1 and 3.2).[10]

Reviewing MVED's metrics, we found the division reduced its cost per output while increasing outputs per employee.

MVED chooses to track the number of cases opened and worked (referred to as Worked Cases in the figure) instead of tracking cases closed, since the division cannot control case closure when a case gets criminally prosecuted or held up administratively. Figure 3.1 shows that by this measure, the cost per output has decreased by 18 percent since fiscal year 2014. The output per FTE has increased by 37 percent during that same period.

Figure 3.1 From 2014 to 2017, MVED Measure of Cases Worked Show a Marked Improvement in Performance. MVED staff opened and worked 24 percent more cases in 2017 than in 2014.

	2014	2015	2016	2017	Percent Change
Worked Cases	3,188	2,723	3,406	3,948	24%
Cost/Output	$1,127	$1,304	$1,098	$927	-18%
Output/FTE	96.97	86.35	113.42	133.02	37%

Source: Auditor generated from Tax Commission Data

We chose to calculate the additional metric of cases closed and found the results even more pronounced. Figure 3.2 shows that by measuring the number of cases closed, the cost per output decreased by 23 percent, and the output per FTE increased 46 percent.

[10] In comparing budget changes during the same period (2014-2017), the total budget decreased by 2 percent, and FTEs decreased by 6 percent.

MVED staff are closing and opening more cases than in the past, with fewer resources.

Figure 3.2 Our Metric of Closed Cases from 2014 to 2017 Shows an Even Greater Improvement. In 2017, MVED staff closed 32 percent more cases than in 2014.

	2014	2015	2016	2017	Percent Change
Closed Cases	2,955	2,722	3,406	3,901	32%
Cost/Output	$1,215	$1,305	$1,098	$938	-23%
Output/FTE	**89.88**	**86.32**	**113.42**	**131.44**	46%

Source: Auditor generated from Tax Commission Data.

Both figures show that MVED staff are closing and opening more cases than in the past, with fewer resources.

We believe there are additional performance measures the division could track that may better express the results of efforts to provide more balance in industry regulation. In addition to MVED's current performance measures, the number of business licenses processed and the time it takes to process them could also be assessed. In 2017, MVED processed 65 percent more business licenses than in 2014. Adjusting the metrics is timely since MVED recently refocused its efforts, moving toward better enforcement of title, registration, and licensing requirements, and away from more policing efforts, such as pursuing stolen vehicles. Investigating stolen vehicles is part of MVED's duties; however, management believed it was too much of the program's focus. We spoke with a representative from Colorado's automotive industry enforcement division, who said they do not pursue stolen vehicles at all; they only regulate the sale of the vehicles.

Despite improvements in performance outcomes, MVED should eliminate confusion by standardizing its case coding system.

Case Description Codes Need Standardization. In our review of cases closed from 2014 to 2017, we found that case code descriptions have not been defined and standardized. The division director agrees that case descriptions need to be defined. Doing so would help eliminate confusion and improve the division's ability to provide better case classification and more accurate statistics.

Changes in TPS' Processes Have Improved Performance

The Legislature is requiring the Taxpayer Services Division (TPS) to close delinquent accounts from assigned inventory with a 5 percent improvement from July 2017 to October 2018.[11] Since the reporting period has not yet come, we reviewed the past years' performance measures. We found that the actual number of delinquent accounts cleared to zero from fiscal years 2013 to 2017 different than the division's desired goals, but there was still an overall improvement. Overall, TPS has already achieved a 7 percent improvement, indicating the division seems to be on the right track. Figure 3.3 shows the actual change in account closures, as compared to the division's internal goals.

Figure 3.3 Each Year, TPS' Internal Goals to Clear Delinquent Cases to Zero Differed from Actual. Although the goals differed, overall from 2013 to 2017 TPS cleared 7 percent more delinquent accounts to zero.

Fiscal Year	Delinquent Accounts Cleared to Zero	Actual Change Between Years	Division's Goal to Clear Accounts*	Actual Change, 2013 to 2017**
2013	94,131			
2014	91,897	-2%	5%	
2015	90,444	-2	3	
2016	104,120	15	0	
2017	100,296	-4%	3%	7%

Source: Auditor analysis of Taxpayer Services' metrics
** TPS' internal goals were to close the following number of delinquent accounts each year: 99,000 in FY2014, 95,000 in FY 2015, 90,490 in FY2016, and 106,871 in FY2017.*
*** This actual change compares the number of delinquent cases cleared to zero in 2017 compared to cases cleared in 2013.*

Taxpayer Services has also realized improvement in their performance metrics and we believe their metrics show that their new standardization process is working.

TPS has improved overall. However, we asked management why they set a goal of zero for 2016. They explained that in 2016, the division implemented a new process for standardizing accounts worked by agents, as discussed in Chapter II. TPS management wanted to make sure the process worked before holding their agents to a goal. The results show a 15 percent improvement in one year, leading us to believe the new process was a success. With such a large increase from 2015 to 2016, we are less concerned about the 4 percent decrease in 2017. We believe the new standardization process will help TPS reach the desired legislative goal of 5 percent.

[11] In a 2017 General Legislative Session base budget bill (House Bill, H.B., 4), the Tax Commission became required to report to the Legislature by October 15, 2018, performance measures established in the bill.

Two additional performance measures we reviewed for TPS are the cost of collections and the number of days for a collection to become a receivable. TPS' goal for cost of collections is to maintain the cost below $.05 per delinquent dollar collected. Since 2013, the cost of collections has remained at about $.02. To calculate this metric the total collections is divided by the total salaries of collection agents. Having collection agents work the cases costs less than sending the cases to an outside collection agency, as discussed in Chapter II.

Taxpayer Services should ensure its metric of collection to receivable appropriately reflects efforts to decrease the number of days to collect.

TPS also measures the number of days it takes to collect a receivable. The goal is to decrease the number of days, although the division has not set a specific goal. Since 2013, the average number of days to collect a receivable went from 298 to 285, a 4 percent reduction. While this is an improvement, a more specific goal may help collectors be even more productive. TPS should ensure this metric appropriately reflects the division's efforts to decrease the number of days to collect by establishing a desired goal.

Processing Division Showing Significant Increases Toward Meeting Metric

The Processing Division (Processing) receives, verifies, and deposits tax revenue; examines and images tax documents; edits and corrects tax documents; archives documents; receives and distributes tax forms; and performs other duties. Processing is another division with a legislatively established performance metric. The division's target is to process 81 percent of tax returns electronically. The goal was almost reached in 2017; of the 2.49 million tax returns filed, 1.93 million (78 percent) were filed electronically.

The Processing Division tracks the number of electronic tax filings as one of its metrics, even though the division has little control over how taxpayers file their taxes.

Processing is at a bit of a disadvantage with this metric because it cannot require that all forms be filed electronically. The Processing director explained that the division encourages electronic filing at every opportunity, both on its website and in its publications. Although the 81 percent goal has not been reached, electronic filing has increased 34 percent since 2013, from 1.44 million to 1.93 million, while paper filing decreased by 28 percent. Of all income tax returns filed, business returns accounted for the largest increase in electronic filing. Fifty percent more corporate income tax returns were filed electronically in 2017 than were filed in 2013, while individual returns have only seen a 6 percent increase.

The director believes that filing electronically reduces errors. Tax Commission performance measures show that total errors (from all return types) have reduced by 41 percent, from 408,000 in 2013 to 239,000 in 2017. Errors from individual income tax returns have reduced 18 percent, from 180,000 to 148,117, since 2013. We are told that if a taxpayer attempts to file a return with errors, the system will not accept it. This allows the taxpayer to know right away if there is a problem with the return.

Processing has been able to improve its performance while reducing the number of FTEs. During the period of review, Processing's FTEs decreased by 21 percent, from 98 to 77. Processing also uses seasonal employees, and we believe the number of seasonal employees has also decreased. However, we did not fully audit this area.

Processing has improved performance while reducing the number of FTEs utilized.

DMV Is Close to Achieving Wait-Time Goals But Can Improve

The DMV titles, registers, and licenses motor vehicles and other types of vessels; collects taxes and fees associated with those functions; and performs other duties. The Legislature requires the DMV to report on the status of a performance measure of wait times in the large DMV offices.[12] The metric's goal is to serve 94 percent of customers within 20 minutes. We found that five of the six DMV branches that measure wait time almost meet that goal. Although there are nine state-run branches, as discussed in the next section, only six are large enough for the DMV to track customer service wait time. However, the DMV's number of customers and transactions are increasing, which may make it more challenging to achieve the goal.

Of 36 DMV offices statewide, nine are state-run and six are measured on their ability to serve customers within 20 minutes or less.

There are 36 DMV offices statewide; nine are run by the Tax Commission, and 27 are run by the counties. The nine state-run

[12] This metric is established in the 2017 General Legislative Session base budget bill (House Bill, H.B., 4).

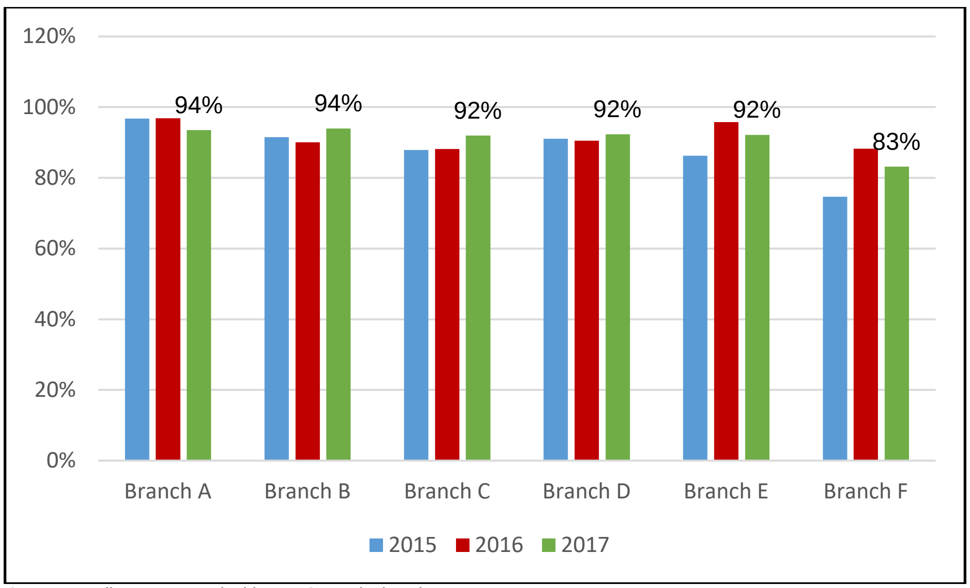
offices are staffed with state employees, whereas the county offices have county employees. Most offices provide the same services.

Most DMV Branches Almost Meet the Legislature's Goal

Six of the DMV's state-run offices have a queueing program to manage and track customer flow. Figure 3.4 shows the wait times from 2015 to 2017 in the six offices. At the end of fiscal year 2017 (as shown by the green bars), two of the six branches had met the wait-time goal. Three branches were just shy of the goal at 92 percent, and one branch reached 83 percent, 11 percentage points short of the goal.

The Legislature's goal for state-run DMVs to serve 94 percent of customers within 20 minutes or less is nearly achieved by five of the six branch offices we reviewed.

Figure 3.4 Wait Times in Five of the Six State DMV Branches Meet or Almost Meet the Performance Measure's Goal. The legislatively established goal of serving 94 percent of customers within 20 minutes or less was met by two offices in fiscal year 2017.



Source: Auditor generated with Tax Commission data

One DMV branch has struggled to reach performance goals due to a lack of office space and some personnel issues.

The DMV reports that Branch F struggles with space. The facility lacks the space for additional workstations, which are needed to serve more customers. Two workstations were added around 2016, which decreased wait time in the branch, according to the DMV. This decrease in wait time for Branch F, shown in the figure by the red bar, indicates a higher percentage (88 percent in 2016 compared to 75 percent in 2015) of customers served within 20 minutes.

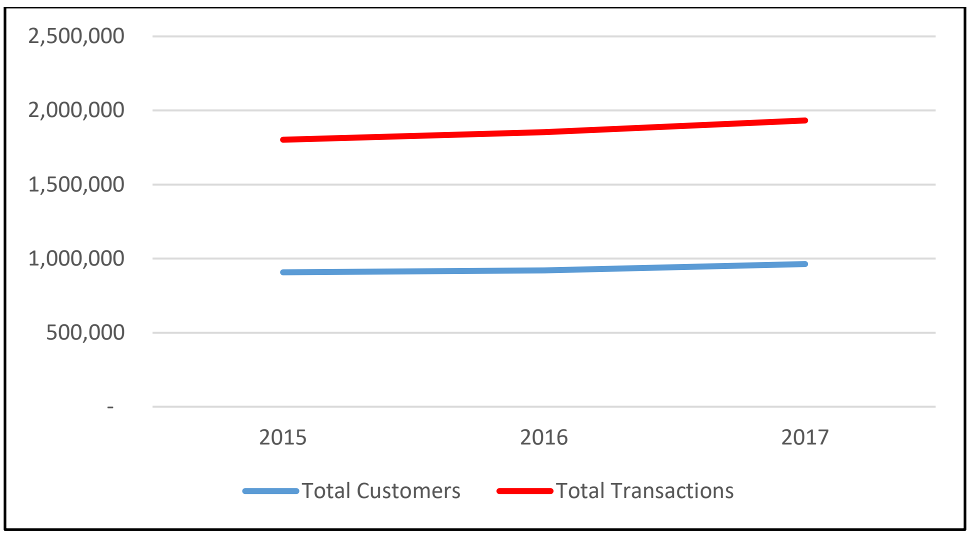
By 2017, the percentage for Branch F had gone down to 83 percent. The DMV reports the branch is maxed out of space and will require construction to add more workstations. Another challenge in Branch F, as well as in other branches, which DMV administration reports they are managing, is a personnel issue. Each FTE is required to complete a certain number of transactions each year; most, but not all, are meeting the goal.

DMV's Customers and Transactions Are Increasing

It is important to mention that during the period we reviewed, DMV's total number of customers and transactions provided in the six branches increased, while the number of FTEs division-wide decreased slightly (.5 percent). Figure 3.5 shows that total customers visiting the six branches increased by 6 percent, from 907,451 in 2015 to 963,153 in 2017 (blue line). It also shows that total transactions in the six branches increased by 7 percent, from 1.8 million to 1.93 million (red line).

The DMV has seen a small increase in the number of customers and transactions over the last three years.

Figure 3.5 Increases in Both Customers Served and Transactions Conducted May Impact the DMV's Ability to Meet Its Performance Goal. From 2015 to 2017, both customers and transaction numbers increased.



Source: Auditor generated from Tax Commission data

With the increasing number of transactions conducted and customers served, it is important that the DMV continue monitoring customer wait time to ensure that legislative performance measures, branch needs for space, and productivity goals are being met.

The Tax Commission's performance in all the divisions we reviewed shows improvement and continued efforts to improve. Ensuring that each division tracks the appropriate performance measures reflecting desired performance will help management understand how to meet improvement goals.

Recommendations

1. We recommend that the Utah State Tax Commission ensure that each division is tracking the necessary performance measures to allow desired performance reviews by the Legislature.

2. We recommend the Motor Vehicle Enforcement Division define and standardize case codes for better case classification and more accurate statistics.

3. We recommend that the Taxpayer Services Division reestablish the goal for delinquent cases cleared to zero to match the legislatively established goal of 5 percent improvement each year.

4. We recommend that the Taxpayer Services Division continue to work toward the goal for delinquent cases cleared to zero as required by the Legislature.

5. We recommend that the Taxpayer Services Division ensure its metric of collection to receivables appropriately reflects its efforts to decrease the number of days to collect.

6. We recommend that the Processing Division continue to promote electronic tax report filings whenever possible.

7. We recommend that the Division of Motor Vehicles continue to manage space concerns in one branch office to ensure the limitations do not affect customer wait times.

8. We recommend that the Division of Motor Vehicles continue to manage overall personnel issues to ensure they do not affect customer wait times.

Chapter IV
Better Accounting Needed as License Plate Issuance Increases

Newly issued license plates have increased 39 percent since 2015, including both standard and specialty plates. In a January 2018 Business, Economic Development, and Labor Appropriations Subcommittee (BEDL) meeting, a question was asked about the number of license plates Utah offers, and a comment was made that new plates are created every year. We looked into this issue to understand basic license plate costs to the Utah State Tax Commission (Tax Commission) and the number of plates offered and issued. License plate issuance is increasing, and we believe a restricted account is needed to identify all license plate costs.

As new state license plates are often approved for use by the Legislature, we reviewed the basic license plate costs and processes at the Tax Commission.

License Plate Issuance Is Increasing

In Utah, all registered vehicles must display license plates. Plate issuance is increasing, especially for the three standard plates. Utah offers several categories of plates, including standard and specialty. However, too many plate options may cause problems.

Plate Issuance Is Increasing, Especially for Standard Plates

As discussed in Chapter III and shown in Figure 3.5, the number of Division of Motor Vehicles (DMV) customers and transactions is increasing. Transactions include, but are not limited to, the registration of vehicles, production of vehicle titles, changes of address, issuance of permits and placards, and processing of impounds. Figure 4.1 shows the number of active and current vehicle registrations in Utah.

There are nearly 3.5 million active vehicle registrations in Utah; however, too many license plate options may cause problems.

Figure 4.1 There Are About 3.5 Million Active and Current Vehicle Registrations in Utah.* Registrations are divided into three groups: standard (or previously issued as a standard plate), special group, and highway patrol. The three currently available standard issue plates are Life Elevated Arches, Life Elevated Skier, and In God We Trust.

Type	Current Registrations
LE Arches	1,307,474
LE Skier	1,303,896
In God We Trust	239,785
Black and White, Centennial, Ski Utah, Olympic	459,725
Special Group	178,313
Highway Patrol	645
Total	**3,489,838**

Source: Tax Commission data
**As of May 23, 2018.*

With the number of transactions and customers increasing, better accounting is needed for the Tax Commission to be able to determine whether fees are covering the costs of the program, as will be discussed later in the chapter.

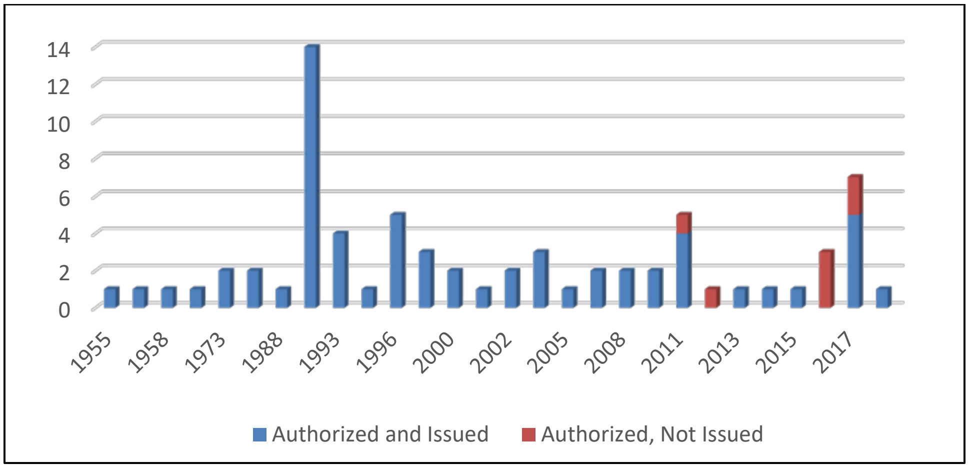
Better accounting is needed with the number of plate types, transactions, and customers increasing each year.

In the last three years, the number of new license plates being issued has increased 39 percent, from 445,791 in fiscal year 2015 to 618,035 in 2017. The standard plates, Life Elevated Skier, Life Elevated Arches, and In God We Trust, account for the largest increase. Ninety-four percent of all newly issued plates in 2017 were standard plates.

Figure 4.2 shows the number of plates that have been authorized by the Legislature over the years.[13] Most of the six plate categories, broken into 66 types (as will be shown in Figure 4.3) have been issued (shown in blue in the Figure 4.2).

[13] This figure shows newly authorized plates, beginning in 1955.

Figure 4.2 Most of the Authorized Plates Have Been Issued. In 1992, 14 new types of plates were authorized, mostly collegiate plates. However, not all authorized plates have been issued (red).



Source: Auditor generated table from data provided by the DMV

The red bars in the figure indicate plates that have been legislatively authorized but have yet to be issued.

Nine plates have been authorized by the Legislature, but have not yet been issued, partially because of lower limit threshold requirements.

As of the 2018 Legislative General Session, nine authorized plates have yet to be issued. These plates are Choose Life Adoption Support, Martin Luther King Jr., Utah Law Enforcement Memorial Support, Children with Cancer Support, Children with Heart Disease Support, Agriculture and Leadership Education, Second Amendment, Women's Suffrage, and Utah State Historical Society (the new black-and-white plates). The last two plates have a bill effective date of October 1, 2018. Some of these plates must meet a 500 minimum before the plate will go into production to be issued.

Utah Offers Several Plate Options

The DMV offers 66 different license plates, and each plate is classified into one of six categories. These plates are used on vehicles, motorcycles, and trailers, although not all plates are available for all types of vehicles. The six categories are divided into two groups: standard and special group plates. Figure 4.3 defines each category.

Figure 4.3 Standard and Special Plates Allow License Plate Holders Many Options. Whether they want to support a particular group or cause, or simply register a vehicle, license plate holders in Utah have many plate options, some for an additional cost.

Plate Category	Types	Description of Type or Use
Standard	3	Non-special group plates
Disability	1	For individuals with a qualifying disability
Honor	5	For those such as a war hero or disabled veteran
Recognition	10	For those who serve the public in other ways
Support	44	To contribute to an institution or cause
Unique	3	For historical or collector value, or for a unique vehicle type
	66	

Once a recognition plate, In God We Trust became the newest standard issue plate in the 2016 Legislative General Session.

Standard issue license plates come with a $6 fee (among other fees for registration). As of 2017, there are three standard issue license plates a newly registered vehicle may receive: Life Elevated Skier, Life Elevated Arches, and In God We Trust. In God We Trust was changed from a recognition plate to a standard issue plate in the 2016 Legislative General Session due to House Bill 127, effective January 2017.

The DMV website explains that special group license plates are available to generate funds for specific purposes or honor or recognize specific groups of people. Some special group plates come with an additional fee of $16 for the plate, an initial contribution ranging from $15 to $40, an annual contribution ranging from $10 to $40, or a combination of all of these fees, plus a postage and handling fee of $4. Some special group plates have no initial or annual contributions. Special group plates can be ordered by mail, online, or through a local DMV office. Examples of specialty group plates include Purple Heart, amateur radio, National Guard, collegiate groups, cancer research, and many more.

Support special group license plates require approval from the Legislature, secured funding, and a minimum of 500 submitted applications before production may begin.

The Legislature must approve the issuance of a new support special group license plate. After approval, there are two ways the DMV may issue a new type of support special group plate. *Utah Code* 41-1a-418 requires either: 1) a private donation for startup fees, including production and administrative costs, or 2) a legislative appropriation for the fees. In addition, beginning in 2012, statute requires that at least 500 completed applications[14] must accompany the fees before an organization can submit them to the DMV. The organization must hold the applications until it receives 500. Startup fees for a new plate range from over $5,700 to $36,800. Several factors affect the price of the plate, including the number of plates ordered and the number of colors in the design.

Too Many Plate Options May Cause Problems

Other states also offer large numbers of license plates. Just as a question about the quantity of license plates in Utah was raised in the January BEDL meeting, an article published in 2016 by the National Conference of State Legislatures (NCSL) addressed the same concern: "Some officials and other groups have expressed concern about the large number of specialty plates issued in various states. Virginia, for example, offers approximately 180 specialty plates, and Maryland tops the charts at more than 700." Idaho offers at least 40 plate choices, and Nevada offers at least 44.

A recent study found that some states offer a large variety of plates, which can, among other issues, be difficult for law enforcement trying to identify plates.

In the article, NCSL goes on to say that "in 2013, Arizona offered 53 specialty plates, which caused issues for law enforcement officers and witnesses to crimes trying to identify plates." To determine if this is a concern in Utah, we spoke with the director of the Motor Vehicle Enforcement Division (MVED), asking him about any concerns regarding specialty plates. The director said that they see vehicles where people have taken off the state-authorized decals and affixed their own stickers. A law enforcement officer at the Utah Highway Patrol (UHP) commented that UHP will issue citations when they see unauthorized decals being used.

The Motor Vehicle Enforcement Division believes it is getting harder to recognize official plates and issue citations for those without authorized state plates.

In addition, MVED is receiving many complaints about plates of different colors, facsimile plates, and novelty plates. The director stated that it is getting hard to recognize the official plates. They will cite drivers who are using unauthorized plates; these drivers can also face impoundment and possible criminal charges. MVED issued a press release in March 2018, stating that people are using unauthorized plates to steal motor vehicles, including the newly authorized black-and-white plates.

[14] Each application (form TC-203) must list the specific vehicle and include information about the owner who will be receiving the plate.

Senate Bill 41 (S.B. 41) was passed in the 2018 Legislative General Session (with an October 1, 2018 effective date) creating a black-and-white support special group license plate for the Utah State Historical Society. In the past, Utah issued black-and-white plates. According to ***Utah Code*** 41-1a-401, "All license plates to be manufactured and issued by the [DMV] shall be treated with a fully reflective material on the plate face that provides effective and dependable reflective brightness during the service period of the license plate."

Utah Correctional Industries could produce the new black-and-white plates if they had a sheeting material that was reflective.

Because of the requirement for a fully reflective plate, the DMV is unable to produce the black-and-white plates, as black is not reflective. Utah Correctional Industries (UCI) produces the state's license plates at the direction of the DMV. The UCI director stated that producing specialty plates does not pose a big impact on them, if they had a sheeting material that was reflective in the case of the black-and-white plates. However, the black-and-white plates cannot be produced because there is no reflective black material available.

He also mentioned that Utah's plates differ from some other states because they must have an embossed, rather than flat, surface. UCI is capable of producing a flat-surface plate and, if the law allowed the black to be nonreflective (only requiring the white letters to be reflective), the new plates could be produced at this time. However, a flat plate surface does not solve the reflection issue. We recommend that the Legislature study the contradiction between the two laws, namely, the law requiring that all license plates be fully reflective and the law authorizing the new black-and-white historical license plates, which cannot be reflective, to determine which should take precedence.

Once reflective black material becomes available, at a reasonable cost, the DMV will produce the plate. However, in the March 2018 press release, MVED stated although the DMV is not currently issuing these plates they are seeing an increase in the number of black-and-white facsimile or reproduction plates, a class C misdemeanor.

Restricted Account Is Needed to Identify All License Plate Costs

The Tax Commission is using a line-item transfer to cover the cost of license plate production. The true cost of license plate production is obscured because not all costs are reflected in the License Plate Production line item. Creating a new restricted account for license plate fee revenue would make the costs more transparent.

Line-Item Transfer Used To Cover Plate Costs

Since 2000, the Tax Commission has been transferring funds between the License Plate Production (LPP) and Tax Administration (TA) line items to cover the costs of license plate production. This practice was approved by the Legislature at the time and continues today. Each year, $458,000 in Reflectorized Plate Fees (license plate fee revenue) are transferred from LPP to TA to cover the DMV's costs for producing the plates, including reviewing and processing applications for new plates.

A revenue shortfall has recently occurred in license plate production, requiring the use of nonlapsing funds on an ongoing basis.

Transferring funds between line items is prohibited by statute. ***Utah Code*** 63J-1-206 states that "an appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, division, or line item to any other department, agency, institution, division, or line item." Because of this transfer, a revenue shortfall currently exists in the LPP line item, and nonlapsing balances (NLB) are being used as an ongoing funding source to balance the line item each year. Figure 4.4 shows the structural deficit in the LPP line item for fiscal years 2013 through 2017.

Figure 4.4 The Current Funding Structure Creates a Budget Deficit in the License Plate Production Line Item. Under the current funding mechanism, license plate revenue fees are not covering the costs of the program.

	2013	2014	2015	2016	2017
Revenue*	$1,908	$2,064	$2,200	$2,363	$3,197
Expenditures	2,381	2,433	2,737	2,607	3,580
Balance	**$(473)**	**$(369)**	**$(537)**	**$(244)**	**$(383)**

Source: Auditor generated
***The revenue reflected does not include the $458,000 that is transferred to the TA line item each year.**
Note: Figure totals are reflected in thousands.

In each year there is a deficit in the line item, totaling over $2 million for the five years shown. The way the Tax Commission has balanced this budget deficit is by using NLBs. The Tax Commission explains that they have intentionally been using NLBs to cover the costs because the LPP line item's balance was too high.

In addition, in fiscal year 2017 an appropriation of $100,000 in General Fund money was appropriated to the line item to cover the costs of the new In God We Trust license plate. NLBs provided $283,000, the amount needed to cover the costs.[15] However, at the end of fiscal year 2017, the LPP NLB amount was $275,500. If all things remain the same for fiscal year 2018, there will not be enough funds in the LPP line item to cover all the costs.

Figure 4.5 shows what the LPP line item's annual budget would be if $458,000 in license plate fee revenue was not transferred to the TA line item and all license plate revenue was kept in the line item to cover the costs of production.

We believe the Tax Commission should keep all license plate revenue in the License Plate Production line item to better cover production expenses.

Figure 4.5 The LPP Line Item Balances When All License Plate Revenue Is Recognized Within the Line Item. In all but two years, line-item revenue exceeded costs.

	2013	2014	2015	2016	2017
Revenue					
License Plate Prod.	$1,908	$2,064	$2,200	$2,363	$3,197
Transferred Funds	458	458	458	458	458
Total Revenue	**2,366**	**2,522**	**2,658**	**2,821**	**3,655**
Expenditures	**2,381**	**2,433**	**2,737**	**2,607**	**3,580**
Balance	**$(15)**	**$89**	**$(79)**	**$214**	**$75**

Source: Auditor generated
Note: Figure totals are reflected in thousands.

Instead of showing a year-to-year structural deficit of close to a half-million dollars, the line item essentially balances each year.

[15] Applying the $100,000 appropriation to the $383,000 deficit leaves $283,000 remaining.

License Plate Fee Restricted Account Would Bring More Transparency

For a more transparent process, a General Fund Restricted License Plate Fee Revenue account should be created. The restricted account would house all the license plate fee revenue, and appropriations would be made from the account to the LPP line item. A restricted account would make the transfer more visible in the Tax Commission's budget. This process is more transparent because all license plate fee revenue collected would be tracked in the restricted account each year.

To ensure greater transparency, we recommend (and the Tax Commission and LFA concur) a General Fund restricted account could be used to better track all license plate revenue.

As stated at the beginning of this section, the intent behind transferring the $458,000 is for the funds to be used to cover the DMV costs attributable to producing the plates. If the $458,000 revenue remains in the LPP, the costs need to be accounted for in the LPP as well. The Tax Commission does not know exactly how much the DMV costs attributable to producing license plates are. However, Tax Commission management said they can gather that information.

Once all the revenue and costs are accountable under one line item, the true cost of the program can be identified. This will allow the Tax Commission to better determine the appropriate amounts to charge for license plate fees. These amounts cannot be accurately determined in the current funding scheme.

We spoke with both The Office of the Legislative Fiscal Analyst and Tax Commission management about our recommendation to create a restricted account to track license plate fee revenue. Both offices agreed that a restricted account is a viable solution. Also, restructuring the LPP program so that all costs are housed together in the LPP line item is a better way of budgeting and accounting for the program going forward.

Recommendations

1. We recommend that the Legislature study the contradiction between the two laws, namely, the law requiring that all license plates be fully reflective and the law authorizing the new black-and-white historical license plates, which cannot be reflective, to determine which should take precedence.

2. We recommend that the Legislature create a new restricted account to capture license plate revenue fees.

Chapter V
Additional Cost Increases We Reviewed Are Justified

In our initial risk assessment of the Utah State Tax Commission's (Tax Commission) budget, we identified three areas of initial concern warranting review. We were concerned with the increasing cost of services provided by the Department of Technology (DTS), credit card processing companies, and Utah Interactive, LLC (UII). We found that increases in DTS costs were due to increased services and Legislatively approved rate increases. Credit card and UII cost increases were also due to the increased use of services. Finally, in reviewing the Tax Commission's budget, we included the expenses allocated to the Tax Commission's multi-year tax system modernization project. A portion of this system was funded with nonlapsing funds. However, nonlapsing balances are not intended to fund long-term projects.

Our risk assessment found that credit card processing fees, DTS, and internet gateway service costs increased by more than 10 percent in five years.

The risk factor of our budget review was based on a straightforward test of increases in these expenses above 10 percent from 2013 to 2017 with a minimum effect of at least $500,000 in total costs over the five years. Despite heightened costs, the Tax Commission has adequate internal controls for mitigating risks in these expense categories.

DTS Cost Increases Are Justified

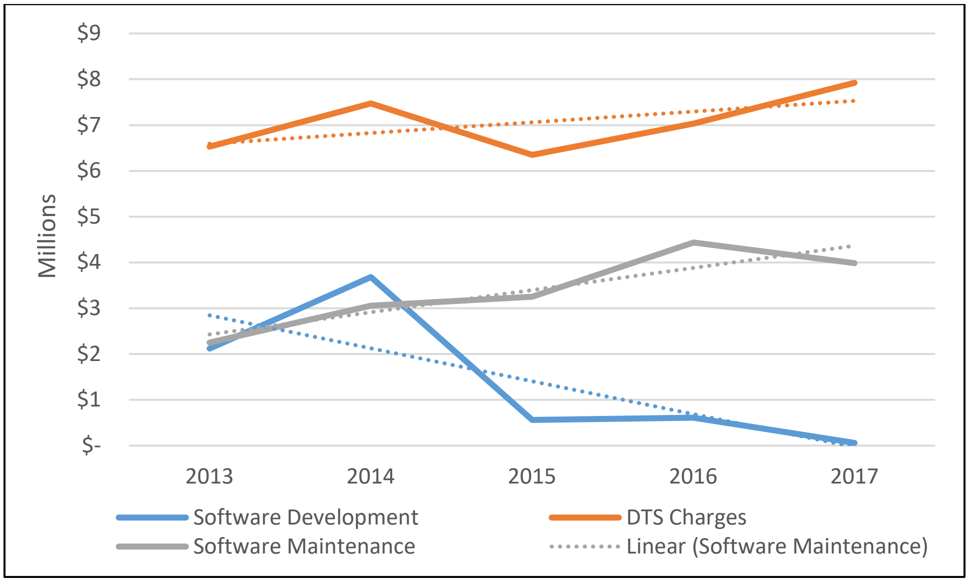
The Department of Technology Services (DTS) is the State of Utah's service provider for activities related to information technology. DTS also holds agency contracts for hardware and software. From fiscal years 2013 to 2017, the Tax Commission's DTS charges increased from $6.5 million to $7.9 million, and software maintenance charges increased from $2.3 million to $4.0 million. In total, these two charges represent a 35 percent increase from $8.8 million to

$11.9 million.[16] However, software development costs decreased 97 percent, from $2.1 million to $59,000.

Many of these costs are attributable to the Tax Commission's system modernization project. Figure 5.1 shows the cost increases for the DTS and software maintenance charges and the decrease for software development. As the modernization project progressed, there was a shift in charges from software development to software maintenance, which can be seen in the intersection of these two costs during fiscal year 2014.

Increased DTS service costs can partially be attributed to the Tax Commission's large modernization project.

Figure 5.1 In Total, DTS and Software Maintenance Cost Increases Resulted in a 35 Percent Increase from Fiscal Years 2013 to 2017. The modernization project required software development (blue line) that should not be needed in the future. Therefore, those costs have been eliminated, as expected.



Source: Auditor generated from FINET data

Although the modernization project is complete, we believe that both DTS and software maintenance costs will continue to increase as DTS rates and services increase and vendor contract prices increase in the future.

[16] Calculated as: $6.5 million + $2.3 million = $8.8 million; $7.9 million + $4.0 million = $11.9 million

As an internal service fund (ISF) agency, DTS proposes new rates to the Legislature each year based on expected costs. The Legislature then decides whether to fund the increases. As with other ISFs, according to state finance policies, "rates are determined from a mixture of fixed, variable, direct, indirect, and unexpired costs of the ISF." Overall, DTS rates increased in every year of our analysis.[17] A review of DTS expenses throughout state agencies from fiscal years 2013 to 2017 reveals that expenditures made by the Tax Commission for DTS services are about average. The Tax Commission has a service-level agreement with DTS, which establishes the services and products DTS provides.

Operated through the use of an internal service fund, DTS service charges at the Tax Commission were found to be in line with other state entities.

Credit Card and UII Cost Increases Are Due to Increased Use of Both Services

Under state contracts, the Tax Commission uses third-party vendors to provide customers with the opportunity to pay for Tax Commission services with the use of a credit card and through the internet. Two credit card companies, JP Morgan Chase and American Express, provide transaction-processing services for the Tax Commission. UII provides portal services for online government transactions available to the public. We found that both credit card and UII costs increases at the Tax Commission are commensurate with increased use of both services.

More Taxpayers Are Using Credit Cards When Conducting Business with the State

From 2013 to 2017, the Tax Commission's credit card processing costs increased by nearly 46 percent (from $4.0 million to $5.8 million). Additionally, in reviewing statewide costs for fiscal year 2017, we found that the Tax Commission and the Department of Alcoholic Beverage Control each accounted for 42 percent of all credit card costs. The rise in these expenses is attributed to an increasing use of credit cards among taxpayers, in addition to overall increases in the number of transactions. Correspondingly, we did not find any

Credit card processing costs have increased by 42 percent and can be attributed to heightened use of credit cards by taxpayers.

[17] Due to changes in DTS' billing structure over the years, it is difficult for us to follow the rate changes for all DTS services. We did find that although not all DTS rates have increased over the last five fiscal years, there have been several rate changes each year.

instances where rates from the state's two credit card vendors increased.

According to Tax Commission officials, there are 275 credit card processing machines that are used by the Motor Vehicle Division (DMV), Taxpayer Services Division (TPS), and Motor Vehicle Enforcement Division (MVED). Credit card fees are structured differently depending on the taxes for which they are used. For example, while a fee is embedded as a flat rate in the DMV's registration or renewal costs, a processing or "convenience fee" is assessed on other taxes commensurate with the amount owed. Where convenience fees are used to pay credit card processing fees every month, DMV and MVED fees are held in the Electronic Payment Fee Restricted Account until the Legislature appropriates them to the Tax Commission, who then pays the state-contracted vendors.

The Division of Finance believes the Tax Commission's credit card reconciliation controls are in line with other state entities' practices.

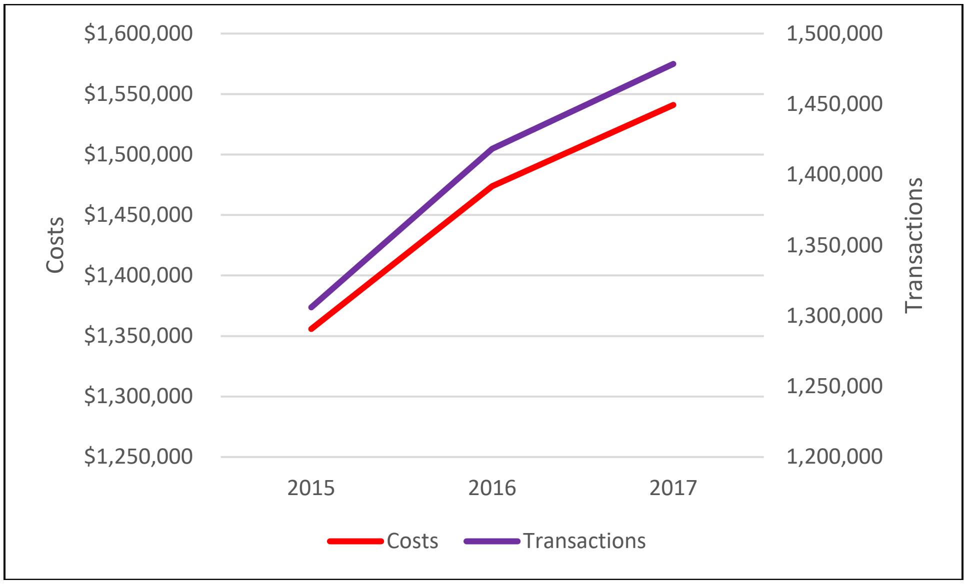
During the audit, we observed the daily reconciliations performed by Tax Commission staff. Staff checks do not reconcile the number of transactions, but they do reconcile the total value of dollars received and deposited into the State Treasury and the amount owed to state vendors processing these transactions. The Division of Finance explained that there is great complexity with the varying rates of credit card uses, and that the Tax Commission's reconciliation practices fall in line with those of other state agencies. We agree that the Tax Commission's reconciliation process appears adequate and recognize that credit card fees will continue to increase as a budget expense as the use of credit cards continues to grow.

UII Cost Increases Are Commensurate With Increased Use of Services

The services that UII provides are used mostly in the DMV but also in MVED and Processing for facilitating online transactions. From fiscal years 2013 to 2017, the Tax Commission's UII costs have increased about 30 percent, from $1.2 million to $1.5 million. According to the Tax Commission, with the DMV's modernization upgrade that occurred in 2015, the ability to compare previous years' transaction numbers was lost. Therefore, we were limited to fiscal years 2015 to 2017 when comparing the UII cost increases to the number of UII transactions.

During that time, UII costs increased from about $1.36 million to $1.5 million (13.7 percent). The number of transactions that correlate to those costs also increased 13.3 percent, from about 1.3 million to 1.48 million. Therefore, we believe the cost increases are commensurate with increased use of the services. Figure 5.2 shows the relationship between cost and transaction increases.

Figure 5.2 From Fiscal Years 2015 to 2017, the Number of UII Transactions Correlates to the Increase in UII Costs. Each data set reflects about a 13 percent increase over the same period.



Source: Auditor generated from FINET data

On average, the cost per transaction did not increase from fiscal years 2015 to 2017.

The Tax Commission spends more on UII portal and service costs than any other state agency, with the Department of Commerce being second.

Because UII provides the online government services gateway for the state and facilitates online transactions at the Tax Commission, we reviewed statewide costs attributable to UII services. The Tax Commission is the largest user of UII services, followed by the Department of Commerce. From 2013 to 2017, the Tax Commission's UII costs totaled $6.8 million, with a 32 percent increase over that time. The Department of Commerce's costs totaled $3.4 million and increased by 27 percent during that time. We spoke with representatives from the Department of Commerce who also believe cost increases are due to an overall increase in internet service use.

The Tax Commission does well to scrutinize and reconcile UII billings and services.

Finally, we found that the Tax Commission adequately reviews these costs and reconciles transactions appropriately. The DMV checks the number of transactions against the number billed by UII, and the accounting department reconciles that each bill is posted and paid accurately. DTS also provides an itemized bill that is reconciled through the accounting department. After reviewing the increased costs and the contributing factors for those increases, we believe the costs are appropriate and well managed.

Nonlapsing Balances Are Not Intended to Fund Long-Term Projects

The Tax Commission's tax system modernization project was funded with both appropriated funds and nonlapsing balances, at the approval of the Legislature.

During our review of the budget, we reviewed the expenses allocated to the Tax Commission's multi-year tax system modernization project. This project, which was completed below budget between fiscal years 2007 and 2016, was funded with both direct appropriations ($18 million) and with the Tax Commission's nonlapsing balances ($7.9 million).

The use of nonlapsing balances (NLBs) for the Tax Commission's project was approved by the Legislature, generally speaking. However, funding long-term projects with nonlapsing balances is not ideal because transparency is lost. If legislators do approve nonlapsing authority in an appropriations act for long-term projects, they should include detailed information on approved uses. If the Legislature does grant an agency broad authority to use nonlapsing funds for a long-term project, statute has another check in place to help identify the source and use of the funds. The Appropriations Budget Report (or BGAA) is intended to make the transfer of unspent funds more transparent. However, oversight of these transfers needs improvement.

Specific Requirements Are Needed for Appropriations to be Nonlapsing

Utah Code requires that unused appropriations lapse at fiscal year-end unless nonlapsing authority is explicitly listed in statute, funds are designated as nonlapsing in appropriations bills, or nonlapsing authority has been granted through intent language for a specific purpose, with specific requirements.[18] ***Utah Code*** also requires

[18] As established in ***Utah Code*** 63J-1-602 and 603.

appropriations subcommittees to review all funds and accounts that have been granted nonlapsing authority.

If an agency desires to retain unspent balances from its appropriated budget at the end of any given fiscal year, it is required to submit a list of one-time projects to the Governor and Legislature during the budgeting process. A one-time projects list is defined as "a prioritized list of one-time projects, upon which an agency would like to spend any appropriation balance, and for each project, the maximum amount the agency is estimating for the project." And, a one-time project is "a project or program that can be completed with the appropriation balance and includes items such as employee incentive awards and bonuses, purchase of equipment, and one-time training."

If agencies desire unspent balances to be retained at the end of a fiscal year, a one-time project list needs to be submitted to the Governor and Legislature.

To obtain nonlapsing authority for unspent funds, agencies are to submit their one-time lists in the general session immediately preceding the end of the fiscal year they have unspent funds in. According to the Legislative Fiscal Analyst (LFA), appropriators then typically grant nonlapsing authority for those specific one-time projects through intent language.[19] However, the intent language may not supersede any statutory requirements that might exist for the use of unspent funds.

If not through direct appropriation, one-time projects may be approved through intent language.

With the modernization project, the Legislature allowed more general and vague statements to suffice as intent language: "the use of any nonlapsing funds is limited to the costs directly related to the modernization of tax and motor vehicle systems and processes." This language does not provide adequate controls for spending within the project. Although approval was received allowing unspent funds to be nonlapsing, the Tax Commission was not required to submit a one-time project list detailing the maximum amount estimated for the project or specifying that the project would be completed within the appropriation balance, which it was not.

We discussed this issue with the LFA and he believes the Legislature could exercise greater oversight in the funding scenarios for capital projects. At a minimum, going forward, we recommend The Office of the Legislative Fiscal Analyst help reinforce this

[19] Intent Language is a statement added to appropriations bills to explain or put conditions on the use of line item appropriations. These statements are part of an appropriations act, but expire at the end of the fiscal year.

oversight role of the Legislature through their appropriation subcommittee staffing duties.

Oversight of Transfers Within a Line Item Needs Improvement

Because most of the Tax Commission's budget is under one line item, another way the use of the nonlapsing funds could have been more easily followed is through the Appropriations Budget Detail Report (known as the BGAA report). When an agency wishes to transfer funds between programs within one line item, a BGAA transaction is required to be completed. The BGAA sets forth the desired adjustment of funds within a line item, through a written justification setting forth the purpose and necessity of the fund adjustment between programs.

The Appropriations Budget Detail report (or BGAA) details the amount and purpose for a transfer of funds within one line item.

Utah Code 63J-1-209 requires the director of The Utah Division of Finance (Finance) to "…exercise accounting control over all state departments, institutions, and agencies…" Agencies are required to submit a Budget Execution Plan to Finance by May 15th of each year. Finance policy states that all appropriation budget modifications must be approved by, and coordinated through, the Division of Finance. Within this policy, Finance sets forth itself as the entity that reviews and approves BGAA transactions entered by agencies and works with agencies to correct errors.

Therefore, even if the one-time projects list was not adequately completed, the BGAA report could have provided a trail as to how the Tax Commission moved funding to pay for the modernization project. However, the Tax Commission's BGAA reports for fiscal years 2013 through 2017 lacked the needed quality and thoroughness required in statute and policy for documenting agency spending. We found vague statements, such as "reallocation," in the Tax Commission's BGAA report. Such statements do not provide the required agency plan or purpose for spending the adjusted appropriations.[20]

The Tax Commission's BGAA reports did not adequately document why funds were transferred between programs.

[20] The Tax Commission is not the only agency where the BGAA falls short. In our January 2017 report, A Performance Audit of the Utah Antidiscrimination and Labor Division's Employment Discrimination Unit, it was found that the Labor Commission also failed to file the requisite BGAA reports when moving money within its operations' line item.

Other agencies, such as The Governor's Office of Management and Budget (GOMB) and The Office of the Legislative Fiscal Analyst (LFA) also use the BGAA report. However, they are not required to review the report for accuracy. We discussed the transaction descriptions in the Tax Commission's BGAA report with the Tax Commission and Finance and both acknowledged that, in this case, they do not adequately reflect the requirements as written in statute and can be improved. The Tax Commission agreed that it can do better with its reporting. Finance also agreed that it could increase its enforcement of the statute and more closely review transaction descriptions to make sure they are more explanatory when necessary.

The Division of Finance agrees with our assessment that it can increase enforcement of appropriate BGAA report completion.

In summary, we recommend the LFA reinforce this oversight principal to the Legislature to ensure agencies are providing the requisite information when requesting unspent funds to be authorized as nonlapsing. In addition, we believe that improvements can be made to the BGAA report so that greater transparency and accountability of agency spending is possible throughout all state agencies.

Recommendations

1. We recommend that The Office of the Legislative Fiscal Analyst help reinforce the oversight role of the Legislature, to the Executive Appropriations Committee and appropriation subcommittees, to ensure that all agencies are only authorized unspent funds to be nonlapsing when the agencies provide the required one-time project list and estimated costs of each project, as required both in statute and through intent language.

2. We recommend that the Utah State Tax Commission provide language in the Appropriation Budget Detail report to adequately justify the necessity and purpose of any modification to its budget.

3. We recommend the Division of Finance increase its enforcement of the statutory requirements for all agencies statewide when reporting the transfer of funds within a line item through the Appropriation Budget Detail report.

Agency Responses

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State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Utah State Tax Commission

JOHN L. VALENTINE
Commission Chair

MICHAEL J. CRAGUN
Commissioner

ROBERT P. PERO
Commissioner

REBECCA L. ROCKWELL
Commissioner

SCOTT W. SMITH
Interim Executive Director

August 23, 2018

John Schaff, CIA
Legislative Auditor General
W315 Utah State Capitol Complex
Salt Lake City, UT 84114-5315

RE: An In-Depth Budget Review of The Utah State Tax Commission

Dear John:

We appreciate the opportunity to review the draft of An In-Depth Budget Review (Review) of The Utah State Tax Commission. Your auditors did an outstanding job in reviewing our budget, goals and processes. The review was thorough and recommendations were well thought out. Below are our comments on each of the individual sections.

Chapter II Taxpayer Services Could Do More to Collect State's Delinquent Tax Debt

We agree with the recommendation of having a manager located in all district offices. We will have a manager in place in the Provo office by the end of calendar year 2018. Training to standardize collection processes is ongoing. Currently our emphasis is on training the managers how to work with their employees to ensure standardized collection processes are followed.

We believe it is important that employees pursue meeting goals. Thus, the Taxpayer Services Division worked with the districts to set goals for cleared cases that are specific to each district for FY2018. This resulted in greater participation from the agents for the year and an overall increase in cleared cases of 12 percent. We appreciate that the Legislature has set a goal requiring 5 percent improvement each year and will work with the districts to ensure their goals meet this requirement. However, given that each district faces unique challenges, we believe the best result will be achieved by continuing the practice of working with each district to set an individual goal.

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www.tax.utah.gov

We agree that more agents will result in improved collection rates. Additionally, we agree more third-party collection agencies (OCAs) are needed and we have already begun the process of upgrading systems to allow us to utilize multiple OCAs. We will do additional research on the statutory waiting period to place cases with an OCA to determine the impact of changing this period and work toward changing statutes as needed.

Chapter III Tax Commission Performance Measures Show Program Improvements

We agree that improved tracking of performance measures could be implemented by the Tax Commission. We will review our measurements to ensure they are giving management the necessary information to meet improvement goals.

In regards to our Motor Vehicle Enforcement Division (MVED), we agree that case description codes need standardization. We have reviewed our codes and eliminated many that appeared to be duplicative along with clarifying those that were confusing. We also began a project to better coordinate the data/statistics coming from the two systems the MVED uses. We believe the standardization of the data will improve our statistics, resulting in the better use of our resources.

For the Taxpayer Services Division (TPS), we will establish a goal of 5 percent increase in cases cleared to zero for FY2019 and year over year. We will also ensure our metric of collection to receivables appropriately reflects our efforts to decrease the number of days to collect. We will accomplish this by focusing on cleared cases and delinquent dollars collected.

We fully support the recommendation that the Processing Division continue to promote electronic tax report filings and will continue to encourage the Legislature to adopt mandatory electronic filings when implementing new tax types. Additionally, we have started a project to simplify our web filing portal.

As customers and transactions continue to increase, our Motor Vehicle Division (DMV) recognizes the importance of striving towards a goal of serving 94 percent of our customers within 20 minutes or less. We also acknowledge that one of our branches falls significantly short of this goal. This is largely due to limited space for additional workstations. We will continue to analyze relevant options to improve the wait times at every branch. The DMV has also addressed the personnel issues identified in the report that negatively impacted wait times.

Chapter IV Better Accounting Needed as License Plate Issuance Increases

We agree that the Legislature should study the contradiction between the law requiring a fully reflective material on the plate face and the law authorizing the new black-and-white historical plate. License plates play a critical role in preventing and solving crimes and are key to revenue for certain organizations. The American Association of Motor Vehicle Administrators recommends that "[l]icense plates contain a retro-reflective surface, and the license plate number is readable in both daylight and nighttime from distances of at least 75 feet. This provides illumination without distortion when viewed under headlights." The Tax Commission strongly encourages Utah follow this recommendation.

The Tax Commission would support the creation of a restricted account to capture license plate revenue fees with the understanding that an appropriation would be made to the DMV to cover the costs of license plate issuance.

Chapter V Additional Cost Increases We Reviewed Are Justified

We agree that nonlapsing funds need to be transparent and trackable. As confirmed in the review, all nonlapsing funds have been used appropriately and were reported to our subcommittee. The use of nonlapsing funds allowed us to react to rapidly changing circumstances. With this flexibility, we were able to complete our tax-system modernization project on time and under budget, as well as implement our fraud manager for which we were recognized nationally for stopping $10,975,729 in fraudulent returns in the 2015-2016 filing season.

We agree we can improve our reporting on modifications to our budget. We will provide the appropriate information in our Appropriation Budget Detail report.

Sincerely,

Scott W. Smith
Interim Executive Director
Utah State Tax Commission

State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of Administrative Services

Tani Pack Downing
Executive Director

Division of Finance
John C. Reidhead, CPA
Director

August 22, 2018

To John M. Schaff, CIA, Auditor General,
Office of the Legislative Auditor General

Thank you for the opportunity to respond to recommendation No. 3 directed to the Division of Finance within Chapter V of your draft audit report to the Utah State Tax Commission. Your recommendation and our response is below.

Chapter V, Recommendation 3:
We recommend the Division of Finance increase its enforcement of the statutory requirement for all agencies statewide when reporting the transfer of funds within a line item through the Appropriation Budget Detail report.

Division of Finance Response:
The Division of Finance concurs with the recommendation. The Division of Finance will work to improve the description provided by agencies when transferring funds within a line item. Division of Finance staff will review the description field on the BGAA transactions that are submitted by agencies to ensure that the description provides a justification for the new budget execution plan and that it includes the purpose and necessity of the revision, as required by statute (63J-1-209 (4)(a)((ii)). In addition, the Division of Finance will modify its policy on modifying appropriation budgets (FIACCT 03-01.11) to better describe the required information agencies are to provide for budget modifications. Finally, the Division of Finance will ensure that agency staff are trained on this requirement both through ensuring the requirement is discussed in the FINET training on BGAA documents provided to agency staff, as well as through inclusion as an agenda item on an Agency Coordinator Team meeting and/or a Budget & Accounting Officers' meeting.

Contact: Janica Gines, Assistant State Comptroller
Anticipated Completion Date: June 30, 2019

We appreciate the work of your audit team and the opportunity we had to discuss this recommendation with them.

Sincerely,

John Reidhead, Director, Division of Finance

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