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# IMPROVE STATE DEBT COLLECTION PRACTICES

The state of Texas accumulates debt owed to nearly all its agencies and institutions of higher education. When individuals and businesses do not repay a debt by its due date, the debt becomes delinquent. Types of delinquent debt owed to the state include unpaid fees, penalties, taxes, tuition, and medical bills; delinquent loans; overpayments for government benefits, such as Medicaid and the unemployment insurance program; and vendor overpayments. To ensure the proper funding and administration of state government, agencies and institutions attempt to collect delinquent debt.

Some agencies and institutions do not track certain measures of delinquent debt collection consistently, such as outstanding and collected delinquent debt. Without this information, the state cannot monitor the effectiveness of debt collection practices. Requiring agencies and institutions to report delinquent debt metrics to a central authority could improve agency accountability and enhance the transparency of collection efforts.

## FACTS AND FINDINGS

- ◆ The Office of the Attorney General acts as the central authority on debt collection for the state. Some agencies and institutions of higher education refer delinquent debt that meets certain conditions to the Office of the Attorney General, and others pursue their own collection strategies as authorized in accordance with agreements with the Office of the Attorney General.
- ◆ Agencies and institutions of higher education must notify the Comptroller of Public Accounts when an individual or entity owes a debt to the state to place the debtor on warrant hold. This process prevents the debtor from receiving payments from the state, with certain exceptions.
- ◆ In fiscal year 2011, the Legislature repealed a requirement that each state agency and institution of higher education must submit an annual debt report summarizing the debt owed to the relevant agency or institution to the Office of the Attorney General, in part because at that time a rider in the General Appropriations Act required the Legislative Budget

Board to conduct an annual survey of agency fees, fines, and penalties. In 2014, however, the Legislature removed the rider requiring the survey, and no similar reporting requirement has replaced it.

## CONCERNS

- ◆ Texas statute does not authorize participation in the federal Treasury Offset Program's State Reciprocal Program, which assists states in collecting debt.
- ◆ Agencies and institutions of higher education are not required to track the delinquent debt that they accrue and collect, and no central recordkeeping system or report records delinquent debt owed to agencies. A Legislative Budget Board staff review of 65 agencies and institutions of higher education found that some entities do not have adequate internal records of measures of delinquent debt. Without this information, agencies and institutions cannot be held accountable for their collection efforts.
- ◆ The Office of the Attorney General reports the amount of debt it collects for each state agency to the Legislative Budget Board and the Office of the Governor, but the agency does not report total outstanding delinquent debt or the amount of debt referred by agencies. The state could use this additional information to better understand state agency debt collection and referral practices.

## OPTIONS

- ◆ **Option 1:** Amend statute to authorize, but not require, the Comptroller of Public Accounts to participate in the federal Treasury Offset Program's State Reciprocal Program. If the Comptroller of Public Accounts chooses to participate, this program would enable the federal government to offset federal vendor payments to recipients that have debts to Texas state agencies, increasing debt collected for the state.
- ◆ **Option 2:** Amend statute to require state agencies and institutions of higher education to submit to the Office of the Attorney General standardized reports regarding outstanding, collected, and uncollectible

delinquent debt, and other information as determined by the Office of the Attorney General. The Office of the Attorney General would use this information to monitor performance and identify potential improvements in collection efforts when necessary.

- ◆ **Option 3:** Expand the Office of the Attorney General’s debt-related reporting requirements in the 2020–21 General Appropriations Bill to include total outstanding delinquent debt, the amount of debt referred by each agency and institution, and debt deemed uncollectible. If Option 2 were implemented, the report also would include agency-level and institution-level metrics.

**DISCUSSION**

For this report, debt refers to any payment owed to the state. Typically, if a debt is not paid by its due date, the debt becomes delinquent. This report focuses on delinquent debt that individuals and companies owe to the state of Texas. **Figure 1** shows examples of debt owed to Texas state agencies and institutions of higher education.

Legislative Budget Board (LBB) staff collected information from select state agencies and institutions of higher education regarding outstanding debt and debt collection practices. **Figure 2** shows outstanding delinquent debt at the end of fiscal year 2017 for agencies that kept records of total outstanding delinquent debt owed and that had outstanding debt of at least \$0.5 million. For this report, outstanding delinquent debt is the total amount of delinquent debt owed to an agency, including debt from previous years and excluding any debt deemed uncollectible by the agency.

**DEBT COLLECTION PRACTICES**

To determine typical debt collection practices, LBB staff collected information from 65 state agencies and institutions of higher education considered likely to accrue delinquent debt. Debt collection strategies vary, but such efforts usually begin when state entities owed a delinquent debt notify the individual or entity that owes the debt through written correspondence or telephone calls. Some state entities offer payment plan options for debtors unable to immediately repay the full amount owed.

**FIGURE 1  
EXAMPLES OF DEBT OWED TO STATE AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION, FISCAL YEAR 2018**

DEBT	ENTITIES TO WHICH DEBT MAY BE OWED
Unpaid fees, fines, and penalties	Department of Public Safety
	Texas Alcoholic Beverage Commission
	Texas Commission on Environmental Quality
	Texas Department of Agriculture
	Texas Department of Licensing and Regulation
	Texas Department of Motor Vehicles
	Railroad Commission of Texas
Past due or underpaid taxes	Texas Workforce Commission
Past due or underpaid tuition	Comptroller of Public Accounts
Unpaid medical bills	All public institutions of higher education
Student loans with past-due balances	Medical and dental units, such as the University of Texas M.D. Anderson Cancer Center
Overpayments of benefits, such as benefits from Medicaid and the unemployment benefits programs	Texas Higher Education Coordinating Board
	Employee Retirement System of Texas
	Health and Human Services Commission
Overpayments to vendors for delivered goods or services	Texas Workforce Commission
	All agencies and public institutions of higher education
Overpayments of compensation to state employees	All agencies and public institutions of higher education

SOURCE: Legislative Budget Board survey.

**FIGURE 2**  
**REPORTED OUTSTANDING DELINQUENT DEBT FOR SELECT STATE AGENCIES, AS OF FISCAL YEAR 2017**

AGENCY (1)	DEBT ACCRUED	OUTSTANDING DELINQUENT DEBT (2) (IN MILLIONS)
Department of Public Safety	Unpaid fees and penalties	\$1,757.3 (3)
Comptroller of Public Accounts	Unpaid taxes (4)	\$481.1 (5)
Health and Human Services Commission (6)	Claims overpayments, cost audits and settlements, criminal court-ordered restitution, incentive overpayments, provider and client benefit overpayments, salary overpayments, travel advance payments, vendor overpayments	\$300.6
Texas Higher Education Coordinating Board	Delinquent student loans	\$109.5
Texas Commission on Environmental Quality	Unpaid fees and penalties	\$39.9
Texas Department of Transportation	Benefit overpayments, damage claims, overpayments for goods and services, vendor overpayments	\$35.7
Department of State Health Services	Benefit overpayments, subrecipient recoupments, unpaid fees	\$6.0

NOTES:

- (1) Data shown includes agencies surveyed by Legislative Budget Board staff that kept records of outstanding delinquent debt owed to the entire agency and that had outstanding delinquent debt of at least \$0.5 million.
- (2) Outstanding delinquent debt amounts exclude debt deemed uncollectible by the agency.
- (3) For debt reported by the Department of Public Safety, 99.0% of debt is owed to the Driver Responsibility Program.
- (4) Although the Comptroller of Public Accounts accrues some nontax-related debt, this estimate includes delinquent tax debt only.
- (5) The Texas Tax Amnesty Program operated from May 1, 2018, to June 29, 2018, and enabled certain delinquent taxpayers to make accounts compliant with state tax law and avoid penalties and interest on tax due. This program did not affect outstanding delinquent taxes for fiscal year 2017, as shown.
- (6) The Health and Human Services Commission's outstanding delinquent debt includes debt owed to the federal government through Medicaid and other federal programs.

SOURCES: Legislative Budget Board; Department of Public Safety; Comptroller of Public Accounts; Health and Human Services Commission; Texas Higher Education Coordinating Board; Texas Commission on Environmental Quality; Texas Department of Transportation; Department of State Health Services.

If these initial steps are unsuccessful, some state entities seek to encourage debt payment by denying services, as shown in **Figure 3**.

If internal collection efforts are unsuccessful, some agencies refer certain delinquent debt accounts to the Office of the Attorney General (OAG). Agencies adopt thresholds subject to OAG's review to determine accounts to refer. Upon agency referral, OAG attempts to collect the delinquent accounts.

The Comptroller of Public Accounts (CPA), which collects taxes, fees, and assessments owed to the state, has more extensive collection measures than other state agencies. After generating billings for delinquent taxpayers, the agency contacts taxpayers to collect the amount due using its in-house call center. If the call center campaign is unsuccessful, CPA has multiple enforcement actions it can pursue, including suspending tax permits, freezing and levying bank accounts, conducting limited cash and inventory seizures, and filing applicable misdemeanor or felony charges depending on the type of tax and amount due. The Legislature also may authorize CPA to establish temporary tax amnesty

programs, as it has done recently during fiscal years 2012 and 2018.

CPA refers debt to OAG or private debt collection firms if its enforcement actions are unsuccessful, but CPA collects the bulk of its delinquent taxpayer debt through internal efforts.

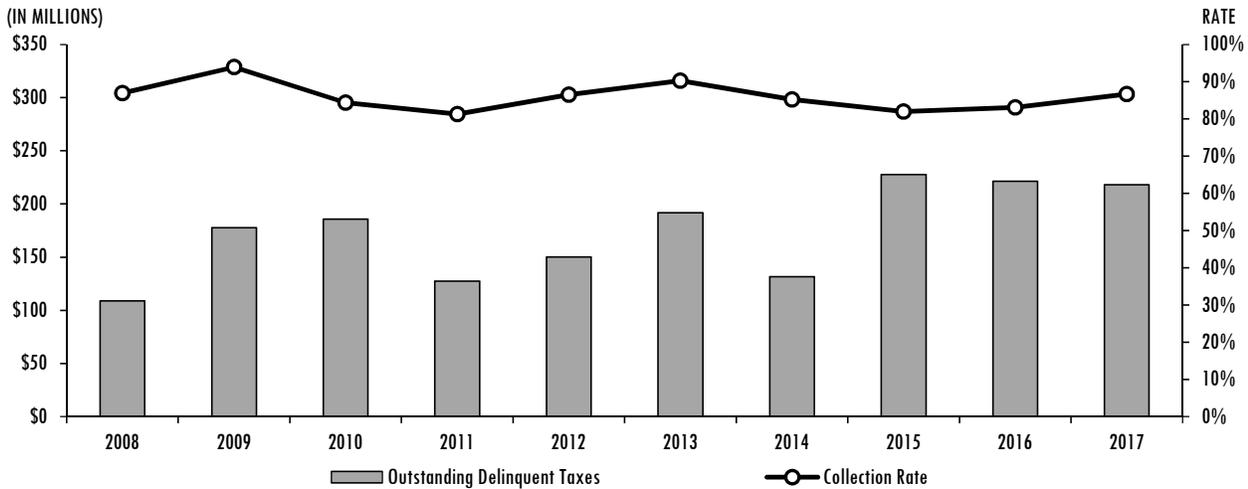
**Figure 4** shows CPA's outstanding delinquent tax balance and internally calculated collection rate from fiscal years 2008 to 2017, excluding collections by private contractors. This collection rate includes only delinquent taxes that were not paid in full by their due dates. The agency's balance of outstanding delinquent taxes has increased overall since fiscal year 2007, but its collection rate has remained at greater than 80.0 percent. CPA collected \$930.3 million in delinquent taxes during fiscal year 2017 for a collection rate of 86.7 percent. This amount excludes delinquent taxes in legal status, such as taxes in active bankruptcy. According to CPA, outstanding delinquent taxes have been greater since fiscal year 2015 because of large audit liability assessments that are continuing through the collection process. The agency

**FIGURE 3  
EXAMPLES OF AGENCIES THAT DENY SERVICES TO ENCOURAGE DEBT PAYMENT, FISCAL YEAR 2018**

AGENCY	METHOD OF SERVICE DENIAL
Department of Public Safety	Impounds and auctions vehicles operated by a motor carrier  Suspends driver licenses for those that owe Driver Responsibility Program surcharge penalties
Department of State Health Services	Withholds test results from delinquent water systems  Refuses to fulfill newborn screening kit orders for delinquent physicians, clinics, and hospitals
Institutions of higher education	Place holds on registration for classes, official transcripts, and diplomas
Texas Alcoholic Beverage Commission	Suspends permits or licenses
Texas Commission on Environmental Quality	Refuses authorization of registrations, licenses, or permit modifications
Texas Department of Agriculture	Denies license renewals
Texas Department of Motor Vehicles	Revokes licenses
Texas Parks and Wildlife Department	Suspends or revokes licenses or permits
Texas Workforce Commission	Offsets overpayments from subsequent claims or additional benefits

SOURCES: Legislative Budget Board; Department of Public Safety; Department of State Health Services; Texas Alcoholic Beverage Commission; Texas Commission on Environmental Quality; Texas Department of Agriculture; Texas Department of Motor Vehicles; Texas Parks and Wildlife Department; Texas Workforce Commission; Texas public institutions of higher education.

**FIGURE 4  
OUTSTANDING DELINQUENT TAXES AND COLLECTION RATE FOR THE COMPTROLLER OF PUBLIC ACCOUNTS  
FISCAL YEARS 2008 TO 2017**



NOTE: Outstanding delinquent taxes exclude those in legal status. Collection rate excludes collections by private contractors.  
SOURCE: Comptroller of Public Accounts.

estimates that most of these outstanding debts will be collected in subsequent years.

The Office of the Attorney General, Child Support Division, which collects child support payments, engages in collection activities similar to those of CPA and other agencies.

However, unpaid child support payments are not considered a debt owed to the state. The Supreme Court of Texas has held that child support is not a debt but a legal duty that may be enforced through traditional debt remedies or other remedies established for child support enforcement. Child Support Division collection activities include: filing liens

against the noncustodial parent's property or other assets; suspending driver, professional, and hunting and fishing licenses; levying bank accounts and wages; reporting the amount of a child support obligation to consumer credit reporting agencies; filing a lawsuit against the noncustodial parent; and intercepting insurance claims. Judges also may sentence nonpaying parents to jail for past due child support. OAG collected \$4.2 billion, 64.6 percent of support due, for fiscal year 2017. Of that amount, 79.3 percent was collected through automatic income withholding orders issued directly to employers, which is authorized by federal law.

#### WARRANT HOLD PROCESS

The warrant hold process is another tool to recoup delinquent debt available to state agencies and some institutions of higher education. Junior and community colleges are excluded in statute from using the warrant hold process and do not process payments through CPA. The Texas Government Code, Section 403.055(f) and (g), requires eligible entities to report to CPA each individual that is indebted to the state or that has a tax delinquency. The state agency or institutions must provide the individual with an opportunity to exercise any constitutional or statutory protection before the agency or state may begin a collection action or procedure. Upon receipt of an application to report indebtedness, CPA issues a warrant hold, which prohibits any agency from issuing a state payment to a person who owes debt to the state. CPA then has the authority to offset state payments, such as lottery winnings, against an individual's debt. As part of the offset process, each week CPA deposits offset warrants into Treasury funds for each hold-source agency and sends reports to the agencies notifying them of the transfer of funds. CPA cannot withhold certain types of payments through the warrant hold process, such as state officer or employee compensation.

All state agencies are required to monitor the warrant hold status of potential vendors during competitive solicitation offerings. Vendors flagged with a hold status are ineligible to receive bid or contract awards from state agencies, with certain exceptions described in the Texas Government Code, Section 2252.903(b), and the Texas Procurement and Contract Management Guide.

In July 2018, 108 of 229 state agencies and institutions of higher education had active holds in the warrant hold system. According to CPA, some agencies do not use the system because they have no debt to report, and others may not have adequate staff to research and report debt. Three institutions

of higher education indicated that using the warrant hold system would be an unreasonable burden due to the large number of small account balances and frequent transactions that they handle.

Agencies that use the warrant hold system may not use it for all their delinquent debt or may use it only after the debt reaches a certain age. The Health and Human Services Commission, for example, reported using the warrant hold system for certain types of debt, such as travel debt and payroll overpayments, and only after the debt is more than 30 days old. Other agencies and institutions enter debt into the system only when they consider it to be uncollectible. Consequently, information in the warrant hold system represents only a portion of the total delinquent debt owed to the state.

The warrant hold system also does not provide a historical record of debt owed to the state. The system includes all outstanding warrants as of a certain date, but it does not record how debt may have changed historically. Source agencies are responsible for maintaining records of debts owed.

Approximately \$20.7 billion of outstanding debt was in the warrant hold system in July 2018, owed by 1,610,817 individuals and businesses. The majority of these holds were for individuals, and 37,928 (2.4 percent) were for businesses. Many of these individuals and businesses have been on hold for several years, including 1,094,123 (67.9 percent) that have been on hold for at least the previous three years.

OAG accounted for the majority of debt in the warrant hold system, mostly from delinquent child support payments, as shown in **Figure 5**. Less than 2.8 percent (\$574.2 million) of OAG's debt in the system relates to judgment liabilities and delinquent attorney fees, court costs, and civil penalties. The Trellis Company, a nonprofit corporation that manages federal student loans, accounted for a significant portion of the remaining debt. However, that debt, like child support, is not owed to the state government. The Texas Education Code, Chapter 57, requires the Trellis Company to report individuals with defaulted student loans to CPA.

#### OFFICE OF THE ATTORNEY GENERAL COLLECTION EFFORTS

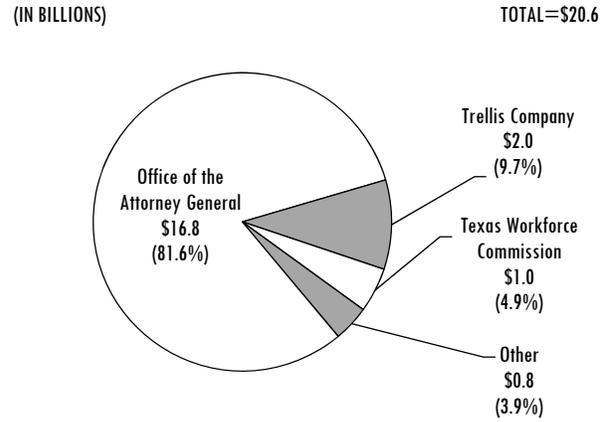
OAG acts as the central authority on debt collection, and state agencies must refer certain debt for collection to OAG. Before referring debt to OAG, agencies follow internal procedures for collecting debt that conform to OAG

guidelines and use the collection strategies discussed previously. If delinquent debt remains uncollected after those actions, and the delinquent accounts meet thresholds adopted by agencies and subject to review by OAG, agencies refer the debt to OAG. Agency and OAG considerations in determining thresholds include the expense of attempting to collect the debt, the number of accounts referred, the dollar amount of each account, and the nature of the delinquent debt. CPA, for example, refers delinquent tax debt after it deems that all appropriate collection actions have been taken and when, for most accounts, the balance reaches \$2,500, independent of penalty and interest. For smaller agencies, OAG might set a lower dollar threshold, such as \$500, considering the small impact that this limited number of referrals has on OAG’s inventory of referred debt. Most institutions of higher education do not refer delinquent debt to OAG, because they rely on internal collection systems and OAG-approved contracts with private debt collection firms.

State entities referred \$254.1 million in delinquent debt to OAG during fiscal year 2017, excluding accounts for debtors who have filed for bankruptcy. (Agencies refer bankruptcy cases separately from nonbankruptcy cases.) As shown in **Figure 6**, CPA was responsible for the majority, 64.1 percent, of debt referrals. The Texas Higher Education Coordinating Board (THECB) and the Railroad Commission of Texas (RRC) referred nearly one-quarter of the debt. THECB refers all student loans after they have defaulted. RRC has no internal collection process and immediately refers all of its debt to OAG. This debt consists of unpaid penalties for oil and gas industry rules violations and reimbursement costs for well plugging or site remediation.

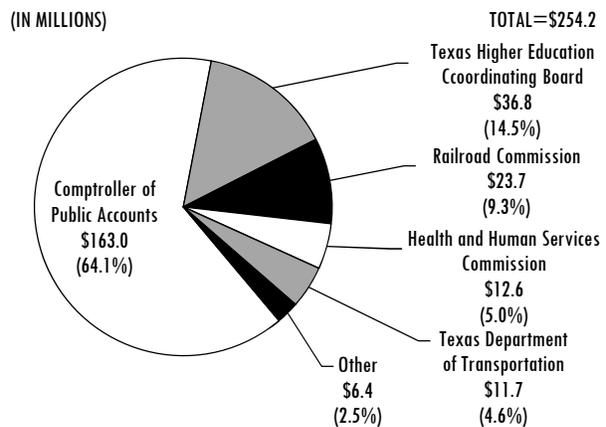
To collect debt for state agencies and institutions, OAG issues a demand letter and establishes contact with the parties responsible for the debt. The agency then attempts to reach an agreement on the amount owed and secures relevant records that may assist in collecting that amount. If OAG and the responsible parties agree on the amount of debt, the agency negotiates a payment plan with the debtor. If no agreement is reached, the agency investigates assets, bank accounts, and nonexempt property and files suit. If the state obtains a judgment, OAG gives notice of the judgment, via an abstract of the judgment, in counties where the defendants own property; identifies bank accounts that can be garnished; forecloses on any nonexempt property; and seeks appointment of a state court receiver with turnover authority to reach assets such as out-of-state property or stock ownership interests.

**FIGURE 5  
OUTSTANDING DEBT IN THE COMPTROLLER OF PUBLIC  
ACCOUNTS WARRANT HOLD SYSTEM  
JULY 2018**



NOTE: Totals may not sum due to rounding.  
SOURCE: Comptroller of Public Accounts.

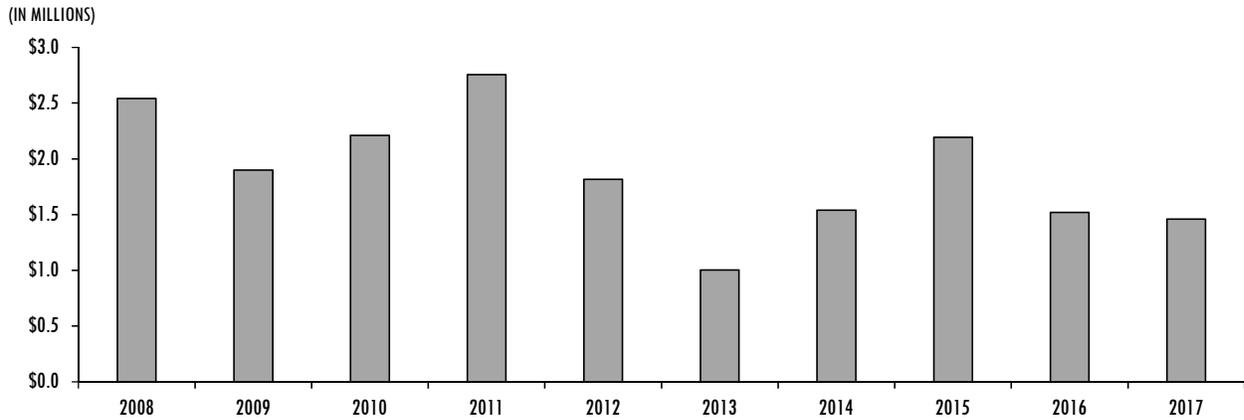
**FIGURE 6  
DELINQUENT DEBT REFERRED TO THE OFFICE OF THE  
ATTORNEY GENERAL, FISCAL YEAR 2017**



NOTES:  
(1) Excludes bankruptcy referrals.  
(2) Totals may not sum due to rounding.  
SOURCE: Office of the Attorney General.

The Texas Government Code, Chapter 2107, authorizes OAG to recover reasonable attorney fees, investigative costs, and court costs in any proceeding in which the state seeks to collect or recover a delinquent obligation or damages. As shown in **Figure 7**, OAG recovered approximately \$1.5 million in court costs and attorney fees during fiscal year 2017. OAG typically recovers from \$1.0 million to \$2.8 million in these fees and costs per year.

**FIGURE 7**  
**ATTORNEY FEES, INVESTIGATIVE COSTS, AND COURT COSTS RECOVERED BY THE OFFICE OF THE ATTORNEY GENERAL**  
**FISCAL YEARS 2008 TO 2017**



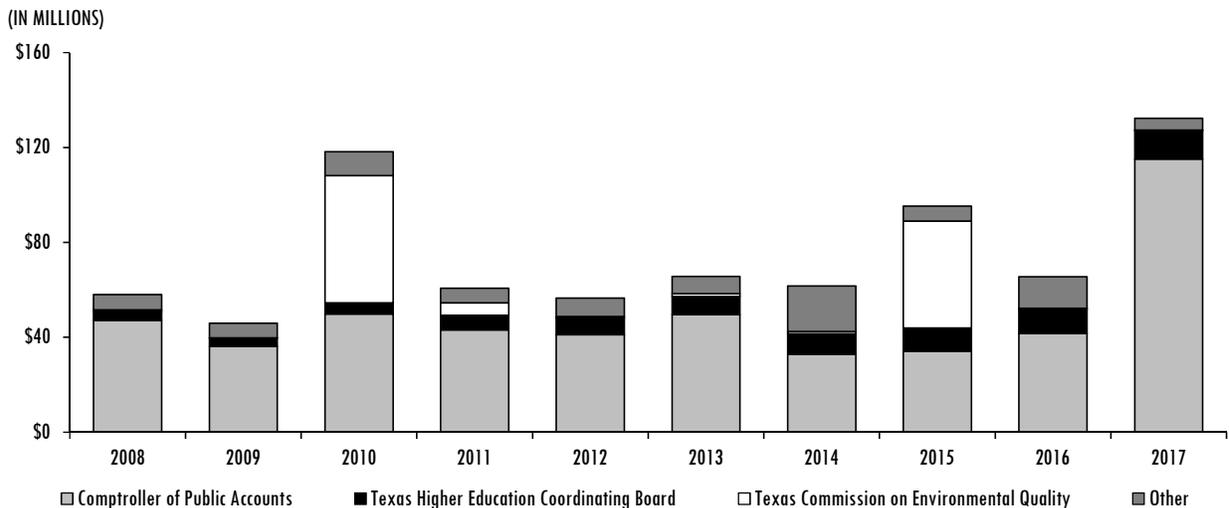
SOURCE: Office of Attorney General.

The Texas Government Code, Chapter 2107, also authorizes OAG to retain a fee for the agency’s use and benefit from the amount collected, provided by legislative appropriation. Since fiscal year 1992, OAG has been appropriated \$8.3 million per fiscal year in debt collection receipts. Any revenue from debt collection receipts that exceeds this amount is deposited to the General Revenue Fund or the relevant specified fund for the applicable agency fee or fine.

to 2017 to a 10-year high of \$132.3 million resulting from an increase in delinquent tax collections by CPA. This increase was driven primarily by significant collections from two major bankruptcy cases that totaled more than \$72.2 million. CPA referrals usually account for the majority of OAG’s collections, with the exceptions of fiscal years 2010 and 2015, when Texas Commission on Environmental Quality referrals constituted the majority. Increased collections during those years also resulted from two major bankruptcy cases of \$53.7 million in 2010 and \$44.4 million in 2015.

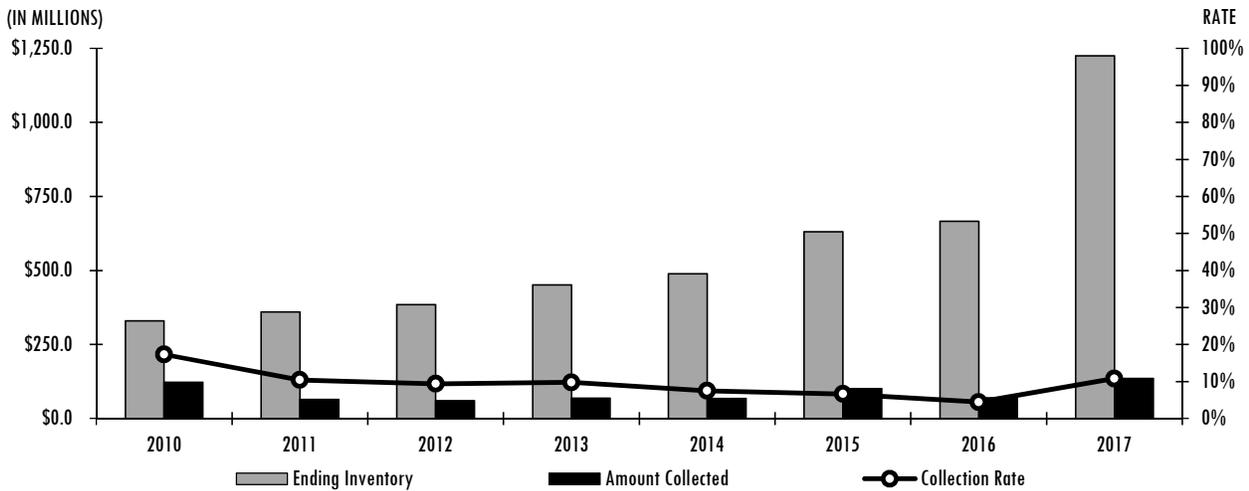
**Figure 8** shows the amount of delinquent debt that OAG collected during the past 10 fiscal years, by referring agency. Collections increased by 101.8 percent from fiscal years 2016

**FIGURE 8**  
**DELINQUENT DEBT COLLECTED BY THE OFFICE OF THE ATTORNEY GENERAL, FISCAL YEARS 2008 TO 2017**



SOURCE: Office of Attorney General.

**FIGURE 9**  
**ENDING INVENTORY, DEBT COLLECTED, AND COLLECTION RATE FOR THE OFFICE OF ATTORNEY GENERAL**  
**FISCAL YEARS 2010 TO 2017**



NOTE: Collection rate calculated by dividing the amount of delinquent debt collected in the relevant fiscal year by the sum of the ending inventory of debt owed in the previous fiscal year and the additional amount of debt referred in the current fiscal year. The Office of Attorney General (OAG) has noted that the inventory of debt collected at the end of each fiscal year is affected significantly by bankruptcy cases, some of the debt from which may not be practically or legally collectible. All calculations exclude debt determined by OAG to be uncollectible. SOURCE: Office of Attorney General.

Some states and private companies calculate a collection rate to measure debt collection performance: the amount of debt collected divided by the total amount of debt owed during a certain period. OAG does not calculate a collection rate for multiple reasons. One reason is that the size and amount of the agency’s portfolio changes daily. Another reason is that a significant portion of debts referred from CPA are estimated and subject to later decreases based on taxpayer records. To examine changes in OAG collections, LBB staff calculated the following collection rate for the agency:

$$\frac{\text{Amount of Delinquent Debt Collected During Relevant Fiscal Year}}{\text{Ending Inventory of Debt Owed During Previous Fiscal Year} + \text{Additional Amount of Debt Referred During Current Fiscal Year}}$$

Figure 9 shows this calculated collection rate for OAG from fiscal years 2010 to 2017, OAG’s ending debt inventory, and the amount of debt collected for each year. The ending debt inventory represents all outstanding delinquent debt that agencies have referred to OAG, including uncollected debt from previous years. This inventory has increased during this period, particularly during fiscal year 2017. The amount of

delinquent debt collected has been more stable. The collection rate reached 10.8 percent during fiscal year 2017, reversing what had gradually decreased during the previous seven years.

Although this collection rate is less than CPA’s rate, OAG manages a challenging portfolio of debt. CPA referrals constitute more than one-half of OAG’s annual portfolio, and those referrals are made after CPA has attempted to collect the debt through its call center and enforcement actions. Other agencies also refer debt to OAG after internal collection efforts have failed. As a result, OAG is tasked with collecting debt that has eluded previous collection efforts, including the CPA’s extensive efforts, in some cases.

OAG and some other state agencies deem debt uncollectible in certain circumstances. OAG, for example, determines that it is no longer cost-effective to pursue collection of a debt owed by an entity that has forfeited its corporate privileges, has no assets, or is located out of state and has no Texas-based assets. OAG also may make this determination if an individual debtor subsists primarily on Social Security or retirement income with no other visible means of support, meaning the individual is likely incapable of repaying the debt. OAG considered \$127.3 million from 2,831 cases as uncollectible during fiscal year 2017. From fiscal years 2012

to 2017, amounts of debt deemed uncollectible ranged from \$91.9 million to \$147.8 million.

#### *PRIVATE DEBT COLLECTION SERVICES*

The Texas Government Code, Chapter 2107, authorizes OAG to authorize state entities to contract for debt collection, subject to OAG approval. These contractors may charge collection fees capped at 30.0 percent of the full amount of the debt, but contractors may not file lawsuits on behalf of the contracting entity. Several agencies use private debt collection services for accounts that do not meet OAG's referral thresholds. According to OAG, it is more cost-effective for private collection firms to handle smaller dollar accounts that would not justify litigation.

In July 2018, state entities had 133 contracts for debt collection services with 40 vendors. All but six of these contracts were with 40 institutions of higher education; CPA, the Department of Public Safety (DPS), Texas Commission on Environmental Quality (TCEQ), Texas Parks and Wildlife Department (TPWD), and the Texas Department of Licensing and Regulation (TDLR) account for the remaining five. DPS and TDLR contract with the same vendor, Gila LLC (also known as the Municipal Services Bureau), and CPA and TCEQ each contract with different vendors.

CPA contracts with two debt collection vendors for what CPA classifies as Tier I and Tier II cases. Tier I cases include delinquent entities that were sent a billing 120 days before the contractor referral with debt and penalties amounting to at least \$25 and total tax due amounting to less than \$2,500. Tier II includes uncollected cases returned from OAG for amounts that exceed \$25. CPA's contractors, which, like OAG, manage a portfolio of debt that has not been resolved through previous collection efforts, had a collection rate of 2.3 percent during fiscal year 2017.

TCEQ and TDLR refer accounts with balances less than or equal to \$4,999 to their private collections contractors. TPWD refers accounts related to nonsufficient fund checks to a third-party collector after the deadline provided in its initial notice to the debtor expires. DPS refers all collections and deposits from its Driver Responsibility Program to the agency's private debt collection vendor.

Most institutions of higher education refer their delinquent debt (e.g., unpaid tuition and fees, parking fines, vendor overpayments) to one or more private debt collectors, typically after internal collection efforts spanning 90 days to

180 days. Some institutions contract with multiple private debt collection agencies and refer debt to different private agencies depending on the age of the account.

#### *COLLABORATION WITH THE FEDERAL GOVERNMENT*

At the federal level, the Treasury Offset Program (TOP) administered by the U.S. Department of the Treasury, Bureau of the Fiscal Service, collects delinquent debts owed to both federal agencies and states, including child support payments, Supplemental Nutrition Assistance Program (SNAP) overpayments, and unemployment insurance (UI) overpayments. During fiscal year 2017, Texas recovered \$307.7 million through the program: \$33.4 million in UI debt, \$255.5 million in child support obligations, and \$18.8 million in SNAP debt.

Texas does not participate in the TOP's State Reciprocal Program (SRP), which offsets federal vendor payments to payees that owe debt to state agencies. In return, states offset payments to payees with debt owed to federal agencies. Eleven states plus the District of Columbia—each of which levies its own income tax—participated during federal fiscal year 2017.

SRP excludes many types of Texas state debts, including Texas Workforce Commission unemployment benefits overpayments and UI tax liabilities, debts older than 10.0 years, debts less than \$25, and debts not certified by state agencies. CPA conducted preliminary analyses of the benefits of participating in SRP during calendar years 2011 and 2015. Using debt entered into the warrant hold system as an approximation of total state debt, CPA estimated that \$528,500, or 0.1 percent of its approximation of total state debt, could be collected through SRP participation in 2015. The 2011 analysis estimated that SRP participation could yield \$2.1 million in collections, 0.7 percent of its approximation of total state debt at that time.

Additionally, CPA estimated onetime SRP implementation costs of \$2.3 million, with ongoing annual costs of \$451,000. CPA has identified the following other concerns related to SRP participation:

- SRP includes a \$17 fee (as of 2015) per offset, thus decreasing the recovered offset amounts or increasing debtor fees;
- CPA found that TOP's reciprocal agreement is weighted in favor of the federal government;

- participating states have had negative results related to the lack of communication and written rules regarding the program;
- hold source agencies may fail to report state debts to the warrant hold system due to TOP certification requirements and internal costs (e.g., postage for notices to debtors);
- incompatibility between TOP and CPA systems' cycles may delay state payment generation, with potential increases in late payment interest and delays in critical, time-sensitive payments;
- hold source agencies could incur costs for changes in internal systems to comply with TOP requirements; and
- Texas must pass legislation to participate in SRP.

Notwithstanding these concerns, the long-term benefits of increased debt collection through SRP eventually may outweigh the initial implementation costs and administrative complexities of participation. In light of this possibility, Option 1 would amend statute to authorize, but not require, CPA to participate in the program. CPA could continue to monitor the program and conduct internal analyses to determine the cost effectiveness of SRP, but legislative authority no longer would present a barrier to participation.

#### **DELINQUENT DEBT REPORTING**

As of September 2018, the state has no central repository of or recordkeeping system for delinquent debt, and agencies are not required to track the delinquent debt they accrue or collect. Statute formerly required each state agency and institution of higher education to file an annual debt report with OAG, but the Legislature repealed this requirement in 2011. The Legislature repealed the requirement in part because at that time a rider in the General Appropriations Act required the LBB to conduct an annual survey of agency fees, fines, and penalties. The Legislature removed this rider in 2014, in part because the information in the survey was used infrequently. In addition, agency responses were not audited, and, therefore, the accuracy of the data was not verified.

In surveying select state entities, LBB staff determined that some entities do not maintain records regarding key measurements of delinquent debt collection. As shown in **Figure 10**, survey responses indicated that 20 state entities do not track the delinquent debt they collect each year, and

six do not track the outstanding delinquent debt owed. Without knowing the amounts of outstanding delinquent debt or delinquent debt collected each year, state entities cannot track the effectiveness of their collection efforts, and policy makers cannot measure the performance of those efforts.

Option 2 would amend the Texas Government Code, Chapter 2107, to require annual standardized reporting from state agencies and institutions of higher education to OAG regarding outstanding, collected, and uncollectible delinquent debt, and other information determined by OAG. OAG would collaborate with agencies and institutions to define these terms so that reported data are comparable. To avoid placing an excessive administrative burden on smaller agencies with lower levels of debt, the reporting requirement would exclude agencies and institutions with outstanding delinquent debt at less than a threshold to be determined by OAG. These reports would provide transparency in the state's system of collection practices.

Option 2 also would require OAG to monitor reported debt information to identify opportunities for improvement and to provide technical assistance to improve the effectiveness of collection practices. As the authority regarding debt collection for the state, OAG has extensive experience in collecting delinquent debt and could assist agencies and institutions in the following tasks: collecting outstanding delinquent debt; identifying new strategies for debt collection; and ensuring that agencies and institutions are using all collection tools at their disposal and referring uncollected debt to OAG when appropriate. As noted previously, OAG has the authority to contract with one or more collection firms on behalf of state agencies. OAG may do so if additional information from these reports indicates that such contracts would be cost effective and beneficial for state agencies.

#### **EXPAND OAG REPORTING REQUIREMENTS**

The Eighty-fifth Legislature, General Appropriations Act, 2018–19 Biennium, Article I, Office of the Attorney General, Rider 6, requires OAG to maintain a centralized recordkeeping system to account for various departmental and agency certification of debts owed to the state. The rider requires OAG to submit semiannual reports to the Office of the Governor and LBB regarding the type and amount of debt collected. The report does not include information regarding the total outstanding delinquent debt or the amount of delinquent debt referred by each agency.

**FIGURE 10**  
**SELECT STATE AGENCY AND TEXAS INSTITUTION OF HIGHER EDUCATION DELINQUENT DEBT TRACKING**  
**FISCAL YEAR 2017**

AGENCY OR INSTITUTION	TRACKS OUTSTANDING DELINQUENT DEBT	TRACKS DELINQUENT DEBT ACCRUED EACH FISCAL YEAR	TRACKS DELINQUENT DEBT COLLECTED (1)
Department of Public Safety (2)	✓	✓	X
Department of State Health Services	✓	X	X
Lamar University	✓	X	X
Midwestern University	✓	✓	X
Sam Houston State University	✓	✓	X
Tarleton State University	✓	✓	X
Texas Engineering Experiment Station	✓	✓	X
Texas A&M University – Central Texas	✓	✓	X
Texas A&M University – San Antonio	✓	✓	X
Texas Alcoholic Beverage Commission	X	✓	✓
Texas Department of Agriculture	✓	X	X
Texas Department of Insurance	X	X	✓
Texas Parks and Wildlife Department	X	X	X
Texas Workforce Commission (3)	X	X	X
University of Houston	✓	✓	X
University of Houston – Clear Lake	✓	✓	X
University of Houston – Downtown	✓	✓	X
University of Houston – Victoria	✓	✓	X
The University of Texas at Austin	✓	X	X
The University of Texas of the Permian Basin	X	✓	X
The University of Texas Southwestern Medical Center	✓	✓	X

## NOTES:

- (1) Agency practices vary in defining and tracking collected delinquent debt.
- (2) Only one of the four divisions that reported delinquent debt at Department of Public Safety does not collect information on debt collected.
- (3) Texas Workforce Commission tracks collection of its receivables, but did not provide information on delinquent debt collected.
- (4) Check marks indicate that the agency or institution tracks debt; Xs indicate data is not tracked.

SOURCE: Legislative Budget Board.

Option 3 would amend the 2020–2021 General Appropriations Bill, Article I, OAG, Rider 6, to expand OAG’s existing debt-related reporting requirements to include OAG’s total outstanding delinquent debt, the amount of delinquent debt referred by each state agency and institution of higher education, and the amount of delinquent debt designated uncollectible. This information would facilitate a more complete understanding of the amount of outstanding debt owed to the state and better tracking of debt collection efforts. Option 3 also would amend Rider 6 to require OAG reports annually, rather than every six months, to better align with the timing of requirements in Option 2.

If Option 2 were implemented, Option 3 also would require OAG to report additional agency-level and institution-level metrics, including but not limited to the delinquent debt that each agency collects and the outstanding delinquent debt owed to each agency, excluding uncollectible debt.

### FISCAL IMPACT OF THE OPTIONS

Option 1 would authorize CPA to participate in the federal State Reciprocal Program. This option would have no fiscal impact.

Option 2 would require state agencies’ and institutions’ standardized reporting to OAG regarding certain delinquent debt measures so that OAG can monitor performance and

improve the effectiveness of collection activities. Although Option 2 could require additional work for OAG and reporting agencies, it is assumed the work would not be significant and could be absorbed within existing resources. This option also could result in increased delinquent debt collections, but precise estimates of these revenue changes cannot be determined. Consequently, Option 2 would have no significant fiscal impact.

Option 3 would expand OAG's existing debt-related reporting requirements. This option would have no fiscal impact.

The introduced 2020–21 General Appropriations Bill does not include any adjustments as a result of these options.