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April 18, 2013

2012-110

The Governor of California  
President pro Tempore of the Senate  
Speaker of the Assembly  
State Capitol  
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the California State Auditor (state auditor) presents this audit report concerning the collection and expenditure of revenue generated from fees from special interest license plates (special plates).

This report concludes that the State has not collected all revenue due from special plates and has spent some of the special plate revenue on expenditures that were unallowable or unsupported. We estimate that the California Department of Motor Vehicles (Motor Vehicles) did not collect \$12 million in revenue from retention fees related to special plates during fiscal years 2010–11 and 2011–12. Further, for the fees Motor Vehicles collected during these two fiscal years, it potentially undercharged some special plate owners by a total of nearly \$10.2 million. Motor Vehicles has also not accurately charged special plate programs for its administrative costs. During fiscal years 2009–10 through 2011–12, it overcharged the California Environmental License Plate Fund (environmental fund) more than \$6.3 million and undercharged other special plate funds a net total of \$1.1 million during the same period.

In addition, the California Emergency Management Agency's (Cal EMA) administrative expenses during fiscal years 2009–10 and 2010–11 exceeded allowable levels. Moreover, Cal EMA, the California Department of Food and Agriculture, the California Department of Parks and Recreation, and the California Natural Resources Agency (Resources) could not always provide sufficient support for their expenditures or a supportable rationale for the proportion of shared costs they charged to the Antiterrorism Fund or the environmental fund.

Additionally, Resources has not submitted certain reports to the governor and Legislature as required by law. Finally, the California Victim Compensation and Government Claims Board did not identify and notify all individuals eligible for the Memorial Scholarship Program and did not verify the eligibility of three program participants, as required by law.

Respectfully submitted,



ELAINE M. HOWLE, CPA  
State Auditor

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## Summary

### Results in Brief

State law establishes special interest license plate (special plate) programs, and California currently has 11 special plates supporting specific programs. According to the California Department of Motor Vehicles (Motor Vehicles), between July 1, 2011, and June 30, 2012, it issued, renewed, or transferred nearly 1.3 million special plates. Motor Vehicles is responsible for collecting the fees for the special plates and—generally after it recovers its administration costs—depositing the revenue into the state funds that correspond to the different programs; several state agencies spend the money from the special plate funds on some of their activities. We reviewed four of these agencies—the California Emergency Management Agency (Cal EMA), the Commission on Peace Officer Standards and Training, the California Department of Food and Agriculture (Food and Agriculture), and the ScholarShare Investment Board—that used California Memorial License Plate revenues, which are accounted for in the Antiterrorism Fund (antiterrorism fund) and the California Memorial Scholarship Fund (scholarship fund). We also reviewed certain statutory responsibilities of the California Victim Compensation and Government Claims Board (Victim Compensation) related to the scholarship fund. In addition, we reviewed three state agencies of the more than 20 entities that spend revenues from Environmental License Plates, which are any standard or special plates that carry personalized combinations of letters, numbers, or both.<sup>1</sup> The three state agencies reviewed were the California Natural Resources Agency (Resources), the California Department of Fish and Wildlife, and the California Department of Parks and Recreation (Parks and Recreation).

Our review found that Motor Vehicles does not ensure that it has collected the appropriate amount of fees that are due for the special plates. Specifically, state law requires Motor Vehicles to charge and collect annual retention fees on inactive special plates—plates that have been removed from a vehicle and retained by the owner. However, currently Motor Vehicles does not fully collect these annual fees. In fact, despite the legal requirement, it only collects these fees for a maximum of four years—the current year and the prior three years—and only when the plate

<sup>1</sup> Technically, personalized plates are not the same as special plates, as described in the text. However, the spending of personalized plate revenue is subject to legal restrictions that are similar to those for revenue from special plates, so we considered the personalized plate a special plate for our audit purposes, and our references to special plates include personalized plates.

### Audit Highlights . . .

*Our audit of the special interest license plate (special plate) programs and some of the related funds highlighted the following:*

- » *The California Department of Motor Vehicles (Motor Vehicles) does not ensure that it has collected the appropriate amount of fees that are due for special plates.*
  - *Despite being required to collect annual retention fees on inactive special plates, it only collects these fees for a maximum of four years and only when plate holders notify Motor Vehicles of their intent to reuse them.*
  - *It did not collect an estimated \$12 million in revenues from such fees during fiscal years 2010–11 and 2011–12.*
  - *It potentially undercharged some special plate owners by a total of nearly \$10.2 million during fiscal years 2010–11 and 2011–12.*
  - *It has been inaccurate in the charges used to recover its administrative costs from special plate programs—during fiscal years 2009–10 through 2011–12 it overcharged the California Environmental License Plate Fund \$2.1 million annually for personalized plates.*
  - *It did not recover net administrative fees of roughly \$1.1 million during fiscal years 2009–10 through 2011–12 for other special plates because it continues to use the per-plate administrative cost information it developed when certain programs were first established.*

*continued on next page . . .*

» *We identified weaknesses in how money was being spent from the special plate funds.*

- *The California Emergency Management Agency (Cal EMA) did not monitor its \$2.5 million contract with the California Fire Fighter Joint Apprenticeship Committee to ensure the training called for by the contract was delivered as specified.*
- *Cal EMA spent Antiterrorism Fund money in a manner inconsistent with the purposes state law establishes—it exceeded the 5 percent administrative cap in some years and it used over 10 percent of the expenditures we reviewed for unrelated purposes.*
- *Some state agencies could not always provide adequate support for amounts they charged to special plate funds or could not support their rationale for such charges. For example, the California Department of Food and Agriculture could not provide adequate support for \$896,000 in expenses.*
- *The California Natural Resources Agency did not submit required annual and triennial reports to the governor and Legislature that provide pertinent information about program performance.*
- *The California Victim Compensation and Government Claims Board did not identify and notify all individuals eligible for the Memorial Scholarship Program by the date required by law—ultimately only 13 of the 43 identified eligible individuals plus three other individuals who were not screened for eligibility participated.*

holder notifies Motor Vehicles of his or her intention to reuse those plates on a vehicle. As a result, in cases where the plate has been inactive for more than four years, Motor Vehicles does not collect the full amount of retention fees it is due. Because it does not collect these fees annually, we estimate that Motor Vehicles did not collect \$12 million in revenue from retention fees that state law specifies for special plate programs during fiscal years 2010–11 and 2011–12. Further, we found that Motor Vehicles lists in its application for special plates certain fees, including retention fees, for various plates that differ from those fees the law prescribes. We estimate that during fiscal years 2010–11 and 2011–12, it potentially undercharged some plate owners by a total of nearly \$10.2 million.

Further, Motor Vehicles has been inaccurate in the charges used to recover its administrative costs from special plate programs. During fiscal years 2009–10 through 2011–12, it overcharged the Environmental License Plate Fund (environmental fund) \$2.1 million annually for administrative costs related to personalized plates. Although Motor Vehicles could not definitively explain these errors, it speculates that the overcharge might have been caused either by a decision to recover the same amount each year as it did for fiscal year 1998–99 or by an oversight when it was developing the documents for its annual budgets. Motor Vehicles appropriately reduced its claim for administrative costs related to personalized plates from the environmental fund from \$3.9 million to \$1.8 million for fiscal year 2012–13.

State law also allows Motor Vehicles to deduct a per-plate administrative fee from the revenue it collects for all other special plates before depositing the remainder into the appropriate funds. Although Motor Vehicles recalculates its per-plate administrative fees every two years, when claiming its administrative fees for the other special plate programs it continues to use the per-plate administrative cost information it developed when each of those programs were first established. As a result, we estimate that Motor Vehicles did not recover net administrative fees of roughly \$1.1 million during fiscal years 2009–10 through 2011–12. Motor Vehicles stated that the programming costs for updating its automated system for recovering administrative fees might outweigh any potential benefits from that change. Nevertheless, Motor Vehicles plans to assess the costs and benefits of reprogramming its automated systems so that it can charge up-to-date administrative costs.

We also identified weaknesses in how money was being spent from the special plate funds. The California Department of Finance (Finance) has designated Cal EMA as the administrator for the antiterrorism fund, and state law has designated Resources as the administrator for the environmental fund.

However, Finance's designation does not require Cal EMA to monitor the appropriateness of expenditures that other state agencies make from the antiterrorism fund, such as Food and Agriculture; these agencies receive money from the fund directly through appropriations. Further, although state law establishes certain requirements that Resources report on the benefits derived from the programs that spend environmental fund money, each agency receiving money from the antiterrorism fund and from the environmental fund bears the primary responsibility to spend it in accordance with state law.

In the area of contract monitoring, we found that Cal EMA did not monitor its \$2.5 million contract with the California Fire Fighter Joint Apprenticeship Committee (Fire Fighter Committee) to ensure that the Fire Fighter Committee performed services in the manner the contract specified. Specifically, the Fire Fighter Committee did not train 125 instructors by June 30, 2010, to provide critical training to nearly 30,000 fire service personnel statewide in accordance with the contract, thus requiring Cal EMA to twice extend the time for services by executing another contract and an amendment. Furthermore, the contract manager approved invoices for payment for these contracts and amendment without obtaining sufficient support for the underlying expenditures. The section chief noted that management had directed the section to process the contracts and payments but did not direct it to monitor the contracts. Without such monitoring, Cal EMA cannot be assured that it pays only for activities state law allows when it uses money from the antiterrorism fund. Cal EMA plans to inform its contract managers of the monitoring requirements.

We also noted that Cal EMA spent antiterrorism fund money in a manner inconsistent with the purposes state law establishes. State law restricts Cal EMA's administrative expenditures from the antiterrorism fund to no more than 5 percent of the appropriation. However, Cal EMA far exceeded this limit for fiscal years 2009-10 and 2010-11. Further, of the nearly \$914,000 in expenditures that we reviewed, Cal EMA used approximately \$98,000 from the antiterrorism fund to pay for activities such as purchasing and moving furniture and for travel expenses related to training courses about how to apply for federal grants, neither of which are directly related to fighting terrorism as state law requires.

Moreover, some state agencies could not always provide adequate support for amounts they charged to specific special plate funds or could not support their rationale for such charges. Of the expenditures that we reviewed from the antiterrorism fund made during fiscal years 2009-10 through 2011-12, Cal EMA used \$142,000 and Food and Agriculture spent \$896,000 on expenses, such as employee compensation, indirect cost distribution, software

costs, building lease costs, and contract payments, for which they could not provide adequate support. For example, both Cal EMA and Food and Agriculture used money from the antiterrorism fund to pay the entire salaries of certain employees whose duties include activities related to both natural and man-made disasters. However, neither state agency could provide signed time reports or other documents to support that the employees worked exclusively on activities to mitigate terrorist acts.

Further, Parks and Recreation pays a predetermined percentage of all expenses incurred by offices in its department, regardless of the purpose of the underlying activities, from the environmental fund; this percentage is based on the overall proportion of each office's budget funded by the environmental fund. However, it could not support how it determined the amount of the environmental fund money it budgeted for its offices. As a result, Parks and Recreation could not demonstrate that the State received the intended benefits from the \$200,000 in expenditures it charged to the environmental fund that we reviewed. Also, Resources paid for an executive salary entirely from the environmental fund even though the executive's activities also benefitted other programs. Resources could not adequately explain how its method for charging certain costs that benefit multiple programs is equitable when charged entirely to the environmental fund.

We also found that Resources and Victim Compensation did not meet certain statutory responsibilities related to special plate programs. Specifically, Resources has not submitted specified annual and triennial reports to the governor and Legislature, which state law requires and which provide pertinent information about the performance of programs and projects funded with the environmental fund. Resources believes that the information it already provides to the governor and the Legislature during the budget process sufficiently covers the information that these required reports would include. However, the budgetary information does not include all elements the law requires. Without this vital information, officials do not have an opportunity to review a summary of past performance and accomplishments to inform their decisions about how best to allocate revenue from the environmental fund in the future.

Further, Victim Compensation did not identify and notify all individuals eligible for the Memorial Scholarship Program (scholarship program) on or before July 1, 2003, as state law requires. Victim Compensation believes that its outreach was adequate to identify all individuals who might be eligible for the scholarship program. However, most of the outreach that Victim Compensation performed predated the establishment of the scholarship program and did not

mention the program by name. In fact, three of the 16 participants learned of the program through means other than Victim Compensation's outreach. Moreover, Victim Compensation did not notify all eligible individuals of the scholarship program before the deadline, thus allowing those individuals fewer than three months to apply for the scholarship instead of the two years state law intended. We found that only 13 of the 43 individuals that Victim Compensation identified as eligible for the scholarship program and three other individuals who were not screened for eligibility ultimately participated.

### **Recommendations**

To ensure that programs supported by special plates receive all revenues due to them, Motor Vehicles should annually collect all fees for special plates that are no longer on a vehicle but are retained by the plate owner. In addition, Motor Vehicles should ensure that the fees it identifies in its application for special plates, as well as any other publications, are supported by appropriate statutes. It should also assess the extent to which it has charged fees for special plates that are not consistent with those fees prescribed in statutes and take appropriate action.

To ensure that it accurately recovers its administrative costs related to special plates, when recovering these costs for the personalized plates through the State's budget process, Motor Vehicles should continue to calculate annually these costs for the plates. Further, for all special plates, Motor Vehicles should periodically assess the cost and benefits of updating its automated systems to reflect current per-plate administrative costs. If Motor Vehicles determines that doing so is cost-effective, it should update its automated systems to reflect the current administrative costs for these plates.

To the extent that it continues to expend money from the antiterrorism fund through contracts, Cal EMA should properly monitor its contracts to ensure compliance with their terms. Further, it should ensure that the expenses contractors claim comply with the contract terms, including the allowability of the expenses. For example, it should obtain adequate support for invoices contractors submit before issuing payment to verify that the contractor has performed the work as expected and supported the amount claimed.

To make certain that money from the special plate funds pays only for allowable and supportable activities, the state agencies named below should do the following:

*Cal EMA:*

- Monitor the administrative expenses it charges to the antiterrorism fund and work with Finance to ensure that these expenses, coupled with additional administrative costs Finance charges, do not exceed 5 percent of the money from the antiterrorism fund appropriated to it during each fiscal year.
- Ensure that it only allows grantees to claim expenses for activities directly related to fighting terrorism and not for ancillary services.
- Maintain documentation to support its charges to the antiterrorism fund. For example, it should ensure that employees submit signed time reports to support the time they spend on antiterrorism-related activities.

*Food and Agriculture:*

- Ensure that employees submit signed time reports to support the time they spend on antiterrorism-related activities.
- Use all appropriate funding sources to pay for any expenses that benefit multiple programs in proportion to the benefits those programs actually receive.

*Parks and Recreation:*

Ensure that environmental fund money budgeted to its offices is supported by the proportion of those offices' activities that state law allows.

*Resources:*

Use all appropriate funding sources to pay for any expenses that benefit multiple programs in proportion to the benefits these programs actually receive. Further, it should ensure that its allocation of such expenses to different funds is equitable and supported.

To ensure that the governor and Legislature have sufficient and appropriate information with which to make decisions on the most effective use of environmental fund money, Resources should submit the annual and triennial reports containing the information required by state law.

To demonstrate that all participants in the scholarship program are eligible to participate, Victim Compensation should establish and document the eligibility of the three participants for whom it currently lacks such documentation.

**Agency Comments**

The agencies generally agreed with our recommendations and provided plans for implementing them.

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# Introduction

## Background

State law establishes several special interest license plate (special plate) programs. The California Department of Motor Vehicles (Motor Vehicles) is responsible for registering vehicles in California and for collecting fees related to these special plates and to Environmental License Plates (personalized plates), which are any standard or special plates that carry personalized combinations of letters, numbers, or both.<sup>2</sup> Motor Vehicles assesses these plate fees in addition to other fees, such as vehicle registration fees, smog abatement fees, commercial vehicle weight fees, and county fees. To obtain a special plate, a vehicle owner must pay the prescribed fees to Motor Vehicles. Further, a vehicle owner must also pay an additional fee to personalize a regular or special plate. According to Motor Vehicles, it processed a variety of transactions, including new or duplicate (replacement) issuance, renewal, transfer, reassignment, and substitution, related to 1.3 million special plates between July 1, 2011, and June 30, 2012.

Motor Vehicles is responsible for the administration of special plates as well as the collection of fees. Motor Vehicles generally retains a portion of these fees for its administrative costs, then deposits the remaining revenues into the designated special plate funds. Several state agencies and other organizations spend these remaining revenues on different activities. The text box identifies the funds and state agencies we reviewed. Statutes describe the roles and responsibilities of some of these state agencies. These statutes also define the purposes for which revenue from special plates can be spent. The Figure on the following page shows how the revenue is generated and spent.

## Special Plates Are Available in Several Different Types

Legislation enacted in 1992 established general criteria for all special plates that, in addition to requiring statutory authorization, required the receipt of at least 5,000 applications for a particular plate type before Motor Vehicles could produce or issue it. A revision to this law, effective January 1, 2007, requires state agencies to sponsor these special plates. Further, a state agency interested in sponsoring a special plate must submit a letter of intent

### Funds and State Agencies Reviewed for This Audit

#### California Environmental License Plate Fund

- California Department of Fish and Wildlife
- California Department of Parks and Recreation
- California Natural Resources Agency

#### Antiterrorism Fund

- California Emergency Management Agency
- California Department of Food and Agriculture
- Commission on Peace Officer Standards and Training

#### California Memorial Scholarship Fund

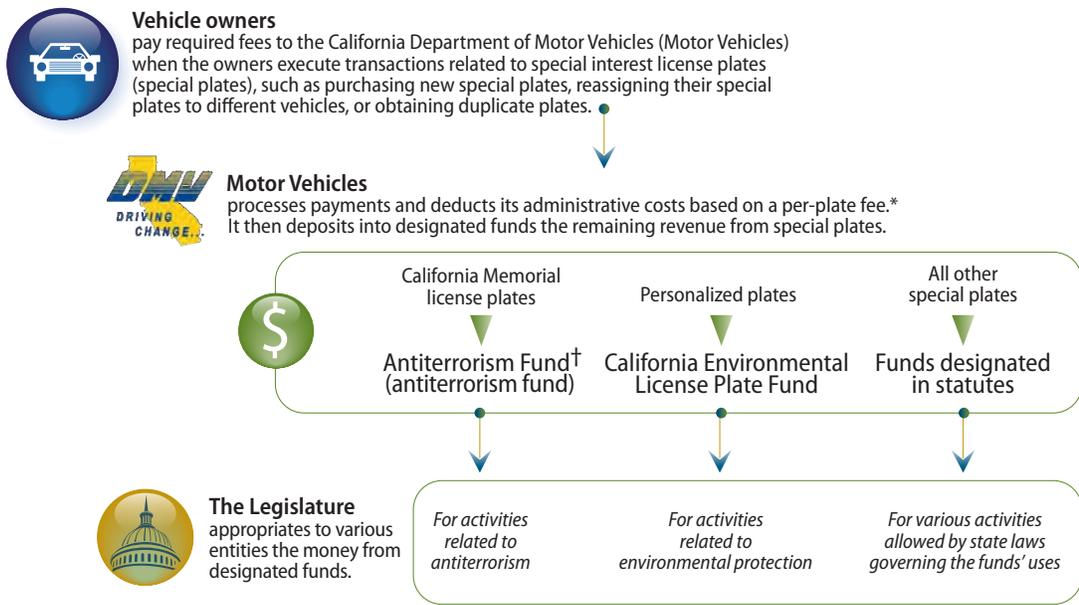
- ScholarShare Investment Board
- California Victim Compensation and Government Claims Board

Source: California State Auditor's analysis.

<sup>2</sup> Although personalized plates are not the same as special plates as indicated in the text, the spending of revenue from personalized plates is subject to legal restrictions that are similar to those for revenue from special plates. Therefore, we considered the personalized plate a special plate for our audit purposes, and our references to special plates include personalized plates.

to Motor Vehicles that includes a financial plan and a license plate prototype with a distinctive artistic design. Within 12 months of statutory authorization, the state agency must obtain from interested vehicle owners a minimum of 7,500 applications and the associated fees and submit them to Motor Vehicles, which then issues new plates to the initial pool of applicants.<sup>3</sup> Motor Vehicles is responsible for obtaining the applications and fees for all subsequent plates. Additionally, for any special plates created after January 1, 2007, Motor Vehicles must notify the sponsoring agency if the number of active plates in circulation falls below 7,500. If this occurs, Motor Vehicles may no longer issue new plates with that design or replace existing ones. However, plates related to discontinued programs may continue to be renewed, retained, or transferred; and Motor Vehicles continues to deposit the revenues generated in the designated fund.

**Figure**  
**Special Interest License Plate Revenue Flow**



Sources: Motor Vehicles, state budgets, and various state laws establishing the programs supported by revenue from special plates.

\* For personalized plates, Motor Vehicles does not receive per-plate fees when the transactions take place. Instead, through the budget process, Motor Vehicles receives a lump sum as its compensation for the personalized plates' administrative costs.

<sup>†</sup> Before July 1, 2005, 15 percent of all revenue generated from transactions related to the California Memorial License Plate went to the California Memorial Scholarship Fund. Since that date, state law has required that all revenue generated from such transactions be deposited into the antiterrorism fund.

<sup>3</sup> State law allows an agency that does not collect the minimum number of applications to request an additional 12 months to collect the needed applications.

Motor Vehicles uses automated systems to bill the plate owners for the different fees and for accounting for the fees it collects. State law allows Motor Vehicles to recover the cost of administering license plate programs from revenues received for those plates. Motor Vehicles generally deducts the cost of developing and administering special plates out of the revenue collected from these plates. Motor Vehicles deposits all remaining revenue in specific funds that state law establishes, which may then be used to support programs as the law specifies. For personalized plates, state law requires the California State Controller's Office (state controller) to reimburse Motor Vehicles from the California Environmental License Plate Fund (environmental fund) for the administration costs Motor Vehicles incurs.

As Table 1 on the following page shows, 11 types of special plates were available for automobiles, commercial vehicles, trailers, and motorcycles as of June 30, 2012. Further, as Table A in the Appendix shows, the costs for the initial purchases of these plates, effective January 1, 2013, range from \$21 to \$99. Of all special plates, personalized plates are the most frequently issued and generate the most revenue. Our report focuses on personalized plates and the California Memorial License Plate (memorial plate).

### **The Personalized Plate Supports Environmental Protection Programs**

The Legislature created the personalized plate through the enactment of Chapter 779, Statutes of 1970. Motor Vehicles deposits revenue generated from the issuance of personalized plates into the environmental fund. In addition to personalized plate revenues, state law requires that 50 percent of revenues from the Yosemite Conservancy License Plate and the California Coastal Commission License Plate, after deducting Motor Vehicles' administrative costs, also be deposited into the environmental fund. The remaining 50 percent of the revenue from these two plates is deposited in the Yosemite Fund or California Coastal Fund and is used for activities described for those plates in Table 1. The environmental fund supports the California Environmental Protection Program (Environmental Protection Program), which addresses the preservation and protection of California's environment.

**Table 1**  
Number and Types of Transactions Related to Special Interest License Plates in Fiscal Year 2011–12

LICENSE PLATE TYPE	SAMPLE PLATE	PURPOSE OF PLATE	NUMBER OF ORIGINAL PLATES ISSUED IN FISCAL YEAR 2011–12	NUMBER OF PLATES RENEWED IN FISCAL YEAR 2011–12	NUMBER OF TRANSACTIONS RELATED TO PLATES REASSIGNED, DUPLICATED, SUBSTITUTED, OR CONVERTED IN FISCAL YEAR 2011–12
Environmental License Plate (personalized plate), Est. 1970*	Any plate with a combination of letters, numbers, or both requested by the owner	To preserve and protect California's environment.	41,789	739,091	84,540
Have a Heart, Be a Star, Help Our KIDS License Plate, Est. 1992		To support programs that keep California kids safe, which include child care safety, child abuse prevention, and efforts to prevent childhood injuries.	13,030	91,534	6,798
California Coastal Commission License Plate, Est. 1994		To protect and restore California coasts and oceans.	8,230	80,880	4,674
Arts Council License Plate, Est. 1993		To support the California Arts Council for arts education and local arts programming.	4,198	54,769	3,039
Yosemite Conservancy License Plate, Est. 1992		To manage wildlife, restore habitat, and repair trails in Yosemite National Park.	2,802	41,174	2,372
Lake Tahoe License Plate, Est. 1993		To preserve and restore the Lake Tahoe area and to establish and improve trails, pathways, and public access for nonmotorized traffic in that area.	2,905	26,940	1,501
Veterans' Organizations License Plate, Est. 2001		To benefit the participating county veteran service offices and to commemorate veteran organizations.	5,951	22,188	1,714
Firefighters License Plate, Est. 1993		To maintain the California Firefighters' Memorial at the State Capitol and to provide emergency assistance and support to families of fallen firefighters.	1,321	20,102	1,449
California Memorial License Plate, (memorial plate), Est. 2002*		To fund scholarships for eligible dependents of the victims of the September 11, 2001, terrorist attacks and to help California fight the threats of terrorism.†	1,607	18,304	1,047
Olympic Training Center License Plate, Est. 1989		For repayment of a loan from the General Fund to the Department of Commerce for developing and constructing the California Olympic Training Center.	181	2,595	229
Collegiate License Plate, Est. 1991		To provide need-based scholarships and grants for participating colleges and universities in California and to preserve, enhance, and restore natural resources. The University of California at Los Angeles is currently the only plate available.	106	1,929	178

Sources: The Web site of the California Department of Motor Vehicles (Motor Vehicles), Motor Vehicles' June 2012 *Special Plates Report*, and statutes establishing the various special interest license plates (special plates).

Notes: As we discuss in the Scope and Methodology section, because Motor Vehicles could not provide a methodology to uniquely identify fee-generating transactions in the vehicle registration system, we were unable to verify the number of these transactions related to the special plates shown.

The figures shown do not include transactions related to special plates that were not on a vehicle during the year but were retained by the plate owners because Motor Vehicles could not identify these transactions.

\* Our audit focused on the Environmental License Plate, which is a personalized plate, and the memorial plate.

† As of fiscal year 2005–06, the revenue generated from the memorial plate goes toward antiterrorism activities.

The Legislature in the annual Budget Act appropriates money from the environmental fund to numerous entities for the Environmental Protection Program. As the text box shows, 24 entities and a program directing funds to three additional entities spent money from the environmental fund in fiscal year 2011–12. State law limits the activities of the Environmental Protection Program to include the control and abatement of air pollution; the preservation and restoration of natural areas or ecological reserves; environmental education; the protection of nongame species; and the protection, enhancement, and restoration of fish and wildlife habitat and related water quality.

State law designates the California Natural Resources Agency (Resources) as the administrator of the Environmental Protection Program. State law requires the secretary of Resources to forward, on or before November 1 of each year, projects and programs recommended for funding to the governor for inclusion in the governor’s budget, together with a statement of the purpose of each project and program, the benefits to be realized, and the secretary’s comments. In addition, the law requires Resources to report every third year, with the first report due concurrent with the submittal of the 2006–07 Governor’s Budget, to the governor and the Legislature on how the particular mix of funding sources, including the environmental fund, is appropriate for each project or program in relationship to the benefits realized from it.

**The Memorial Plate Supports the Memorial Scholarship Program and Antiterrorism Activities**

In enacting Chapter 38, Statutes of 2002, the Legislature created the memorial plate, which supported the Memorial Scholarship Program (scholarship program) and still supports antiterrorism activities. The revenue generated from the sale of memorial plates provided scholarships of \$5,000 to each eligible dependent of California residents killed in the terrorist attacks (terrorist attacks) that occurred on September 11, 2001, in New York City, at the Pentagon, and in Pennsylvania through the scholarship program, and it continues to provide funding for antiterrorism activities. State law required Motor Vehicles to deposit into the California Memorial Scholarship Fund (scholarship fund) 15 percent of the revenue generated from the memorial plate’s issuance and to deposit into the Antiterrorism Fund (antiterrorism fund) the remaining 85 percent. Further, the law required that the ScholarShare Investment Board (ScholarShare Board) award the scholarships and establish the

**Entities That Spent Environmental Funds in Fiscal Year 2011–12**

1. Baldwin Hills Conservancy
2. California Conservation Corps
3. California Department of Education
4. California Department of Finance
5. California Department of Fish and Wildlife
6. California Department of Forestry and Fire Protection
7. California Department of Parks and Recreation
8. California Department of Pesticide Regulation
9. California Department of Water Resources
10. California Natural Resources Agency
11. California State Coastal Conservancy
12. California State Controller’s Office
13. California Tahoe Conservancy
14. California Wildlife Conservation Board
15. Coachella Valley Mountains Conservancy
16. Delta Protection Commission
17. Delta Stewardship Council
18. Office of Environmental Health Hazard Assessment
19. Sacramento–San Joaquin Delta Conservancy
20. San Diego River Conservancy
21. San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy
22. San Joaquin River Conservancy
23. Santa Monica Mountains Conservancy
24. Sierra Nevada Conservancy
25. Special Resources Programs\*

Source: California State Controller’s Office Budgetary/Legal Basis system.

\* The special resources programs include the Tahoe Regional Planning Agency, the Yosemite Foundation Program, and the Sea Grant Program.

scholarship accounts by July 1, 2005. The law requires that once the ScholarShare Board established the scholarship accounts, Motor Vehicles was to deposit all revenue generated from the memorial plates into the antiterrorism fund and that all remaining money from the scholarship fund be transferred to the antiterrorism fund. In October 2005 the Legislature also appropriated \$30,000 from the scholarship fund to the ScholarShare Board for its administration costs. Beginning in fiscal year 2005–06, all revenue from sales of memorial plates has been deposited into the antiterrorism fund.

According to the ScholarShare Board, it awarded scholarships from the scholarship fund to 16 dependents of California residents killed in the terrorist attacks. State law required that the California Victim Compensation and Government Claims Board (Victim Compensation) identify and notify by July 1, 2003, all qualified dependents, or the parents or guardians of minor dependents, about their eligibility for the scholarship program. Eligible dependents interested in participating in the scholarship program were required to contact the ScholarShare Board and execute a participation agreement before July 1, 2005. As of the deadline, the ScholarShare Board had awarded scholarships to 16 participants and deposited \$5,000 into an account for each of them. Scholarship program participants are required to spend the money in their scholarship accounts on qualified educational expenses by the later of their 30<sup>th</sup> birthday or July 1, 2015, and any money not spent must be transferred to the antiterrorism fund.

The antiterrorism fund supports activities related to the prevention, detection, and emergency response to terrorism undertaken by state and local law enforcement, fire protection, and public health agencies. Specifically, the law provides that upon appropriation by the Legislature, money from the antiterrorism fund shall be used for purposes directly related to fighting terrorism. Further, the law specifies that eligible activities include hiring support staff to perform administrative tasks; hiring and training additional law enforcement, fire protection, and public health personnel; providing response training for existing and additional law enforcement, fire protection, and public health personnel; and purchasing hazardous materials equipment and other equipment expenditures.

Annually, the California Emergency Management Agency (Cal EMA) and the California Department of Food and Agriculture (Food and Agriculture) each receive Budget Act appropriations from the antiterrorism fund. Cal EMA has used these appropriations for expenditures related to administrative activities and to award grants to the California Fire Fighter Joint Apprenticeship Committee (Fire Fighter Committee), the Commission on Peace Officer Standards and Training (POST), and the five fusion centers—a collaborative effort of federal, state, local,

or tribal governmental agencies that combine resources, expertise, and information to detect, prevent, investigate, apprehend, and respond to criminal or terrorist activity. Food and Agriculture has used its appropriations for expenditures that include the cost of administrative activities and geographic information system software to help it deter and fight terrorism focused on animal and food safety.

In 2007 the Legislature made a special appropriation from the antiterrorism fund to POST and Cal EMA. Specifically, it appropriated \$2.5 million to POST to develop antiterrorism training courses and to reimburse law enforcement agencies for their antiterrorism training activities. It also appropriated \$2.5 million to Cal EMA to award a contract to the Fire Fighter Committee, an entity cosponsored by a state agency and a labor union, for the development of antiterrorism training courses and to reimburse fire agencies for antiterrorism training activities.

### **Three Administering State Agencies Provide Financial Information Related to the Environmental Plate and Memorial Plate Programs**

To ensure that funds are managed appropriately, the California Department of Finance (Finance) designates an administering entity for each fund. Finance has identified Cal EMA and the ScholarShare Board as the administrators of the antiterrorism fund and the scholarship fund, respectively. Further, state law designates Resources as the administrator of the environmental fund. The administering state agencies oversee the operations of the funds and are responsible for preparing financial statements, fund condition statements, and budget documents. In the case of the environmental fund, where Resources is not the sole user of the money from the fund, it has the authority to request other entities that collect or spend from the fund to provide financial information such as revenue and expenditures related to the fund. It may also provide letters of support or opposition, based on the money available in the fund, for entities asking for additional money from the fund.

As shown in Table 2 on the following page, the environmental fund's annual revenue ranged from \$41 million to \$44.6 million during fiscal years 2009–10 through 2011–12. Various entities have collectively spent from \$35.8 million to \$40.8 million a year during this same period. According to the state controller's documents, as of June 30, 2012, the environmental fund had a balance of almost \$16 million, of which almost \$10 million is unavailable because it is designated for other purposes. Resources stated that it had been reluctant to propose new expenditures from the fund in the form of new programs because it was unsure whether a permanent increase in revenues—necessary to support new, ongoing programs—had

occurred. Instead, Resources' assistant secretary for administration and finance noted that Resources is looking at one-time projects and programs on which it might spend the available funds.

**Table 2**  
**Financial Information for the Funds Related to the Environmental License Plate and California Memorial License Plate Programs**

TYPE OF SPECIAL INTEREST LICENSE PLATE AND RELATED FUND	FISCAL YEAR 2009–10		FISCAL YEAR 2010–11		FISCAL YEAR 2011–12	
	REVENUE	EXPENDITURES*	REVENUE	EXPENDITURES*	REVENUE	EXPENDITURES*
<b>Environmental License Plate</b>						
Environmental License Plate Fund <sup>†</sup>	\$41,022,904	\$35,799,574	\$41,659,650	\$40,827,160	\$44,576,264	\$40,655,818
<b>California Memorial License Plate</b>						
Antiterrorism Fund	\$1,438,166	\$1,988,810	\$1,400,978	\$1,935,319	\$1,434,972	\$1,960,474
California Memorial Scholarship Fund <sup>‡</sup>	218	6,930	148	3	111	1,868

Source: California State Controller's Office (state controller) Budgetary/Legal Basis system.

\* The expenditures include adjustments to prior-year expenditures.

<sup>†</sup> This fund includes all revenues from the Environmental License Plates and 50 percent of the revenues from the Yosemite and California Coastal Commission license plates.

<sup>‡</sup> Fund activities shown represent interest earnings and administrative expenditures only for the state controller, the California Department of Finance, and the California Department of Personnel Administration.

In addition, as Table 2 shows, the antiterrorism fund had revenues of about \$1.4 million each year from fiscal years 2009–10 through 2011–12 and expenditures of more than \$1.9 million a year over the same period. Further, the General Fund has borrowed \$3 million from the antiterrorism fund; however, according to Cal EMA, the loan has not reduced or affected the programs supported by the fund. This budgetary loan was authorized through the budget acts for fiscal years 2008–09 and 2010–11, which authorized the transfer of \$2 million and \$1 million, respectively, to the General Fund. Although the General Fund has not yet repaid any portion of the loan from the antiterrorism fund, the money borrowed must be repaid with interest using the rate calculated by the State's Pooled Money Investment Account at the time of the original loan transfer. Further, if services or programs that the antiterrorism fund supports are reduced or adversely affected, the General Fund is required to repay the loans. As of June 30, 2012, the antiterrorism fund had a balance of \$2.6 million. According to Cal EMA and POST, they are in the process of requesting additional appropriations from the antiterrorism fund.

### Scope and Methodology

We conducted this audit at the direction of the Joint Legislative Audit Committee (audit committee), which approved the audit objectives listed in Table 3. To address these objectives, our fieldwork included site visits to Cal EMA, the California Department of Fish and Wildlife,

Food and Agriculture, Motor Vehicles, the California Department of Parks and Recreation, POST, Resources, the ScholarShare Board, and Victim Compensation. We judgmentally selected these state agencies based on their use of memorial plate and personalized plate revenues and the amount they spent, as well as on their roles described in the state laws governing the memorial and personalized plates. Specifically, we chose the three state agencies that generally spent the most money from the environmental fund during fiscal years 2009–10 through 2011–12. These state agencies made up approximately 51 percent of the expenditures during that period. We selected all entities that spent money from the antiterrorism fund and the scholarship fund or had a role in establishing the scholarship program.

**Table 3**  
**Audit Objectives and the Methods Used to Address Them**

	AUDIT OBJECTIVE	METHOD
1	Review and evaluate the laws, rules, and regulations significant to the audit objectives.	Reviewed relevant laws, regulations, and other background materials.
2	Review and evaluate the roles and responsibilities of the California Department of Motor Vehicles (Motor Vehicles) related to the special interest license plates (special plates) to determine whether they comply with applicable laws, rules, and regulations. Further, determine whether Motor Vehicles has controls sufficient to ensure the accurate accounting of revenues received from special plates.	At Motor Vehicles we performed the following steps: <ul style="list-style-type: none"> <li>• Reviewed state laws and regulations for roles and responsibilities.</li> <li>• Interviewed appropriate staff to understand the processes for collecting applicable fees for special plates and for remitting the revenue to designated funds.</li> <li>• Obtained and reviewed Motor Vehicles' Financial Services Branch's desk procedures.</li> <li>• Determined that the controls in place for accounting and transferring collected revenue to the designated fund are sufficient.</li> <li>• Reviewed Motor Vehicles' process to recoup its administration costs related to special plates and determined whether it accurately calculated such costs during fiscal years 2009–10 through 2011–12.</li> <li>• To determine whether Motor Vehicles collected all revenue due for the special plates, we attempted to identify all fee-generating transactions from the vehicle registration database to calculate expected revenue. However, Motor Vehicles could not provide a method to uniquely identify these transactions using the vehicle registration database. As a result, we were unable to determine the total amount of revenue Motor Vehicles should have collected.</li> </ul>
3	For the California Memorial License Plate funds and a selection of up to three additional special plate funds, perform the following for the last three-year period: <ol style="list-style-type: none"> <li>a. Determine the amount of revenue collected from the sale of special plates for each respective fund, and the amount expended or transferred from each fund at the state level. Further, identify the statutory purposes for which the money in the funds are to be spent.</li> </ol>	For the Antiterrorism Fund, the California Memorial Scholarship Fund, and the Environmental License Plate Fund, we performed the following steps for fiscal years 2009–10 through 2011–12: <ul style="list-style-type: none"> <li>• Obtained data from Motor Vehicles' accounting system to determine the total amount of fee revenue due from the purchase of special plates, calculated total administrative fees, and verified that this information agrees with the actual amount of revenue recorded in the California State Controller's Office's (state controller) records.</li> <li>• Reviewed the state controller's records to determine the amounts expended and transferred from each fund.</li> <li>• Reviewed the state laws that govern the use of money from these funds to identify the statutory purposes for which the money in the funds can be spent.</li> </ul>

AUDIT OBJECTIVE	METHOD
b. Identify any state agency with a role and/or statutory responsibility for receiving, administering, spending, allocating, and/or transferring revenues derived from the special plates.	Reviewed appropriate state laws, rules, and regulations, and identified three entities—the California Natural Resources Agency, the California Victim Compensation and Government Claims Board, and the ScholarShare Investment Board—with statutory responsibilities.
c. Determine whether the state agencies identified in 3b are complying with applicable laws, rules, and regulations when carrying out their statutory responsibilities related to these funds.	Reviewed various documents and interviewed staff at the three entities previously identified to determine whether they complied with applicable laws, rules, and regulations when carrying out their statutory responsibilities.
d. For a selection of expenditures and transfers at the state level, review and evaluate the purpose for which the revenues were expended or transferred to determine whether they were allowable and reasonable. This should include an assessment of the amount expended on administrative activities.	<p>For the California Emergency Management Agency, California Natural Resources Agency, California Department of Fish and Wildlife, California Department of Food and Agriculture, California Department of Parks and Recreation, Commission on Peace Officer Standards and Training, and ScholarShare Investment Board, we performed the following steps:</p> <ul style="list-style-type: none"> <li>• Depending on the level of the entity's expenditures, haphazardly selected three to 16 expenditures, including administrative expenses, from fiscal years 2009–10 through 2011–12. We then reviewed supporting documentation to determine whether the expenditures were allowable and supported.</li> <li>• Assessed whether entities complied with any restrictions on the use of funds for administrative activities.</li> </ul>
e. Review and assess the extent to which an administering state agency provides oversight to any local entities for which the administering state entity allocated revenues. Determine whether the administering state agency is monitoring the local entities receiving the funds to ensure compliance with applicable laws, rules, and regulations.	<ul style="list-style-type: none"> <li>• Analyzed accounting records and interviewed staff to determine whether the administrative entities allocated any special plate money to local entities.</li> <li>• Interviewed management staff to determine the extent of monitoring provided to local entities.</li> <li>• Obtained supporting documentation related to the monitoring of local entities' expenditures from special plate funds to verify that monitoring took place.</li> </ul>
f. Determine the disposition of any loans made from the funds, including when those loans occurred, the amount of the loans, whether the loans impaired any fund's purpose, whether the loans have been repaid, or if any plans for repayment exist, and whether the loans were or will be repaid with interest.	Reviewed the state controller's records for fiscal years 2009–10 through 2011–12 and the various state budget acts to determine the amount of money loaned from special plate funds to other funds, the terms of any loans, and whether any amounts have been repaid. We then determined that the only loan was to the General Fund and we analyzed relevant laws to determine whether the General Fund may borrow revenues from any special plate funds.
g. Determine whether there are any unexpended moneys in the funds and why they have not been appropriated or expended for their intended purpose.	Obtained reports from the state controller to identify any unexpended money remaining in the funds. Interviewed the funds' administrators to determine why they had not been appropriated or spent.
4 Review and assess any other issues that are significant to the use of special interest license plate funds (special plate funds) by the State.	We did not identify any other significant issues concerning the State's use of money from the special plate funds.

Sources: California State Auditor's analysis of Joint Legislative Audit Committee audit request number 2012-110, planning documents, and analysis of information and documentation identified in the column titled *Method*.

In performing this audit, we relied upon electronic data files extracted from the information system listed in Table 4. The U.S. Government Accountability Office, whose standards we follow, requires us to assess the sufficiency and appropriateness of computer-processed information that is used to support findings, conclusions, or recommendations. Table 4 shows the results of this analysis.

**Table 4**  
Methods Used to Assess Data Reliability

INFORMATION SYSTEM	PURPOSE	METHOD AND RESULT	CONCLUSION
California State Controller's Office (state controller) Budgetary/Legal Basis system  Financial data for the Antiterrorism Fund (antiterrorism fund) and the California Environmental License Plate Fund (environmental fund) for July 1, 2009, through June 30, 2012	Determine the revenue for the antiterrorism fund and environmental fund between July 1, 2009, and June 30, 2012.	To test the completeness of the state controller's Budgetary/Legal Basis system, we compared fund totals from the California Department of Motor Vehicles' (Motor Vehicles) accounting system to the state controller's Budgetary/Legal Basis system. No material exceptions were noted.  We applied logic testing to key fields in Motor Vehicles' accounting system and did not identify any errors. We did not perform accuracy testing on Motor Vehicles' accounting system because it contains summary-level data. We determined that it would not be cost-effective to trace this summary-level data back to the individual transactions that support the total.	Undetermined reliability for the purpose of this audit.

Source: California State Auditor's analysis of data obtained from the state controller.

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## Audit Results

### **The California Department of Motor Vehicles Has Not Collected the Appropriate Amount of Fees and Has Not Claimed Its Administrative Costs Accurately for the Special Interest License Plates**

The California Department of Motor Vehicles (Motor Vehicles) has not ensured that it collects the appropriate amount of fees related to special interest license plate (special plate) programs, nor has Motor Vehicles recovered its true cost of administering these programs. Specifically, Motor Vehicles does not collect all annual retention fees from plate owners who choose to retain special plates even though they no longer use the plates on a vehicle. In fact, using the fees the law prescribes, we estimate that Motor Vehicles did not collect \$12 million in retention fees during fiscal years 2010–11 and 2011–12. Moreover, Motor Vehicles lists in its application for special plates certain fees, including retention fees, for various plates that differ from those specified in the law. As a result, it has potentially undercharged some plate owners by nearly \$10.2 million. Further, Motor Vehicles uses outdated information to recoup its costs of administering the respective programs from special plate revenue. As a result, it overcharged the Environmental License Plate Fund (environmental fund) by a total \$6.3 million—or \$2.1 million per year—during fiscal years 2009–10 through 2011–12. Motor Vehicles' budget officer speculated that the overcharge occurred because of an oversight or a decision in the past to continue to charge the same amount in administrative costs each year as it did in fiscal year 1998–99. In addition, we estimate that Motor Vehicles has undercharged the other special plate programs a net total of \$1.1 million over the same three-year period. Motor Vehicles plans to examine the cost and benefits of reprogramming its automated systems to reflect current administrative fees.

#### ***Motor Vehicles' Current Processes Do Not Make Certain That It Collects the Appropriate Amount of Fees Related to Special Plates***

Motor Vehicles is not collecting all retention fees owed by some plate owners and has potentially collected inappropriate fees for some special plates. As a result, we estimate that it has foregone a total of over \$22 million in revenue during fiscal years 2010–11 and 2011–12. State law allows the owner of a special plate the option to remove and retain it without reassigning it to another vehicle, if the plate owner pays an annual retention fee. State laws impose an annual fee between \$38 and \$78 to retain special plates depending on the type of plate being retained. According to state regulations, if a plate owner fails to pay the annual retention fee, the plate owner loses ownership and the special plate letter-number configuration is made available for another vehicle owner to purchase. Our legal

***Because Motor Vehicles collects retention fees only when the plate owner notifies the department that he or she will again use the special plate on a vehicle, we estimate that it did not collect retention fees of \$12 million during fiscal years 2010–11 and 2011–12.***

counsel advised us that Motor Vehicles has a statutory duty to charge and collect this annual retention fee. However, instead of collecting retention fees yearly, Motor Vehicles collects these fees only when the plate owner notifies the department that he or she will again use the special plate on a vehicle. Regardless of the amount of time that the plate owner has retained the special plate but not used it on a vehicle, Motor Vehicles' practice is to collect outstanding retention fees for a maximum of four years. Specifically, Motor Vehicles collects for the current year and up to the previous three years that the special plate has not been used on a vehicle. As a result, in cases where the special plate has been inactive for more than four years, Motor Vehicles does not collect the full amount of retention fees it is due.

Using Motor Vehicles' unaudited available data and the fees prescribed in statutes we estimate that, because of this policy, it did not collect retention fees of \$12 million during fiscal years 2010–11 and 2011–12. Using fiscal year 2009–10 as a baseline to calculate the change in the number of special plates in circulation, we assumed that if a plate owner did not renew a license plate in subsequent years, then the plate owner retained the plate and an annual retention fee was due. We removed from this count any personalized regular plates that the owners returned to Motor Vehicles and those for which the owners paid the retention fee. However, we could not remove such transactions for the other special plates, personalized or not, because Motor Vehicles does not have these data. Further, our calculation does not include license plates that were retained prior to fiscal year 2009–10. We then multiplied the approximately 301,000 special plates we identified by the applicable retention fees state law prescribes for the 11 types of special plates, as shown in Table A in the Appendix, to determine our estimate of \$12 million in fees that Motor Vehicles did not collect. By delaying the collection of these fees until retained plates are again used on a vehicle and then limiting the fees it collects to a maximum of four years, Motor Vehicles has foregone significant revenue due from special plate holders and thus reduced the State's ability to realize the intended benefits of those special plate programs.

In addition to not collecting retention fees annually, Motor Vehicles has potentially collected fees from some plate owners that are inconsistent with those that applicable statutes prescribe. Specifically, for certain types of transactions related to all special plates, with the exception of regular personalized plates, Motor Vehicles has listed fees that are as much as \$49 less than those the law prescribes. For example, the law specifies a fee of \$99 for the initial issuance of a personalized Olympic Training License Plate; however, Motor Vehicles' application shows an initial issuance fee of \$50 for these plates, which is \$49 less than the law specifies. Using unaudited data available from Motor Vehicles, we estimate that during fiscal

years 2010–11 and 2011–12, it potentially undercharged some special plate owners a total of nearly \$10.2 million. Similarly, Motor Vehicles' application lists retention fees for some special plates that differ from those prescribed in the law. We were unable to quantify the effects of these differences because Motor Vehicles does not have the data on the number of specific special plates for which it actually collected retention fees.

### ***Motor Vehicles Has Not Accurately Claimed Its Administrative Costs***

Motor Vehicles overstated its costs for administering personalized plates by more than \$6 million and undercharged for costs related to administering other special plates by a net of \$1.1 million during fiscal years 2009–10 through 2011–12. State law allows Motor Vehicles to recover the cost of its administration of special plate programs from revenues received for those plates. For example, state law requires the California State Controller's Office (state controller) to transfer environmental fund money appropriated by the Legislature to Motor Vehicles as a reimbursement for its costs to administer regular plates that are personalized. During fiscal years 1998–99 through 2011–12, Motor Vehicles requested and received \$3.9 million annually from the environmental fund to support its administration of personalized plates. However, Motor Vehicles reduced its request for fiscal years 2012–13 and 2013–14 to \$1.8 million upon discovering that it had erroneously been requesting annual reimbursements that were too high.

The Motor Vehicles budget officer speculated that requesting the same administrative cost each year since fiscal year 1998–99 was the result of either a decision to carry forward the amount agreed upon for fiscal year 1998–99 or an oversight when developing the budget. The budget officer further speculated that the decline in administrative costs from \$3.8 million to \$1.8 million was due to a decrease in the number of transactions related to these plates as well as an increase in the number of transactions processed online, which generally have lower processing costs. The budget officer noted that Motor Vehicles discovered the error as it was developing its budget for fiscal year 2013–14. After making this discovery, Motor Vehicles reduced its request for these costs to \$1.8 million for fiscal year 2012–13 and requested \$1.8 million for fiscal year 2013–14. Using Motor Vehicles' methodology for determining the cost for administering personalized plates, it overstated its request for such costs from the environmental fund by more than \$2 million for each of the three fiscal years we reviewed—fiscal years 2009–10 through 2011–12.

***We estimate that during fiscal years 2010–11 and 2011–12, Motor Vehicles potentially undercharged some special plate owners a total of nearly \$10.2 million.***

### Names of Transactions Related to Special Interest License Plates

**Initial:** Fee for the initial purchase of a special interest license plate (special plate).

**Renewal:** Yearly fee for the annual renewal of a special plate while it is on a registered vehicle.

**Duplicate:** Fee for the purchase of a replacement plate due to loss or damage to the original plate.

**Substitution:** Fee for the substitution by an owner of the special plate with another plate type.

**Reassignment:** Fee for owner's moving the special plate from one vehicle to another.

**Retention:** Annual fee for the special plate after it is removed from the vehicle but still retained by the owner.

**Conversion:** Fee for converting an existing personalized special plate to a different type of personalized special plate.

**Source:** California Department of Motor Vehicles.

Motor Vehicles also has not used accurate information when assessing a service fee to recover its administrative costs for other special plates. In contrast to personalized plates, Motor Vehicles collects administrative fees from special plates, such as the California Memorial License Plate (memorial plate), before transferring revenues to the designated fund. The text box shows the types of transactions Motor Vehicles administers. According to its forecasting section manager, Motor Vehicles generally calculates a per-plate administrative cost every two years, as resources allow, and uses these costs to establish administrative fees for special plate programs created during the next two years. However, the branch chief of registration policy and automation (branch chief) noted that Motor Vehicles does not use the newly calculated costs to update the administrative fees on existing plates, some of which were established in state law more than two decades ago. Consequently, Motor Vehicles collects outdated administrative fees for many of the special plates.

For example, when the memorial plate program was established in fiscal year 2002–03, Motor Vehicles determined that the per-plate administrative cost for issuing an initial personalized special plate was \$22. As Table 5 shows, in fiscal year 2009–10, the last time it calculated its per-plate administrative cost, Motor Vehicles determined that its administrative cost for issuing such a plate was \$34. However, it did not update the administrative fee it charges the memorial plate program for issuing an initial, personalized memorial plate to reflect the new cost. Consequently, it recovers only \$22 from the memorial plate program for each initial personalized memorial plate it issues—\$12 less than it actually costs. Using its fiscal year 2009–10 administrative costs and its data on the number and types of transactions it processed, we estimate that during fiscal years 2009–10 through 2011–12, Motor Vehicles failed to recover a net of \$1.1 million—or an average of roughly \$367,000 annually—in administrative costs for all types of transactions related to special plate programs. Motor Vehicles' budget officer speculated that the changes in Motor Vehicles' costs for these plates over time were due to increases in staff salaries and benefits, increases in operating expense and equipment costs, and the increase or decrease in the volume of these plates coupled with fixed costs, such as administration.

**Table 5**  
**Comparison of Most Recent Administrative Cost Determination and Current Administrative Fees Recovered Per-Plate by the California Department of Motor Vehicles for Select Special Interest License Plates as of November 2012**

TRANSACTION TYPE	MOST RECENT ADMINISTRATIVE COST DETERMINATION*	TYPE OF SPECIAL INTEREST LICENSE PLATE AND CURRENT COSTS RECOVERED									
		HAVE A HEART, BE A STAR, HELP OUR KIDS	CALIFORNIA COASTAL COMMISSION	ARTS COUNCIL	YOSEMITE CONSERVANCY	LAKE TAHOE	VETERANS' ORGANIZATIONS	FIREFIIGHTERS	CALIFORNIA MEMORIAL	OLYMPIC TRAINING CENTER	COLLEGIATE
<b>Personalized Plate</b>											
Initial	\$34	\$22	\$22	\$28	\$28	\$29	\$27	\$28	\$22	\$18	\$34
Duplicate	21	22	22	0	24	31	28	29	22	30	31
Reassignment	10	6	6	12	11	12	7	12	6	11	11
<b>Nonpersonalized Plate</b>											
Initial	18	19	19	15	15	17	17	15	19	18	9
Substitution	18	18	18	0	17	17	17	15	18	30	15
Reassignment	10	6	6	7	2	7	7	7	6	11	7

Source: California Department of Motor Vehicles (Motor Vehicles).

Note: This table does not show administrative service fees for regular plates that are personalized because Motor Vehicles does not collect this fee for them before depositing the revenue into the California Environmental License Plate Fund (environmental fund). Instead, Motor Vehicles calculates annually its administrative costs for the Environmental License Plate Program and receives reimbursement from the environmental fund through the annual budget process.

\* Motor Vehicles last determined its actual administrative costs in fiscal year 2009–10.

The branch chief could not explain why Motor Vehicles did not update the administrative fee for these other special plates, but he noted that in prior years, programming changes for fees were more complicated than today. He explained that this likely meant that only essential changes were initiated, as the cost of making a change outweighed any benefit, especially for smaller special plates with few transactions. Motor Vehicles plans to conduct a thorough review of the issue by October 2013. According to the branch chief, Motor Vehicles intends to examine the issue in conjunction with many factors, including the statutory requirements, impact on special plate programs, feedback from stakeholders, return on investment, and the impact on resource availability.

**State Agencies Insufficiently Monitor the Antiterrorism Fund and the Environmental Fund**

State agencies do not sufficiently monitor the use of Antiterrorism Fund (antiterrorism fund) and environmental fund money. Although the California Department of Finance (Finance) and state law designate administrators for the antiterrorism fund and the environmental fund, respectively, the Legislature appropriates money from these funds to several state agencies that are ultimately responsible for ensuring that they use the money from these funds

for the purposes the law authorizes. We found that the California Emergency Management Agency (Cal EMA) did not monitor the expenditures and progress of a contractor that received money from the antiterrorism fund, and the California Department of Food and Agriculture (Food and Agriculture) allowed a contractor to provide services before the execution of contracts using money from the antiterrorism fund. As a result, the State cannot be assured that revenues from the antiterrorism fund and the environmental fund are spent only on allowable activities in accordance with state laws and the State is not exposed to unnecessary liability.

The fund administrators are generally not responsible for monitoring the spending by the other entities that receive money from the fund through legislative appropriations. For example, although the state law creating the antiterrorism fund does not designate an administrator of the fund, Finance, pursuant to its statutory authority to oversee state finances, has designated Cal EMA as the administrator of the antiterrorism fund in its *Manual of State Funds (Funds Manual)*. The *Funds Manual* states that entities designated as fund administrators usually maintain the general accounting records and the related budgetary accounts for the fund as well as prepare the fund condition statement displayed in the governor's budget. However, it does not require fund administrators to monitor expenditures or provide any program oversight. As a result, Cal EMA does not monitor or review expenditures incurred by Commission on Peace Officer Standards and Training (POST) or Food and Agriculture that use money appropriated directly by the Legislature from the antiterrorism fund.

In addition to any responsibilities of fund administrators, entities that receive appropriations from the antiterrorism fund and the environmental fund are responsible for ensuring that they use the money for the purposes the law authorizes. However, some of the state agencies we reviewed that receive money from these funds are not adequately monitoring the use of the money. In fact, we found that some antiterrorism fund and environmental fund expenditures were not allowable or were not adequately supported.

*Some of the state agencies we reviewed that receive money from these funds are not adequately monitoring the use of the money.*

#### ***State Agencies Receiving Money From the Antiterrorism Fund Have Monitored Contracts Ineffectively***

During the period that we reviewed, both Cal EMA and Food and Agriculture did not always adequately monitor the contracts they awarded using money from the antiterrorism fund. Specifically, Cal EMA did not always monitor its antiterrorism fund contracts in accordance with the *State Contracting Manual (Contract Manual)* to ensure contractor compliance. The *Contract Manual* provides

the policies, procedures, and guidelines to promote sound business decisions and practices in securing necessary services for the State. The manual states that the contract manager is responsible for monitoring the progress of work to ensure that contractors perform services in accordance with the quality, quantity, objective, time frames, and manner specified in contracts. However, Cal EMA did not always monitor the contracts it paid for out of the antiterrorism fund to ensure that services were performed as the contract specified.

For example, Cal EMA executed a \$2.5 million contract with the California Fire Fighter Joint Apprenticeship Committee (Fire Fighter Committee) in fiscal year 2008–09. The contract’s term was from September 2008 through June 2010 and required the Fire Fighter Committee to update a training program, train 125 instructors by June 30, 2010, and then have those instructors provide updated training to nearly 30,000 fire service personnel statewide. However, the Fire Fighter Committee did not train all of the instructors before the contract expired. Consequently, Cal EMA twice had to modify the service delivery schedule—through a new contract and a subsequent amendment—because the Fire Fighter Committee took an additional two and a half years to complete the training program using the funds from the original contract. Additionally, Cal EMA’s contract manager approved invoices from the Fire Fighter Committee without substantiating the underlying expenditures. According to a section chief within the California Specialized Training Institute (training institute), which was responsible for monitoring the contracts, Cal EMA management directed the training institute to assist with the pass-through of money from the antiterrorism fund to the Fire Fighter Committee through the contract. The section chief stated that staff verified only that the invoices were coded to the correct cost account and then forwarded them to Cal EMA’s accounting office for payment. She further indicated that the training institute was not assigned oversight or monitoring responsibilities, such as ensuring that the Fire Fighter Committee was on track in providing the contracted services. As a result, Cal EMA missed an opportunity to ensure that the critical training was provided in a timely manner, and it cannot be certain that the Fire Fighter Committee’s expenditures complied with the contract terms.

Cal EMA agreed that the contracts and amendment with the Fire Fighter Committee were not monitored in accordance with the *Contract Manual*. The *Contract Manual* defines a contract manager’s responsibilities as including monitoring the contractor’s performance in order to confirm compliance with all provisions, such as monitoring the progress of work to ensure that the contractor is performing services according to the contract requirements, ensuring that the contractor completes all work before the contract expires, and reviewing and approving invoices

***Cal EMA did not always monitor the contracts it paid for out of the antiterrorism fund to ensure that services were performed as the contract specified.***

***We identified two instances in which Food and Agriculture allowed one of its contractors to provide services through two different contracts paid out of the antiterrorism fund before the contracts were fully executed.***

for payment to substantiate the work the contractor performed. Cal EMA's assistant secretary indicated that, based on our findings, Cal EMA now has new contract management processes in place. He stated that to ensure that contracts are monitored in accordance with the *Contract Manual*, Cal EMA's Contracting Office verbally communicates oversight responsibilities to each contract manager and provides a memo to new contract managers with every executed contract notification outlining the contract manager's responsibilities. Nonetheless, Cal EMA's monitoring of the Fire Fighter Committee contract and amendment did not comply with the *Contract Manual*. He noted that, going forward, Cal EMA plans to provide a memo to all contract managers explaining their responsibilities.

We also identified two instances in which Food and Agriculture allowed one of its contractors to provide services through two different contracts paid out of the antiterrorism fund before the contracts were fully executed. State law generally provides that a contract entered into by a state agency shall not take effect until the agency has executed the contract and the California Department of General Services (General Services) has approved it. Similarly, the *Contract Manual* requires that work not begin before contract execution and the effective date of the contract. It also states that the contract manager is not authorized to instruct the contractor to start work before the contract is executed and approved. Food and Agriculture provided two reasons for allowing the contractor to provide services prematurely. According to Food and Agriculture's contract manager, in one instance the contractor provided services under a similar existing contract that used General Fund money because Food and Agriculture experienced delays getting the contractor to sign the new contract. However, the new contract was signed by the time the manager received the first invoice. Therefore, even though the contract services were provided for a month and a half when there was no executed contract in place, the contract manager mistakenly believed it was appropriate because a similar existing contract was available during that time.

In the other instance, the contract manager stated that he allowed the same contractor to provide services as many as 10 days before the contract was fully executed because he did not know when Food and Agriculture formally executed the new contract. Nevertheless, it is the contract manager's responsibility to be aware of the contract execution date and make sure that the contractor does not provide services before that time. In fact, Food and Agriculture's internal auditors had identified this same contracting violation occurring in other programs within Food and Agriculture in previous years.

By allowing this contractor to twice provide services before an executed contract was in place, Food and Agriculture puts itself and the State at risk. In addition to specifying the services to be rendered, a contract serves to allocate responsibilities between the parties and to protect their respective interests. For example, Food and Agriculture's contracts have general provisions that require contractors to indemnify and defend the State against any claims by third parties arising from the contractor's performance; the contracts also include specific provisions, for example, that contractors may not subcontract their services without the State's prior consent. During the periods this contractor performed services without an executed contract, neither Food and Agriculture nor the State was able to rely on these provisions to protect their interests.

Moreover, these violations may put Food and Agriculture's contract approval exemption status at risk. The exemption under which both of these contracts were executed allows Food and Agriculture to execute contracts for services up to \$75,000 without the approval of General Services if Food and Agriculture establishes, among other things, policies and procedures that verify that its contracting activities comply with applicable laws and regulations and that it has demonstrated the ability to carry out these policies and procedures. According to a department contract office manager, Food and Agriculture requested the exemption to reduce delays in executing its contracts and to increase efficiency by minimizing Food and Agriculture's costs for General Services' contract review and approval. However, when it does not follow contracting requirements, Food and Agriculture risks losing its contract approval exemption status, which could in turn reduce its ability to quickly approve contracts and provide timely services.

### **Some State Agencies' Antiterrorism Fund and Environmental Fund Expenditures Either Are Not Allowable or Are Not Supported**

Several state agencies we reviewed either spent some antiterrorism fund and environmental fund money in ways inconsistent with the purposes state laws have established or could not provide documents to adequately support the appropriateness of the expenditures charged to the funds. State laws establishing these special plates define the purposes for which revenue from the plates may be used. However, Cal EMA exceeded the statutory cap on administrative costs it charged to the antiterrorism fund in fiscal years 2009–10 and 2010–11. Further, as presented in Table 6 on the following page, of the more than \$2.4 million in expenditures we reviewed, Cal EMA spent more than \$98,000 on activities that were not allowed under state law. In addition, Cal EMA, Food and Agriculture, the California Department of Parks and Recreation (Parks and Recreation), and

*By allowing this contractor to twice provide services before an executed contract was in place, Food and Agriculture puts itself and the State at risk.*

the California Natural Resources Agency (Resources) could not provide sufficient support for their expenditures or a supportable rationale for the proportion of shared costs that they charged to the antiterrorism or environmental fund. Cal EMA and Food and Agriculture, for example, charged the entire salaries of some employees to the antiterrorism fund, but they could not provide documentation that these employees worked exclusively on antiterrorism-related activities. Further, Parks and Recreation and Resources could not provide adequate rationale for the manner in which they allocate certain costs to the environmental fund.

**Table 6**  
**Summary of Unallowable and Unsupported Expenditures by Agencies Under Review**  
**Fiscal Years 2009–10 Through 2011–12**

FUND / AGENCY	UNALLOWABLE EXPENDITURES	UNSUPPORTED EXPENDITURES*	TOTAL EXPENDITURES REVIEWED
<b>Antiterrorism Fund</b>			
California Emergency Management Agency (Cal EMA)	\$98,335	\$141,830	\$913,810
California Department of Food and Agriculture (Food and Agriculture)	\$0	895,826	927,313
<b>Subtotals</b>	<b>\$98,335</b>	<b>\$1,037,656</b>	<b>\$1,841,123</b>
<b>Environmental License Plate Fund</b>			
California Department of Parks and Recreation (Parks and Recreation)	\$0	\$200,079	\$200,079
California Natural Resources Agency (Resources)	\$0	14,583	397,207
<b>Subtotals</b>	<b>\$0</b>	<b>\$214,662</b>	<b>\$597,286</b>
<b>Totals</b>	<b>\$98,335</b>	<b>\$1,252,318</b>	<b>\$2,438,409</b>

Source: The California State Auditor's analysis of expenditures incurred by Cal EMA, Food and Agriculture, Parks and Recreation, and Resources.

\* For these expenditures, agencies either could not provide sufficient support for the expenditures we reviewed or could not provide a supportable rationale for the proportion of shared costs charged to the fund.

We found that Cal EMA did not comply with the legal restriction on using money from the antiterrorism fund to pay for its administrative expenditures. State law permits Cal EMA to use no more than 5 percent of its antiterrorism fund appropriation for administrative purposes. However, Cal EMA spent almost \$290,000 of its fiscal year 2009–10 appropriation and nearly \$146,000 of its fiscal year 2010–11 appropriation on administrative activities. These amounts exceeded by approximately \$273,000 and \$29,000, respectively, the 5 percent maximum for administrative expenses allowed by state law. A significant portion

of these expenditures related to the general administrative costs (prorated charges) that Finance allocates to all state agencies that benefit from central administrative services. However, even after removing nearly \$111,000 in prorated charges paid out of the fiscal year 2009–10 appropriation, Cal EMA's administrative costs for that fiscal year were still almost \$179,000, which was significantly over the 5 percent maximum of \$16,200 allowed for that fiscal year.

Moreover, Cal EMA also paid approximately \$98,000 from the antiterrorism fund for some expenses we reviewed that were not allowable. As we discuss in the Introduction, state law requires that appropriations from the antiterrorism fund be used solely for activities directly related to antiterrorism. Of the nearly \$914,000 in expenditures from the antiterrorism fund that we reviewed for fiscal years 2009–10 through 2011–12, \$155,000 related to Cal EMA's payments during fiscal year 2011–12 to the fusion centers, which are a collaborative effort of federal, state, local, or tribal governmental agencies to detect, prevent, investigate, apprehend, and respond to criminal or terrorist activity. These payments included \$98,000 for unallowable items, such as the purchase and moving of office furniture, registration and travel expenses related to training courses for applying for federal grants and cooperative agreements, and the purchase of office supplies. Cal EMA's decision to pay for these items using money from the antiterrorism fund is contrary to state law, which requires that the money from that fund be used exclusively for activities directly related to fighting terrorism rather than such ancillary expenses.

Cal EMA's assistant director of the office of grants programs pointed to an approved budget change proposal that Cal EMA prepared for fiscal year 2010–11 as the justification for its decision to pay for these costs using the money from the antiterrorism fund. Specifically, the budget change proposal sought a one-time appropriation of \$2 million from the antiterrorism fund, including \$1 million for the fusion centers to meet their operational needs and to help ensure their continued level of staffing and resources. However, the budget change proposal did not identify specific types of expenditures nor did it address why Cal EMA believed these ancillary expenditures were directly related to fighting terrorism.

In addition to paying for unallowable activities, as Table 6 shows, we also found that Cal EMA, Food and Agriculture, Parks and Recreation, and Resources could not always adequately support some of the charges to the antiterrorism and environmental funds or provide a rationale supporting the proportion of costs they charged to these two funds. Of the nearly \$914,000 in expenditures from the antiterrorism fund we reviewed that Cal EMA incurred during fiscal years 2009–10 through 2011–12, we found that it could

*Cal EMA's administrative costs of \$179,000 for fiscal year 2009–10 were significantly over the 5 percent maximum of \$16,200 allowed for that fiscal year.*

*Of the nearly \$914,000 in expenditures from the antiterrorism fund we reviewed that Cal EMA incurred during fiscal years 2009–10 through 2011–12, we found that it could not adequately support nearly \$142,000 it had spent for employee salaries and indirect cost distributions.*

not adequately support nearly \$142,000 it had spent for employee salaries and indirect cost distributions. For example, between July 2009 and May 2010, Cal EMA paid approximately \$69,000 from the antiterrorism fund as compensation for an information system analyst, to cover the time that the employee was out on vacation, sick leave, or administrative leave. Cal EMA claims that it paid the employee using money from the antiterrorism fund because the employee was assigned to an antiterrorism project before being placed on leave. However, it could not provide signed monthly time reports to support that the employee worked exclusively on an antiterrorism project during the time before the leave. The employee's duty statement indicates that he is responsible for activities that support both antiterrorism and non-antiterrorism threats. Absent a signed time report or other documentation to show that the employee worked solely on an antiterrorism project before being placed on leave, Cal EMA cannot support paying the employee's compensation entirely from the antiterrorism fund for nearly one year while he was on leave.

Food and Agriculture also paid \$896,000 in expenses out of the antiterrorism fund for which it could not provide adequate supporting documentation. These expenses included costs related to salaries, the purchase of geographic information system software, and payments for building leases and contracts. For example, similar to Cal EMA, Food and Agriculture paid for an employee's salary for fiscal years 2009–10 and 2011–12 entirely from the antiterrorism fund, but it could not demonstrate that the employee worked solely on antiterrorism activities. Specifically, the duty statement for the employee—an emergency coordinator—indicates that the position is focused on activities related to both naturally occurring and bioterrorism-related emergencies; however, the employee's time sheet did not identify the time she spent on activities strictly related to bioterrorism. Although the employee likely spent some time on bioterrorism-related activities, without knowing how much time she spent on such activities, Food and Agriculture cannot verify that it charged the employee's compensation to the antiterrorism fund only for the time she spent on bioterrorism-related activities. The assistant director for the animal health and food safety services division stated that employees will begin to track their time spent on antiterrorism activities using a new time-tracking system in March 2013. According to the division's draft policy, the time-tracking system's purpose includes providing details on staff activities, making it possible to more accurately allocate work performed to appropriate funds.

Likewise, Parks and Recreation could not adequately support any of the \$200,000 in expenses we reviewed that it charged to the environmental fund. Parks and Recreation generally pays for all expenditures by some of its offices from multiple funds, including the General Fund and the State Parks and Recreation Fund, based on the office's budget allocation percentage from those fund sources. For example, throughout fiscal year 2011–12, as much as 16 percent of the budget for the Office of Historic Preservation (office) consisted of environmental fund money. Therefore, Parks and Recreation charged as much as 16 percent of this office's expenses to the environmental fund, regardless of the underlying purpose for the expenses. The office's responsibilities include recommending properties of historical significance for registration as historical landmarks and points of historical interest, administering state and federal incentive programs for preserving historical resources, providing information and education on the economic and social benefits of utilizing historical resources, and reviewing and commenting on projects that impact historical resources. The California Environmental Quality Act (CEQA) requires state and local agencies to follow a protocol of analysis and disclosure of impacts of proposed projects on the environment and to adopt feasible measures to mitigate those impacts. CEQA defines environment to include resources of historic value. Because of the office's role in identifying and registering historic resources, some of its duties directly support environmental purposes and, therefore, the environmental fund may be used to support those activities.

Therefore, it seems reasonable that some of this office's expenditures would relate to activities that state law allows for using the environmental fund. However, Parks and Recreation cannot support the expenses it charged unless it determines how much of the office's activities the law allows to be charged to this fund source. Until Parks and Recreation evaluates how much of its offices' expenditures relate to the activities allowed to be paid for from the environmental fund, it risks spending the environmental fund money in an unintended manner. According to a Parks and Recreation budget officer, it is working on how to address this concern with next year's budget allocations.

Finally, Resources could not adequately support its rationale for the approximately \$15,000 it charged to the environmental fund for one of the transactions we reviewed. Specifically, Resources paid the agency secretary's salary for April 2010 entirely from the environmental fund. Although the secretary's activities benefit the programs and projects supported by the environmental fund, the secretary's activities also benefit other programs the agency administers. We therefore expected Resources to charge all available funding sources proportionally to pay the secretary's salary. Instead, according to Resources staff, it pays for the salaries

*Parks and Recreation could not adequately support any of the \$200,000 in expenses we reviewed that it charged to the environmental fund.*

*Resources staff could not explain how the agency determines the costs to allocate to the environmental fund and how Resources' allocation method results in an equitable apportionment of such costs.*

of some individuals whose activities benefit multiple programs and funds entirely out of the environmental fund. Resources believes that paying the secretary's salary entirely from the environmental fund is appropriate. However, Resources staff could not explain how the agency determines the costs to allocate to the environmental fund and how Resources' allocation method results in an equitable apportionment of such costs.

### **Two State Agencies Have Not Demonstrated That They Fulfilled Certain Statutory Responsibilities for Special Plate Funds**

Our audit revealed that two state agencies have not met or cannot demonstrate that they have met their responsibilities as state law defines. Specifically, Resources has not submitted to the governor and Legislature required reports intended to provide pertinent information about the performance of programs and projects paid for from the environmental fund. Without this information, decision makers may not be allocating environmental fund money in a manner consistent with achieving the environmental fund's intended goals. Additionally, the California Victim Compensation and Government Claims Board (Victim Compensation) did not meet its statutory deadline for identifying and notifying eligible dependents of the victims of the terrorist attacks that occurred on September 11, 2001, in New York City, at the Pentagon, and in Pennsylvania (terrorist attacks) about the Memorial Scholarship Program (scholarship program). In fact, we identified three individuals who ultimately participated in the scholarship program but who were not informed about the program by Victim Compensation. Further, Victim Compensation notified the dependents about their eligibility status 21 months after the deadline, leaving them with fewer than three months to apply for the scholarship program. Some eligible dependents thus may have been unable to take advantage of the scholarship opportunity. Moreover, Victim Compensation could not demonstrate that it determined the eligibility of three of the 16 individuals who ultimately participated in the scholarship program.

### **Resources Has Not Completed Required Reports on the Use of Environmental Fund Money**

As discussed in the Introduction, state law requires Resources to submit annual and triennial reports to the Legislature and the governor. Specifically, the law states that beginning in 2005, on or before November 1 of each year, Resources must forward reports on those projects and programs recommended for funding, together with a statement of their purposes, the benefits to be realized, and the secretary's comments for inclusion in the governor's budget. Further, in its triennial reports to the governor and Legislature,

Resources is required to submit information on how the particular mix of funding sources, including the environmental fund, is appropriate for each project or program relative to the benefits realized from them. Resources was required to submit its first triennial report for fiscal year 2006–07 concurrently with the submittal of the governor’s budget and subsequent reports were due for fiscal years 2009–10 and 2012–13.

However, Resources has never submitted either the annual or the triennial reports to the governor or the Legislature. Resources believes that the information provided to the governor and the Legislature during the budget process, such as documents related to changes in the allocation of environmental fund money, provides the information that would be included in the required annual reports. Further, according to the assistant secretary for administration and finance, Resources also has not provided triennial reports to the governor or Legislature. He noted that the governor and Legislature can assess whether the use of environmental fund money is appropriate relative to the cost through the State’s budget process. However, this budgetary information does not include the benefits to be realized and a statement of purposes of the programs and projects to be funded. Therefore, the information that Resources provides through the budget process does not meet the state law’s requirements.

According to the assistant secretary for administration and finance, if the Legislature required more information than Resources provides during the State’s budget process, it could hold a hearing, which he stated has not occurred during his time at Resources. Nevertheless, the fact remains that Resources is not complying with the law that requires it to provide to the governor and the Legislature annual and triennial reports that include pertinent information about the benefits realized from the use of the environmental fund money. By not submitting the reports in the manner state law prescribes, Resources limits the ability of the governor and the Legislature to comprehensively review and evaluate a summary of past performance and accomplishments to inform them as to how best to allocate revenue from the environmental fund in the future.

#### ***Victim Compensation Did Not Establish the Eligibility of Scholarship Program Participants as Required by Law***

Victim Compensation did not use a sufficiently targeted, timely approach to identify and notify eligible participants about the scholarship program for the dependents of California residents who were victims of the terrorist attacks. Enacted in May 2002, the state law that established the scholarship program required

***Resources is not complying with the law that requires it to provide to the governor and the Legislature annual and triennial reports that include pertinent information about the benefits realized from the use of the environmental fund money.***

Victim Compensation to identify all persons who were eligible for the scholarship program and to notify them or their parents or guardians of their eligibility for the program. Although the law specified the criteria for eligibility, it did not specify how Victim Compensation should identify the eligible individuals. According to Victim Compensation, to identify those who might be eligible for the scholarship program, it relied upon a list of relatives of victims it had developed while conducting outreach following the terrorist attacks. It stated that its outreach included obtaining the names of victims' relatives from sources such as airline manifests, the United Way, the American Red Cross, the Federal Office of Victims and Crimes, and the New York Victim Compensation Program. Victim Compensation also stated that it identified relatives of the victims through mass media advertising it conducted to inform the public about services it offered, such as counseling and financial support. Victim Compensation believes that as a result of its outreach, it identified as many relatives of victims and eligible dependents as possible.

However, Victim Compensation's outreach had limitations affecting its usefulness. In particular, its media outreach largely occurred immediately following the terrorist attacks, with most media releases predating the May 13, 2002, inception date of the scholarship program. In fact, after the creation of the program, Victim Compensation released only one notice to the public, the focus of which was to inform people of an approaching deadline to file for federal benefits. This notice did not mention the scholarship program at all.

*After the creation of the program, Victim Compensation released only one notice to the public, the focus of which was to inform people of an approaching deadline to file for federal benefits.*

We identified three individuals, related to one victim, who ultimately participated in the scholarship program but who were not included on the list of individuals Victim Compensation contacted about the scholarship program. According to Victim Compensation, although it had identified these three individuals through its initial outreach immediately following the terrorist attacks, they had notified Victim Compensation that they were not interested in the services offered which, at that time, did not include the scholarship program and they had requested not to be contacted. Thus, Victim Compensation did not include them when it established its list of eligible individuals. Victim Compensation cannot explain how these individuals learned of the scholarship program. However, this highlights the fact that, because its media outreach did not specify the available scholarship opportunity, it is possible that Victim Compensation did not make some eligible dependents aware of this opportunity.

Further, Victim Compensation did not meet the legal requirement that it identify all eligible individuals for the scholarship program and notify them of the scholarship opportunity in writing by July 1, 2003. Instead, in June 2003 Victim Compensation sent notices

to victims' relatives it had identified through its outreach efforts informing them that they might be eligible to participate in the scholarship program. Victim Compensation believed that by mailing letters to the large group of identified relatives, regardless of their eligibility for the scholarship program, it had a better chance of ensuring that no eligible dependent was overlooked. Although it could not provide any support, Victim Compensation stated that in April 2005, nearly two years after the statutory deadline, it determined that 43 individuals were eligible for the scholarship program and notified them of their eligibility. As a result, rather than the two years the state law describes, these eligible individuals had fewer than three months—between April 2005 and July 2005—to apply for the scholarship program, which may have limited the number of individuals who chose to participate in the program. Of the 43 eligible individuals that Victim Compensation identified and the three it failed to notify about the program, only 16—related to six victims—took part in the scholarship program.

Additionally, even though state law requires Victim Compensation to identify individuals eligible to participate in the scholarship program, Victim Compensation could not always demonstrate that it had done so. Specifically, Victim Compensation could not demonstrate that it had determined that the three participants discussed above, who learned of the scholarship program through other means, were eligible to participate in the program. Victim Compensation's documents show that it informed the ScholarShare Investment Board, which was charged with establishing the individual scholarship accounts, that the individuals were eligible for the program. However, it could not provide us any documentation that it had determined the eligibility of these three individuals. Consequently, Victim Compensation cannot be sure that all participants in the scholarship program were eligible to participate.

### Recommendations

To ensure that programs supported by special plates receive appropriate amounts of revenues due to them, Motor Vehicles should annually collect all fees for special plates that are no longer on a vehicle but are retained by the plate owner. In addition, Motor Vehicles should ensure that the fees it lists in its application for special plates, as well as any other publications, are supported by the appropriate statutes. It should also assess the extent to which it has charged fees for special plates that are not consistent with those prescribed in statutes and take appropriate action.

To ensure that it accurately recovers its administrative costs related to special plates, Motor Vehicles should continue to annually calculate the administrative costs for the plates when recovering

*Of the 43 eligible individuals that Victim Compensation identified and the three it failed to notify about the program, only 16—related to six victims—took part in the scholarship program.*

these costs for the personalized plates through the State's budget process. Further, Motor Vehicles should periodically assess the cost and benefits of updating its automated systems to reflect current per-plate administrative costs. If Motor Vehicles determines that doing so is cost-effective, it should update its automated systems to reflect the up-to-date administrative costs for all these plates.

To the extent that it continues to expend money from the antiterrorism fund through contracts, Cal EMA should properly monitor its contracts to ensure compliance with their terms. Further, it should ensure that the expenses contractors claim comply with the contracts' terms, including the allowability of the expenses. For example, it should obtain adequate support for invoices contractors submit before issuing payment to ensure that the contractor has performed the work as expected and that the amount claimed is sufficiently supported.

To ensure that it properly administers its contract services paid from the antiterrorism fund, Food and Agriculture should verify that it has an executed contract in place before obtaining services under the contract and should monitor its contractors for compliance with provisions of the contracts and with state contracting laws.

To make certain that money from the special plate funds pay only for allowable and supportable activities, the state agencies named below should do the following:

*Cal EMA:*

- Monitor the administrative expenses it charges to the antiterrorism fund and work with Finance to ensure that these expenses, coupled with additional administrative costs Finance charges, do not exceed 5 percent of the money from the antiterrorism fund appropriated to it during each fiscal year.
- Ensure that it only allows grantees to claim expenses for activities directly related to fighting terrorism and not for ancillary services.
- Maintain documentation to support its charges to the antiterrorism fund. For example, it should ensure that employees submit signed time reports to support the time they spend on antiterrorism-related activities.

*Food and Agriculture:*

- Ensure that employees submit signed time reports to support the time they spend on antiterrorism-related activities.
- Use all appropriate funding sources to pay for any expenses that benefit multiple programs in proportion to the benefits those programs actually receive.

*Parks and Recreation:*

Ensure that environmental fund money budgeted to its offices is supported by the proportion of the offices' activities that state law allows.

*Resources:*

Use all appropriate funding sources to pay for any expenses that benefit multiple programs in proportion to the benefits these programs actually receive. Further, it should ensure that its allocation of such expenses to different funds is equitable and supported.

To ensure that the governor and Legislature have sufficient and appropriate information with which to make decisions on the most effective use of environmental fund money, Resources should submit to the governor and Legislature the annual and triennial reports containing the information that state law requires.

To demonstrate that all participants in the scholarship program are eligible to participate, Victim Compensation should establish and document the eligibility of the three participants for whom it currently lacks such documentation.

We conducted this audit under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives specified in the scope section of the report. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,



ELAINE M. HOWLE, CPA  
State Auditor

Date: April 18, 2013

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For questions regarding the contents of this report, please contact Margarita Fernández, Chief of Public Affairs, at 916.445.0255.

## Appendix

### STATE LAW REQUIRES DIFFERENT FEES FOR DIFFERENT TYPES OF TRANSACTIONS RELATED TO SPECIAL INTEREST LICENSE PLATES

The California Department of Motor Vehicles (Motor Vehicles) is responsible for issuing new special interest license plates (special plates) as well as renewal, duplicate issuance, substitution, reassignment, retention, and conversion of these plates. Motor Vehicles is also responsible for collecting the fees associated with these transactions. Only the renewal and retention fees are due annually, while all other transactions require a fee at the time of the transaction. These fees are generally specified in state laws that establish the special plate programs. State laws have modified some of these fees over the years. Table A on the following page shows the fees that are in statute, as of January 1, 2013, for the different transaction types for the 11 special plates currently available.

**Table A**  
Fees for Various Transactions Related to Special Interest License Plates as of January 1, 2013

LICENSE PLATE TYPE	TRANSACTION TYPE*											
	NONPERSONALIZED PLATE						PERSONALIZED PLATE					
	INITIAL	RENEWAL	SUBSTITUTE	REASSIGNMENT	RETENTION	INITIAL	RENEWAL	DUPLICATE	REASSIGNMENT†	CONVERSION	RETENTION	
Environmental (personalized plate)	NA	NA	NA	NA	NA	\$49	\$38	\$39	\$38	NA	\$38	
Have a Heart, Be a Star, Help Our KIDS	\$21	\$15	\$21	\$15	NA	99	78	74	53	\$99	38	
California Coastal Commission	51	40	36	15	\$40	99	78	74	53	99	78	
Arts Council	51	40	16†	15	NA	99	78	39	53	99	38	
Yosemite Conservancy	51	40	36	15	NA	99	78	74	53	66	38	
Lake Tahoe	51	40	36	15	NA	99	78	74	53	99	38	
Veterans' Organizations	51	40	36	15	NA	99	78	74	53	79	38	
Firefighters	51	35	36	15	NA	99	73	74	53	99	38	
California Memorial	51	40	36	15	40	99	78	74	53	99	78	
Olympic Training Center	51	30	36	15	NA	99	68	74	53	99	38	
Collegiate	51	40	36	15	NA	99	78	74	53	99	38	

Source: California Vehicle Code (vehicle code).

NA = Not applicable.

\* The fees for renewal and retention are due annually. Fees for all other transaction types are due at the time of the related transaction.

† These are defined as *transfers* in the vehicle code.

# State law requires the California Department of Motor Vehicles (Motor Vehicles) to adjust the fee in January of each year by an amount equal to the increase in the California Consumer Price Index. Motor Vehicles currently charges a fee of \$18 for a substitute Arts Council License plate, which includes the latest adjustment based on the California Consumer Price Index.

April 2013

## STATE OF CALIFORNIA

**EDMUND G. BROWN JR.**  
Governor

Department of Alcoholic Beverage Control  
Department of Corporations  
Department of Financial Institutions  
California Highway Patrol  
California Housing Finance Agency  
Department of Housing & Community Development  
Department of Motor Vehicles  
Department of Real Estate  
Department of Transportation



**BRIAN P. KELLY**  
Acting Secretary

Office of Real Estate Appraisers  
Office of Traffic Safety  
New Motor Vehicle Board  
Board of Pilot Commissioners  
California Film Commission  
California Office of Tourism  
Infrastructure and Economic Development Bank  
Small Business Loan Guarantee Program  
Public Infrastructure Advisory Commission

**BUSINESS, TRANSPORTATION AND HOUSING AGENCY**

April 15, 2013

Elaine M. Howle, California State Auditor\*  
California State Auditor's Office  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

Dear Ms. Howle:

Attached please find a response from the California Department of Motor Vehicles (Department) to your draft audit report *Special Interest License Plate Funds: The State Has Foregone Certain Revenues Related to Special Interest License Plates and Some Expenditures Were Unallowable or Unsupported* (#2012-110). Thank you for allowing the Department and the Business, Transportation and Housing Agency (Agency) the opportunity to respond to the report.

As noted in its response, the Department concurs with most of the findings noted in the report and provides a corrective action plan that addresses each of the recommendations. We appreciate your identification of opportunities for improvement and your recommendations for best practices that the Department can follow. We also appreciate you and your staff's flexibility in providing Agency and the Department with additional time to research and address issues that were raised near the end of the report's review period. I speak for both the Agency and the Department when I say that our goal is to always fully comply with applicable laws, rules and regulations.

If you need additional information regarding the Department's response, please do not hesitate to contact Michael Tritz, Agency Deputy Secretary for Audits and Performance Improvement, at (916) 324-7517.

Sincerely,

*(Signed by: Brian P. Kelly)*

**BRIAN P. KELLY**  
Acting Secretary

980 9th Street, Suite 2450 • Sacramento, CA 95814-2742 • (916) 323-5400 • Fax: (916) 323-5440  
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\* California State Auditor's comments appear on page 49.



Acting Secretary, Brian P. Kelly  
April 15, 2013  
Page 2

renewal of registration that includes the continued display of the plates, \$15 for transfer of the plates, \$35 for replacement plates, \$10 for replacement decals, and “*Forty dollars (\$40) for the personalization of the plates*, as authorized under paragraph (2) of subdivision (a).” (Emphasis added). While the Legislature specifically set the fee for the personalized registration number on a Veterans’ plate, it did not require the payment of an annual fee for the plate when it is retained and the vehicle registration is not being renewed. Veterans’ plate statute, Vehicle Code §5068, unlike similar language for other special plates, does not say: “A person described in Section 5101 may also apply for a set of commemorative” Veterans’ plates. ②

BSA’s recommendations and DMV’s responses (in bold) are listed below:

Recommendations:

To ensure that programs supported by special plates receive appropriate amounts of revenues due to them, DMV should:

1. Annually collect fees for special plates that are no longer on a vehicle but are retained by the plate owner.

**Response:**

**DMV acknowledges the importance of annually collecting the fees but also recognizes the database limitations that likely would require extensive and extremely costly modifications in order to implement the recommendation. Therefore, DMV will conduct a cost/benefit analysis to determine whether recommended changes would result in a positive return on the investment. To fully implement this recommendation, DMV would need to separate the billing for special interest and personalized license plates from the registration renewal process. Major programming and processing changes would be required to: (1) create a unique and separate license plate database that would enable DMV to track and bill for these license plates by specific plate owner, and (2) then cancel any configurations that are not renewed annually. The costs associated with such an effort could be substantial and likely would result in severely reducing any net proceeds to the special plate funds or even eliminating the programs’ viability altogether. As a result, further study is warranted to identify alternatives and determine the true cost to implement necessary changes before a final decision can be made as to what is the most appropriate course of action for the State, taxpayers and special fund stakeholders.** ③

Acting Secretary, Brian P. Kelly  
April 15, 2013  
Page 3

**Planned completion date: September 30, 2013**

**(NOTE: This date reflects completion of the cost/benefit analysis to determine whether recommended changes would result in a positive return on the investment. To fully implement this recommendation, DMV would need to separate the billing for special interest and personalized license plates from the registration renewal process. If a determination is made that a change would be cost-effective, a project would be initiated and a timeline to implement the programming and procedural changes would be determined at that point. )**

2. Ensure that the fees it identifies in its application for special plates, as well as any other publications, are supported by appropriate statutes.

**Response:**

**DMV has always made a good faith effort regarding interpretation and application of statutes, but acknowledges the BSA's literal interpretation of the statutes applicable to some of the special license plates. DMV acknowledges the BSA conclusion that some fees DMV charged for special plates are inconsistent with those that applicable statutes prescribe.**

**Beginning immediately, DMV Legal Affairs Division will begin a thorough legal analysis of the applicable statutes to ensure that it appropriately identifies and applies the correct fees.**

**Planned completion date: September 30, 2013**

3. Assess the extent to which it has charged fees for special plates that are not consistent with those prescribed in statutes and take appropriate action.

**Response:**

**For those fees already found to be inconsistent with applicable statutes, DMV will take immediate action to ensure correct fees will be charged henceforth, and also will correct associated publications. If a determination is made that other fees for personalized plates are not consistent with statute, DMV will take similar corrective actions.**

**Planned completion date: December 31, 2013**

To ensure that it accurately recovers its administrative cost related to special plates, when recovering these costs for the personalized plates through the State's budget process, DMV should:

4. Continue to annually calculate the administrative costs for the plates.

**Response:**

**DMV concurs with this recommendation and had updated the costs in the January 2013 Governor's Budget prior to the audit. DMV will continue to annually update the transfer amount for each budget year.**

**Corrective action is complete, as it is ongoing.**

Acting Secretary, Brian P. Kelly  
April 15, 2013  
Page 4

5. Periodically assess the cost and benefits of updating its automated systems to reflect current plate administrative costs. If DMV determines that doing so is cost-effective, it should update its automated systems to reflect the up-to-date administrative costs for all these plates.

**Response:**

**DMV concurs with this recommendation and will periodically assess the cost and benefits updating its automated systems to reflect current per-plate administrative costs, and will implement such updates if doing so is cost-effective.**

4

**Planned completion date: September 30, 2013**

**(NOTE: This request requires a periodic cost/benefit analysis comparing the per-plate administrative costs with costs associated with implementing an ASF change. Per-plate administrative costs are updated every two years in the spring. Based on the DMV Budget Office's input that the latest figures would be available in April/May 2013, we anticipate that we could complete the initial cost/benefit analysis to determine whether a change in ASF would be cost-effective by the September 30, 2013, date. If the analysis indicates a change cost-effective, the actual programming and changes to implement such as change would require a date of March 31, 2014.)**

DMV appreciates the opportunity to provide a response to the draft audit report. If you have any questions or require further information, please contact Barbara J. Owens, Chief of Audits, at (916) 657-0455.

Sincerely,

*(Signed by: Jean Shiimoto)*

JEAN SHIOMOTO  
Chief Deputy Director

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## Comments

### CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE CALIFORNIA DEPARTMENT OF MOTOR VEHICLES

To provide clarity and perspective, we are commenting on the California Department of Motor Vehicles' (Motor Vehicles) response to our audit. The numbers below correspond to the numbers we have placed in the margin of Motor Vehicles' response.

As we state on page 22, our estimate took into account factors that we could quantify based on the data available from Motor Vehicles. Motor Vehicles was not able to quantify the magnitude of any of the anecdotal elements it lists, such as stolen or salvaged vehicles. Moreover, as we state on page 22, our estimate also does not include license plates that were retained prior to fiscal year 2009–10. Had we included such license plates, our estimate would have been higher. Consequently, without having the actual data, Motor Vehicles' suggestion that the total dollar figure for foregone revenues is likely less than what we estimated is misleading.

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Motor Vehicles indicates that it has a concern regarding our conclusions with respect to the fees for the personalized Veterans and KIDS plates. In an effort to clarify the concern we reached out to Motor Vehicles because we were unable to understand the point it was attempting to make in its response and it provided us with additional clarification. However, we continue to stand by our conclusions regarding those fees.

②

We look forward to reviewing Motor Vehicles' cost-benefit analysis to determine whether implementing our recommendation would result in a positive return on the investment, which it expects to complete by September 30, 2013.

③

We look forward to reviewing Motor Vehicles' cost-benefit analysis of updating its automated systems to reflect current per-plate administrative costs, which it expects to complete by September 30, 2013.

④

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April 2013



March 27, 2013

Ms. Elaine M. Howle, CPA  
State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, California 95814

Dear Ms. Howle:

Thank you for the opportunity to respond to the internal control and state compliance audit report for special license plate (special plate) programs. The California Department of Food and Agriculture (CDFA) Special Interest License Plate Funds are accounted for in the antiterrorism fund. CDFA strives to continuously improve the operations of the department and has implemented the following corrective actions to address the Bureau of State Audit's (BSA) recommendations.

**BSA Recommendation 1:**

CDFA could not always adequately support some of the charges to the antiterrorism fund and provide a rationale supporting the proportion of costs they charged to these funds (e.g., salaries, geographic information system software, and payments for building leases and contracts). For example, CDFA paid for employee's salary for fiscal years 2009/10 and 2011/12 entirely from the antiterrorism fund, but could not support that the employee worked solely on antiterrorism activities. BSA recommends employees submit signed time reports to support the time spent on antiterrorism related activities.

**CDFA Comments and Corrective Actions:**

CDFA concurs with this recommendation and will implement a new time tracking system to track employee time spent on antiterrorism activities. As part of this effort, as shown below, the Emerging Threats (ET) Database Management modules<sup>1</sup> (Table A) are aligned by fund based on the propensity of a bioterrorism or agroterrorism agent to attack the California agricultural industry. The modules are cross referenced with the Congressional Report to Congress, *Agroterrorism: Threats and Preparedness*, March 2007 (Exhibit B, Table 5, CRS 45)<sup>2</sup>, which displays and discusses the nexus between animal livestock diseases, agents/toxins and agroterrorism. The Center for Disease Control and Office of International des Epizooties, have prepared a Select Agents List (Table 5) which are determined to have a potential to pose a severe threat to human and animal health by an act of terrorism. Additionally, Bovine Tuberculosis

<sup>1</sup> Source: Table A: Support Efforts by Module. Joint Legislative Budget Committee Report, Status of the Emerging Threats Data Management Enhancement Project, January 2011

<sup>2</sup> Congressional Report provided to BSA on March 19, 2013



Ms. Elaine M. Howle, CPA  
March 27, 2013  
Page 2

(TB), Foreign Animals Disease (FAD), and Pseudorabies Virus (PRV) are discussed (pages 57 and 58) in the ET Data Management System Enhancements, CDFA, ET Project, #8570-58, Special Project Report #1, April 1, 2009<sup>3</sup>. This discussion helps to understand the association between Bovine TB, FAD, and PRV to the Select Agent List. Finally, the Budget Change Proposal, Emerging Threats to Food Production, fiscal year 2006/07 discusses the agroterrorism link to milk and dairy food products. The ET Database Management modules not on the Select Agents List (Table B) are aligned with the General Fund based on a 'natural' or accidental incident.

Table A – Modules aligned with agroterrorism related activity:
----------------------------------------------------------------

Core Information System, Avian Influenza, Brucellosis, Milk and Dairy Food Safety, Foreign Animal Disease, Foot and Mouth Disease, Exotic Newcastle Disease, Classic Swine Fever, Bovine Tuberculosis, Swine Disease and Pseudorabies Virus
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Table B – Modules aligned with General Fund related activity:
---------------------------------------------------------------

Contagious Equine Metritis, Meat and Poultry Inspections, Johnes Disease Herd Test, West Nile Disease and Bovine Trichomonosis
--------------------------------------------------------------------------------------------------------------------------------

### Recommendation 2:

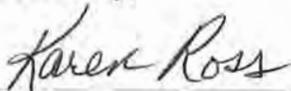
There were two instances in which Food and Agriculture allowed one of its contractors to provide services through two different contracts paid for out of the antiterrorism fund before the contracts were fully executed. Ensure a contract is fully executed prior to services being rendered.

### CDFA Comments and Corrective Actions

CDFA has addressed with the contract manager of the two contracts the importance of adherence to the state law which provides that a contract be fully executed and approved before services begin.

CDFA is committed to ensuring the proper financial operations and business practices, as well as, ensuring that internal controls exist for the safeguarding and effective use of the antiterrorism fund. If you have questions regarding CDFA's corrective actions, please contact Dave Preciado, Assistant Director, Animal Health and Food Safety Services division, at (916) 900-5000, or Kari Morrow, Assistant Director, Administrative Services division, at (916) 654-1020.

Yours truly,



Karen Ross  
Secretary

<sup>3</sup> SPR provided to BSA on October 2012.

EDMUND G. BROWN, JR.  
GOVERNOR

MARK S. GHILARDUCCI  
SECRETARY



March 28, 2013

Elaine M. Howle, CPA\*  
California State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

Dear Ms. Howle:

The California Emergency Management Agency (Cal EMA) is submitting the response to the findings and recommendations provided in Report 2012-110, *Special Interest License Plate Funds: The State Has Foregone Certain Revenues Related to Special Interest License Plates and Some Expenditures Were Unallowable or Unsupported*. The audit included a review of the administration of our antiterrorism fund, which funds activities related to the prevention, detection, and emergency response of terrorist activities. These terrorist activities involve the unlawful use of force or violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives. The revenue derived from the Memorial License Plate is sent to California's five Fusion Centers whose main purpose is to fully support antiterrorism activities for the common purpose of safeguarding our homeland and preventing future terrorist and criminal activity.

Cal EMA would like to thank you for the opportunity to respond to your recommendations, as we continue to strive for improvements and excellence in the administration of our funds. Our responses to the recommendations identified in the report are as follows:

**Recommendation #1**

Cal EMA should monitor the administrative expenses it charges to the antiterrorism fund and work with Finance to ensure that these expenses, coupled with additional administrative costs Finance charges, do not exceed 5 percent of the money appropriated to Cal EMA from the antiterrorism fund during each fiscal year.

**Cal EMA Response to #1**

The Bureau of State Audits in its "November 2012 Report 2012-105" addressed a similar issue in which appropriations were made from a special fund that authorizes Social Services to spend no more than 5 percent of its trust fund appropriations on administration. In that report the Bureau of State Audits opined that exceeding that 5 percent limit does not represent a violation of state law because the Legislature has the right to override its past decisions. The Bureau further stated in the report, "By enacting

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Ms. Elaine M. Howle, CPA  
March 28, 2013  
Page 2

appropriations for administrative purposes, the Legislature authorized Social Services to spend the funds.”

The Legislature made ongoing antiterrorism fund appropriations including \$100,000 in the Budget Act of 2005 (see Governor’s Budget “Major Program Changes”) and \$100,000 in the Budget Act of 2006 (Final Change Book Issue 104, Administrative Unit Workload) within the Cal EMA budget for administrative purposes. Applying the same rationale expressed by the Bureau of State Audits in its November 2012 Report 2012-105, the Legislature’s appropriation of state operations funds for Cal EMA authorized the Cal EMA to spend the funds for administrative purposes.

The Cal EMA will share this audit report with the Department of Finance for their determination of any changes needed to comply with special fund statutes while also complying with the requirements of Government Code Section 11274 (e.g. pro rata charges).

### **Recommendation #2**

Cal EMA should ensure it only allows grantees to claim expenses for activities directly related to fighting terrorism and not for ancillary services.

### **Cal EMA Response to #2**

These expenditures were incurred by the State of California’s five Fusion Centers currently receiving antiterrorism funding. The Fusion Centers are intended to support antiterrorism activities for the common purpose of safeguarding our homeland from future terrorist attacks.

These Fusion Centers serve as an effective and efficient mechanism to receive, analyze and share public safety information among local, state, federal, tribal and private sector partners. This task force environment applies cross disciplinary expertise for multi-threat domain situational awareness and the crafting of tactical and strategic intelligence products in support of the prevention and investigation of crime and terrorism.

In addition to serving as a de-confliction and knowledge resource hub informing law enforcement and decision making at all levels of government, the regional fusion centers provide local public safety mission support through:

- Managing regional suspicious activity reporting (SAR) programs and serving as the primary mechanism for the provision of SAR Information to local Joint Terrorism Task Forces;
- Providing case support and direct tactical intelligence;

Ms. Elaine M. Howle, CPA

March 28, 2013

Page 3

- Development of local and regional crime link and trend analysis;
- Continuous education and training of law enforcement and public safety professionals on suspicious activity, terrorism indicators; and,
- Analysis and information sharing on the evolving techniques, tactics and procedures of terrorist and criminal activity.

Based on the Fusion Center activities and operations outlined above, when determining eligible Fusion Center activities the Cal EMA shall follow California Vehicle Code Section 5066 (e) which states, “Eligible activities include, but are not limited to, hiring support staff to perform administrative tasks, hiring and training additional law enforcement, fire protection, and public health personnel, response training for existing and additional law enforcement, fire protection, and public health personnel, and hazardous materials and other equipment expenditures.”

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Cal EMA shall ensure all subgrantee expenses are eligible under Vehicle Code Section 5066 (e) by reviewing and approving application materials and documents submitted by the fusion centers that meet the aforementioned criteria.

### **Recommendation #3**

Cal EMA should maintain documentation to support its charges to the antiterrorism fund. For example, it should ensure that employees submit signed time reports to support the time spent on antiterrorism related activities.

### **Cal EMA Response to #3**

Cal EMA has implemented procedures to assure it retains signed time sheets for staff working on antiterrorism related activities.

On behalf of Cal EMA, I appreciate your time, assistance and guidance offered. I also would like to thank you for granting us the opportunity to continuously improve our practices. If you have additional questions or concerns, please feel free to contact my Audit Chief, Anne Marie Nielsen at (916) 845-8437 or at Anne.Marie.Nielsen@calema.ca.gov.

Sincerely,

*(Signed by: Mark S. Ghilarducci)*

MARK S. GHILARDUCCI  
Secretary

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## Comments

### CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE CALIFORNIA EMERGENCY MANAGEMENT AGENCY

To provide clarity and perspective, we are commenting on the California Emergency Management Agency's (Cal EMA) response to our audit. The numbers below correspond to the numbers we have placed in the margin of Cal EMA's response.

Cal EMA incorrectly compares its administrative expenditures to those we described in our November 2012 report. In the 2012 report, we discussed how the Department of Social Services (Social Services), over the course of several years, received appropriations from the Legislature specifically for *administration*, which exceeded the 5 percent cap provided for in law. For the years that the Legislature appropriated those funds specifically for administrative activities, Social Services was authorized to spend those funds for *administration*, notwithstanding the 5 percent cap. In contrast, Cal EMA has been unable to demonstrate that the Legislature made appropriations from the Antiterrorism Fund (antiterrorism fund) specifically for *administration* in excess of the 5 percent cap. Cal EMA provided information regarding a single appropriation for the administration of grants in a fiscal year outside the scope of this audit, but could not provide support that, notwithstanding the 5 percent cap, the Legislature made appropriations specifically for *administration* during the years of our review. Thus, Cal EMA used its appropriation for the general administrative purposes in violation of the law.

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Cal EMA incorrectly implies that all activities of the five fusion centers relate to antiterrorism. As we state on page 31, state law requires that the money from the antiterrorism fund be used exclusively for purposes directly related to fighting terrorism. We also state on page 31 that activities such as the purchase and moving of office furniture, registration and travel expenses incurred for training courses on how to apply for grants and cooperative agreements, and the purchase of office supplies do not meet this test and are therefore unallowable. We therefore reiterate our recommendation on page 38 that Cal EMA should ensure that it only allows grantees to claim expenses for activities directly related to fighting terrorism and not for ancillary services.

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April 2013



**EDMUND G. BROWN JR.**, Governor  
**JOHN LAIRD**, Secretary for Natural Resources

March 28, 2013

Elaine M. Howle, CPA\*  
 California State Auditor  
 555 Capitol Mall, Suite 300  
 Sacramento, CA 95814

Dear Ms. Howle:

Thank you for providing the Agency with an opportunity to respond to the Bureau of State Audits (BSA) Audit of the Special Interest License Plate Funds. In addition to reviewing Special Interest License Plate Fund expenditures at the Natural Resources Agency, BSA also reviewed expenditures at the Department of Fish and Wildlife (DFW), and the Department of Parks and Recreation (Parks). My staff and I have reviewed the report with staff from DFW, Parks, SNC and TRPA, and discussed the issues identified. Our combined departmental response to your findings is as follows:

#### **Environmental Funds are Unallowable or Unsupported**

We disagree with BSA's characterization of expenditures as "Unallowable or Unsupported." The BSA did not note any expenditures used in a manner in violation of the statute. In addition, the Department of Finance, the Governor and the Legislature have consistently appropriated these Environmental License Plate funds for administrative costs as allowed for in statute. We also note that distribution of administrative costs by fund is the prerogative of the Agency and its departments and again does not violate any statute. ①

#### **Reporting Requirements Have Not Been Consistently Met**

The Agency disagrees with the finding that the Agency discontinued the annual report required by Public Resources Code Section 21193(b). The Agency, in cooperation with the Department of Finance and the over twenty departments that receive ELPF, provide information used to produce the separate display in the Governor's budget, and provide required data through the Department of Finance's budget development process. ②

BSA notes that the Agency has not submitted the tri-annual report pursuant to Public Resources Code Section 21193.5, which requires the Agency to describe why Environmental License Plate funding is an appropriate source in relationship to the benefits achieved by the programs and projects it supports. Although the Agency believes this report to be redundant of information already provided through the budget process, we agree with this finding and will provide the required information to start the 3-year cycle in conjunction with submittal of the Governor's budget. ③

1416 Ninth Street, Suite 1311, Sacramento, CA 95814 Ph. 916.653.5656 Fax 916.653.8102 <http://resources.ca.gov>

Baldwin Hills Conservancy • California Coastal Commission • California Coastal Conservancy • California Conservation Corps • California Tahoe Conservancy  
 Coachella Valley Mountains Conservancy • Colorado River Board of California • Delta Protection Commission • Delta Stewardship Council • Department of Boating & Waterways • Department of Conservation  
 Department of Fish & Game • Department of Forestry & Fire Protection • Department of Parks & Recreation • Department of Resources Recycling and Recovery • Department of Water Resources  
 Energy Resources, Conservation & Development Commission • Native American Heritage Commission • Sacramento-San Joaquin Delta Conservancy • San Diego River Conservancy  
 San Francisco Bay Conservation & Development Commission • San Gabriel & Lower Los Angeles Rivers & Mountains Conservancy • San Joaquin River Conservancy  
 Santa Monica Mountains Conservancy • Sierra Nevada Conservancy • State Lands Commission • Wildlife Conservation Board



\* California State Auditor's comments begin on page 61.

In closing, I would like to acknowledge the efforts of the BSA audit team. They conducted the audit in a professional and courteous manner that was appreciated by my staff.

Sincerely,

A handwritten signature in black ink, appearing to read "John Laird". The signature is written in a cursive style with a large initial "J".

John Laird  
Secretary for Natural Resources

## Comments

### CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE CALIFORNIA NATURAL RESOURCES AGENCY

To provide clarity and perspective, we are commenting on the California Natural Resources Agency's (Resources) response to our audit. The numbers below correspond to the numbers we have placed in the margin of Resources' response.

Resources incorrectly states that we characterized its expenditures, as well as those of the Department of Parks and Recreation (Parks and Recreation) as unallowable. We do not include Resources and Parks and Recreation among entities that made unallowable expenditures. However, we did clarify our heading on page 29. As we state on pages 33 and 34, Resources and Parks and Recreation could not adequately support charges to the Environmental License Plate Fund (environmental fund) or provide a rationale supporting the proportion of costs they charged to the fund. We believe that it is a good government practice for a state agency to have support to justify the costs it allocates to various funding sources. Further, not all activities that Parks and Recreation undertakes qualify for the use of the environmental fund. For example, as we state on page 33, Parks and Recreation's Office of Historic Preservation (office) is responsible for performing a variety of tasks, only some of which directly support environmental purposes. Moreover, as we state on page 33, a budget officer at Parks and Recreation agreed with our finding and noted that Parks and Recreation is working to address this concern with next year's budget allocations. We therefore stand by our recommendation that Resources and Parks and Recreation maintain support for their justification of costs allocated to the environmental fund.

As we state on page 34, state law requires Resources to annually submit to the governor a list of projects and programs recommended for funding, a statement of the purpose of each project and program, and the benefits to be realized by each project and program, along with the agency secretary's comments for inclusion in the governor's budget. Although Resources asserts that the information it provides through the California Department of Finance's (Finance) budget development process meets the annual reporting requirement, the budgetary information we reviewed does not include the information state law requires it to report annually, such as the benefits to be realized for each project or program proposed for funding.

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- ③ As we state on pages 34 and 35, the triennial report is required by state law. If Resources believes that the triennial report is redundant, it should work with the Legislature to amend or repeal the law that requires it.

April 2013

**EDMUND G. BROWN JR.**  
GOVERNOR



*State and  
Consumer Services Agency*

**ANNA M. CABALLERO**  
SECRETARY

African American Museum  
Building Standards Commission  
Consumer Affairs  
Expo Park  
Fair Employment & Housing  
Franchise Tax Board  
General Services  
Science Center  
Seismic Safety Commission  
Public Employees' Retirement System  
Teachers' Retirement System  
Victim Compensation &  
Government Claims Board

March 28, 2013

Elaine Howle\*  
California State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

**Re: Bureau of State Audit's Draft Report – 2012-110 – Special Interest License Plate Funds**

Pursuant to the above draft audit report, enclosed is the response from the Victim Compensation and Government Claims Board.

The State and Consumer Services Agency would like to thank the Bureau of State Audits for its comprehensive review. The results provide us with the opportunity to better serve our clients and public.

Sincerely,

*for* Anna M. Caballero  
Secretary  
State and Consumer Services Agency

Enc.

\* California State Auditor's comment appears on page 65.



STATE OF CALIFORNIA  
EDMUND G. BROWN JR., Governor

March 28, 2013

Elaine M. Howle, CPA State Auditor  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

ANNA CABALLERO  
Secretary  
State and Consumer Services Agency  
Chairperson

JOHN CHIANG  
State Controller  
Board Member

MICHAEL A. RAMOS  
San Bernardino County District Attorney  
Board Member

JULIE NAUMAN  
Executive Officer

Dear Ms. Howle:

Thank you for the opportunity to respond to the draft report, "Special Interest License Plate Funds: The State Has Foregone Certain Revenues Related to Special Interest License Plates and Some Expenditures Were Unallowable or Unsupported".

In particular, I would like to respond to the recommendation on page 45, "To demonstrate that all participants in the scholarship program are eligible to participate, VCGCB should establish and document eligibility of three participants for whom it currently lacks such documentation."

After 9/11, we conducted an extensive outreach effort using every available method to identify victims. Our outreach included requesting copies of the airline manifests to identify and contact next of kin of any California residents aboard the four flights and inform them of CalVCP benefits and services. We coordinated with the Federal Office for Victims of Crime and victim compensation programs for other impacted states and shared names of victims with each other. We also worked directly with the Congressional September 11<sup>th</sup> Compensation Fund to further expand our efforts in identifying California victims and survivors. As a result of these efforts the three individuals referenced in the audit were contacted regarding CalVCP benefits and responded that they were not interested and requested that we cease contacting them.

When contacted by the Treasurer's Office in 2005 to provide verification for the Scholarshare program, among those we were asked to verify were the three individuals we had previously contacted who requested that we not contact them again. Respecting their wishes we were unable to provide verification information. VCGCB will contact the family to obtain necessary information to complete the documentation of eligibility process.

Thank you again for the opportunity to respond to the pending report.

Sincerely,

Julie Nauman  
Executive Officer

## Comment

### **CALIFORNIA STATE AUDITOR'S COMMENT ON THE RESPONSE FROM THE CALIFORNIA VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD**

To provide clarity and perspective, we are commenting on the California Victim Compensation and Government Claims Board's (Victim Compensation) response to our audit. The number below correspond to the number we have placed in the margin of Victim Compensation's response.

Victim Compensation misses the concern we express in the report. In order to participate in the Memorial Scholarship Program (scholarship program), the law requires that Victim Compensation establish the eligibility of all applicants. Notwithstanding requests by these three individuals to not be contacted about services Victim Compensation offered prior to the establishment of the scholarship program, Victim Compensation had a legal duty to establish their eligibility when they applied for the scholarship.

①

cc: Members of the Legislature  
Office of the Lieutenant Governor  
Little Hoover Commission  
Department of Finance  
Attorney General  
State Controller  
State Treasurer  
Legislative Analyst  
Senate Office of Research  
California Research Bureau  
Capitol Press