

New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Management of Selected Special Revenue Funds

Department of Health



Report 2015-S-72

August 2016

Executive Summary

Purpose

To determine whether the Department of Health (Department) is effectively managing selected special revenue funds to ensure the funds are spent timely and for their intended purposes. Our audit covered the period April 1, 2013 through December 31, 2015.

Background

The Department's stated mission is to protect, improve, and promote the health, productivity, and well-being of all New Yorkers. Its vision states that New Yorkers will be the healthiest people in the world – living in communities that promote health, protected from health threats, and having access to quality, evidence-based, cost-effective health services. In harmony with that endeavor, the Department administers over 90 special revenue funds, which are supported by specific sources of State-generated revenue and are legally restricted to disbursement for specified purposes. Over a decade ago, the State created four such funds to promote awareness of, and research into, the following health issues: organ donation, autism, diabetes, and multiple sclerosis. Funds are raised primarily through the sale of distinctive license plates in support of the specific causes. More recently, the fund for organ donation (the Life Pass It On Trust Fund) has also begun to benefit from a voluntary \$1 donation check-off on license applications. As the statutorily designated administering agency, the Department is responsible for implementing the programs that these funds support, pursuant to appropriations and guiding statutes.

As the following chart shows, the distinctive license plates and license application check-off box have generated just over \$1.3 million for the four funds, of which slightly more than \$133,000 (10 percent) has been expended. The funds can also receive grants, gifts, or bequests, although this has resulted in only one \$10 donation.

Fund (Year Initiated)	Life to Date Contributions	Life to Date Disbursements	December 2015 Balance
Life Pass It On Trust Fund (2004)	\$1,076,541	\$0	\$1,076,541
Autism Awareness Fund (2005)	108,226	37,941	70,285
Drive Out Diabetes Fund (2002)	89,027	64,293	24,734
Multiple Sclerosis Fund (2004)	35,406	31,000	4,406
Totals	\$1,309,200	\$133,234	\$1,175,966

Key Findings

- For two of the funds – Drive Out Diabetes and Multiple Sclerosis – the Department used monies timely and as intended. At the same time, the Department has failed to use \$460,000 appropriated by the Legislature for the other funds. Most of this funding is for the Life Pass It On Trust Fund, which had a balance of more than \$1 million in December 2015 and has never been used by the Department since its inception over a decade ago.
- Overall, officials have taken a passive approach to managing and utilizing special revenue funds, lacking any specific plans and policies for fund management and making little effort to promote the funds or raise awareness of their existence. Officials also do not report to the public on how

the funds are used and only monitor fund activity when specific issues arise. As a result, they were unaware that, over time, at least \$10,000 that should have been deposited in the Drive Out Diabetes Fund was instead diverted to the New York State General Fund because of the Department of Motor Vehicles' (DMV) failure to properly implement a statutory change that occurred in August 2007.

- The Department is not effectively or properly promoting, providing public disclosure of, or managing selected special revenue funds. For example, New York ranks among the lowest nationally in registering organ and tissue donors, while the State's need for donors is among the highest in the country. Yet no disbursements have been made from the Life Pass It On Trust Fund since its inception. Donors who participate in the distinctive license plate registration program do so to support a specific cause and expect the funds to be expended timely.

Key Recommendation

- Establish and implement fund management controls to ensure that special revenue funds supported by voluntary contributions are utilized timely and for their intended purposes. Such controls should include, but not be limited to:
 - Written plans and policies specifically geared toward the management of specific special revenue funds;
 - Procedures to effectively promote the respective distinctive license plates of each fund, as well as the State's ability to accept grants, gifts, and bequests for these funds;
 - Public disclosure of how funds are used;
 - Regular monitoring of fund activity; and
 - Communication with DMV regarding revenue deposits and collaborative marketing/promotional efforts.

Other Related Audits/Reports of Interest

[Department of Health: Oversight of the Early Intervention Program's State Fiscal Agent \(2015-S-22\)](#)

[Department of Health: Nursing Home Surveillance \(2015-S-26\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

August 2, 2016

Howard A. Zucker, M.D., J.D.
Commissioner
Department of Health
Corning Tower
Albany, NY 12237

Dear Dr. Zucker:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of the Department of Health entitled *Management of Selected Special Revenue Funds*. This audit was performed according to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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Background

The Department's mission is to protect, improve, and promote the health, productivity, and well-being of all New Yorkers. Its vision states that New Yorkers will be the healthiest people in the world – living in communities that promote health, protected from health threats, and having access to quality, evidence-based, cost-effective health services. In harmony with that endeavor, the Department administers over 90 special revenue funds, which are supported by specific sources of State-generated revenue and are legally restricted to disbursement for specified purposes. The Department is statutorily responsible for implementing the programs the funds support, pursuant to appropriations and guiding statutes.

Over ten years ago, New York established four special revenue funds in the State Finance Law that allow for the solicitation and disbursement of monies to promote the awareness and research of certain health issues. Monies are primarily raised through provisions of the State's Vehicle and Traffic Law and administered by the Department of Motor Vehicles' (DMV) distinctive license plate vehicle registration program, whereby vehicle owners pay an annual service charge of \$25, in addition to the standard registration fee, to obtain special plates in support of a specific cause.

Currently, the entire \$25 fee is required to be distributed to the respective fund, with the exception of the Life Pass It On Trust Fund, where only \$20 of the \$25 is deposited into the fund; the remaining \$5 goes to the New York State General Fund. For each of the funds, Vehicle and Traffic Law allows that one year from their effective dates, a portion of the fund, ranging from \$5,000 to \$7,500 or so much thereof as may be available, may be allocated to DMV to offset production costs associated with the respective distinctive plate.

Vehicle and Traffic Law also instituted a driver's license application/renewal form check-off box for the Life Pass It On Trust Fund. This allows people applying for or renewing a driver's license to make a voluntary \$1 donation to the fund. The first \$150,000 collected was retained by DMV to offset its initial program costs. Subsequently, 5 percent of all monies collected are retained by DMV for continuing administrative costs, while the remaining monies are deposited into the Life Pass It On Trust Fund.

The distinctive license plates and license application/renewal check-off boxes have generated just over \$1.3 million for all four funds, of which slightly more than \$133,000 (10 percent) has been expended. The funds can also receive grants, gifts, or bequests; this has resulted in one \$10 donation. Table 1 summarizes the contributions to and disbursements from the four special revenue funds we reviewed.

Table 1

Fund (Year Initiated)	Life to Date Contributions	Life to Date Disbursements	Balance December 2015
Life Pass It On Trust Fund (2004)	\$1,076,541	\$0	\$1,076,541
Autism Awareness Fund (2005)	108,226	37,941	70,285
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Totals	\$1,309,200	\$133,234	\$1,175,966

Vehicle owners who support a cause through distinctive license plate registration, as well as license applicants who support the Life Pass It On Trust Fund through the application check-off box, do so with the expectation that the extra fees collected are earmarked specifically as the fund states and are expended timely. For each of the funds, State Finance Law requires that, to the extent practicable, the Commissioner of Health ensure all monies received during a fiscal year are expended prior to the end of that fiscal year.

The purpose of this audit was to determine whether the Department is effectively managing these special revenue funds, and to ensure funds are spent timely and for their intended purposes. Our audit covered the period April 1, 2013 through December 31, 2015.

Audit Findings and Recommendation

We found that for two of the funds – Drive Out Diabetes and Multiple Sclerosis – the Department used monies timely and as intended. However, the Department did not utilize a combined \$240,000 in appropriations for the Life Pass It On Trust Fund and the Autism Awareness Fund from April 1, 2013 through March 31, 2015. The Department was also at risk of allowing another \$220,000 in appropriations for those same funds to go unused by the end of the State fiscal year ending March 31, 2016. The majority of the unused appropriations (\$200,000) are for the Life Pass It On Trust Fund, which had a balance of \$1,076,541 as of December 2015; none of these monies has been utilized by the Department since the fund's inception in February 2004. The Department's failure to utilize these funds in a timely fashion is a disservice to both those who have contributed to these funds as well as the cause these funds were intended to benefit.

In managing the funds, Department officials have generally taken a passive approach to utilizing them. Specifically, officials do not: have a written plan and policies specifically geared toward the management of special revenue funds; adequately promote the funds to raise awareness and increase contributions; and report to the public on how the funds are used. Further, we noted that fund monitoring was limited, and officials did not effectively communicate with DMV regarding revenue deposits and/or possible collaboration of marketing efforts to promote the funds. These weaknesses could affect donations to the funds, which have been steadily declining over the last three to four fiscal years.

Our audit also revealed that Department officials were unaware that the DMV was erroneously transferring only \$20 of the \$25 fee for each Drive Out Diabetes distinctive license plate into the Drive Out Diabetes Fund rather than the full \$25 as required by Vehicle and Traffic Law. Instead, the remaining \$5 was transferred to the State's General Fund. We estimate, in total, over \$10,000 was not transferred to the Drive Out Diabetes Fund from August 2007 through December 2015.

Management of Special Revenue Funds

Overall, we found the Department's management of special revenue funds to be lacking. Department officials have no written plans and policies specific to the management of each individual special revenue fund, but they do follow the OSC Guide to Financial Operations and general procurement guidelines, as well as the statutes pertaining to each of the funds. Also, Department officials do not: report to the public on their use of the funds; adequately promote the funds to raise awareness and increase contributions; routinely monitor the funds; and adequately communicate with DMV regarding revenue deposits or possible collaboration of marketing efforts.

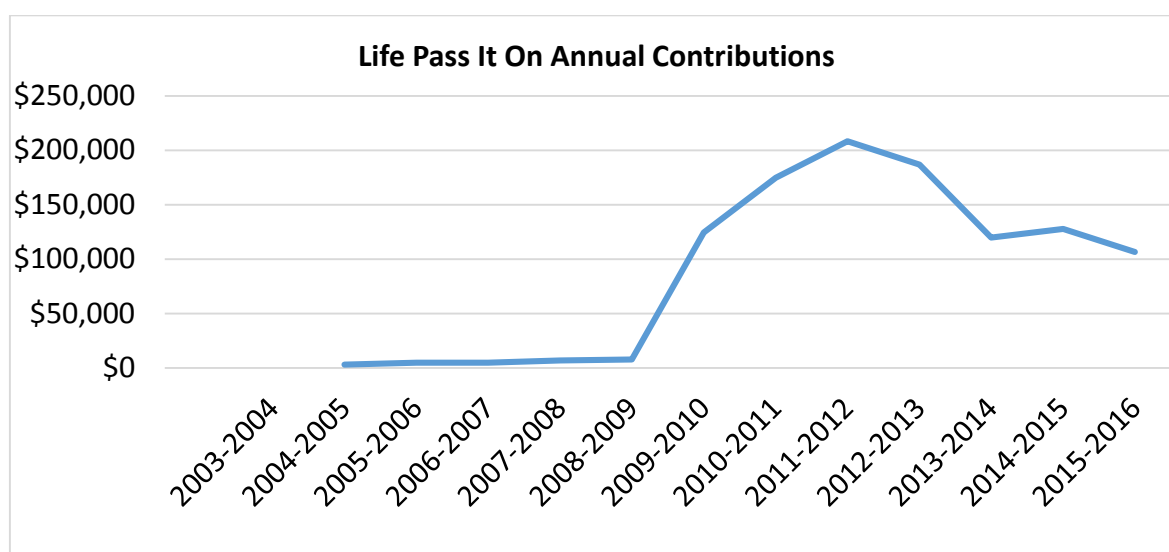
Department officials who oversee the funds stated they monitor the funds on an as-needed basis, checking the balance of a fund only when they are ready to procure goods or services. Department officials are unaware of what the balance should be for each of the funds, and they receive no reports or information from DMV to ensure that the balance is complete and accurate. We found that DMV was not forwarding all of the required revenues to one of the funds.

In 2007, the Vehicle and Traffic Law was amended to increase the amount of the \$25 fee for the distinctive license plate that is dedicated to the Drive Out Diabetes Fund. Originally, \$20 of the \$25 went to the fund, while the remaining \$5 went to the State's General Fund. The amendment required that the full \$25 go to the fund; however, DMV continued to transfer only \$20 of the \$25 fee. DMV officials acknowledged this error and stated that they are already working to rectify the situation and determine the amount erroneously transferred to the General Fund. We estimate that this amount exceeds \$10,000.

State Finance Law also allows for each of the funds to receive grants, gifts, or bequests as direct voluntary contributions without the purchase of a distinctive license plate. The Life Pass It On Trust Fund, however, is the only one of the four funds to receive a voluntary donation since their inception – in this case, one \$10 gift. Department officials indicated one of the main causes for delays in the use of funds has been the limited amounts that are actually available. Yet, when asked what marketing or promotional efforts have been made to raise awareness of the funds, they indicated they work to increase awareness about the issues that the funds address (i.e., autism, diabetes, multiple sclerosis, organ donation), but do nothing specific to promote awareness of the actual funds that have been established to support these causes. In fact, with the exception of the Autism Awareness distinctive plate, we found the Department's website does not even mention the funds or link to DMV's distinctive license plates webpage.

Our analysis shows contributions that were initially increasing annually have subsequently remained flat or even declined in recent years. For example, as Figure 1 shows, the Life Pass It On Trust Fund received contributions in the \$3,000 to \$7,000 range during its first five years. Contributions then jumped to more than \$124,000 when the \$1 license application check-off box was instituted in 2009. This trend continued over the next two years, reaching its peak at \$208,000 in fiscal year 2011-12. However, contributions have declined in three of the last four fiscal years and totaled just over \$106,000 in fiscal year 2015-16. It is unclear the extent to which factors such as the lack of use of the funds or the absence of any promotional efforts have contributed to these declines.

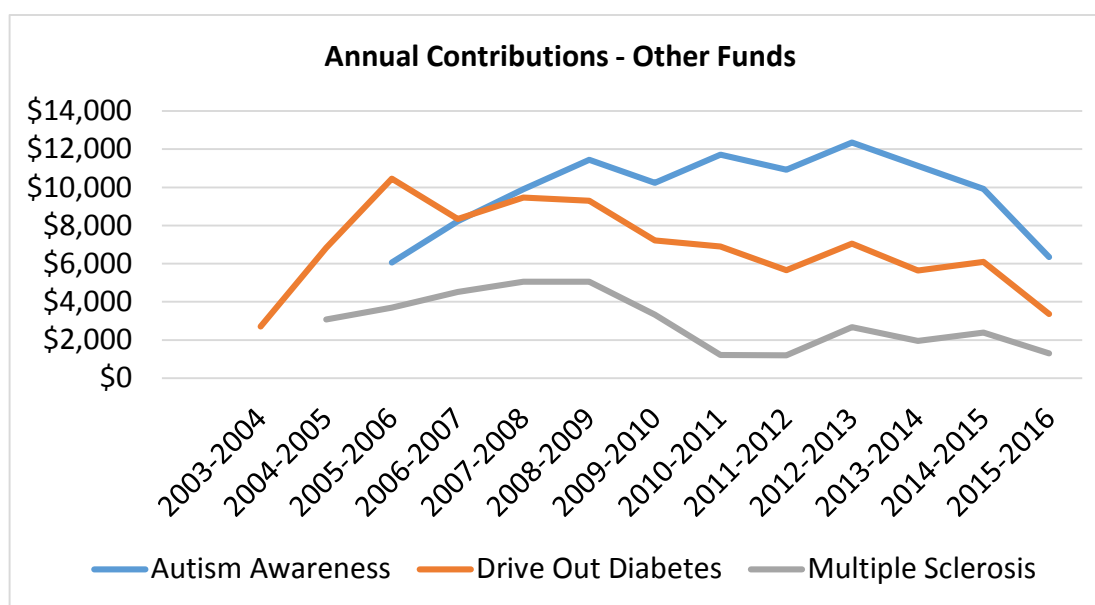
Figure 1



Similar trends have also occurred with the three other funds, which have traditionally generated substantially fewer contributions than the Life Pass It On Trust Fund. For instance (and as illustrated in Figure 2):

- The Autism Awareness Fund had six consecutive years of revenue ranging between \$10,000 and \$12,000. In fiscal year 2014-15, contributions totaled just under \$10,000 and in fiscal year 2015-16, contributions are just over \$6,000.
- The Drive Out Diabetes Fund had four consecutive years between \$8,000 and \$10,000 in revenue, but has not exceeded \$8,000 for the last six fiscal years. Fiscal year 2015-16 contributions were just over \$3,000.
- The Multiple Sclerosis Fund had two consecutive years of more than \$5,000, but has not exceeded \$5,000 in contributions for the last six fiscal years. Fiscal year 2015-16 contributions were just over \$1,000.

Figure 2



We believe the Department needs to do more to promote awareness and increase contributions to the funds. Currently, the Department does not report to the general public or to individual contributors on its use of the funds and the resulting public impact. Further, as the Attorney General's Charities Bureau website points out, greater transparency builds greater public trust. Periodic reporting could be one means of promoting the funds and possibly increasing donations.

Budget Planning and Timely Use of Revenue

For each of the funds we examined, State Finance Law stipulates that, to the extent practicable, monies received during a fiscal year need to be expended prior to the end of that fiscal year. Of the four funds, we found that two funds had very little or no expenditures. The Life Pass It On Trust Fund has never incurred any expenditures and has a balance of more than \$1 million as of December 2015; the Autism Awareness fund has not incurred any expenditures since April 1,

2013 despite a balance of more than \$70,000 as of December 2015.

To utilize any fund, appropriations for it must be included in the State budget. An appropriation is a statutory authorization to make expenditures during a specific State fiscal year for the purposes designated up to the stated amount of the appropriation. Appropriations are subject to negotiations among the Governor, Senate, and Assembly, and can be requested by agencies or added as spending initiatives. Agencies, including the Department, must submit budget requests to the Division of the Budget (DOB) outlining their spending plans prior to the start of a new fiscal year. The DOB may set cash ceilings for individual funds.

When we initially spoke to Department officials, we were informed that the Department does not request new appropriations, but waits for DOB to include them in the budget for the first time. During the course of our audit, however, we determined that while no appropriations were requested during the scope of our audit, the Department did request appropriations in the past for the Multiple Sclerosis and Drive Out Diabetes Funds. Table 2 summarizes the appropriations and cash ceilings for the selected funds during the audit period.

Table 2

Fund	2013-14	2014-15	2015-16
Life Pass It On			
Appropriation	\$0	\$200,000	\$200,000
Cash Ceiling	0	200,000	200,000
Autism Awareness			
Appropriation	\$20,000	\$20,000	\$20,000
Cash Ceiling	20,000	20,000	20,000
Multiple Sclerosis			
Appropriation	\$20,000	\$20,000	\$20,000
Cash Ceiling	0	20,000	0
Drive Out Diabetes			
Appropriation	\$100,000	\$100,000	\$100,000
Cash Ceiling	0	50,000	0

Life Pass It On Trust Fund

According to a July 2014 report from BlueCross BlueShield, New York ranks among the lowest nationally in registering organ and tissue donors, while the State's need for donors is among the highest in the country. The report also states that, in 2013, 539 New York State residents died waiting for an organ donation. As part of efforts to increase organ donation and awareness, the Life Pass It On Trust Fund was passed into law in August 2003 and became effective in February 2004. However, as shown in Table 3, the fund has not been utilized since its inception and has accumulated a balance approaching \$1.1 million.

Table 3

Life Pass It On Trust Fund			
State Fiscal Year	Beginning Balance	Revenue	Expenditures
2004-2005	\$0.00	\$3,045.68	\$0.00
2005-2006	3,045.68	4,692.16	0.00
2006-2007	7,737.84	4,956.11	0.00
2007-2008	12,693.95	7,019.82	0.00
2008-2009	19,713.77	7,689.18	0.00
2009-2010	27,402.95	124,548.65	0.00
2010-2011	151,951.60	174,907.24	0.00
2011-2012	326,858.84	208,499.05	0.00
2012-2013	535,357.89	186,826.84	0.00
2013-2014	722,184.73	119,980.37	0.00
2014-2015	842,165.10	127,910.70	0.00
2015-2016	970,075.80	*106,465.35	0.00

* Through December 9, 2015, with a balance of \$1,076,541.15.

The Department was aware of and supported the legislation establishing the Life Pass It On Trust Fund. Yet, despite the fact that the balance of the fund reached over \$100,000 during the 2009-10 fiscal year, the Department did not request an appropriation for the fund from DOB for the 2010-11, 2011-12, or 2012-13 fiscal years. In October 2012, there was internal Department communication to request an appropriation for the 2013-14 fiscal year, but the first appropriation for the fund, amounting to \$200,000, was not made until the following fiscal year (2014-15).

When questioned why an appropriation was not requested sooner, Department officials stated that, since 2008-09, DOB has issued call letters directing agencies to submit budgets that assume zero growth. Subsequently, the Governor limited spending growth to 2 percent. As a result of not having an appropriation in prior years, Department officials took the position that they could not request funding in a zero budget growth environment. However, the Department's position is inconsistent with its actions in prior years, when it submitted budget requests for funds not previously appropriated despite a call letter requiring zero budget growth. Most importantly, though, it is reasonable to expect that donors would have wanted their contributions, paid above and beyond their regular personal income tax liability, to be expended to advance the cause that they supported.

Additionally, our analysis found that, in any given fiscal year, the Department's spending growth would have only been affected by less than one one-thousandth (.001) of 1 percent, even if the Department had spent the entire combined balance of all four funds (see Table 4).

Table 4

SFY	Total Department Spending	Combined Balance of All Funds	Actual Spending Growth Rate	Spending Growth Rate including Fund Balance	Additional Impact on Spending Increase
2014	\$98,444,159,360	\$844,440	0.71946%	0.72033%	0.00086%
2015	110,234,076,535	973,119	11.97625%	11.97724%	0.00099%
2016	* 118,694,979,133	1,058,497	7.67540%	7.67636%	0.00096%

* Projected annual expenditure level.

When the first appropriation of \$200,000 in State special revenue funds was made for the Life Pass It On Trust Fund in 2014-15, the Department planned to contract out the operation and maintenance of the New York State Donate Life Registry (Registry), which had historically been supported by other State monies. The registry is a record of people who have consented to donate their organs, tissue, or eyes upon their death. A request for proposal (RFP) for the Registry was issued on August 28, 2014 with an anticipated contract start date of December 1, 2014. However, the Department was unable to finalize a contract within the 2014-15 fiscal year, and therefore no funds were expended. We also note that the Public Health Law authorized the State to enter into a multi-year contract for the operation of the Registry, but prohibited the Department's use of fund revenues for the Registry contract until 2015-16. As a result, even if the Department had secured the Registry contract within the 2014-15 fiscal year, it would still not have been able to use Life Pass It On funds to help cover the cost.

The Department also received a \$200,000 appropriation for the 2015-16 fiscal year and planned to use the funds toward the contract. However, by the end of our fieldwork, the contract had still not been finalized and the appropriation again went unused.

Autism Awareness Fund

The Department received a \$20,000 appropriation for the Autism Awareness Fund in each fiscal year of our audit scope. The Department had planned to use the 2013-14 Autism Awareness appropriation to fund a contract with the American Academy of Pediatrics District II (AAP) to provide autism awareness training. However, the contract was cancelled when a joint investigation by the Office of the State Comptroller and the Attorney General's Office revealed the Executive Director of AAP had been misusing funds from other contracts. As a result, no funds were expended in the first year, but the Department planned to use the full \$20,000 appropriation in fiscal year 2014-15 for the printing of updated clinical practice guidelines. The printing depended on the completion of the updated guidelines and was originally scheduled to occur in January 2015. However, the guidelines were not completed in time, and the funds sat unused. The expected printing was then postponed again, until January 2016. However, that deadline was not met either. Thereafter, officials reduced the cash ceiling to increase spending ability in other areas of the Department. As a result, the appropriation went unused for the third consecutive year. Table 5 summarizes the revenues, expenditures, and fund balances of the Autism Awareness Fund from the 2005-06 through the 2015-16 fiscal years.

Table 5

Autism Awareness Fund			
State Fiscal Year	Beginning Balance	Revenue	Expenditures
2005-2006	\$0.00	\$6,059.88	\$0.00
2006-2007	6,059.88	8,219.47	0.00
2007-2008	14,279.35	9,901.95	0.00
2008-2009	24,181.30	11,450.89	0.00
2009-2010	35,632.19	10,232.50	0.00
2010-2011	45,864.69	11,715.59	0.00
2011-2012	57,580.28	10,926.78	(17,936.29)
2012-2013	50,570.77	12,346.83	(20,004.64)
2013-2014	42,912.96	11,122.02	0.00
2014-2015	54,034.98	9,912.85	0.00
2015-2016	63,947.83	* 6,337.20	0.00

* Through December 9, 2015, with a balance of \$70,285.03.

The Department's inability to utilize these funds in a timely manner thwarts the purpose of the fund – which is to advance research for the cause and treatment of autism and educate the public.

Drive Out Diabetes Fund

The Department has routinely had an annual \$100,000 appropriation for the Drive Out Diabetes Fund since its inception in 2002. However, for two of the three years of our scope, DOB did not authorize a cash ceiling for this fund. In 2014-15, the cash ceiling was set at \$50,000. Table 6 summarizes the revenues, expenditures, and fund balances from the 2003-04 through 2015-16 fiscal years.

Table 6

Drive Out Diabetes Fund			
State Fiscal Year	Beginning Balance	Revenue	Expenditures
2003-2004	\$0.00	\$2,705.36	\$0.00
2004-2005	2,705.36	6,836.89	0.00
2005-2006	9,542.25	10,462.45	0.00
2006-2007	20,004.70	8,345.41	(1,200.00)
2007-2008	27,150.11	9,466.91	0.00
2008-2009	36,617.02	9,302.62	(13,162.36)
2009-2010	32,757.28	7,212.66	0.00
2010-2011	39,969.94	6,898.21	0.00
2011-2012	46,868.15	5,650.82	0.00
2012-2013	52,518.97	7,052.97	0.00
2013-2014	59,571.94	5,633.62	0.00
2014-2015	65,205.56	6,097.20	(49,930.64)
2015-2016	21,372.12	* 3,361.47	0.00

* Through December 9, 2015, with a balance of \$24,733.59.

When funds were expended, the Department utilized the available appropriations to support its 16-week National Diabetes Prevention Program, an evidence-based lifestyle change program for preventing Type II diabetes. The program provides a variety of materials for those who participate. The funds were used to purchase these items.

Multiple Sclerosis Fund

The Multiple Sclerosis Fund is used to support research at pediatric multiple sclerosis care centers affiliated with the National Multiple Sclerosis Society. There are only two such care centers in New York State: one at the State University of New York at Buffalo (SUNY Buffalo) and the other at the State University of New York at Stony Brook (SUNY Stony Brook). Department officials indicated that when they receive an appropriation, they usually split the monies between these two SUNY schools to support pediatric multiple sclerosis research.

Over the life of the Multiple Sclerosis Fund, the Department expended \$31,000, with SUNY Buffalo and SUNY Stony Brook each receiving a total of \$15,500. At the start of the 2015-16 fiscal year, the balance was only \$3,102, and so the Department again received no authorized cash ceiling. Table 7 summarizes the revenues, expenditures, and fund balances from the 2004-05 through 2015-16 fiscal years.

Table 7

Multiple Sclerosis Fund			
State Fiscal Year	Beginning Balance	Revenue	Expenditures
2004-2005	\$0.00	\$3,073.00	\$0.00
2005-2006	3,073.00	3,699.76	0.00
2006-2007	6,772.76	4,508.94	0.00
2007-2008	11,281.70	5,047.38	0.00
2008-2009	16,329.08	5,056.48	0.00
2009-2010	21,385.56	3,318.60	0.00
2010-2011	24,704.16	1,207.23	0.00
2011-2012	25,911.39	1,187.87	0.00
2012-2013	27,099.26	2,670.65	(10,000.00)
2013-2014	19,769.91	1,943.62	(10,000.00)
2014-2015	11,713.53	2,388.50	(11,000.00)
2015-2016	3,102.03	*1,304.18	0.00

* Through December 9, 2015, with a balance of \$4,406.21.

Using Funds for Their Intended Purpose

For each of the four funds, the State Finance Law specifically addresses how monies are to be used, as follows:

- Life Pass It On Trust Fund: For organ transplant research and education, and grants to not-for-profits to increase and promote organ and tissue donation awareness. Beginning in 2015-16 fund revenues can be used to operate the Registry.
- Autism Awareness Fund: For autism awareness projects aimed toward educating the general public about the causes, symptoms, and treatments of autism and autism research projects focused on the causes and/or treatment.
- Drive Out Diabetes Fund: For diabetes research and education projects.
- Multiple Sclerosis Fund: For research into the causes and/or treatment, conducted by multiple sclerosis care centers in New York State which are licensed care centers affiliated with the National Multiple Sclerosis Society.

We found the Department's use of the Autism Awareness, Drive Out Diabetes, and Multiple Sclerosis Funds was in compliance with the Law. However, we found issues with its administration of the Life Pass It On Trust Fund. Although the Department's intended use of Life Pass It On funding is authorized by the State Finance and Public Health Laws, we question the extent to which the Department has been transparent and accountable to those who have contributed about what their money will be supporting.

Prior to 2014, the Life Pass It On Trust Fund could not be used to support the operation and

maintenance of the Department's Registry. To reduce reliance on State funding, the Department therefore attempted to establish a no-cost contract for the operation of the Registry. Successful bidders were expected to acquire their own source of funds to provide the services expected. A full procurement was prepared; however, no responses were received. This lack of interest was part of the impetus to change State Finance and Public Health Laws to authorize Life Pass It On funding in support of the contract. The change allowed for monies received on or after May 1, 2014 to be used for the operation and maintenance of the Registry starting in State fiscal year 2015-16 and thereafter.

Although the statute is a public record, the Department made no additional efforts to make the public aware of this extended use of the fund, even to individuals who had in the past contributed to it. The Life Pass It On distinctive license plate is advertised on both the DMV and the New York Alliance for Donation websites, and both indicate that monies go toward organ donation and transplant research as well as educational programs promoting organ and tissue donation. However, neither website indicates that the funds will support contracted operation and maintenance of the Registry.

Transparency is fundamental in the stewardship of public funds, and even more so with donated funds. The State Attorney General's Charities Bureau website describes five best practices for transparent cause marketing. One best practice ("Clearly Describe the Promotion") advocates that, before purchasing a product or using a service, consumers should be able to easily understand how doing so will benefit the charity. In other words, consumers should know what their money is going toward. If spending is not in line with consumer intent, then trust will decline, and as a result, so will the amounts of monies contributed.

Recommendation

1. Establish and implement fund management controls to ensure that special revenue funds supported by voluntary contributions are utilized timely and for their intended purposes. Such controls should include, but not be limited to:
 - Written plans and policies specifically geared toward the management of specific special revenue funds;
 - Procedures to effectively promote the respective distinctive license plates of each fund, as well as the State's ability to accept grants, gifts, and bequests for these funds;
 - Public disclosure of how funds are used;
 - Regular monitoring of fund activity; and
 - Communicating with DMV regarding revenue deposits and possible collaboration of marketing/promotional efforts.

Audit Scope and Methodology

Our audit sought to determine whether the Department is effectively managing selected special revenue funds to ensure the funds are spent timely and for their intended purposes for the period April 1, 2013 through December 31, 2015.

To accomplish our objectives, we selected a sample of the Department's special revenue funds based on factors including, but not limited to, fund activity, revenue source, and fund size. We reviewed the corresponding statutes (Public Health Law Section 4310; New York State Finance Law, Article 6, Section 95; New York State Vehicle and Traffic Law, Title IV, Article 14, Section 404; and Vehicle and Traffic Law Section 508) associated with each of our selected funds, as well as legislative bill jackets related to the funds, to obtain an understanding of the intent of each fund. We reviewed material posted on the websites of the Department, DMV, and the New York State Alliance for Donation to determine how the funds were marketed to the public. We also interviewed Department officials to obtain an understanding of their applicable policies and procedures as well as the intended use for each of the selected funds. Further, we assessed the Department's related internal controls, and we reviewed information from the Statewide Financial System, as well as custom license plate registration information from DMV, to determine if the fund balances were complete and accurate.

We conducted our performance audit in accordance with 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. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. Therefore, in our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

This audit was performed according to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

Reporting Requirements

We provided a draft copy of this report to Department officials for their review and formal comment. We considered officials' comments in preparing this report and attached them in their entirety at the end of the report. In their response, Department officials did not specifically agree or disagree with our report's recommendation. However, officials indicated that the Department "takes its responsibility for these funds very seriously." Further, officials assert that a pending contract for the operation and promotion of the New York State Donate Life Organ and Tissue Donor Registry represents a public-private partnership that will significantly strengthen organ donation in the State. Also, our rejoinders to certain Department comments are included in the report's State Comptroller's Comments.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Health shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendation contained herein, and if the recommendation was not implemented, the reasons why.

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Vision

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Agency Comments



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

June 10, 2016

Mr. John Buyce, Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, New York 12236-0001

Dear Mr. Buyce:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's Draft Audit Report 2015-S-72 entitled, "Management of Selected Special Revenue Funds."

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Sally Dreslin".

Sally Dreslin, M.S., R.N.
Executive Deputy Commissioner

Enclosure

cc: Michael J. Nazarko
Ed Cahill
Marybeth Hefner
Andrew Ruby
Lori Conway

**Department of Health
Comments on the
Office of the State Comptroller's
Draft Audit Report 2015-S-72 entitled,
Management of Selected Special Revenue Funds**

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Draft Audit Report 2015-S-72 entitled, "Management of Selected Special Revenue Funds."

Recommendation #1

Establish and implement fund management controls to ensure that special revenue funds supported by voluntary contributions are utilized timely and for their intended purposes. Such controls should include, but not be limited to:

- Written plans and policies specifically geared toward the management of specific special revenue funds;
- Procedures to effectively promote the respective distinctive license plates of each fund, as well as the State's ability to accept grants, gifts, and bequests for these funds;
- Public disclosure of how funds are used;
- Regular monitoring of fund activity; and
- Communicating with DMV regarding revenue deposits and possible collaboration of marketing/promotional efforts.

Response #1

The OSC did not specify any Department actions inconsistent with NYS statute or policies or procedures. The Department takes its responsibility for these funds very seriously.

*
Comment
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An innovative contract for the operation and promotion of the New York State Donate Life Organ and Tissue Donor Registry (NYSDLR), which is currently with OSC for approval, represents a public-private partnership that will significantly strengthen organ donation in NYS. The selected contractor, the New York Alliance for Donation (NYAD), has a long-standing mission of increasing organ, eye and tissue donation in NYS through collaborative advocacy, education, promotion and research. The Department is implementing this new program with the organ donation special revenue funds.

NYS statute directs the Department of Motor Vehicles (DMV) to collect these special revenues, and the Department has no statutory authority to oversee DMV operations. The Department has previously discussed with DMV the use of these special revenue funds, and the two Departments will continue to discuss these issues.

- The Department has written policies and procedures covering these funds. OSC's Guide to Financial Operations is the primary set of policies and reference. In addition, Statewide Financial System procedures, workflow requirements, and job aids are also governing policies.
- Use of these funds to "promote the distinctive license plate of each fund" would detract from their intended important use, which is to promote awareness and research. Further,

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Comment
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*See State Comptroller's Comments, Page 23

it is not known if promotional activities would generate additional revenue, nor would it be appropriate to use donated funds for such a purpose.

- Public information on the authorization and use of these funds is available through Open Book, Open Budget, and ongoing program description updates on the Department's website.
- The Department continues to regularly monitor fund revenues and disbursements. The relevant expenditure plan is the basis for planned activities. Variances and corrective actions or plan revisions are reviewed among finance and program staff.
- The Department and DMV will continue to discuss use of these special revenue funds.

State Comptroller's Comments

1. We acknowledge that the Department's actions (or inactions for that matter) were not, in and of themselves, technically non-compliant with specific provisions of the applicable State statutes. However, as detailed in the report, the Department has done little to promote the funds or raise awareness of their existence, particularly the Life Pass It On Trust Fund. At a time when New York State ranks 49th in the nation for organ donation (while its need for donors is among the highest), more needs to be done to promote organ donation and research. Consequently, we maintain that the Department needs to develop formal plans to help ensure that special funds are used efficiently, effectively, and timely for their designated purposes.
2. We acknowledge the existence of general policies and procedures pertaining to financial operations, including the disbursement of funds. Nevertheless, given the special funds' overall lack of activity, we maintain that the Department should develop formal plans and policies specifically for the management and use of such funds.
3. The Department's comment is speculative. Further, our report does not recommend that the Department use the donated funds for promotional activities. Rather, we believe the promotion of the distinctive license plates and the public's awareness of program research efforts are not mutually exclusive. With some creativity, promotion of one could be used to help promote the other. Also, it is somewhat ironic that officials question the use of promotional activities to generate program interest and revenues given the State's extensive use of media to promote a range of perceptions and initiatives. Given the general decrease in special fund contributions in recent years, we urge Department officials to reconsider the use of low-cost and/or no-cost alternatives to promote the special fund programs.