



The Commonwealth of Massachusetts
Office of the Comptroller
One Ashburton Place, Room 901
Boston, Massachusetts 02108

MARTIN J. BENISON
COMPTROLLER

PHONE (617) 727-5000
FAX (617) 727-2163
INTERNET: <http://www.mass.gov/osc>

July 8, 2013

Secretary Glen Shor
Executive Office of Administration and Finance

The Honorable Stephen M. Brewer
Senate Committee on Ways and Means

The Honorable Brian S. Dempsey, Chairman
House Committee on Ways and Means

Dear Secretary Shor, Chairman Brewer and Chairman Dempsey:

On July 1, 2013, the Attorney General and the Department of Revenue jointly certified to the State Comptroller's Office that for the period May 1, 2013 through June 30, 2013 there were no individual judgments and settlements in excess of \$10 million, and that year-to-date judgments and settlements totaled \$133,803,323.56. Pursuant to Section 2H of Chapter 29 of the Massachusetts General Laws, individual judgments and settlements in excess of \$10 million are to be transferred to the Stabilization Fund. Because there were no such settlements during the period May 1, 2013 through June 20, 2013, there will be no transfers pursuant to Section 2H for that period.

The entire settlement amount of \$133,803,323.56 normally would be transferred to the Commonwealth Stabilization Fund pursuant to section 2H of Chapter 29. However, Section 79 of Chapter 238 of the Acts of 2012, "An Act Relative to Infrastructure Investment, Enhanced Competitiveness and Economic Growth in the Commonwealth", requires that the Comptroller transfer \$4,000,000 from the General Fund to the Smart Growth Housing Trust Fund from judgments and section 80 of the same Act requires that, rather than be transferred to the Stabilization Fund, such revenue be retained in the General Fund to reimburse it for revenue foregone during the August 2012 sales tax holiday. On December 31, 2012 the Commissioner of Revenue certified that the amount of sales tax revenue foregone by the General Fund due to the August 2012 sales tax holiday totaled \$21,040,000.00, after adjusting for increases in income and corporate tax revenue generated by greater economic activity induced by the sales tax holiday.

Furthermore, Section 2A of Chapter 3 of the Acts of 2013, \$30,000,000.00 of settlement revenue, which would normally be transferred to the Stabilization fund, will be retained in the General Fund to fund Hinton drub lab remediation costs.

Previously in FY13, I transferred \$4,000,000 from judgments and settlements to the Smart Growth Housing Trust Fund, retained \$21,040,000.00 in the General Fund to reimburse the fund for tax revenue

forgone due to the sales tax holiday, and retained \$30,000,000 in the General Fund to fund Hinton drug lab remediation costs. As a result of these adjustments, \$78,763,323.56 has been transferred to the Stabilization Fund in FY13 on account of judgments and settlements in excess of \$10 million and no additional amount will be transferred for the fiscal year 2013.

If you have any questions regarding this letter, please contact Howard Merkowitz, Deputy Comptroller at (617) 973-2602.

Sincerely,

Martin J. Benison
Comptroller

Enc. Attachment #1: Section 79 of Chapter 238 of the Acts of 2012
Attachment #2: Section 80(g) of Chapter 238 of the Acts of 2012
Attachment #3: Section 2A of Chapter 3 of the Acts of 2013

Cc: Amy Pitter, Commissioner, Department of Revenue
Judy Zeprun Kalman, Deputy Attorney General, Attorney General's Office
Samuel Goldhar, Budget Director, House Ways and Means
Douglas Howgate, Budget Director, Senate Ways and Means
James MacDonald, First Deputy Treasurer, Treasurer's Office
Kazim Ozyurt, Director, Office of Tax Policy Analysis, Department of Revenue
Howard Merkowitz, Deputy Comptroller, Office of the Comptroller
BJ Trivedi, FRAB Director, Office of the Comptroller
Julia Burns, GAB Director, Office of the Comptroller

Attachment #1

Ch. 238 of the Acts of 2012

SECTION 79. Notwithstanding the last paragraph of section 2H of chapter 29 of the General Laws, \$4,000,000 received from proceeds of one-time settlements or judgments that would otherwise be transferred to the Commonwealth Stabilization Fund shall instead be deposited in the Smart Growth Housing Trust Fund, established in section 35AA of chapter 10 of the General Laws.

Attachment 2

Ch. 238 of the Acts of 2012

Section 80 (g). Not later than December 31, 2012, the commissioner of revenue shall certify to the comptroller the amount of foregone revenue from any sales tax holiday enacted by the General Court in calendar year 2012. Notwithstanding the last paragraph of section 2H of chapter 29 of the General Laws, for the purpose of compensating for that amount of foregone revenue the comptroller shall transfer to the General Fund such amount of foregone revenue, the proceeds of one-time settlements or judgments that would otherwise be transferred to the Commonwealth Stabilization Fund, according to a schedule approved by the secretary of administration and finance and considering the cash flow needs of the commonwealth.

Attachment 3
Ch. 3 Acts of 2013

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to provide for alterations of purpose for current appropriations and to meet certain requirements of law, the sums set forth in this section are hereby appropriated from the General Fund unless specifically designated otherwise in this section, for the several purposes and subject to the conditions specified in this section and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2013. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Reserves.

1599-0054.. For a reserve for costs of the investigation and response related to the breach at the Dr. William A. Hinton Laboratory at the State Laboratory Institute; provided, that the secretary of administration and finance may transfer funds from this item to state agencies, as defined in section 1 of chapter 29 of the General Laws, and to municipalities for this purpose; provided further, that these transfers shall occur on a monthly basis in incremental amounts based on costs to investigate or respond to the Hinton laboratory breach unless the secretary determines that funds are required to be transferred more or less frequently in order to meet necessary funding needs of state agencies and municipalities; provided further, that transfers shall be made in accordance with an executed memorandum of agreement between the secretary and each entity receiving funding, documenting the types of costs eligible for funding under this item and other terms of funding that the secretary considers appropriate, a copy of which shall be filed with the chairs of the house and senate committees on ways and means within 10 days after the agreement's execution; provided further, that requests for funding of eligible costs pursuant to any such memorandum of agreement shall include documentation evidencing these eligible costs that the secretary, in the secretary's sole discretion, determines to be sufficient; provided further, that no transfers shall be made from this item before the filing of the applicable memorandum of agreement with the house and senate committees on ways and means; and provided further, that the secretary shall file a quarterly report with the chairs of the house and senate committees on ways and means which identifies, by funding recipient: (i) all funding requests and transfers made for the quarter that has most recently ended; (ii) the total funding requested and transfers by fiscal year; and (iii) projected funding required for the forthcoming quarter \$30,000,000

