



U.S. Department
of Transportation

**Federal Highway
Administration**

Notice

Subject:

**ADVANCE NOTIFICATION OF FEDERAL-AID HIGHWAY FUNDS
TO BE APPORTIONED ON OCTOBER 1, 2023**

| Classification Code | Date | Office of Primary Interest |
|---------------------|---------------|----------------------------|
| N4510.879 | June 30, 2023 | HCFB-10 |

1. **What is the purpose of this Notice?**

- a. As required by Section 104(e) of Title 23, United States Code (U.S.C.), this Notice is to notify States of the anticipated amounts of funds to be apportioned for Fiscal Year (FY) 2024 under 23 U.S.C. 104. The anticipated apportionment amounts are subject to change before issuing the certificate of apportionment, which is effective on October 1, 2023.
- b. This Notice also provides the procedures for States to opt out of the Recreational Trails Program and the procedures for the Governor of a land border State to designate up to 5 percent of the State's FY 2024 Surface Transportation Block Grant (STBG) Program (Any Area) funds for use on border infrastructure projects.

2. **What are the anticipated FY 2024 apportionments?** The following table shows the FY 2024 anticipated apportionment amounts effective on October 1, 2023. The table shows the anticipated apportionments of the National Highway Performance Program (NHPP), STBG, Highway Safety Improvement Program (HSIP), Railway-Highway Crossings Program, Congestion Mitigation and Air Quality Improvement (CMAQ) Program, Metropolitan Planning Program, National Highway Freight Program, Carbon Reduction Program, and Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation Formula Program.

3. **Are certain States subject to potential withholdings or transfers?** Currently, the States that are listed under the following requirements are subject to potential withholdings or transfers on October 1, 2023. Note that States subject to penalties under 23 U.S.C. 148(g) and 23 U.S.C. 119(f) will be notified directly by the applicable program office.

a. **Open Container Requirements – 23 U.S.C. 154**

Funds are subject to a 2.5 percent transfer to the State's Highway Safety Program under 23 U.S.C. 402 or use for HSIP under 23 U.S.C. 148: NHPP and STBG.

Alaska, Connecticut, Delaware, Hawaii, Louisiana, Maine, Mississippi, Missouri, Ohio, Puerto Rico *, Tennessee, Virginia, and Wyoming

b. National Minimum Drinking Age – 23 U.S.C. 158

Funds subject to 8 percent withholding: NHPP and STBG.

Puerto Rico *

c. Repeat Offenders – 23 U.S.C. 164

Funds are subject to a 2.5 percent transfer to the State’s Highway Safety Program under 23 U.S.C. 402 or use for HSIP under 23 U.S.C. 148: NHPP and STBG.

Alaska, California, Colorado, Hawaii, Indiana, Louisiana, Michigan, Minnesota, Missouri, Montana, Nevada, New Mexico, North Dakota, Ohio, Oregon, Puerto Rico *, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Washington, and Wyoming

Note: States that do not have complying laws may be eligible to establish compliance with 23 U.S.C. 164 by submitting a certification pursuant to 23 Code of Federal Regulations 1275.5. To avoid a penalty on October 1, 2023, such States are encouraged to submit their certification by August 15, 2023.

4. **Are there obligation controls?** Yes. The obligation limitation associated with the funds transferred pursuant to 23 U.S.C. 154 and 23 U.S.C. 164 is subject to obligation controls in force at the time of the transfer.

5. What are the requirements of the Recreational Trails Program set-aside?

a. **Participation in the Recreational Trails Program set aside:** Section 133(h)(5) of Title 23, U.S.C., provides for a set-aside from each State’s Transportation Alternatives funding for the Recreational Trails Program (RTP). The amount of the set-aside is equal to each State’s FY 2009 apportionment for the RTP. Each State subject to the set-aside must comply with the provisions for the administration of the RTP under Section 206 of Title 23, U.S.C., and must return 1 percent of the set-aside funds to the Secretary for administration of the RTP under Section 133(h)(5)(B) of Title 23, U.S.C.

The Federal Highway Administration (FHWA) will process the return of the 1 percent of the set-aside funds for administration automatically and may complete the return on an incremental basis consistent with the obligation controls in force at the time of the action (i.e., when operating under a continuing

*Puerto Rico Highway Program funds are not apportioned. Section 165 of Title 23, U.S.C., states that, for the purpose of imposing penalties, such funds will be treated as being apportioned under 23 U.S.C. 104(b) and 144 (as in effect for FY 1997) in the same proportions as Puerto Rico’s FY 1997 apportionments. Funds treated as being apportioned for the National Highway System, STBG, and Interstate maintenance program shall be deemed to have been apportioned 50 percent for NHPP and 50 percent for STBG, for purposes of imposing penalties.

resolution, a proportional amount equal to the obligation authority will be transferred).

- b. **Procedures to opt-out of the RTP set-aside:** Section 133(h)(6)(A) of Title 23, U.S.C., allows a State to opt out of the RTP set-aside. In order to opt out of the set-aside, a State must inform FHWA of its decision to opt-out no later than 30 days prior to apportionments being made for a fiscal year. Since apportionments for FY 2024 will be effective on October 1, 2023, a State must make notification of its decision to opt out by September 1, 2023.

Any State that desires to opt out of the RTP set-aside for FY 2024 shall notify FHWA via email, with a letter signed by the Governor or the Governor's designee accompanying the opt-out notification, to FHWA Office of Budget's official mailbox (BudDiv@dot.gov) no later than September 1, 2023.

- c. **Effect of not opting out by deadline:** If a State does not affirmatively opt-out by September 1, 2023, FHWA will apply the RTP set-aside to a State's Transportation Alternatives funding and 1 percent of the RTP set-aside amount will be returned to the Secretary for administration as provided in paragraph a.

6. **What are the procedures for the Governor of a land border State to designate up to 5 percent of the State's FY 2024 Surface Transportation Block Grant Program (Any Area) funds for use on border infrastructure projects?**

- a. Pursuant to Section 1437(a) of the Fixing America's Surface Transportation (FAST) Act, after consultation with relevant transportation planning organizations, the Governor of a State that shares a land border with Canada or Mexico may designate for a fiscal year not more than 5 percent of the STBG (Any Area) funds made available to the State under Section 133(d)(1)(B) of Title 23, U.S.C., for border infrastructure projects eligible under Section 1303 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users Act.
- b. For the purposes of this provision, land border States are: Alaska, Arizona, California, Idaho, Maine, Michigan, Minnesota, Montana, New Hampshire, New Mexico, New York, North Dakota, Texas, Vermont, and Washington.
- c. Pursuant to Section 1437(c) of the FAST Act, before making a designation, the Governor shall certify that the designation is consistent with transportation planning requirements under Title 23, U.S.C.
- d. In order to make a designation, the Governor of a land border State must inform FHWA of the decision to designate funds no later than 30 days prior to the first day of the fiscal year for which the designation is being made. Therefore, notification of the decision to designate funds must be made by

September 1, 2023. Note that any designation that was made for FY 2023 funds will not be carried over for FY 2024 funds; a new designation must be made for FY 2024 funds if the Governor elects to do so.

Any Governor of a land border State that desires to designate a portion of the State's FY 2024 funds distributed under Section 133(d)(1)(B) of Title 23, U.S.C., for use on border infrastructure projects shall notify FHWA via email, with a letter signed by the Governor or the Governor's designee indicating the designated percentage of funds to be set-aside (up to 5 percent) under this provision, to FHWA Office of Budget's official mailbox (BudDiv@dot.gov) no later than September 1, 2023.

7. **What action is required?**

- a. Division Administrators must ensure that this Notice is provided to State departments of transportation (State DOT). The State DOTs should also share this Notice with the State's Office of the Governor regarding the designation that may be made under Section 1437 of the FAST Act.
- b. A State shall notify FHWA **no later than September 1, 2023**, of any decision to opt out of the RTP set aside for FY 2024.
- c. The Governor of a land border State shall notify FHWA **no later than September 1, 2023**, of any decision to designate up to 5 percent of the State's FY 2024 STBG (Any Area) funds for use on border infrastructure projects.



Shailen P. Bhatt
Administrator

Attachment

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

N4510.879

ADVANCE NOTICE OF ANTICIPATED FEDERAL-AID HIGHWAY PROGRAM APPORTIONMENTS FOR FY 2024
(before post-apportionment set-asides; before penalties; before sequestration)

| State | National Highway Performance Program | Surface Transportation Block Grant Program | Highway Safety Improvement Program ¹ | Railway-Highway Crossings Program | CMAQ Program | Metropolitan Planning | National Highway Freight Program | Carbon Reduction Program | PROTECT Formula Program | Apportioned Total |
|--------------------------|--------------------------------------|--|---|-----------------------------------|----------------------|-----------------------|----------------------------------|--------------------------|-------------------------|-----------------------|
| Alabama | 591,509,412 | 287,761,335 | 61,823,630 | 5,250,713 | 12,932,116 | 4,220,047 | 27,374,333 | 25,658,719 | 29,175,802 | 1,045,706,107 |
| Alaska | 377,360,736 | 183,580,899 | 41,565,905 | 1,225,000 | 31,195,864 | 3,112,075 | 18,091,851 | 16,369,297 | 18,613,063 | 691,114,690 |
| Arizona | 540,729,713 | 263,057,698 | 58,029,210 | 3,286,956 | 58,808,646 | 8,031,345 | 26,399,484 | 23,455,978 | 26,671,128 | 1,008,470,158 |
| Arkansas | 400,935,968 | 195,049,931 | 41,374,072 | 4,090,151 | 13,959,189 | 2,358,111 | 18,680,926 | 17,391,952 | 19,775,896 | 713,616,196 |
| California | 2,559,236,311 | 1,245,033,881 | 273,838,981 | 16,366,194 | 526,078,481 | 68,670,088 | 132,430,225 | 111,015,521 | 126,232,602 | 5,058,902,284 |
| Colorado | 396,280,549 | 192,785,132 | 41,251,722 | 3,684,600 | 47,947,297 | 7,258,889 | 19,514,429 | 17,190,008 | 19,546,270 | 745,458,896 |
| Connecticut | 364,929,780 | 177,533,406 | 39,970,788 | 1,410,507 | 50,152,311 | 6,334,223 | 18,122,405 | 15,830,062 | 17,999,915 | 692,283,397 |
| Delaware | 124,890,333 | 60,757,459 | 12,936,968 | 1,225,000 | 13,219,807 | 2,445,676 | 6,103,511 | 5,417,540 | 6,160,131 | 233,156,425 |
| Dist. of Col. | 118,328,109 | 57,565,026 | 12,192,842 | 1,225,000 | 11,451,447 | 2,436,023 | 5,757,142 | 5,132,881 | 5,836,454 | 219,924,924 |
| Florida | 1,476,593,964 | 718,343,009 | 157,434,584 | 10,004,119 | 15,414,254 | 28,417,382 | 68,362,231 | 64,052,252 | 72,831,999 | 2,611,453,794 |
| Georgia | 972,134,326 | 472,930,213 | 101,218,231 | 9,017,159 | 77,026,476 | 10,663,611 | 46,588,553 | 42,169,610 | 47,949,869 | 1,779,698,048 |
| Hawaii | 125,770,158 | 211,185,482 | 13,036,736 | 1,225,000 | 11,742,671 | 2,400,312 | 6,102,618 | 5,455,705 | 6,203,528 | 233,122,210 |
| Idaho | 216,924,078 | 105,530,633 | 22,633,489 | 1,964,665 | 14,525,774 | 2,222,184 | 10,320,082 | 9,409,815 | 10,699,634 | 394,230,354 |
| Illinois | 1,039,894,827 | 505,894,781 | 106,560,458 | 11,358,649 | 124,803,873 | 23,419,112 | 51,298,717 | 45,108,951 | 51,292,110 | 1,959,631,478 |
| Indiana | 719,824,122 | 350,184,708 | 73,753,099 | 7,871,518 | 53,410,371 | 7,183,750 | 34,380,274 | 31,224,803 | 35,504,838 | 1,313,332,483 |
| Iowa | 380,559,541 | 185,137,074 | 37,363,101 | 5,790,534 | 12,804,307 | 2,722,415 | 17,732,561 | 16,508,056 | 18,770,842 | 677,388,431 |
| Kansas | 291,723,723 | 141,919,649 | 26,402,052 | 6,678,025 | 10,787,697 | 2,673,387 | 13,635,067 | 12,654,502 | 14,389,076 | 520,863,178 |
| Kentucky | 515,670,828 | 250,866,889 | 54,464,479 | 4,010,130 | 15,529,600 | 3,476,898 | 23,973,573 | 22,368,964 | 25,435,115 | 915,796,546 |
| Louisiana | 545,425,040 | 265,341,911 | 57,287,757 | 4,560,838 | 12,975,669 | 5,900,715 | 25,323,871 | 23,659,654 | 26,902,722 | 967,378,177 |
| Maine | 137,995,469 | 67,132,931 | 14,395,091 | 1,252,936 | 11,672,831 | 2,528,335 | 6,660,426 | 5,986,020 | 6,806,533 | 254,430,572 |
| Maryland | 434,966,786 | 211,605,463 | 47,003,006 | 2,320,150 | 60,869,491 | 9,517,593 | 21,682,685 | 18,868,154 | 21,454,443 | 828,287,771 |
| Massachusetts | 431,870,250 | 210,099,041 | 46,464,458 | 2,507,566 | 71,893,621 | 12,337,478 | 21,913,918 | 18,733,831 | 21,301,708 | 837,121,871 |
| Michigan | 776,983,466 | 377,991,957 | 80,202,533 | 7,903,681 | 83,893,164 | 14,212,903 | 37,989,296 | 33,704,283 | 38,324,184 | 1,451,205,467 |
| Minnesota | 491,818,324 | 239,262,969 | 49,296,057 | 6,473,729 | 36,531,448 | 6,275,538 | 23,528,048 | 21,334,281 | 24,258,601 | 898,779,064 |
| Mississippi | 374,643,654 | 182,259,075 | 38,603,499 | 3,879,302 | 12,717,992 | 2,333,938 | 17,450,630 | 16,251,434 | 18,479,045 | 666,618,569 |
| Missouri | 730,731,423 | 355,490,963 | 76,743,032 | 6,118,421 | 26,720,567 | 7,134,022 | 34,157,798 | 31,697,944 | 36,042,834 | 1,304,837,004 |
| Montana | 313,940,772 | 152,727,943 | 33,509,678 | 2,089,706 | 16,876,289 | 2,467,505 | 14,804,053 | 13,618,242 | 15,484,917 | 565,519,105 |
| Nebraska | 220,979,686 | 107,503,631 | 21,105,646 | 3,952,395 | 11,662,498 | 2,274,791 | 10,429,060 | 9,585,740 | 10,899,674 | 398,393,121 |
| Nevada | 263,483,992 | 128,181,402 | 28,570,977 | 1,306,850 | 36,920,909 | 4,505,507 | 13,101,877 | 11,429,508 | 12,996,170 | 500,497,192 |
| New Hampshire | 122,811,668 | 59,746,217 | 12,701,257 | 1,225,000 | 11,731,883 | 2,169,720 | 5,961,521 | 5,327,371 | 6,057,602 | 227,732,239 |
| New Jersey | 711,983,074 | 346,370,144 | 77,094,151 | 3,641,329 | 118,000,448 | 17,086,364 | 36,025,852 | 30,884,671 | 35,118,084 | 1,376,204,117 |
| New Mexico | 282,266,857 | 137,319,012 | 30,104,449 | 1,903,265 | 12,937,919 | 2,209,141 | 13,250,104 | 12,244,278 | 13,922,622 | 506,157,647 |
| New York | 1,188,176,789 | 578,031,951 | 128,278,047 | 6,455,526 | 207,668,932 | 34,275,495 | 60,564,653 | 51,541,182 | 58,606,017 | 2,313,598,592 |
| North Carolina | 788,030,944 | 383,366,405 | 82,274,949 | 7,083,996 | 58,099,625 | 7,983,545 | 37,631,183 | 34,183,505 | 38,869,094 | 1,437,523,246 |
| North Dakota | 188,471,914 | 91,689,040 | 17,414,140 | 3,957,675 | 11,925,868 | 2,304,394 | 8,957,853 | 8,175,606 | 9,296,250 | 342,192,740 |
| Ohio | 989,447,252 | 481,352,718 | 102,792,278 | 9,406,315 | 108,550,282 | 15,899,254 | 48,364,363 | 42,920,617 | 48,803,817 | 1,847,536,896 |
| Oklahoma | 492,967,984 | 239,822,262 | 50,103,274 | 5,796,941 | 13,325,790 | 3,548,773 | 22,883,301 | 21,384,152 | 24,315,313 | 874,147,790 |
| Oregon | 380,442,384 | 185,080,078 | 39,780,519 | 3,359,831 | 21,992,555 | 4,968,248 | 18,034,575 | 16,502,974 | 18,765,063 | 688,926,227 |
| Pennsylvania | 1,220,625,579 | 593,817,849 | 131,382,868 | 7,030,243 | 118,462,727 | 17,802,631 | 59,200,429 | 52,948,758 | 60,206,532 | 2,261,477,616 |
| Rhode Island | 164,938,878 | 80,240,535 | 17,478,280 | 1,225,000 | 11,823,893 | 2,548,781 | 7,890,943 | 7,154,781 | 8,135,499 | 301,436,590 |
| South Carolina | 519,692,408 | 252,823,334 | 54,177,843 | 4,752,794 | 14,849,854 | 4,323,173 | 24,161,027 | 22,543,414 | 25,633,477 | 922,957,324 |
| South Dakota | 213,990,174 | 104,103,328 | 21,592,055 | 2,673,408 | 13,905,837 | 2,425,386 | 10,175,390 | 9,282,547 | 10,554,921 | 388,703,046 |
| Tennessee | 641,415,017 | 312,039,738 | 67,280,001 | 5,453,398 | 41,991,060 | 6,597,871 | 30,490,016 | 27,823,543 | 31,637,363 | 1,164,728,007 |
| Texas | 2,955,508,990 | 1,437,815,185 | 314,034,065 | 21,106,539 | 197,846,137 | 35,612,332 | 140,749,001 | 128,205,187 | 145,778,484 | 5,376,655,920 |
| Utah | 264,085,758 | 128,474,152 | 27,962,894 | 1,983,169 | 14,645,898 | 4,447,650 | 12,528,956 | 11,455,612 | 13,025,852 | 478,609,941 |
| Vermont | 151,312,347 | 73,611,412 | 15,933,097 | 1,225,000 | 13,428,639 | 2,877,214 | 7,322,908 | 6,563,684 | 7,463,379 | 279,737,680 |
| Virginia | 764,072,846 | 371,711,115 | 81,789,858 | 4,852,353 | 62,256,732 | 10,376,439 | 36,717,168 | 33,144,241 | 37,687,377 | 1,402,608,129 |
| Washington | 506,908,539 | 246,604,154 | 53,280,662 | 4,200,345 | 41,889,348 | 10,049,765 | 24,460,111 | 21,988,871 | 25,002,921 | 934,384,716 |
| West Virginia | 335,585,914 | 163,258,012 | 35,942,355 | 2,111,485 | 16,236,341 | 2,336,315 | 15,768,165 | 14,557,173 | 16,552,549 | 602,348,309 |
| Wisconsin | 574,628,994 | 279,549,241 | 58,878,352 | 6,281,831 | 31,057,992 | 6,275,004 | 27,148,739 | 24,926,474 | 28,343,187 | 1,037,089,814 |
| Wyoming | 194,896,160 | 94,814,348 | 20,875,294 | 1,225,000 | 11,812,542 | 2,169,885 | 9,243,490 | 8,454,279 | 9,613,121 | 353,104,119 |
| Apportioned Total | 29,588,395,810 | 14,394,354,721 | 3,110,182,769 | 245,000,000 | 2,638,965,032 | 455,821,233 | 1,429,439,392 | 1,283,496,627 | 1,459,427,633 | 54,605,083,217 |

¹ Reflects \$3,500,000 takedown for safety-related programs.