



U.S. Department
of Transportation

**Federal Highway
Administration**

Notice

Subject:

**REVISED APPORTIONMENT OF FISCAL YEAR (FY) 2008
SURFACE TRANSPORTATION PROGRAM FUNDS**

Classification Code

Date

Office of Primary Interest

N 4510.665

January 30, 2008

HCFB-1

1. **What is the purpose of this Notice?** This Notice transmits the revised certificate of apportionment of Surface Transportation Program funds authorized for FY 2008 pursuant to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Public Law (Pub. L. No.) 109-59. The apportionment is effective immediately.
2. **Does this Notice cancel FHWA Notice 4510.651?** Yes, this Notice cancels FHWA Notice 4510.651, Apportionment of Fiscal Year (FY) 2008 Surface Transportation Program Funds, dated October 1, 2007. The revisions to the apportionment are required pursuant to the terms of Division K, Title I of the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, which eliminate the percentage takedown from the amount authorized for the Surface Transportation Program to fund a portion of the contract authority for the National Highway Traffic Safety Administration Operations and Research Program. In addition, the revisions to the apportionment are required to reflect the correction of an error in the estimates of FY 2006 Highway Trust Fund contributions (the most current data upon which FY 2008 apportionments are based). United States Comptroller General Decision B-275490 (December 5, 1996) requires that incorrect apportionments be appropriately adjusted to ensure compliance with the statutory formula for apportioning Federal highway funds enacted by Congress. See also 41 Comp. Gen. 16 (1961).
3. **What is the availability of these funds?**
 - a. The Surface Transportation Program funds resulting from this apportionment are available for obligation until September 30, 2011. Any amounts not obligated by the State on or before September 30, 2011, shall lapse.
 - b. The funds resulting from this apportionment are available for obligation immediately and will be subject to obligation controls in force at the time of obligation.
 - c. The Federal share will be in accordance with Section 120 of Title 23, United States Code (U.S.C.).

- d. Supplementary tables providing the sub-allocations of these funds will be issued in a separate Notice.

4. **What is the background information?**

- a. Section 1101(a)(4) of the SAFETEA-LU authorizes a total of \$6,472,726,628 in contract authority for the Surface Transportation Program for FY 2008.
- b. Section 104(f) of Title 23, U.S.C., applies a 1.25 percent takedown for Metropolitan Planning from the amount authorized for the Surface Transportation Program. This provision reduces the amount apportioned by \$80,909,083.
- c. As required by Section 140(b) of Title 23, U.S.C., \$10,000,000 has been set-aside for the On-the-Job Training/Supportive Services.
- d. As required by Section 140(c) of Title 23, U.S.C., \$10,000,000 has been set aside for the Disadvantaged Business Enterprises Training.
- e. The total contract authority available for distribution in FY 2007 for the Surface Transportation Program net of these reductions is \$6,371,817,545.

5. **Are certain States subject to penalty transfer?** Yes. Currently, the States that are listed under the following two requirements are subject to transfer of funds. The funds to be transferred will be transferred to the State's 402 Safety Program.

a. **Open Container Requirements – 23 U.S.C. 154 – 3 percent**

Funds subject to be transferred: Surface Transportation Program, National Highway System, and Interstate Maintenance.

Alaska, Arkansas, Connecticut, Delaware, Louisiana, Mississippi, Missouri, Tennessee, Virginia, West Virginia, and Wyoming

b. **Minimum Penalties for Repeat Offenders for Driving While Intoxicated or Driving Under the Influence – 23 U.S.C. 164 – 3 percent**

Funds subject to be transferred: Surface Transportation Program, National Highway System, and Interstate Maintenance.

Alaska, California, Louisiana, Minnesota, New Mexico, Ohio, Oregon, Rhode Island, South Dakota, Vermont, and Wyoming

6. **How will the funds be transferred?** Funds will be transferred from the apportionment (Table 1) to the State's 402 Safety Program for those States that failed to meet the provisions of Section 154 of Title 23, U.S.C., the Open Container Requirements (3 percent) and Section 164 of Title 23 U.S.C., the Minimum Penalties for Repeat Offenders (3 percent). Tables 2 and 3 illustrate the amounts to be transferred subject to a determination by the States under Sections 154(c)(5) and 164(b)(5), which allow the States to designate the funds to be transferred.
7. **What action is required?** Division Administrators should ensure that copies of this Notice are provided to the State departments of transportation.



J. Richard Capka
Administrator

Attachments

**CERTIFICATE OF APPORTIONMENT FROM
THE SUM OF \$6,472,726,628 AUTHORIZED TO BE APPROPRIATED
FOR THE SURFACE TRANSPORTATION PROGRAM
FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2008**

TO--

The Secretary of the Treasury of the United States and the State departments of transportation:

Pursuant to Section 9503 of the Internal Revenue Code of 1986, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Title 23, United States Code, and the delegation of authority from the Secretary of Transportation to the Federal Highway Administrator, Section 1.48 of Title 49, Code of Federal Regulations, I certify--

First, that the Secretary of the Treasury has made the estimate required by Section 9503(d) of the Internal Revenue Code of 1986 and, based on that estimate, I have determined that the amount that can be apportioned for the Surface Transportation Program for the fiscal year ending September 30, 2008, pursuant to Section 1101(a)(4) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users is \$6,472,726,628, which is 100 percent of the amount authorized to be appropriated for the fiscal year.

Second, pursuant to Section 104(f) of Title 23, United States Code, I have deducted 1.25 percent from the sum of \$6,472,726,628 authorized to be appropriated for the fiscal year ending September 30, 2008, by Section 1101(a)(4) of the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users, for the purpose of carrying out Section 134 of Title 23, United States Code.

The amount deducted is \$80,909,083.

Third, pursuant to Sections 140(b) and 140(c) of Title 23, United States Code, after making the deduction authorized by Section 104(f) of Title 23, United States Code, I have set aside \$10,000,000 to carry out Section 140(b) of Title 23, United States Code and \$10,000,000 to carry out Section 140(c) of Title 23, United States Code, from the amount authorized to be appropriated for the fiscal year ending September 30, 2008, by Section 1101(a)(4) of the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users, for the purposes of carrying out Sections 140(b) and 140(c) of Title 23, United States Code, for On-the-Job Training and Supportive Services and Training for Disadvantaged Business Enterprises. The resulting amount is \$6,371,817,545.

Fourth, that in compliance with Section 154 of Title 23, United States Code, the Open Container Law Requirements, 3 percent of the amount required to be apportioned to the States of Alaska, Arkansas, Connecticut, Delaware, Louisiana, Mississippi, Missouri, Tennessee, Virginia, West Virginia, and Wyoming will be transferred to the State's 402 Safety Program.

Fifth, that in compliance with Section 164 of Title 23, United States Code, the Minimum Penalties for Repeat Offenders for Driving While Intoxicated or Driving Under the Influence, 3 percent of the amount required to be apportioned to the States of Alaska, California, Louisiana, Minnesota, New Mexico, Ohio, Oregon, Rhode Island, South Dakota, Vermont, and Wyoming will be transferred to the State's 402 Safety Program.

Sixth, that after making the deduction, set asides, and transfers, I have computed the apportionment to each State and the District of Columbia of the remainder of the amounts authorized to be appropriated for the Surface Transportation System Program in the manner provided by law in accordance with the formula set forth.


Seventh, that subject to the foregoing deduction, set asides, and transfers, the sums that are hereby apportioned to each State and the District of Columbia, effective immediately, are respectively as follows:

**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION**

**REVISED APPORTIONMENT OF FUNDS FOR THE
SURFACE TRANSPORTATION PROGRAM
AUTHORIZED FOR FISCAL YEAR 2008**

<u>STATE</u>	<u>AMOUNT</u>
ALABAMA	\$123,301,157
ALASKA	31,859,088
ARIZONA	120,010,128
ARKANSAS	86,465,386
CALIFORNIA	620,128,868
COLORADO	102,539,843
CONNECTICUT	59,903,127
DELAWARE	31,859,088
DIST. OF COL.	31,859,088
FLORIDA	322,379,530
GEORGIA	222,859,160
HAWAII	31,859,088
IDAHO	39,033,102
ILLINOIS	230,922,988
INDIANA	153,097,050
IOWA	93,447,575
KANSAS	97,358,643
KENTUCKY	101,623,537
LOUISIANA	98,289,406
MAINE	32,215,306
MARYLAND	102,261,931
MASSACHUSETTS	100,670,441
MICHIGAN	216,814,769
MINNESOTA	135,489,605
MISSISSIPPI	90,526,809
MISSOURI	156,080,856
MONTANA	40,661,792
NEBRASKA	62,803,686
NEVADA	46,444,914
NEW HAMPSHIRE	31,859,088
NEW JERSEY	141,885,515
NEW MEXICO	58,881,806
NEW YORK	241,137,765
NORTH CAROLINA	176,605,145
NORTH DAKOTA	39,077,715
OHIO	222,969,392
OKLAHOMA	121,127,224
OREGON	83,566,929
PENNSYLVANIA	219,096,660
RHODE ISLAND	31,859,088
SOUTH CAROLINA	115,849,156
SOUTH DAKOTA	43,536,624
TENNESSEE	141,445,102
TEXAS	536,969,884
UTAH	52,626,500
VERMONT	31,859,088
VIRGINIA	169,747,376
WASHINGTON	118,836,823
WEST VIRGINIA	48,026,567
WISCONSIN	130,229,049
WYOMING	31,859,088
TOTAL	\$6,371,817,545

APPROVED EFFECTIVE



FEDERAL HIGHWAY ADMINISTRATOR

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

N4510.665 - TABLE 2

REVISED TRANSFERS ASSESSED PURSUANT TO TITLE 23 U.S.C. 154 (Open Container Requirements) FOR THE
INTERSTATE MAINTENANCE, NATIONAL HIGHWAY SYSTEM, AND SURFACE TRANSPORTATION PROGRAMS
AUTHORIZED FOR FISCAL YEAR 2008

State	TRANSFERS ASSESSED ON APPORTIONMENTS				TOTAL TRANSFERS ASSESSED PURSUANT TO TITLE 23 U.S.C. 154			
	PURSUANT TO TITLE 23 U.S.C. 104(b)		PURSUANT TO TITLE 23 U.S.C. 105(c)		Interstate Maintenance	National Highway System	Surface Transportation Program	Total
ALABAMA	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
ALASKA	944,787	1,120,541	994,010	1,178,921	1,938,797	2,299,462	1,961,341	6,199,600
ARIZONA	0	0	0	0	0	0	0	0
ARKANSAS	1,994,545	2,496,084	554,431	693,845	2,548,976	3,189,929	3,315,015	9,053,920
CALIFORNIA	0	0	0	0	0	0	0	0
COLORADO	0	0	0	0	0	0	0	0
CONNECTICUT	1,520,200	1,404,043	354,530	327,441	1,874,730	1,731,484	2,216,199	5,822,413
DELAWARE	248,628	1,402,114	34,319	193,541	282,947	1,595,655	1,087,704	2,966,306
DIST. OF COL.	0	0	0	0	0	0	0	0
FLORIDA	0	0	0	0	0	0	0	0
GEORGIA	0	0	0	0	0	0	0	0
HAWAII	0	0	0	0	0	0	0	0
IDAHO	0	0	0	0	0	0	0	0
ILLINOIS	0	0	0	0	0	0	0	0
INDIANA	0	0	0	0	0	0	0	0
IOWA	0	0	0	0	0	0	0	0
KANSAS	0	0	0	0	0	0	0	0
KENTUCKY	0	0	0	0	0	0	0	0
LOUISIANA	2,627,236	2,451,547	289,656	270,286	2,916,892	2,721,833	3,273,778	8,912,503
MAINE	0	0	0	0	0	0	0	0
MARYLAND	0	0	0	0	0	0	0	0
MASSACHUSETTS	0	0	0	0	0	0	0	0
MICHIGAN	0	0	0	0	0	0	0	0
MINNESOTA	0	0	0	0	0	0	0	0
MISSISSIPPI	1,898,305	2,769,061	309,354	451,255	2,207,659	3,220,316	3,158,380	8,586,355
MISSOURI	3,841,762	4,280,430	1,055,491	1,176,012	4,897,253	5,456,442	5,968,883	16,322,578
MONTANA	0	0	0	0	0	0	0	0
NEBRASKA	0	0	0	0	0	0	0	0
NEVADA	0	0	0	0	0	0	0	0
NEW HAMPSHIRE	0	0	0	0	0	0	0	0
NEW JERSEY	0	0	0	0	0	0	0	0
NEW MEXICO	0	0	0	0	0	0	0	0
NEW YORK	0	0	0	0	0	0	0	0
NORTH CAROLINA	0	0	0	0	0	0	0	0
NORTH DAKOTA	0	0	0	0	0	0	0	0
OHIO	0	0	0	0	0	0	0	0
OKLAHOMA	0	0	0	0	0	0	0	0
OREGON	0	0	0	0	0	0	0	0
PENNSYLVANIA	0	0	0	0	0	0	0	0
RHODE ISLAND	0	0	0	0	0	0	0	0
SOUTH CAROLINA	0	0	0	0	0	0	0	0
SOUTH DAKOTA	0	0	0	0	0	0	0	0
TENNESSEE	3,888,032	3,937,424	1,271,778	1,287,934	5,159,810	5,225,358	5,631,356	16,016,524
TEXAS	0	0	0	0	0	0	0	0
UTAH	0	0	0	0	0	0	0	0
VERMONT	0	0	0	0	0	0	0	0
VIRGINIA	4,288,221	4,214,445	1,429,593	1,404,998	5,717,814	5,619,443	6,790,116	18,127,373
WASHINGTON	0	0	0	0	0	0	0	0
WEST VIRGINIA	1,315,715	1,333,587	382,637	387,835	1,698,352	1,721,422	1,859,810	5,279,584
WISCONSIN	0	0	0	0	0	0	0	0
WYOMING	1,492,057	2,571,385	234,016	403,300	1,726,073	2,974,685	1,105,678	5,806,436
Total	\$24,059,488	\$27,980,661	\$6,909,815	\$7,775,368	\$30,969,303	\$35,756,029	\$36,368,260	\$103,093,592

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

N4510.665 - TABLE 3

REVISED TRANSFERS ASSESSED PURSUANT TO TITLE 23 U.S.C. 164 (Minimum Penalties for Repeat Offenders for Driving While Intoxicated or Driving Under the Influence) FOR THE
INTERSTATE MAINTENANCE, NATIONAL HIGHWAY SYSTEM, AND SURFACE TRANSPORTATION PROGRAMS
AUTHORIZED FOR FISCAL YEAR 2008

State	AMOUNT WITHHELD FROM APPORTIONMENTS				TOTAL TRANSFERS ASSESSED PURSUANT TO TITLE 23 U.S.C. 164			
	PURSUANT TO TITLE 23 U.S.C. 104(b)		PURSUANT TO TITLE 23 U.S.C. 105(c)		Interstate Maintenance		Surface Transportation Program	
	Interstate Maintenance	National Highway System	Surface Transportation Program	Interstate Maintenance	National Highway System	Surface Transportation Program	Interstate Maintenance	Total
ALABAMA	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
ALASKA	944,787	1,120,541	955,773	994,010	1,178,921	1,005,568	1,961,341	6,199,600
ARIZONA	0	0	0	0	0	0	0	0
ARKANSAS	0	0	0	0	0	0	0	0
CALIFORNIA	13,394,716	16,951,317	18,603,866	2,411,796	3,052,183	3,349,734	21,953,600	57,763,612
COLORADO	0	0	0	0	0	0	0	0
CONNECTICUT	0	0	0	0	0	0	0	0
DELAWARE	0	0	0	0	0	0	0	0
DIST. OF COL.	0	0	0	0	0	0	0	0
FLORIDA	0	0	0	0	0	0	0	0
GEORGIA	0	0	0	0	0	0	0	0
HAWAII	0	0	0	0	0	0	0	0
IDAHO	0	0	0	0	0	0	0	0
ILLINOIS	0	0	0	0	0	0	0	0
INDIANA	0	0	0	0	0	0	0	0
IOWA	0	0	0	0	0	0	0	0
KANSAS	0	0	0	0	0	0	0	0
KENTUCKY	0	0	0	0	0	0	0	0
LOUISIANA	2,627,236	2,451,547	2,948,682	289,656	270,286	325,096	2,273,778	8,912,503
MAINE	0	0	0	0	0	0	0	0
MARYLAND	0	0	0	0	0	0	0	0
MASSACHUSETTS	0	0	0	0	0	0	0	0
MICHIGAN	0	0	0	0	0	0	0	0
MINNESOTA	2,634,386	3,195,512	4,064,688	702,787	852,481	1,084,355	4,047,993	12,534,209
MISSISSIPPI	0	0	0	0	0	0	0	0
MISSOURI	0	0	0	0	0	0	0	0
MONTANA	0	0	0	0	0	0	0	0
NEBRASKA	0	0	0	0	0	0	0	0
NEVADA	0	0	0	0	0	0	0	0
NEW HAMPSHIRE	0	0	0	0	0	0	0	0
NEW JERSEY	0	0	0	0	0	0	0	0
NEW MEXICO	2,056,788	2,474,762	1,766,454	521,054	626,941	447,503	3,101,703	7,893,502
NEW YORK	0	0	0	0	0	0	0	0
NORTH CAROLINA	0	0	0	0	0	0	0	0
NORTH DAKOTA	0	0	0	0	0	0	0	0
OHIO	6,105,891	5,416,794	6,689,082	1,918,024	1,701,557	2,101,220	8,790,302	23,932,558
OKLAHOMA	0	0	0	0	0	0	0	0
OREGON	2,014,098	2,566,951	2,507,008	208,853	266,181	259,966	2,833,132	7,823,057
PENNSYLVANIA	0	0	0	0	0	0	0	0
RHODE ISLAND	327,929	1,322,812	955,773	0	0	0	1,322,812	2,606,514
SOUTH CAROLINA	0	0	0	0	0	0	0	0
SOUTH DAKOTA	1,051,447	2,056,019	1,306,099	222,895	435,852	276,878	2,491,871	5,349,190
TENNESSEE	0	0	0	0	0	0	0	0
TEXAS	0	0	0	0	0	0	0	0
UTAH	0	0	0	0	0	0	0	0
VERMONT	492,905	1,157,837	955,773	660	1,550	1,280	1,159,387	2,610,005
VIRGINIA	0	0	0	0	0	0	0	0
WASHINGTON	0	0	0	0	0	0	0	0
WEST VIRGINIA	0	0	0	0	0	0	0	0
WISCONSIN	0	0	0	0	0	0	0	0
WYOMING	1,492,057	2,571,385	955,773	234,016	403,300	149,905	1,105,678	5,806,436
Total	\$33,142,240	\$41,285,467	\$41,708,971	\$7,503,751	\$8,789,252	\$9,001,505	\$50,074,719	\$141,431,186