



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

# Notice

Subject:

**ADVANCE NOTIFICATION OF FEDERAL-AID HIGHWAY FUNDS  
TO BE APPORTIONED ON OCTOBER 1, 2017**

Classification Code

Date

Office of Primary Interest

**N4510.815**

**June 28, 2017**

**HCFB-10**

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

- a. This Notice is to notify States, as required by section 104(e) of title 23, United States Code (U.S.C.), of the anticipated amounts of funds to be apportioned under 23 U.S.C. 104, as amended by the Fixing America's Surface Transportation (FAST) Act, Public Law 114-94, for Fiscal Year (FY) 2018. The anticipated apportionment amounts are subject to change before issuing the certificate of apportionment, which is effective on October 1, 2017.
- 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 2018 Surface Transportation Block Grant Program (Any Area) funds for use on border infrastructure projects.

2. **What are the anticipated FY 2018 apportionments?** The following table shows the FY 2018 anticipated apportionment amounts effective on October 1, 2017. The table shows the anticipated apportionments of the National Highway Performance Program, Surface Transportation Block Grant Program, Highway Safety Improvement Program, Railway-Highway Crossings Program, Congestion Mitigation and Air Quality Improvement Program, Metropolitan Planning Program, and National Highway Freight 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, 2017. 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. **Use of Safety Belts and Motorcycle Helmets – 23 U.S.C. 153**

Funds subject to 2 percent transfer to the State's Safety Program under 23 U.S.C. 402: National Highway Performance Program (NHPP), Surface Transportation Block Grant Program (STBG), and Highway Safety Improvement Program (HSIP).

New Hampshire

Note: To avoid a transfer on October 1, 2017, the National Highway Traffic Safety Administration (NHTSA) must receive from the State by September 30, 2017, a certification that it has achieved a seat belt use rate of not less than 50 percent.

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

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

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

Note: To avoid a transfer on October 1, 2017, NHTSA must receive from the State by September 30, 2017, a certificate and laws that conform to 23 U.S.C. 154 programs implementing regulations.

The laws of the following State have been identified as requiring additional review to determine compliance: Utah.

**c. National Minimum Drinking Age – 23 U.S.C. 158**

Funds subject to 8 percent withholding: NHPP and STBG.

Puerto Rico\*

**d. Drug Offenders – 23 U.S.C. 159**

Funds subject to 8 percent withholding: NHPP and STBG.

Maine

**e. Repeat Offenders – 23 U.S.C. 164**

Funds subject to 2.5 percent transfer to the State's 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, Louisiana, Minnesota, Montana, New Mexico, North Dakota, Ohio, Oregon, Puerto Rico\*, Rhode Island, South Dakota, Tennessee, Vermont, Washington, and Wyoming

Note: To avoid a transfer on October 1, 2017, NHTSA must receive from the State by September 30, 2017, a certificate and laws that conform to 23 U.S.C. 164 programs implementing regulations.

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\* Puerto Rico highway program funds are no longer 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, STP, and Interstate maintenance program shall be deemed to have been apportioned 50 percent for NHPP and 50 percent for STBG.

The laws of the following States have been identified as requiring additional review to determine compliance: Indiana, Missouri, Oklahoma, Utah, and Wisconsin.

4. **Are there obligation controls?** Yes. The obligation limitation associated with the funds transferred pursuant to 23 U.S.C. 153, 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 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 the 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 2018 will be effective on October 1, 2017, a State must make notification of its decision to opt out by September 1, 2017.

**Any State that desires to opt out of the RTP set-aside for FY 2018 shall notify FHWA via e-mail, with a letter signed by the Governor or the Governor's designee accompanying the opt out notification, to the FHWA Office of Budget's official mailbox (BudDiv@dot.gov) no later than September 1, 2017.**

- c. **Effect of not opting out by deadline:** If a State does not affirmatively opt out by September 1, 2017, 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 2018 Surface Transportation Block Grant Program (Any Area) funds for use on border infrastructure projects?**
- a. Pursuant to section 1437(a) of the 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 Surface Transportation Block Grant Program (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 (SAFETEA-LU) 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 apportionments being made for a fiscal year. Since apportionments for FY 2018 will be effective on October 1, 2017, notification of the decision to designate funds must be made by September 1, 2017. Note that any designation made for FY 2017 funds will not be carried over for FY 2018 funds; a new designation must be made for FY 2018 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 2018 funds distributed under section 133(d)(1)(B) of title 23, U.S.C., for use on border infrastructure projects shall notify FHWA via e-mail, 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 the FHWA Office of Budget's official mailbox (BudDiv@dot.gov) no later than September 1, 2017.**

7. **What action is required?**

- a. Division Administrators must ensure that this Notice is provided to State departments of transportation. State departments of transportation 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, 2017**, of any decision to opt out of the Recreational Trails Program set-aside for FY 2018.
- c. The Governor of a land border State shall notify FHWA **no later than September 1, 2017**, of any decision to designate up to 5 percent of the State's FY 2018 Surface Transportation Block Grant Program (Any Area) funds for use on border infrastructure projects.



Walter C. Waidefich, Jr.  
Acting Deputy Administrator

Attachment

U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION

N4510.815

ADVANCE NOTICE OF ANTICIPATED FEDERAL-AID HIGHWAY PROGRAM APPORTIONMENTS FOR FY 2018  
(before post-apportionment set-asides; before penalties; before sequestration)

<u>State</u>	<u>National Highway Performance Program</u>	<u>Surface Transportation Block Grant Program</u>	<u>Highway Safety Improvement Program</u>	<u>Railway-Highway Crossings Program</u>	<u>Congestion Mitigation &amp; Air Quality Improvement</u>	<u>Metropolitan Planning</u>	<u>National Highway Freight Program</u>	<u>Apportioned Total</u>
Alabama	472,903,938	236,194,243	47,055,261	4,841,056	11,786,260	3,176,007	23,054,163	799,010,928
Alaska	299,244,430	149,984,273	31,663,981	1,175,000	28,431,741	2,342,149	15,229,361	528,070,935
Arizona	427,316,247	214,560,250	44,076,509	2,817,030	53,597,881	6,044,392	22,144,606	770,556,915
Arkansas	319,983,311	159,925,378	31,137,503	3,977,356	12,722,330	1,774,714	15,744,371	545,264,963
California	1,996,221,054	1,008,534,716	202,996,006	16,068,611	479,465,071	51,681,121	110,451,889	3,865,418,468
Colorado	308,774,106	155,187,678	30,464,810	3,419,955	43,698,907	5,463,041	16,153,369	563,161,866
Connecticut	287,277,523	144,500,672	30,165,182	1,360,556	45,708,544	4,767,138	15,183,216	528,962,831
Delaware	98,739,451	49,580,507	9,660,633	1,175,000	12,048,460	1,840,616	5,106,646	178,151,313
Dist. of Col.	93,667,135	47,011,130	9,104,000	1,175,000	10,436,786	1,833,351	4,813,967	168,041,369
Florida	1,182,472,175	590,533,069	120,667,913	9,096,180	14,048,467	21,386,927	57,174,314	1,995,379,045
Georgia	771,275,099	386,542,390	76,312,287	8,327,179	70,201,513	8,025,435	39,158,169	1,359,842,072
Hawaii	99,602,458	49,976,858	9,755,340	1,175,000	10,702,207	1,806,475	5,106,908	178,125,246
Idaho	172,387,311	86,332,529	17,016,537	1,901,188	13,238,712	1,672,416	8,677,269	301,225,962
Illinois	820,600,900	412,443,619	79,109,904	10,942,559	113,745,573	17,625,228	42,856,312	1,497,324,095
Indiana	571,478,034	286,314,228	54,959,039	7,754,765	48,677,922	5,406,492	28,912,294	1,003,502,774
Iowa	303,772,794	151,822,127	27,751,643	5,584,280	11,669,776	2,048,890	14,934,279	517,583,789
Kansas	232,762,624	116,364,589	19,146,688	6,396,603	9,831,849	2,011,991	11,470,437	397,984,781
Kentucky	411,815,156	205,775,500	41,359,116	3,833,339	14,153,657	2,616,715	20,194,981	699,748,464
Louisiana	435,964,627	217,804,600	43,557,561	4,285,049	11,825,955	4,440,878	21,282,719	739,161,389
Maine	109,412,832	54,869,829	10,700,038	1,306,889	10,638,555	1,902,825	5,575,746	194,406,714
Maryland	342,311,383	172,243,126	35,139,183	2,425,951	55,476,124	7,162,942	18,122,780	632,881,489
Massachusetts	338,673,447	170,727,500	34,598,238	2,567,670	65,523,456	9,285,189	18,255,334	639,630,834
Michigan	614,105,552	308,383,360	59,396,130	7,995,604	76,459,774	10,696,633	31,807,170	1,108,844,223
Minnesota	390,468,538	195,652,767	36,552,956	6,296,928	33,294,563	4,722,972	19,755,703	686,744,427
Mississippi	299,035,601	149,450,849	29,174,403	3,641,662	11,591,109	1,756,521	14,704,544	509,354,689
Missouri	583,077,157	291,497,751	58,173,736	5,812,952	24,352,980	5,369,066	28,725,339	997,008,981
Montana	249,922,565	125,055,032	25,411,185	2,015,232	15,380,958	1,857,045	12,463,543	432,105,580
Nebraska	175,945,624	88,043,585	15,536,334	3,771,879	10,629,137	1,712,008	8,768,256	304,406,823
Nevada	207,341,527	104,307,915	21,578,588	1,175,000	33,649,516	3,390,847	10,978,592	382,421,985
New Hampshire	97,229,655	48,789,193	9,494,949	1,175,000	10,692,375	1,632,932	4,992,740	174,006,844
New Jersey	558,367,013	281,405,954	57,372,331	3,902,674	107,544,967	12,859,201	30,082,600	1,051,534,740
New Mexico	224,946,562	112,506,842	22,970,884	1,714,674	11,791,549	1,662,600	11,155,262	386,748,373
New York	930,717,362	469,414,284	95,617,812	6,518,794	189,268,336	25,795,743	50,449,241	1,767,781,572
North Carolina	625,669,096	313,458,001	61,768,523	6,892,190	52,951,683	6,008,418	31,643,476	1,098,391,387
North Dakota	149,854,119	75,038,733	12,476,995	3,967,945	10,869,171	1,734,288	7,523,505	261,464,756
Ohio	781,828,704	392,608,010	76,670,380	9,127,235	98,932,137	11,965,781	40,542,873	1,411,675,120
Oklahoma	393,849,126	196,767,969	37,678,425	5,542,444	12,145,052	2,670,807	19,271,421	667,925,244
Oregon	302,715,126	151,541,629	30,131,198	3,088,657	20,043,895	3,739,104	15,139,508	526,399,117
Pennsylvania	966,135,270	484,775,009	99,104,748	6,918,607	107,966,286	13,398,263	49,663,600	1,727,961,783
Rhode Island	130,999,126	65,638,239	13,200,799	1,175,000	10,776,232	1,918,213	6,615,844	230,323,453
South Carolina	415,119,381	207,423,202	41,080,285	4,474,772	13,534,076	3,253,621	20,334,605	705,219,922
South Dakota	170,103,026	85,183,129	16,018,323	2,648,725	12,673,704	1,825,347	8,550,378	297,002,632
Tennessee	509,828,718	255,303,774	50,930,249	5,018,181	38,270,424	4,965,560	25,635,704	889,952,610
Texas	2,171,483,773	1,087,907,737	218,992,094	19,305,794	178,369,174	26,512,492	109,658,384	3,812,229,448
Utah	210,205,807	105,234,622	21,315,556	1,752,357	13,348,192	3,347,302	10,495,462	365,699,298
Vermont	119,904,996	60,147,801	11,983,333	1,175,000	12,238,789	2,165,392	6,128,163	213,743,474
Virginia	606,035,918	303,803,851	61,768,239	4,737,936	56,740,447	7,809,310	30,817,130	1,071,712,831
Washington	402,026,145	201,604,692	39,815,486	4,302,726	38,177,724	7,563,455	20,469,605	713,949,833
West Virginia	267,344,216	133,726,111	27,324,262	2,014,001	14,797,713	1,758,311	13,281,749	460,246,363
Wisconsin	457,448,595	228,931,343	44,143,437	6,056,815	28,306,086	4,722,569	22,817,474	792,426,319
Wyoming	155,015,840	77,607,809	15,836,386	1,175,000	10,765,886	1,633,055	7,768,050	269,802,026
<b>Apportioned Total</b>	<b>23,263,380,153</b>	<b>11,668,438,004</b>	<b>2,317,915,398</b>	<b>235,000,000</b>	<b>2,403,191,681</b>	<b>342,761,788</b>	<b>1,189,833,051</b>	<b>41,420,520,075</b>