



U.S. Department
of Transportation

**Federal Highway
Administration**

Notice

Subject:

**ADVANCE NOTIFICATION OF FEDERAL-AID HIGHWAY FUNDS
TO BE APPORTIONED ON OCTOBER 1, 2018**

Classification Code

Date

Office of Primary Interest

N4510.827

June 29, 2018

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) 2019. The anticipated apportionment amounts are subject to change before issuing the certificate of apportionment, which is effective on October 1, 2018.
- 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 2019 Surface Transportation Block Grant Program (STBG) (Any Area) funds for use on border infrastructure projects.

2. What are the anticipated FY 2019 apportionments? The following table shows the FY 2019 anticipated apportionment amounts effective on October 1, 2018. 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, 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, 2018. 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: NHPP, STBG, and CMAQ Program.

New Hampshire

Note: To avoid a transfer on October 1, 2018, the National Highway Traffic Safety Administration (NHTSA) must receive from the State by September 30, 2018, 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, Connecticut, Delaware, Hawaii, Louisiana, Maine, Mississippi, Missouri, Ohio, Puerto Rico*, Tennessee, Virginia, and Wyoming

Note: To avoid a transfer on October 1, 2018, NHTSA must receive from the State by September 30, 2018, a certificate and laws that conform to 23 U.S.C. 154 programs implementing regulations.

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. Operation of Motor Vehicles by Intoxicated Persons – 23 U.S.C. 163

Funds subject to 6 percent withholding: NHPP and STBG

South Carolina

Note: Section 163 provides that if, within 4 years from the date that an apportionment is withheld, the State enacts and begins enforcing a complying law, the apportionment of the State will be increased by an amount equal to the amount withheld. South Carolina enacted a complying law (Act 89) on May 19, 2017. The NHTSA anticipates that it will begin enforcing the law on November 19, 2018. As such, it is anticipated that South Carolina will be compliant as of November 19, 2018.

* 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, Surface Transportation Program, and Interstate maintenance program shall be deemed to have been apportioned 50 percent for NHPP and 50 percent for STBG.

f. **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, Indiana, Louisiana, Minnesota, Montana, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Puerto Rico*, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Washington, and Wyoming

Note: To avoid a transfer on October 1, 2018, NHTSA must receive from the State by September 30, 2018, a certificate and laws that conform to 23 U.S.C. 164 programs implementing regulations.

g. **Commercial Drivers' License – 49 U.S.C. 31314**

Funds subject up to 4 percent withholding for the first instance of non-compliance and not more than 8 percent withholding for subsequent instances of non-compliance: NHPP and STBG.

Iowa

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 2019 will be effective on October 1, 2018, a State must make notification of its decision to opt out by September 1, 2018.

Any State that desires to opt out of the RTP set-aside for FY 2019 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, 2018.

- c. **Effect of not opting out by deadline:** If a State does not affirmatively opt out by September 1, 2018, 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 2019 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 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 apportionments being made for a fiscal year. Since apportionments for FY 2019 will be effective on October 1, 2018, notification of the decision to designate funds must be made by

September 1, 2018. Note that any designation made for FY 2018 funds will not be carried over for FY 2019 funds; a new designation must be made for FY 2019 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 2019 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, 2018.

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, 2018**, of any decision to opt out of the RTP set-aside for FY 2019.
- c. The Governor of a land border State shall notify FHWA **no later than September 1, 2018**, of any decision to designate up to 5 percent of the State's FY 2019 STBG (Any Area) funds for use on border infrastructure projects.



Brandye L. Hendrickson
Acting Administrator

Attachment

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

N4510.827

**ADVANCE NOTICE OF ANTICIPATED FEDERAL-AID HIGHWAY PROGRAM APPORTIONMENTS FOR FY 2019
(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 & Air Quality Improvement</u>	<u>Metropolitan Planning</u>	<u>National Highway Freight Program</u>	<u>Apportioned Total</u>
Alabama	483,427,210	240,835,377	47,997,728	4,941,058	12,022,721	3,249,795	25,980,673	818,454,562
Alaska	305,932,477	152,928,887	32,298,636	1,200,000	29,002,151	2,396,563	17,162,586	540,921,300
Arizona	436,888,031	218,770,827	44,915,673	2,919,841	54,673,185	6,184,819	24,955,658	789,308,034
Arkansas	327,109,720	163,067,336	31,777,848	4,042,382	12,977,571	1,815,946	17,742,971	558,533,774
California	2,041,280,355	1,028,296,718	207,048,413	16,416,673	489,084,305	52,881,809	124,472,728	3,959,481,001
Colorado	315,698,824	158,232,403	31,019,353	3,546,073	44,575,613	5,589,962	18,203,888	576,866,116
Connecticut	293,726,640	147,335,163	30,770,014	1,388,998	46,625,568	4,877,891	17,110,583	541,834,857
Delaware	100,951,320	50,553,474	9,853,294	1,200,000	12,290,182	1,883,379	5,754,887	182,486,536
Dist. of Col.	95,764,137	47,933,784	9,285,479	1,200,000	10,646,173	1,875,945	5,425,056	172,130,574
Florida	1,208,781,829	602,137,120	123,051,930	9,318,804	14,330,313	21,883,802	64,432,061	2,043,935,859
Georgia	788,511,358	394,131,441	77,718,593	8,621,072	71,609,925	8,211,887	44,128,934	1,392,933,210
Hawaii	101,831,609	50,957,780	9,949,903	1,200,000	10,916,919	1,848,444	5,755,182	182,459,837
Idaho	176,236,265	88,027,814	17,359,921	1,937,815	13,504,313	1,711,271	9,778,767	308,556,166
Illinois	839,004,950	420,535,538	80,708,920	11,152,475	116,027,585	18,034,708	48,296,521	1,533,760,697
Indiana	584,243,997	291,935,939	56,131,027	7,842,543	49,654,519	5,532,100	32,582,441	1,027,922,566
Iowa	310,538,100	154,804,892	28,386,820	5,618,739	11,903,900	2,096,492	16,830,047	530,178,990
Kansas	237,948,270	118,650,583	19,604,139	6,452,253	10,029,099	2,058,736	12,926,502	407,669,582
Kentucky	420,984,175	209,818,473	42,203,061	3,897,199	14,437,614	2,677,507	22,758,546	716,776,575
Louisiana	445,669,229	222,084,097	44,351,883	4,451,766	12,063,212	4,544,052	23,984,363	757,148,602
Maine	111,859,907	55,946,929	10,920,644	1,327,473	10,851,990	1,947,033	6,283,534	199,137,510
Maryland	349,999,309	175,621,518	35,830,246	2,489,480	56,589,109	7,329,356	20,423,297	648,282,315
Massachusetts	346,297,135	174,074,661	35,271,273	2,641,207	66,838,015	9,500,908	20,572,679	655,195,878
Michigan	627,863,265	314,434,978	60,631,589	8,113,878	77,993,743	10,945,144	35,844,794	1,135,827,391
Minnesota	399,192,432	199,494,239	37,313,374	6,397,259	33,962,533	4,832,699	22,263,506	703,456,042
Mississippi	305,695,201	152,387,044	29,769,430	3,705,829	11,823,655	1,797,329	16,571,150	521,749,638
Missouri	596,067,413	297,224,248	59,337,024	5,934,999	24,841,560	5,493,804	32,371,752	1,021,270,800
Montana	255,496,709	127,511,215	25,919,636	2,057,710	15,689,538	1,900,189	14,045,672	442,620,669
Nebraska	179,870,088	89,772,809	15,849,302	3,846,765	10,842,384	1,751,784	9,881,303	311,814,435
Nevada	211,996,989	106,353,923	22,010,652	1,200,000	34,324,607	3,469,624	12,372,223	391,728,018
New Hampshire	99,405,863	49,746,792	9,684,282	1,200,000	10,906,890	1,670,868	5,626,522	178,241,217
New Jersey	570,932,187	286,923,334	58,513,199	3,992,670	109,702,581	13,157,953	33,901,306	1,077,123,230
New Mexico	229,960,834	114,716,811	23,386,320	1,795,111	12,028,117	1,701,226	12,571,319	396,159,738
New York	951,681,169	478,616,171	97,651,060	6,537,219	193,065,519	26,395,047	56,853,302	1,810,799,487
North Carolina	639,645,257	319,612,704	62,973,717	7,066,221	54,014,022	6,148,009	35,660,321	1,125,120,251
North Dakota	153,199,464	76,512,288	12,801,016	3,974,262	11,087,233	1,774,580	8,478,544	267,827,387
Ohio	799,343,874	400,312,428	78,250,395	9,270,683	100,916,956	12,243,778	45,689,413	1,446,027,527
Oklahoma	402,616,453	200,634,111	38,485,339	5,603,730	12,388,711	2,732,857	21,717,749	684,178,950
Oregon	309,470,638	154,517,690	30,720,217	3,166,942	20,446,024	3,825,974	17,061,328	539,208,813
Pennsylvania	987,758,046	494,289,928	101,077,390	7,075,713	110,132,353	13,709,540	55,967,930	1,770,010,900
Rhode Island	133,925,829	66,926,997	13,464,574	1,200,000	10,992,429	1,962,778	7,455,664	235,928,271
South Carolina	424,361,762	211,498,564	41,871,188	4,598,958	13,805,603	3,329,211	22,915,894	722,381,180
South Dakota	173,900,676	86,855,869	16,346,570	2,695,453	12,927,970	1,867,754	9,635,769	304,230,061
Tennessee	521,210,665	260,317,197	51,917,545	5,154,750	39,038,221	5,080,922	28,889,919	911,609,219
Texas	2,178,452,881	1,088,513,492	218,594,727	19,941,704	178,543,332	26,620,855	121,266,259	3,831,933,250
Utah	214,897,060	107,301,261	21,753,578	1,777,713	13,615,989	3,425,069	11,827,763	374,598,433
Vermont	122,587,633	61,328,430	12,222,652	1,200,000	12,484,328	2,215,700	6,906,077	218,944,820
Virginia	619,583,608	309,768,124	63,019,232	4,822,888	57,878,799	7,990,741	34,729,077	1,097,792,469
Washington	411,017,177	205,562,255	40,545,064	4,459,374	38,943,662	7,739,175	23,056,760	731,323,467
West Virginia	273,304,355	136,352,823	27,861,195	2,066,401	15,094,591	1,799,161	14,967,744	471,446,270
Wisconsin	467,653,257	233,427,570	45,070,735	6,137,917	28,873,975	4,832,287	25,713,939	811,709,680
Wyoming	158,475,548	79,131,889	16,153,102	1,200,000	10,981,876	1,670,995	8,754,132	276,367,542
Apportioned Total	23,742,251,180	11,876,725,938	2,359,648,902	240,000,000	2,448,001,183	350,217,458	1,338,559,035	42,355,403,696