



U.S. Department  
of Transportation

**Federal Highway  
Administration**

# Notice

Subject:

**ADVANCE NOTIFICATION OF FEDERAL-AID HIGHWAY FUNDS  
TO BE APPORTIONED ON OCTOBER 1, 2019**

Classification Code

Date

Office of Primary Interest

**N4510.836**

July 1, 2019

**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) 2020. The anticipated apportionment amounts are subject to change before issuing the certificate of apportionment, which is effective on October 1, 2019.
- 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 2020 Surface Transportation Block Grant Program (STBG) (Any Area) funds for use on border infrastructure projects.

**2. What are the anticipated FY 2020 apportionments?** The following table shows the FY 2020 anticipated apportionment amounts effective on October 1, 2019. 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, 2019. 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 Highway Safety Program under 23 U.S.C. 402: NHPP, STBG, and CMAQ Program.

New Hampshire

Note: To avoid a transfer on October 1, 2019, the National Highway Traffic Safety Administration (NHTSA) must receive from the State by

September 30, 2019, 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 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, Puerto Rico\*, Tennessee, Virginia, and Wyoming

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

Funds subject to 8 percent withholding: NHPP and STBG.

Puerto Rico\*

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

Funds subject to 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, 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 CFR 1275.5. To avoid a penalty on October 1, 2019, such States are encouraged to submit their certification by August 15, 2019.

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

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

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 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 2020 will be effective on October 1, 2019, a State must make notification of its decision to opt out by September 1, 2019.

**Any State that desires to opt out of the RTP set-aside for FY 2020 shall notify FHWA via e-mail, 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, 2019.**

- c. **Effect of not opting out by deadline:** If a State does not affirmatively opt out by September 1, 2019, 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 2020 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 2020 will be effective on October 1, 2019, notification of the decision to designate funds must be made by September 1, 2019. Note that any designation made for FY 2019 funds will not be carried over for FY 2020 funds; a new designation must be made for FY 2020 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 2020 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 FHWA Office of Budget's official mailbox (BudDiv@dot.gov) no later than September 1, 2019.**

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, 2019**, of any decision to opt out of the RTP set-aside for FY 2020.
- c. The Governor of a land border State shall notify FHWA **no later than September 1, 2019**, of any decision to designate up to 5 percent of the State's FY 2020 STBG (Any Area) funds for use on border infrastructure projects.



Nicole R. Nason  
Administrator

Attachment

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

N4510.836

**ADVANCE NOTICE OF ANTICIPATED FEDERAL-AID HIGHWAY PROGRAM APPORTIONMENTS FOR FY 2020  
(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	494,741,953	246,732,803	49,059,788	5,093,965	12,298,319	3,333,954	28,941,332	840,202,114
Alaska	313,099,451	156,683,474	33,042,443	1,225,000	29,666,969	2,458,627	19,118,368	555,294,332
Arizona	447,127,652	224,149,047	45,949,020	2,984,340	55,926,461	6,344,986	27,799,510	810,281,016
Arkansas	334,767,158	167,062,437	32,493,922	4,148,398	13,275,056	1,862,973	19,764,892	573,374,836
California	2,089,200,481	1,053,690,990	211,771,524	16,822,179	500,295,608	54,251,287	138,657,164	4,064,689,233
Colorado	323,099,910	162,125,108	31,730,462	3,628,255	45,597,422	5,734,725	20,278,334	592,194,216
Connecticut	300,614,078	150,961,945	31,498,758	1,398,317	47,694,368	5,004,214	19,060,440	556,232,120
Delaware	103,317,410	51,796,315	10,081,972	1,225,000	12,571,910	1,932,152	6,410,692	187,335,451
Dist. of Col.	98,008,370	49,111,805	9,501,125	1,225,000	10,890,216	1,924,525	6,043,275	176,704,316
Florida	1,237,072,962	616,880,787	125,797,880	9,610,817	14,658,808	22,450,526	71,774,492	2,098,246,272
Georgia	806,983,187	403,807,318	79,585,833	8,735,363	73,251,443	8,424,550	49,157,698	1,429,945,392
Hawaii	104,217,869	52,209,876	10,180,798	1,225,000	11,167,168	1,896,314	6,411,020	187,308,045
Idaho	180,364,022	90,187,711	17,797,509	1,943,117	13,813,873	1,755,588	10,893,118	316,754,938
Illinois	858,674,356	430,881,499	82,656,575	11,313,078	118,687,291	18,501,752	53,800,208	1,574,514,759
Indiana	597,929,430	299,101,165	57,377,817	8,063,973	50,792,752	5,675,363	36,295,412	1,055,235,912
Iowa	317,807,590	158,597,539	29,036,618	5,749,383	12,176,773	2,150,784	18,747,935	544,266,622
Kansas	243,518,886	121,558,071	20,091,708	6,562,690	10,258,997	2,112,050	14,399,557	418,501,959
Kentucky	430,838,573	214,958,092	43,055,783	4,102,496	14,768,568	2,746,847	25,352,023	735,822,382
Louisiana	456,100,983	227,523,466	45,441,892	4,481,821	12,339,738	4,661,728	26,717,529	777,267,157
Maine	114,480,797	57,321,068	11,187,085	1,342,131	11,100,750	1,997,455	6,999,582	204,428,868
Maryland	358,207,008	179,945,709	36,685,280	2,513,899	57,886,304	7,519,164	22,750,659	665,508,023
Massachusetts	354,421,937	178,366,574	36,090,746	2,691,842	68,370,147	9,746,953	22,917,062	672,605,261
Michigan	642,579,319	322,165,619	62,084,876	8,238,329	79,781,597	11,228,590	39,929,529	1,166,007,859
Minnesota	408,543,503	204,391,064	38,137,001	6,576,809	34,741,058	4,957,851	24,800,569	722,147,855
Mississippi	312,851,275	156,120,387	30,486,104	3,757,426	12,094,689	1,843,875	18,459,535	535,613,291
Missouri	610,021,980	304,507,637	60,693,571	6,076,473	25,411,004	5,636,077	36,060,713	1,048,407,455
Montana	261,479,544	130,637,904	26,537,152	2,082,286	16,049,189	1,949,398	15,646,263	454,381,736
Nebraska	184,082,072	91,974,207	16,234,603	3,913,498	11,090,924	1,797,149	11,007,339	320,099,792
Nevada	216,968,180	108,972,195	22,518,347	1,225,000	35,111,432	3,559,477	13,782,114	402,136,745
New Hampshire	101,735,317	50,969,186	9,909,081	1,225,000	11,156,909	1,714,138	6,267,699	182,977,330
New Jersey	584,326,486	293,996,300	59,847,476	4,092,929	112,217,298	13,498,704	37,764,569	1,105,743,762
New Mexico	235,345,075	117,528,827	23,948,351	1,811,004	12,303,838	1,745,283	14,003,898	406,686,276
New York	974,012,365	490,421,038	99,907,425	6,672,018	197,491,169	27,078,598	63,332,086	1,858,914,699
North Carolina	654,628,340	327,457,108	64,427,012	7,220,372	55,252,188	6,307,224	39,724,034	1,155,016,278
North Dakota	156,787,547	78,389,467	13,182,912	3,977,366	11,341,386	1,820,536	9,444,726	274,943,940
Ohio	818,079,139	410,154,429	80,069,578	9,460,145	103,230,281	12,560,853	50,896,004	1,484,450,429
Oklahoma	412,040,523	205,548,192	39,373,040	5,727,892	12,672,698	2,803,630	24,192,620	702,358,595
Oregon	316,718,230	158,307,911	31,428,482	3,236,402	20,914,710	3,925,054	19,005,572	553,536,361
Pennsylvania	1,010,904,618	506,435,313	103,476,899	7,158,362	112,656,922	14,064,575	62,345,822	1,817,042,511
Rhode Island	137,063,015	68,569,768	13,776,132	1,225,000	11,244,409	2,013,608	8,305,283	242,197,215
South Carolina	434,295,182	216,679,276	42,790,541	4,746,114	14,122,069	3,415,428	25,527,301	741,575,911
South Dakota	177,973,663	88,986,911	16,741,703	2,737,342	13,224,318	1,916,123	10,733,825	312,313,885
Tennessee	533,418,054	266,704,084	53,102,229	5,279,900	39,933,096	5,212,502	32,182,103	935,831,968
Texas	2,166,542,312	1,083,746,225	216,701,578	20,420,875	177,480,229	26,539,278	131,271,809	3,822,702,306
Utah	219,929,852	109,933,366	22,221,258	1,850,086	13,928,109	3,513,767	13,175,610	384,552,048
Vermont	125,460,076	62,835,048	12,505,708	1,225,000	12,770,507	2,273,079	7,693,067	224,762,485
Virginia	634,099,034	317,374,279	64,471,791	4,927,334	59,205,557	8,197,676	38,686,671	1,126,962,342
Washington	420,647,244	210,611,005	41,536,598	4,500,711	39,836,369	7,939,596	25,684,221	750,755,744
West Virginia	279,703,606	139,695,457	28,532,148	2,082,299	15,440,605	1,845,754	16,673,410	483,973,279
Wisconsin	478,604,493	239,152,081	46,140,948	6,242,964	29,535,854	4,957,428	28,644,202	833,277,970
Wyoming	162,187,007	81,073,048	16,526,363	1,225,000	11,233,614	1,714,269	9,751,719	283,711,020
Apportioned Total	24,235,621,114	12,136,990,131	2,407,423,445	245,000,000	2,498,960,969	358,516,037	1,487,282,615	43,369,794,311