

(A) \$750,000 each to the Secretaries of Transportation and Energy, Administrator of the Environmental Protection Agency, and Director of the Federal Emergency Management Agency.

(B) \$200,000 to the Director of the National Institute of Environmental Health Sciences.

(e) UNIFORM FORMS AND PROCEDURES.—Not more than \$400,000 may be appropriated to the Secretary of Transportation for the fiscal year ending September 30, 1993, to carry out section 5119 of this title.

(f) CREDITS TO APPROPRIATIONS.—The Secretary of Transportation may credit to any appropriation to carry out this chapter an amount received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

(g) AVAILABILITY OF AMOUNTS.—Amounts available under subsections (c)–(e) of this section remain available until expended.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 783; Pub. L. 103–311, title I, §§103, 119(b), (c)(4), Aug. 26, 1994, 108 Stat. 1673, 1680.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5127(a)	49 App.:1812(a).	Jan. 3, 1975, Pub. L. 93–633, §115, 88 Stat. 2164; July 19, 1975, Pub. L. 94–56, §4, 89 Stat. 264; Oct. 11, 1976, Pub. L. 94–474, §3, 90 Stat. 2068; Sept. 30, 1978, Pub. L. 95–403, 92 Stat. 863; Oct. 30, 1984, Pub. L. 98–559, §2, 98 Stat. 2907; restated Nov. 16, 1990, Pub. L. 101–615, §14, 104 Stat. 3260; Oct. 24, 1992, Pub. L. 102–508, §504, 106 Stat. 3311.
5127(b)	49 App.:1816(d).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §118(d); added Nov. 16, 1990, Pub. L. 101–615, §18, 104 Stat. 3269; Oct. 24, 1992, Pub. L. 102–508, §506, 106 Stat. 3312.
5127(c)	49 App.:1815(i)(3).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §117A(i); added Nov. 16, 1990, Pub. L. 101–615, §17, 104 Stat. 3268.
5127(d)	49 App.:1815(i)(1), (2), (4).	
5127(e)	49 App.:1819(h) (1st sentence).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §121(h); added Nov. 16, 1990, Pub. L. 101–615, §22, 104 Stat. 3272.
5127(f)	49 App.:1812(b).	
5127(g)	49 App.:1815(i)(5), 49 App.:1819(h) (last sentence).	

In the section, references to fiscal years 1991 and 1992 are omitted as obsolete.

In subsections (b), (c)(1), and (d), the words “amounts in” are omitted as surplus.

In subsection (c), the text of 49 App.:1815(i)(3)(A) is omitted as obsolete.

In subsection (c)(2), the words “relating to dissemination of the curriculum” are omitted as surplus.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–311, §103, substituted “fiscal year 1993, \$18,000,000 for fiscal year 1994, \$18,540,000 for fiscal year 1995, \$19,100,000 for fiscal year 1996, and \$19,670,000 for fiscal year 1997” for “the fiscal year ending September 30, 1993.”

Subsec. (b). Pub. L. 103–311, §119(c)(4), amended subsec. (b)(1) generally. Prior to amendment, subsec. (b)(1) read as follows:

“(b) HAZMAT EMPLOYEE TRAINING.—(1) Not more than \$250,000 is available to the Director of the National Institute of Environmental Health Sciences from the account established under section 5116(i) of this title for each of the fiscal years ending September 30, 1993–1998, to carry out section 5107(e) of this title.”

Pub. L. 103–311, §119(b), designated existing provisions as par. (1) and added par. (2).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5107 of this title.

CHAPTER 53—MASS TRANSPORTATION

Sec. 5301.	Policies, findings, and purposes.
5302.	Definitions.
5303.	Metropolitan planning.
5304.	Transportation improvement program.
5305.	Transportation management areas.
5306.	Private enterprise participation in metropolitan planning and transportation improvement programs and relationship to other limitations.
5307.	Urbanized area formula grants.
5308.	Clean fuels formula grant program.
5309.	Capital investment grants and loans.
5310.	Formula grants and loans for special needs of elderly individuals and individuals with disabilities.
5311.	Formula grant for other than urbanized areas. ¹
5312.	Research, development, demonstration, and training projects.
5313.	State planning and research programs.
5314.	National planning and research programs.
5315.	National transit institute.
[5316, 5317.]	Repealed.]
5318.	Bus testing facility.
5319.	Bicycle facilities.
5320.	Suspended light rail system technology pilot project.
5321.	Crime prevention and security.
5322.	Human resource programs.
5323.	General provisions on assistance.
5324.	Limitations on discretionary and special needs grants and loans.
5325.	Contract requirements.
5326.	Special procurements.
5327.	Project management oversight.
5328.	Project review.
5329.	Investigation of safety hazards.
5330.	Withholding amounts for noncompliance with safety requirements.
5331.	Alcohol and controlled substances testing.
5332.	Nondiscrimination.
5333.	Labor standards.
5334.	Administrative provisions.
5335.	Reports and audits.
5336.	Apportionment of appropriations for formula grants.
5337.	Apportionment of appropriations for fixed guideway modernization.
5338.	Authorizations.

AMENDMENTS

1998—Pub. L. 105–178, title III, §§3007(a)(2), 3008(b), 3009(b), 3014(b), 3017(b), 3025(b)(2), title V, §5110(c), June 9, 1998, 112 Stat. 347, 352, 359, 361, 365, 444, substituted “Urbanized area formula grants” for “Block grants” in item 5307, “Clean fuels formula grant program” for “Mass Transit Account block grants” in item 5308, “Capital investment” for “Discretionary” in item 5309, “Formula grant” for “Financial assistance” in item 5311, and “transit” for “mass transportation” in item 5315, struck out items 5316 “University research institutes” and 5317 “Transportation centers”, and inserted “provisions” after “Administrative” in item 5334.

¹ So in original. Does not conform to section catchline.

Pub. L. 105-178, title III, §3013(b), June 9, 1998, 112 Stat. 359, which directed insertion of “formula” before “grants” in item 5310, was executed by substituting “Formula grants” for “Grants” to reflect the probable intent of Congress.

Pub. L. 105-178, title III, §3027(d), as added by Pub. L. 105-206, title IX, §9009(o)(2), July 22, 1998, 112 Stat. 858, substituted “formula grants” for “block grants” in item 5336.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 23 sections 103, 104, 110, 120, 133, 134, 142, 181, 182, 183; title 40 section 819; title 42 section 7506.

§ 5301. Policies, findings, and purposes

(a) **DEVELOPMENT OF TRANSPORTATION SYSTEMS.**—It is in the interest of the United States to encourage and promote the development of transportation systems that embrace various modes of transportation and efficiently maximize mobility of individuals and goods in and through urbanized areas and minimize transportation-related fuel consumption and air pollution.

(b) **GENERAL FINDINGS.**—Congress finds that—

(1) more than 70 percent of the population of the United States is located in rapidly expanding urban areas that generally cross the boundary lines of local jurisdictions and often extend into at least 2 States;

(2) the welfare and vitality of urban areas, the satisfactory movement of people and goods within those areas, and the effectiveness of programs aided by the United States Government are jeopardized by deteriorating or inadequate urban transportation service and facilities, the intensification of traffic congestion, and the lack of coordinated, comprehensive, and continuing development planning;

(3) transportation is the lifeblood of an urbanized society, and the health and welfare of an urbanized society depend on providing efficient, economical, and convenient transportation in and between urban areas;

(4) for many years the mass transportation industry capably and profitably satisfied the transportation needs of the urban areas of the United States but in the early 1970's continuing even minimal mass transportation service in urban areas was threatened because maintaining that transportation service was financially burdensome;

(5) ending that transportation, or the continued increase in its cost to the user, is undesirable and may affect seriously and adversely the welfare of a substantial number of lower income individuals;

(6) some urban areas were developing preliminary plans for, or carrying out, projects in the early 1970's to revitalize their mass transportation operations;

(7) significant mass transportation improvements are necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly individuals, individuals with disabilities, and economically disadvantaged individuals in urban and rural areas of the United States;

(8) financial assistance by the Government to develop efficient and coordinated mass

transportation systems is essential to solve the urban transportation problems referred to in clause (2) of this subsection; and

(9) immediate substantial assistance by the Government is needed to enable mass transportation systems to continue providing vital transportation service.

(c) **RAPID URBANIZATION AND CONTINUING POPULATION DISPERSAL.**—Rapid urbanization and continuing dispersal of the population and activities in urban areas have made the ability of all citizens to move quickly and at a reasonable cost an urgent problem of the Government.

(d) **ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES.**—It is the policy of the Government that elderly individuals and individuals with disabilities have the same right as other individuals to use mass transportation service and facilities. Special efforts shall be made in planning and designing mass transportation service and facilities to ensure that mass transportation can be used by elderly individuals and individuals with disabilities. All programs of the Government assisting mass transportation shall carry out this policy.

(e) **PRESERVING THE ENVIRONMENT.**—It is the policy of the Government that special effort shall be made to preserve the natural beauty of the countryside, public park and recreation lands, wildlife and waterfowl refuges, and important historical and cultural assets when planning, designing, and carrying out an urban mass transportation capital project with assistance from the Government under sections 5309 and 5310 of this title.

(f) **GENERAL PURPOSES.**—The purposes of this chapter are—

(1) to assist in developing improved mass transportation equipment, facilities, techniques, and methods with the cooperation of public and private mass transportation companies;

(2) to encourage the planning and establishment of areawide urban mass transportation systems needed for economical and desirable urban development with the cooperation of public and private mass transportation companies;

(3) to assist States and local governments and their authorities in financing areawide urban mass transportation systems that are to be operated by public or private mass transportation companies as decided by local needs;

(4) to provide financial assistance to State and local governments and their authorities to help carry out national goals related to mobility for elderly individuals, individuals with disabilities, and economically disadvantaged individuals; and

(5) to establish a partnership that allows a community, with financial assistance from the Government, to satisfy its urban mass transportation requirements.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 785.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5301(a)	49 App.:1607(a) (1st sentence).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §8(a) (1st sentence); added Nov. 6, 1978, Pub. L. 95-599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100-17, §310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102-240, §3012, 105 Stat. 2098.
5301(b)	49 App.:1601(a). 49 App.:1601b.	July 9, 1964, Pub. L. 88-365, §2, 78 Stat. 302; Dec. 18, 1991, Pub. L. 102-240, §3005, 105 Stat. 2088. Nov. 26, 1974, Pub. L. 93-503, §2, 88 Stat. 1566.
5301(c)	49 App.:1601a (1st sentence).	Oct. 15, 1970, Pub. L. 91-453, §1, 84 Stat. 962.
5301(d)	49 App.:1612(a).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §16(a); added Oct. 15, 1970, Pub. L. 91-453, §8, 84 Stat. 967; Dec. 18, 1991, Pub. L. 102-240, §3021(1), 105 Stat. 2110.
5301(e)	49 App.:1610(a) (1st sentence).	July 9, 1964, Pub. L. 88-365, §14(a) (1st sentence), 78 Stat. 308; Sept. 8, 1966, Pub. L. 89-562, §2(a)(1), 80 Stat. 715; restated Oct. 15, 1970, Pub. L. 91-453, §6, 84 Stat. 966.
5301(f)	49 App.:1601(b). 49 App.:1601a (last sentence).	

In subsection (b)(1), the words “the predominant part” in 49 App.:1601(a)(1) and “lives in urban areas” in 49 App.:1601b(1) are omitted because of the restatement. The words “metropolitan and other” in 49 App.:1601(a)(1) are omitted as surplus.

In subsection (b)(2), the words “housing, urban renewal, highway, and other”, “being”, “the . . . provision of”, and “transportation and other” in 49 App.:1601(a)(2) are omitted as surplus.

In subsection (b)(4), the words “the early 1970’s” are substituted for “recent years” in 49 App.:1601b(4), and the words “minimal mass transportation service” are substituted for “this essential public service”, for clarity.

In subsection (b)(5), the word “particularly” in 49 App.:1601b(5) is omitted as surplus.

In subsection (b)(6), the words “were . . . in the early 1970’s” are substituted for “now” in 49 App.:1601b(6) for clarity. The words “engaged in”, “actually”, and “comprehensive” in 49 App.:1601b(6) are omitted as surplus.

In subsection (b)(9), the word “many” in 49 App.:1601(b)(7) is omitted as surplus.

In subsection (c), the text of 49 App.:1601a (1st sentence words after semicolon) is omitted as executed.

In subsections (d) and (e), the words “hereby declared to be” are omitted as surplus.

In subsection (d), the words “to ensure that mass transportation can be used by elderly individuals and individuals with disabilities” are substituted for “in the planning and design of mass transportation facilities and services so that the availability to elderly persons and persons with disabilities of mass transportation which they can effectively utilize will be assured” to eliminate unnecessary words. The words “the field of” and “(including the programs under this chapter) . . . contain provisions” are omitted as surplus.

In subsection (e), the words “carrying out” are substituted for “construction of”, and the word “capital” is added, for consistency in the revised chapter. The reference to section 5310 of the revised title is added for clarity because a loan or grant made under section 5310 is deemed to have been made under section 5309.

In subsection (f)(5), the words “local” and “to exercise the initiative necessary” are omitted as surplus.

CONTRACTING OUT STUDY

Pub. L. 105-178, title III, §3032, June 9, 1998, 112 Stat. 385, as amended by Pub. L. 105-206, title IX, §9009(v), July 22, 1998, 112 Stat. 861, provided that:

“(a) STUDY.—Not later than 6 months after the date of enactment of this Act [June 9, 1998], the Secretary [of Transportation] shall enter into an agreement with the Transportation Research Board of the National Academy of Sciences to conduct a study of the effect of contracting out mass transportation operation and administrative functions on cost, availability and level of service, efficiency, safety, quality of services provided to transit-dependent populations, and employer-employee relations.

“(b) TERMS OF AGREEMENT.—The agreement entered into in subsection (a) shall provide that—

“(1) the Transportation Research Board, in conducting the study, consider the number of grant recipients that have contracted out services, the size of the population served by such grant recipients, the basis for decisions regarding contracting out, and the extent to which contracting out was affected by the integration and coordination of resources of transit agencies and other Federal agencies and programs; and

“(2) the panel conducting the study shall include representatives of transit agencies, employees of transit agencies, private contractors, academic and policy analysts, and other interested persons.

“(c) REPORT.—Not later than 24 months after the date of entry into the agreement under subsection (a), the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing the results of the study.

“(d) FUNDING.—There shall be available from funds made available under section 5338(f)(2) of title 49, United States Code, to carry out this section \$250,000 for fiscal year 1999.

“(e) CONTRACTUAL OBLIGATION.—Entry into an agreement to carry out this section that is financed with amounts made available under subsection (d) is a contractual obligation of the United States to pay the Government’s share of the cost of the study.”

COMMUTE-TO-WORK BENEFITS

Pub. L. 102-240, title VIII, §8004, Dec. 18, 1991, 105 Stat. 2206, provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) current Federal policy places commuter transit benefits at a disadvantage compared to drive-to-work benefits;

“(2) this Federal policy is inconsistent with important national policy objectives, including the need to conserve energy, reduce reliance on energy imports, lessen congestion, and clean our Nation’s air;

“(3) commuter transit benefits should be part of a comprehensive solution to national transportation and air pollution problems;

“(4) current Federal law allows employers to provide only up to \$21 per month in employee benefits for transit or van pools;

“(5) the current ‘cliff provision’, which treats an entire commuter transit benefit as taxable income if it exceeds \$21 per month, unduly penalizes the most effective employer efforts to change commuter behavior;

“(6) employer-provided commuter transit incentives offer many public benefits, including increased access of low-income persons to good jobs, inexpensive reduction of roadway and parking congestion, and cost-effective incentives for timely arrival at work; and

“(7) legislation to provide equitable treatment of employer-provided commuter transit benefits has been introduced with bipartisan support in both the Senate and House of Representatives.

“(b) POLICY.—The Congress strongly supports Federal policy that promotes increased use of employer-provided commuter transit benefits. Such a policy ‘levels the playing field’ between transportation modes and is consistent with important national objectives of energy conservation, reduced reliance on energy imports, lessened congestion, and clean air.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5303, 5307, 5310, 5324 of this title.

§ 5302. Definitions

(a) IN GENERAL.—In this chapter, the following definitions apply:

(1) CAPITAL PROJECT.—The term “capital project” means a project for—

(A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in mass transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

(B) rehabilitating a bus;

(C) remanufacturing a bus;

(D) overhauling rail rolling stock;

(E) preventive maintenance;

(F) leasing equipment or a facility for use in mass transportation, subject to regulations that the Secretary prescribes limiting the leasing arrangements to those that are more cost-effective than purchase or construction;

(G) a mass transportation improvement that enhances economic development or incorporates private investment, including commercial and residential development, pedestrian and bicycle access to a mass transportation facility, and the renovation and improvement of historic transportation facilities, because the improvement enhances the effectiveness of a mass transportation project and is related physically or functionally to that mass transportation project, or establishes new or enhanced coordination between mass transportation and other transportation, and provides a fair share of revenue for mass transportation that will be used for mass transportation—

(i) including property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space, safety and security equipment and facilities (including lighting, surveillance and related intelligent transportation system applications), facilities that incorporate community services such as daycare or health care, and a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall, except that a person making an agreement to occupy space in a facility under this subparagraph shall pay a reasonable share of the costs of the facility through rental payments and other means; and

(ii) excluding construction of a commercial revenue-producing facility or a part of a public facility not related to mass transportation;

(H) the introduction of new technology, through innovative and improved products, into mass transportation; or

(I) the provision of nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only for grant recipients that are in compliance with applicable requirements of that Act, including both fixed route and demand responsive service, and only for amounts not to exceed 10 percent of such recipient’s annual formula apportionment under sections 5307 and 5311.

(2) CHIEF EXECUTIVE OFFICER OF A STATE.—The term “chief executive officer of a State” includes the designee of the chief executive officer.

(3) EMERGENCY REGULATION.—The term “emergency regulation” means a regulation—

(A) that is effective temporarily before the expiration of the otherwise specified periods of time for public notice and comment under section 5334(b); and

(B) prescribed by the Secretary as the result of a finding that a delay in the effective date of the regulation—

(i) would injure seriously an important public interest;

(ii) would frustrate substantially legislative policy and intent; or

(iii) would damage seriously a person or class without serving an important public interest.

(4) FIXED GUIDEWAY.—The term “fixed guideway” means a mass transportation facility—

(A) using and occupying a separate right-of-way or rail for the exclusive use of mass transportation and other high occupancy vehicles; or

(B) using a fixed catenary system and a right-of-way usable by other forms of transportation.

(5) HANDICAPPED INDIVIDUAL.—The term “handicapped individual” means an individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use effectively, without special facilities, planning, or design, mass transportation service or a mass transportation facility.

(6) LOCAL GOVERNMENTAL AUTHORITY.—The term “local governmental authority” includes—

(A) a political subdivision of a State;

(B) an authority of at least 1 State or political subdivision of a State;

(C) an Indian tribe; and

(D) a public corporation, board, or commission established under the laws of a State.

(7) MASS TRANSPORTATION.—The term “mass transportation” means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include school bus, charter, or sightseeing transportation.

(8) NET PROJECT COST.—The term “net project cost” means the part of a project that reasonably cannot be financed from revenues.

(9) NEW BUS MODEL.—The term “new bus model” means a bus model (including a model using alternative fuel)—

(A) that has not been used in mass transportation in the United States before the date of production of the model; or

(B) used in mass transportation in the United States, but being produced with a major change in configuration or components.

(10) PUBLIC TRANSPORTATION.—The term “public transportation” means mass transportation.

(11) REGULATION.—The term “regulation” means any part of a statement of general or particular applicability of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out this chapter.

(12) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

(13) STATE.—The term “State” means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(14) TRANSIT.—The term “transit” means mass transportation.

(15) TRANSIT ENHANCEMENT.—The term “transit enhancement” means, with respect to any project or an area to be served by a project, projects that are designed to enhance mass transportation service or use and that are physically or functionally related to transit facilities. Eligible projects are—

(A) historic preservation, rehabilitation, and operation of historic mass transportation buildings, structures, and facilities (including historic bus and railroad facilities);

(B) bus shelters;

(C) landscaping and other scenic beautification, including tables, benches, trash receptacles, and street lights;

(D) public art;

(E) pedestrian access and walkways;

(F) bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on mass transportation vehicles;

(G) transit connections to parks within the recipient’s transit service area;

(H) signage; and

(I) enhanced access for persons with disabilities to mass transportation.

(16) URBAN AREA.—The term “urban area” means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local mass transportation system to serve individuals in the locality.

(17) URBANIZED AREA.—The term “urbanized area” means an area—

(A) encompassing at least an urbanized area within a State that the Secretary of Commerce designates; and

(B) designated as an urbanized area within boundaries fixed by State and local officials and approved by the Secretary.

(b) AUTHORITY TO MODIFY “HANDICAPPED INDIVIDUAL”.—The Secretary may by regulation

modify the definition of the term “handicapped individual” in subsection (a)(5) as it applies to section 5307(d)(1)(D).

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 786; Pub. L. 103–331, title III, §335A, Sept. 30, 1994, 108 Stat. 2495; Pub. L. 104–50, title III, §333(a), Nov. 15, 1995, 109 Stat. 457; Pub. L. 104–287, §6(c), Oct. 11, 1996, 110 Stat. 3398; Pub. L. 105–102, §3(a), Nov. 20, 1997, 111 Stat. 2214; Pub. L. 105–178, title III, §3003, June 9, 1998, 112 Stat. 338; Pub. L. 105–206, title IX, §9009(a), July 22, 1998, 112 Stat. 852.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5302(a)(1)	49 App.:1608(c)(1).	July 9, 1964, Pub. L. 88–365, §12(c)(1), 78 Stat. 306; Aug. 10, 1965, Pub. L. 89–117, §1109, 79 Stat. 507; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20, 81 Stat. 25; Aug. 1, 1968, Pub. L. 90–448, §702, 82 Stat. 535; restated Nov. 6, 1978, Pub. L. 95–599, §308(b), 92 Stat. 2746; Jan. 6, 1983, Pub. L. 97–424, §309(a), 96 Stat. 2151; Apr. 2, 1987, Pub. L. 100–17, §309(a), 101 Stat. 227.
	49 App.:1608(c)(7), (8).	July 9, 1964, Pub. L. 88–365, §12(c)(3)–(9), 78 Stat. 306; Aug. 10, 1965, Pub. L. 89–117, §1109, 79 Stat. 507; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20, 81 Stat. 25; Aug. 1, 1968, Pub. L. 90–448, §702, 82 Stat. 535; restated Nov. 6, 1978, Pub. L. 95–599, §308(b), 92 Stat. 2746; Dec. 18, 1991, Pub. L. 102–240, §3016, 105 Stat. 2108.
5302(a)(2)	49 App.:1608(c)(3).	July 9, 1965, Pub. L. 88–365, 78 Stat. 302, §12(c)(12), (13); added Apr. 2, 1987, Pub. L. 100–17, §318(b)(3), 101 Stat. 234.
5302(a)(3)	49 App.:1608(c)(13).	July 9, 1964, Pub. L. 88–365, §12(c)(2), 78 Stat. 306; Aug. 10, 1965, Pub. L. 89–117, §1109, 79 Stat. 507; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20, 81 Stat. 25; Aug. 1, 1968, Pub. L. 90–448, §702, 82 Stat. 535; restated Nov. 6, 1978, Pub. L. 95–599, §308(b), 92 Stat. 2746; Jan. 6, 1983, Pub. L. 97–424, §309(b), 96 Stat. 2151.
5302(a)(4)	49 App.:1608(c)(2).	July 9, 1964, Pub. L. 88–365, §12(c)(2), 78 Stat. 306; Aug. 10, 1965, Pub. L. 89–117, §1109, 79 Stat. 507; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20, 81 Stat. 25; Aug. 1, 1968, Pub. L. 90–448, §702, 82 Stat. 535; restated Nov. 6, 1978, Pub. L. 95–599, §308(b), 92 Stat. 2746; Jan. 6, 1983, Pub. L. 97–424, §309(b), 96 Stat. 2151.
5302(a)(5)	49 App.:1608(c)(4) (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(h)(2); added Apr. 2, 1987, Pub. L. 100–17, §317(a), 101 Stat. 233; Dec. 18, 1991, Pub. L. 102–240, §6021(a), 105 Stat. 2184.
5302(a)(6)	49 App.:1608(c)(5).	Apr. 2, 1988, Pub. L. 100–17, §317(b)(4), 101 Stat. 233.
5302(a)(7)	49 App.:1608(c)(6).	
5302(a)(8)	(no source).	
5302(a)(9)	49 App.:1608(h)(2).	July 9, 1964, Pub. L. 88–365, §12(c)(10), (11), 78 Stat. 306; Aug. 10, 1965, Pub. L. 89–117, §1109, 79 Stat. 507; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, §20, 81 Stat. 25; Aug. 1, 1968, Pub. L. 90–448, §702, 82 Stat. 535; restated Nov. 6, 1978, Pub. L. 95–599, §308(b), 92 Stat. 2746; Apr. 2, 1987, Pub. L. 100–17, §318(b)(1), (2), 101 Stat. 234.
5302(a)(10) ..	49 App.:1608(c)(12).	
5302(a)(11) ..	49 App.:1608(c)(9).	
5302(a)(12) ..	49 App.:1608(c)(10).	
5302(a)(13) ..	49 App.:1608(c)(11).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5302(b)	49 App.:1608(c)(4) (last sentence).	

In this chapter, the words “local governmental authority” are substituted for “local public body” for consistency in the revised title and with other titles of the United States Code.

In subsection (a), before clause (1), the text of 49 App.:1608(c)(7) is omitted as surplus. The text of 49 App.:1608(c)(8) is omitted because the complete title of the Secretary of Transportation is used the first time the term appears in a section. In clause (1), before subclause (A), the words “capital project” are substituted for “construction” for clarity. In subclause (A), the words “actual”, “all”, and “reconstruction” are omitted as surplus. In subclause (D), the words “(whether or not such overhaul increases the useful life of the rolling stock)” are omitted as surplus. In clause (2), the words “for each of the jurisdictions included in the definition of ‘State’” are omitted as surplus. In clauses (3) and (10), the word “regulation” is substituted for “rule” for consistency in the revised title and with other titles of the Code and because the terms are synonymous. In clause (3)(B)(iii), the words “of persons” are omitted as surplus. In clauses (4) and (5), the word “mass” is substituted for “public” because of the restatement. In clause (4)(A), the words “including, but not limited to, fixed rail, automated guideway transit, and exclusive facilities for buses” are omitted as surplus. In clause (6)(A), the words “municipalities and other” are omitted as surplus. In clause (6)(B), the word “authority” is substituted for “public agencies and instrumentalities” for consistency in the revised title and with other titles of the Code. The word “municipalities” is omitted as surplus. In clause (7), the words “bus, or rail, or other”, “either publicly or privately owned”, and “on a . . . basis” are omitted as surplus. Clause (8) is added for clarity because the term “net project cost” has the same meaning throughout this chapter. In clause (11), the words “the Commonwealths of” are omitted as surplus. In clause (12), the word “individuals” is substituted for “commuters or others” to eliminate unnecessary words. In clause (13)(A), the words “in the case of any such area” and “entire” are omitted as surplus. The words “Secretary of Commerce” are substituted for “Bureau of the Census” because of 15:1511(e). In clause (13)(B), the words “so designated by the Bureau of Census”, “which shall be”, “responsible”, and “in cooperation with each other” are omitted as surplus.

Subsection (b) applies to section 5307(d)(1)(D) of the revised title because of 49 App.:1607a(e)(1), restated as section 5307(n)(2) of the revised title.

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (a)(1)(I), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

AMENDMENTS

1998—Pub. L. 105-178, §3003(a), formerly §3003, as renumbered by Pub. L. 105-206, §9009(a)(1), amended section generally, revising and restating existing definitions and adding new pars. defining additional terms.

Subsec. (a)(1)(G)(i). Pub. L. 105-178, §3003(b), as added by Pub. L. 105-206, §9009(a)(2), substituted “daycare or” for “daycare and”.

1997—Subsec. (a)(1)(B), (C). Pub. L. 105-102 made technical correction to directory language of Pub. L. 104-50, §333(a). See 1995 Amendment notes below.

1996—Subsec. (a)(1). Pub. L. 104-287 made technical correction to directory language of Pub. L. 103-331, §335A. See 1994 Amendment note below.

1995—Subsec. (a)(1)(B). Pub. L. 104-50, §333(a)(1), as amended by Pub. L. 105-102, §3(a)(1), struck out “that extends the economic life of a bus for at least 5 years” after “rehabilitating a bus”.

Subsec. (a)(1)(C). Pub. L. 104-50, §333(a)(2), as amended by Pub. L. 105-102, §3(a)(2), struck out “that extends the economic life of a bus for at least 8 years” after “remanufacturing a bus”.

1994—Subsec. (a)(1). Pub. L. 103-331, §335A, as amended by Pub. L. 104-287, inserted “payments for the capital portions of rail trackage rights agreements,” after “rights of way,”.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-102, §3(a), Nov. 20, 1997, 111 Stat. 2214, provided that the amendment made by section 3(a) is effective Nov. 15, 1995.

Amendment by Pub. L. 105-102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105-102, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 6(c) of Pub. L. 104-287 provided that the amendment made by that section is effective Sept. 30, 1994.

EFFECTIVE DATE OF 1995 AMENDMENT

Section 333(b) of Pub. L. 104-50 provided that: “The amendments made by this section [amending this section] shall not take effect before March 31, 1996.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5307, 5336, 10501 of this title; title 18 section 1993.

§ 5303. Metropolitan planning

(a) GENERAL REQUIREMENTS.—

(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To carry out section 5301(a), metropolitan planning organizations designated under subsection (c), in cooperation with the States and mass transportation operators, shall develop transportation plans and programs for urbanized areas of the State.

(2) CONTENTS.—The plans and programs developed under paragraph (1) for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan area and as an integral part of an intermodal transportation system for the State and the United States.

(3) PROCESS.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(b) SCOPE OF PLANNING PROCESS.—

(1) IN GENERAL.—The metropolitan transportation planning process for a metropolitan area under this section shall provide for consideration of projects and strategies that will—

(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety and security of the transportation system for motorized and nonmotorized users;

(C) increase the accessibility and mobility options available to people and for freight;

(D) protect and enhance the environment, promote energy conservation, and improve quality of life;

(E) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

(F) promote efficient system management and operation; and

(G) emphasize the preservation of the existing transportation system.

(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.

(c) DESIGNATING METROPOLITAN PLANNING ORGANIZATIONS.—(1) To carry out the planning process required by this section and sections 5304–5306 of this title, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000—

(A) by agreement of the chief executive officer of a State and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities, as defined by the Bureau of the Census); or

(B) under procedures established by State or local law.

(2) Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area when designated or redesignated under this subsection shall consist of local elected officials, officials of public agencies that administer or operate major modes of transportation in the metropolitan area (including all transportation authorities included in the organization on June 1, 1991), and appropriate State officials.

(3) More than one metropolitan planning organization may be designated within an existing metropolitan planning area only if the chief executive officer of the State and the existing metropolitan organization determine that the size and complexity of the existing metropolitan planning area make designation of more than one organization appropriate.

(4) A designation is effective until—

(A) the organization is redesignated under paragraph (5) of this subsection; or

(B) revoked—

(i) by agreement of the chief executive officer and units of general local government

representing at least 75 percent of the affected population; or

(ii) as otherwise provided by State or local procedures.

(5)(A) The chief executive officer and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city as defined by the Secretary of Commerce) may redesignate by agreement a metropolitan planning organization when appropriate to carry out this section and sections 5304–5306 of this title.

(B) A metropolitan planning organization shall be redesignated on request of one or more units of general local government representing at least 25 percent of the affected population (including the central city or cities, as defined by the Bureau of the Census) in an urbanized area with a population of more than 5,000,000, but less than 10,000,000 or that is an extreme nonattainment area for ozone or carbon monoxide (as defined in the Clean Air Act (42 U.S.C. 7401 et seq.)).

(C) A metropolitan planning organization shall be redesignated using procedures established to carry out this paragraph.

(D) Designations of metropolitan planning organizations, whether made under this section or under any other provision of law, shall remain in effect until redesignation under this paragraph.

(6) This subsection does not affect the authority, under State law in effect on December 18, 1991, of a public authority with multimodal transportation responsibilities—

(A) to develop plans and programs for a metropolitan planning organization to adopt; and

(B) to develop long-range capital plans, coordinate mass transportation services and projects, and carry out other activities under State law.

(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

(1) IN GENERAL.—To carry out this section, the metropolitan planning organization and the chief executive officer shall decide by agreement on the boundaries of a metropolitan planning area.

(2) INCLUDED AREA.—Each metropolitan planning area—

(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period; and

(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

(3) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of this paragraph shall be retained, except that the boundaries may be adjusted by agreement of the chief executive officer of the State and any affected metropolitan planning organizations, in the manner described in subsection (c)(5).

(4) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of this paragraph as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, the boundaries of the metropolitan planning area—

(A) shall be established in the manner described in subsection (c)(1);

(B) shall encompass the areas described in paragraph (2)(A);

(C) may encompass the areas described in paragraph (2)(B); and

(D) may address any nonattainment area identified under the Clean Air Act for ozone or carbon monoxide.

(e) COORDINATION.—(1) The Secretary of Transportation shall establish requirements the Secretary considers appropriate to encourage chief executive officers and metropolitan planning organizations with responsibility for part of a multi-State metropolitan area to provide coordinated transportation planning for the entire area.

(2) Congress consents to at least 2 States making an agreement or compact, not in conflict with a law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

(3) If more than one metropolitan planning organization has authority in a metropolitan area or an area designated a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each organization shall consult with the other organizations designated for the area and the State to coordinate plans and projects required by this section and sections 5304–5306 of this title.

(4) The Secretary shall encourage each metropolitan planning organization to coordinate, to the maximum extent practicable, the design and delivery of transportation services within the metropolitan planning area that are provided—

(A) by recipients of assistance under this chapter; and

(B) by governmental agencies and non-profit organizations (including representatives of the agencies and organizations) that receive Governmental¹ assistance from a source other than the Department of Transportation to provide non-emergency transportation services.

(5) COORDINATION.—If a project is located within the boundaries of more than one metropolitan planning organization, the metropolitan planning organizations shall coordinate plans regarding the project.

(6) LAKE TAHOE REGION.—

(A) DEFINITION.—In this paragraph, the term “Lake Tahoe region” has the meaning given the term “region” in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96–551 (94 Stat. 3234).

(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

(ii) coordinate the transportation planning process with the planning process required of State and local governments under this chapter and sections 134 and 135 of title 23, United States Code.

(C) INTERSTATE COMPACT.—

(i) IN GENERAL.—Subject to clause (ii) and notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

(II) FUNDING.—In addition to funds made available to the metropolitan planning organization under other provisions of this chapter and under title 23, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of title 23, United States Code.

(f) DEVELOPING LONG-RANGE TRANSPORTATION PLANS.—(1) Each metropolitan planning organization shall prepare and update periodically, according to a schedule the Secretary of Transportation decides is appropriate, a long-range plan for its metropolitan area under the requirements of this section. The plan shall be in the form the Secretary considers appropriate and at least shall—

(A) identify transportation facilities (including major roadways, mass transportation, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, emphasizing transportation facilities that serve important national, regional, and metropolitan transportation functions;

¹ So in original. Probably should not be capitalized.

(B) include a financial plan that—

(i) demonstrates how the long-range plan can be carried out;

(ii) indicates resources from public and private sources reasonably expected to be made available to carry out the plan; and

(iii) recommends any additional financing strategies for needed projects and programs;

(C) identify transportation strategies necessary—

(i) to ensure preservation, including requirements for management, operation, modernization, and rehabilitation, of the existing and future transportation system; and

(ii) to use existing transportation facilities most efficiently to relieve congestion, to efficiently serve the mobility needs of people and goods, and to enhance access within the metropolitan planning area;

(D) indicate appropriate proposed transportation enhancement activities; and

(E) the financial plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range plan if reasonable additional resources beyond those identified in the financial plan were available, except that, for the purpose of developing the long-range plan, the metropolitan planning organization and the State shall cooperatively develop estimates of funds that will be available to support plan implementation.

(2) When formulating a long-range plan, the metropolitan planning organization shall consider the factors described in subsection (b) of this section and any State or local goals developed within the cooperative metropolitan planning process as they relate to a 20-year forecast period and to other forecast periods as determined by the participants in the planning process.

(3) In a metropolitan area that is in a non-attainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of the long-range plan with the development of the transportation control measures of the State Implementation Plan required by the Act.

(4) Before approving a long-range plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of mass transportation authority employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the plan in a way the Secretary of Transportation considers appropriate.

(5) A long-range plan shall be—

(A) published or otherwise made readily available for public review; and

(B) submitted for information purposes to the chief executive officer of the State at the time and in the way the Secretary of Transportation establishes.

(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (1)(E), a State

or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (1)(B).

(g) GRANTS.—Under criteria the Secretary of Transportation establishes, the Secretary may make contracts for, and grants to, States, local governmental authorities, and authorities of the States and governmental authorities, or may make agreements with other departments, agencies, and instrumentalities of the Government, to plan, engineer, design, and evaluate a mass transportation project and for other technical studies, including—

(1) studies related to management, operations, capital requirements, and economic feasibility;

(2) evaluating previously financed projects; and

(3) other similar and related activities preliminary to and in preparation for constructing, acquiring, or improving the operation of facilities and equipment.

(h) BALANCED AND COMPREHENSIVE PLANNING.—

(1) To the extent practicable, the Secretary of Transportation shall ensure that amounts made available under subsection (c) or (h)(1) of section 5338 of this title to carry out this section and sections 5304 and 5305 of this title are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

(2)(A) The Secretary of Transportation shall apportion 80 percent of the amount made available under subsection (c) or (h)(1) of section 5338 of this title to States in a ratio equal to the population in urbanized areas in each State divided by the total population in urbanized areas in all States, as shown by the latest available decennial census. A State may not receive less than .5 percent of the amount apportioned under this subparagraph.

(B) Amounts apportioned to a State under subparagraph (A) of this paragraph shall be allocated to metropolitan planning organizations in the State designated under this section under a formula—

(i) the State develops in cooperation with the metropolitan planning organizations;

(ii) the Secretary of Transportation approves; and

(iii) that considers population in urbanized areas and provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section.

(C) A State shall make amounts available promptly to eligible metropolitan planning organizations according to procedures the Secretary of Transportation approves.

(3)(A) The Secretary of Transportation shall apportion 20 percent of the amount made available under subsection (c) or (h)(1) of section 5338 of this title to States to supplement allocations made under paragraph (2)(B) of this subsection for metropolitan planning organizations.

(B) Amounts under this paragraph shall be allocated under a formula that reflects the additional cost of carrying out planning, program-

ming, and project selection responsibilities under this section and sections 5304–5306 of this title in those areas.

(4) To the maximum extent practicable, the Secretary of Transportation shall ensure that no metropolitan planning organization is allocated less than the amount it received by administrative formula under this section in the fiscal year that ended September 30, 1991. To carry out this subsection, the Secretary may make a proportionate reduction in other amounts made available to carry out subsection (c) or (h)(1) of section 5338 of this title.

(5) Amounts available for an activity under this subsection are for 80 percent of the cost of the activity unless the Secretary of Transportation decides it is in the interests of the Government not to require a State or local match.

(6) An amount apportioned under this subsection—

(A) remains available for 3 years after the fiscal year in which the amount is apportioned, and

(B) that is unobligated at the end of the 3-year period shall be reapportioned among the States for the next fiscal year.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 788; Pub. L. 104–287, §5(10), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105–102, §2(4), Nov. 20, 1997, 111 Stat. 2204; Pub. L. 105–178, title III, §§3004, 3029(b)(1)–(3), June 9, 1998, 112 Stat. 341, 372; Pub. L. 105–206, title IX, §9009(b), July 22, 1998, 112 Stat. 852.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5303(a)	49 App.:1607(a) (2d-last sentences).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(a) (2d-last sentences)–(g), (n); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; re-stated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2098, 2104.
5303(b)	49 App.:1607(f).	
5303(c)(1)	49 App.:1607(b)(1).	
5303(c)(2)	49 App.:1607(b)(2).	
5303(c)(3)	49 App.:1607(b)(6).	
5303(c)(4)	49 App.:1607(b)(4).	
5303(c)(5)	49 App.:1607(b)(5).	
5303(c)(6)	49 App.:1607(b)(3).	
5303(d)	49 App.:1607(c).	
5303(e)	49 App.:1607(d), (e).	
5303(f)	49 App.:1607(g).	
5303(g)	49 App.:1607(n).	
5303(h)	49 App.:1607(p).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §8(p); added Nov. 6, 1978, Pub. L. 95–599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, §310, 101 Stat. 227; re-stated Dec. 18, 1991, Pub. L. 102–240, §3012, 105 Stat. 2105; Oct. 6, 1992, Pub. L. 102–388, §502(h), 106 Stat. 1566.

In this section, the word “together” is omitted as surplus. The words “Secretary of Commerce” are substituted for “Bureau of the Census” because of 15:1511(e).

In subsection (b)(2), the word “applicable” is omitted as surplus.

In subsection (b)(3), the words “where it does not yet occur” are omitted as surplus.

In subsection (b)(4), the words “the provisions of all applicable” are omitted as surplus.

In subsection (c)(4), before clause (A), the words “whether made under this section or other provisions of law” are omitted as surplus.

In subsection (d), the word “entire” is omitted as surplus.

In subsection (e)(2), the words “or compacts” and “joint or otherwise” are omitted as surplus.

In subsection (f)(3), the word “area” is added for clarity and consistency with 42:7501(2).

In subsection (f)(5)(A), the words “published or otherwise” are omitted as surplus.

In subsection (g), before clause (1), the words “local governmental authorities” are substituted for “local public bodies”, and the words “departments, agencies, and instrumentalities of the Government” are substituted for “Federal departments and agencies”, for consistency in the revised title and with other titles of the United States Code.

In subsection (h)(6)(A), the words “for obligation”, “a period of”, and “the close of” are omitted as surplus.

PUB. L. 104–287

This amends 49:5303(f)(2) and (h)(4) to correct erroneous cross-references.

PUB. L. 105–102, §2(4)(A)

This amends 49:5303(c)(1) to correct an erroneous cross-reference.

PUB. L. 105–102, §2(4)(B)

This amends 49:5303(c)(4)(A) to correct an erroneous cross-reference.

PUB. L. 105–102, §2(4)(C)

This amends 49:5303(c)(5)(A) to correct an erroneous cross-reference.

REFERENCES IN TEXT

The Clean Air Act, referred to in subsecs. (c)(5)(B), (d)(3), (4), (e)(3), and (f)(3), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The date of enactment of this paragraph, referred to in subsec. (d)(3), (4), is the date of enactment of Pub. L. 105–178, which was approved June 9, 1998.

The Tahoe Regional Planning Compact [Pub. L. 96–551, 94 Stat. 3234], referred to in subsec. (e)(6)(A), is not classified to the Code.

AMENDMENTS

1998—Subsecs. (a), (b). Pub. L. 105–178, §3004(a), added subsecs. (a) and (b) and struck out headings and text of former subsecs. (a) and (b) which related to development requirements and plan and program factors, respectively.

Subsec. (c)(1)(A). Pub. L. 105–178, §3004(b)(1)(B), substituted “or cities, as defined by the Bureau of the Census)” for “as defined by the Secretary of Commerce”.

Pub. L. 105–178, §3004(b)(1)(A), as amended by Pub. L. 105–206, §9009(b)(1)(A), substituted “general purpose local government that together represent” for “general local government representing”.

Subsec. (c)(2). Pub. L. 105–178, §3004(b)(2), substituted “Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area when designated or redesignated under this subsection shall consist of” for “In a metropolitan area designated as a transportation management area, the designated metropolitan planning organization, if redesignated after December 18, 1991, shall include” and “officials of public agencies” for “officials of authorities”.

Subsec. (c)(3). Pub. L. 105–178, §3004(b)(3), as amended by Pub. L. 105–206, §9009(b)(1)(B), substituted “within an existing metropolitan planning area only if the chief

executive officer of the State and the existing metropolitan organization determine that the size and complexity of the existing metropolitan planning area” for “in an urbanized area (as defined by the Secretary of Commerce) only if the chief executive officer decides that the size and complexity of the urbanized area”.

Subsec. (c)(4)(A). Pub. L. 105-178, §3004(b)(4), as added by Pub. L. 105-206, §9009(b)(1)(E), directed an amendment identical to that made by Pub. L. 105-102, §2(4)(B). See 1997 Amendment note below.

Subsec. (c)(5)(A). Pub. L. 105-178, §3004(b)(5)(A), formerly §3004(b)(4)(A), as renumbered and amended by Pub. L. 105-206, §9009(b)(1)(C), (D), substituted “general purpose local government that together represent” for “general local government representing”.

Subsec. (c)(5)(B). Pub. L. 105-178, §3004(b)(5)(B), formerly §3004(b)(4)(B), as renumbered by Pub. L. 105-206, §9009(b)(1)(D), substituted “or cities, as defined by the Bureau of the Census” for “as defined by the Secretary of Commerce”.

Subsec. (c)(5)(D). Pub. L. 105-178, §3004(b)(5)(C), formerly §3004(b)(4)(C), as renumbered by Pub. L. 105-206, §9009(b)(1)(D), added subpar. (D).

Subsec. (d). Pub. L. 105-178, §3004(c), inserted “Planning” after “Metropolitan” in subsec. heading, designated existing provisions as par. (1), inserted par. heading, realigned margins, inserted “planning” before “area” in first sentence and substituted pars. (2) to (4) for “The area shall cover at least the existing urbanized area and the contiguous area expected to become urbanized within the 20-year forecast period and may include the Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area, as defined by the Secretary of Commerce. An area designated as a non-attainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) shall include at least the boundaries of the nonattainment area, except as the chief executive officer and metropolitan planning organization otherwise agree.”

Subsec. (e)(2). Pub. L. 105-178, §3004(d)(1), inserted “or compact” after “2 States making an agreement” and substituted “making the agreements and compacts effective” for “making the agreement effective”.

Subsec. (e)(4) to (6). Pub. L. 105-178, §3004(d)(2), as amended by Pub. L. 105-206, §9009(b)(2), added pars. (4) to (6).

Subsec. (f). Pub. L. 105-178, §3004(e)(5), substituted “Developing Long-Range Transportation Plans” for “Developing Long-Range Plans” in heading.

Pub. L. 105-178, §3004(e)(6), which directed substitution of “long-range transportation plans” for “long-range plans” wherever appearing, could not be executed because “long-range plans” does not appear in text.

Subsec. (f)(1)(A). Pub. L. 105-178, §3004(e)(1)(A), substituted “national, regional, and metropolitan transportation functions” for “United States and regional transportation functions”.

Subsec. (f)(1)(B)(iii). Pub. L. 105-178, §3004(e)(1)(B), added cl. (iii) and struck out former cl. (iii) which read as follows: “recommends innovative financing techniques, including value capture, tolls, and congestion pricing, to finance needed projects and programs;”.

Subsec. (f)(1)(C). Pub. L. 105-178, §3004(e)(1)(C), added subpar. (C) and struck out former subpar. (C) which read as follows: “assess capital investment and other measures necessary—

“(i) to ensure the preservation of the existing metropolitan transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, and operations, maintenance, modernization, and rehabilitation of existing and future mass transportation facilities; and

“(ii) to use existing transportation facilities most efficiently to relieve vehicular congestion and maximize the mobility of individuals and goods; and”.

Subsec. (f)(1)(E). Pub. L. 105-178, §3004(f)(1), as added by Pub. L. 105-206, §9009(b)(3), added subpar. (E).

Subsec. (f)(2). Pub. L. 105-178, §3004(e)(2), substituted “and any State or local goals developed within the co-

operative metropolitan planning process as they relate to a 20-year forecast period and to other forecast periods as determined by the participants in the planning process” for “as they are related to a 20-year forecast period”.

Subsec. (f)(4). Pub. L. 105-178, §3004(e)(3), inserted “freight shippers, providers of freight transportation services,” after “mass transportation authority employees,” and “representatives of users of public transit,” after “private providers of transportation.”.

Subsec. (f)(5)(A). Pub. L. 105-178, §3004(e)(4), inserted “published or otherwise” before “made readily available”.

Subsec. (f)(6). Pub. L. 105-178, §3004(f)(2), as added by Pub. L. 105-206, §9009(b)(3), added par. (6).

Subsec. (h)(1). Pub. L. 105-178, §3029(b)(1), (2), substituted “subsection (c) or (h)(1) of section 5338 of this title” for “section 5338(g)(1) of this title” and “sections 5304 and 5305 of this title” for “sections 5304-5306 of this title”.

Subsec. (h)(2)(A), (3)(A). Pub. L. 105-178, §3029(b)(1), substituted “subsection (c) or (h)(1) of section 5338 of this title” for “section 5338(g)(1) of this title”.

Subsec. (h)(4). Pub. L. 105-178, §3029(b)(3), substituted “subsection (c) or (h)(1) of section 5338 of this title” for “section 5338(g) of this title”.

1997—Subsec. (c)(1). Pub. L. 105-102, §2(4)(A), inserted “and sections 5304-5306 of this title” after “this section”.

Subsec. (c)(4)(A). Pub. L. 105-102, §2(4)(B), substituted “paragraph (5)” for “paragraph (3)”.

Subsec. (c)(5)(A). Pub. L. 105-102, §2(4)(C), inserted “and sections 5304-5306 of this title” after “this section”.

1996—Subsec. (f)(2). Pub. L. 104-287, §5(10)(A), substituted “subsection (b)” for “subsection (e)”.

Subsec. (h)(4). Pub. L. 104-287, §5(10)(B), substituted “section 5338(g)” for “5338(g)(1)”.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 8(1) of Pub. L. 104-287, as amended by Pub. L. 105-102, §3(d)(2)(A), Nov. 20, 1997, 111 Stat. 2215, provided that: “The amendments made by sections 3 and 5(10)-(17), (19), (20), (52), (53), (55), (61), (62), (65), (70), (77)-(79), and (91)-(93) of this Act [amending this section, sections 5307, 5309, 5315, 5317, 5323, 5325, 5327, 5336, 5338, 20301, 21301, 22106, 32702, 32705, 40109, 41109, 46301, 46306, 46316, 60114, 70102, and 70112 of this title, and section 1445 of Title 28, Judiciary and Judicial Procedure] shall take effect on July 5, 1994.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5304, 5305, 5306, 5307, 5309, 5313, 5314, 5323, 5338 of this title; title 23 sections 134, 135.

§ 5304. Transportation improvement program

(a) DEVELOPMENT AND UPDATE.—

(1) IN GENERAL.—In cooperation with the State and affected mass transportation operators, a metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the area. In developing the program, the metropolitan planning organization, in cooperation with the chief executive officer of the State and any affected mass transpor-

tation operator, shall provide citizens, affected public agencies, representatives of transportation authority employees, other affected employee representatives, freight shippers, providers of freight transportation services, other affected employee representatives, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the proposed program. The program shall be updated at least once every 2 years and shall be approved by the organization and the chief executive officer of the State.

(2) FUNDING ESTIMATE.—For the purpose of developing the transportation improvement program, the metropolitan planning organization, public transit agency, and the State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

(b) CONTENTS.—A transportation improvement program for a metropolitan area shall include—

(1) a priority list of projects and parts of projects to be carried out in each 3-year period after the program is adopted; and

(2) a financial plan that—

(A) demonstrates how the program can be carried out;

(B) indicates resources from public and private sources that reasonably are expected to be made available to carry out the plan;

(C) identifies innovative financing techniques to finance projects, programs, and strategies; and

(D) may include, for illustrative purposes, additional projects that would be included in the approved transportation improvement program if reasonable additional resources beyond those identified in the financial plan were available.

(c) PROJECT SELECTION.—(1) Except as otherwise provided in section 5305(d)(1) and in addition to the transportation improvement program development required under subsection (b), the selection of federally funded projects for implementation in metropolitan areas shall be carried out, from the approved transportation improvement program—

(A) by—

(i) in the case of projects under title 23, the State; and

(ii) in the case of projects under this chapter, the designated transit funding recipients; and

(B) in cooperation with the metropolitan planning organization.

(2) A transportation improvement program for a metropolitan area shall include—

(A) projects within the area that are proposed for financing under this chapter and title 23 and that are consistent with the long-range plan developed under section 5303(f) of this title; and

(B) a project or an identified phase of a project only if full financing reasonably can be anticipated to be available for the project in the period estimated for completion.

(3) Notwithstanding any other provision of law, action by the Secretary shall not be re-

quired to advance a project included in the approved transportation improvement program in place of another project in the program.

(4) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

(A) IN GENERAL.—Notwithstanding subsection (b)(2)(D), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subsection (b)(2)(D).

(B) ACTION BY SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the plan under subsection (b)(2) for inclusion in an approved transportation improvement plan.

(5) PUBLICATION.—(A) A transportation improvement program involving Government participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

(B) An annual listing of projects for which Government funds have been obligated in the preceding year shall be published or otherwise made available by the metropolitan planning organization for public review. The listing shall be consistent with the categories identified in the transportation improvement program.

(6) Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program. All other projects funded under chapter 2 of title 23 shall be grouped in 1 line item or identified individually in the transportation improvement program.

(d) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable notice and an opportunity to comment on the proposed program.

(e) REGULATORY PROCEEDING.—Not later than June 18, 1992, the Secretary of Transportation shall begin a regulatory proceeding to conform review requirements for mass transportation projects under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to comparable requirements under that Act applicable to highway projects. This section and sections 5303, 5305, and 5306 of this title do not affect the applicability of the Act to mass transportation or highway projects. A mass transportation project that has an approved draft Environmental Impact Statement is exempt from complying with requirements under the Act applicable to highway projects.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 793; Pub. L. 105-178, title III, §3005, June 9, 1998, 112 Stat. 345; Pub. L. 105-206, title IX, §9009(c)(2), July 22, 1998, 112 Stat. 854.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5304(a)	49 App.:1607(h)(1).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §8(h); added Nov. 6, 1978, Pub. L. 95-599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100-17, §310, 101 Stat. 227; re-stated Dec. 18, 1991, Pub. L. 102-240, §3012, 105 Stat. 2102; Oct. 6, 1992, Pub. L. 102-388, §§501, 502(e), 106 Stat. 1566.
5304(b)	49 App.:1607(h)(2).	
5304(c)	49 App.:1607(h)(3), (5).	
5304(d)	49 App.:1607(h)(6).	
5304(e)	49 App.:1607(h)(4).	

In subsection (b)(1), the word “initial” is omitted as surplus.

In subsection (b)(2)(C), the words “and programs” are omitted as surplus.

In subsection (c)(1), the word “otherwise” is omitted as surplus.

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (e), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-178, §3005(d)(1), as added by Pub. L. 105-206, §9009(c)(2), designated existing provisions as par. (1), inserted heading, and added par. (2).

Pub. L. 105-178, §3005(a), in second sentence, substituted “the metropolitan planning organization, in cooperation with the chief executive officer of the State and any affected mass transportation operator,” for “the organization” and inserted “other affected employee representatives, freight shippers, providers of freight transportation services,” after “transportation authority employees,” and “representatives of users of public transit,” after “private providers of transportation.”

Subsec. (b)(2)(B). Pub. L. 105-178, §3005(d)(2)(A), as added by Pub. L. 105-206, §9009(c)(2), struck out “and” at end.

Subsec. (b)(2)(C). Pub. L. 105-178, §3005(d)(2)(B), as added by Pub. L. 105-206, §9009(c)(2), which directed amendment of subpar. (C) by substituting “strategies; and” for “strategies which may include”, was executed by making the substitution for “strategies, which may include” to reflect the probable intent of Congress. Remaining provisions of subpar. (C) redesignated (D).

Pub. L. 105-178, §3005(b), added subpar. (C) and struck out former subpar. (C) which read as follows: “recommends innovative financing techniques, including value capture, tolls, and congestion pricing, to finance needed projects.”

Subsec. (b)(2)(D). Pub. L. 105-178, §3005(d)(2)(B), as added by Pub. L. 105-206, §9009(c)(2), which directed amendment of subpar. (C) by substituting “strategies; and” followed by “(D) may include” for “strategies which may include”, was executed by making the substitutions for “strategies, which may include” to reflect the probable intent of Congress.

Subsec. (c)(1). Pub. L. 105-178, §3005(c)(1), added par. (1) and struck out former par. (1) which read as follows: “Except as provided in section 5305(d)(1) of this title, the State, in cooperation with the metropolitan planning organization, shall select projects in a metropolitan area that involve United States Government participation. Selection shall comply with the transportation improvement program for the area.”

Subsec. (c)(3). Pub. L. 105-178, §3005(c)(2), added par. (3).

Subsec. (c)(4). Pub. L. 105-178, §3005(d)(3), as added by Pub. L. 105-206, §9009(c)(2), added par. (4) and struck out heading and text of former par. (4). Text read as follows: “Notwithstanding subsection (b)(2)(C), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subsection (b)(2)(C).”

Pub. L. 105-178, §3005(c)(2), added par. (4).

Subsec. (c)(5), (6). Pub. L. 105-178, §3005(c)(2), added pars. (5) and (6).

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of Title 23, Highways.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5303, 5305, 5306, 5307, 5309, 5313, 5314, 5323, 5338 of this title; title 23 sections 134, 135.

§ 5305. Transportation management areas

(a) DESIGNATION.—The Secretary of Transportation shall designate as a transportation management area—

(1) each urbanized area with a population of more than 200,000; and

(2) any other area, if requested by the chief executive officer and the metropolitan planning organization designated for the area.

(b) TRANSPORTATION PLANS AND PROGRAMS.—Transportation plans and programs in a transportation management area shall be based on a continuing and comprehensive transportation planning process the metropolitan planning organization carries out in cooperation with the State and affected mass transportation operators.

(c) CONGESTION MANAGEMENT SYSTEM.—The transportation planning process under sections 5303, 5304, and 5306 of this title in a transportation management area shall include a congestion management system providing for effective management, through travel demand reduction and operational management strategies, of new and existing transportation facilities eligible for financing under this chapter and title 23.

(d) PROJECT SELECTION.—(1)(A) All federally funded projects carried out within the boundaries of a transportation management area under title 23 (excluding projects carried out on the National Highway System and projects carried out under the bridge and interstate maintenance program) or under this chapter shall be selected from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

(B) Projects carried out within the boundaries of a transportation management area on the National Highway System and projects carried out within such boundaries under the bridge program or the interstate maintenance program shall be selected from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.

(2)(A) A selection under this subsection must comply with the transportation improvement program for the area.

(B) A selection under paragraph (1)(A) of this subsection must comply with priorities established in the program.

(e) CERTIFICATION.—(1) At least once every 3 years, the Secretary shall ensure and certify that each metropolitan planning organization in each transportation management area is carrying out its responsibilities under applicable laws of the United States. The Secretary may make the certification only if the organization is complying with section 134 of title 23 and other applicable requirements of laws of the United States and the organization and chief executive officer have approved a transportation improvement program for the area.

(2)(A) If a metropolitan planning process is not certified, the Secretary may withhold not more than 20 percent of the apportioned funds attributable to the transportation management area under this chapter and title 23.

(B) Any apportionments withheld under subparagraph (A) shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary.

(3) The Secretary may not withhold certification based on the policies and criteria a metropolitan planning organization or mass transportation grant recipient establishes under section 5306(a) of this title for deciding the feasibility of private enterprise participation.

(4) In making certification determinations under this subsection, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

(f) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—Government amounts may be made available for a mass transportation project resulting in a significant increase in carrying capacity for single occupant vehicles in a transportation management area classified as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) only if the project is part of an approved congestion management system.

(g) AREAS NOT DESIGNATED TRANSPORTATION MANAGEMENT AREAS.—(1) The Secretary may provide for the development of abbreviated metropolitan transportation plans and programs the Secretary decides are appropriate to carry out this section and sections 5303, 5304, and 5306 of this title for metropolitan areas not designated transportation management areas under this section. The Secretary shall consider the complexity of transportation problems in those areas, including transportation-related air quality problems.

(2) The Secretary may not provide an abbreviated plan or program for a metropolitan area in a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

(h) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and programs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.),

and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 794; Pub. L. 105-178, title III, §3006, June 9, 1998, 112 Stat. 346; Pub. L. 105-206, title IX, §9009(d), July 22, 1998, 112 Stat. 854.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5305(a)-(e) ..	49 App.:1607(i).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §8(i); added Nov. 6, 1978, Pub. L. 95-599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100-17, §310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102-240, §3012, 105 Stat. 2103; Oct. 6, 1992, Pub. L. 102-388, §502(f), 106 Stat. 1566.
5305(f)	49 App.:1607(l).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §8(j), (l); added Nov. 6, 1978, Pub. L. 95-599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100-17, §310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102-240, §3012, 105 Stat. 2104.
5305(g)	49 App.:1607(j).	

In subsection (c), the words “title 23” are substituted for “this title” for consistency in this chapter and to reflect the apparent intent of Congress. The word “appropriate” is omitted as surplus.

In subsection (e)(2), the words “under the formula program” are omitted as surplus.

In subsections (f) and (g), the word “area” is added for clarity and consistency with 42:7501(2).

In subsection (f), the words “Notwithstanding any other provisions of this chapter or title 23, United States Code” are omitted as surplus.

REFERENCES IN TEXT

The Clean Air Act, referred to in subsecs. (f) and (g)(2), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (h), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105-178, §3006(a), added par. (2) and struck out former par. (2) which read as follows: “any other area, including the Lake Tahoe Basin as defined in the Act of December 19, 1980 (Public Law 96-551, 94 Stat. 3233), when requested by the chief executive officer and the metropolitan organization designated for the area or the affected local officials.”

Subsec. (b). Pub. L. 105-178, §3006(b), inserted “affected” before “mass transportation operators”.

Subsec. (c). Pub. L. 105-178, §3006(c), struck out at end “The Secretary shall establish a phase-in schedule to comply with sections 5303, 5304, and 5306.”

Subsec. (d)(1). Pub. L. 105-178, §3006(d), as amended by Pub. L. 105-206, §9009(d), amended par. (1) generally. Prior to amendment, par. (1) read as follows:

“(1)(A) In consultation with the State, the metropolitan planning organization designated for a transportation management area shall select the projects to be carried out in the area with United States Government participation under this chapter or title 23, except projects of the National Highway System or under the Bridge and Interstate Maintenance programs.

“(B) In cooperation with the metropolitan planning organization designated for a transportation management area, the State shall select the projects to be carried out in the area of the National Highway System or under the Bridge and Interstate Maintenance programs.”

Subsec. (e)(2). Pub. L. 105-178, §3006(e)(1), added par. (2) and struck out former par. (2) which read as follows: “If the Secretary does not certify before October 1, 1993, that a metropolitan planning organization is carrying out its responsibilities, the Secretary may withhold any part of the apportionment under section 104(b)(3) of title 23 attributed to the relevant metropolitan area under section 133(d)(3) of title 23 and capital amounts apportioned under section 5336 of this title. If an organization remains uncertified for more than 2 consecutive years after September 30, 1994, 20 percent of that apportionment and capital amounts shall be withheld. The withheld apportionments shall be restored when the Secretary certifies the organization.”

Subsec. (e)(4). Pub. L. 105-178, §3006(e)(2), added par. (4).

Subsec. (h). Pub. L. 105-178, §3006(f), added subsec. (h).

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of Title 23, Highways.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5303, 5304, 5306, 5307, 5309, 5313, 5314, 5323, 5338 of this title; title 23 sections 134, 135.

§ 5306. Private enterprise participation in metropolitan planning and transportation improvement programs and relationship to other limitations

(a) PRIVATE ENTERPRISE PARTICIPATION.—A plan or program required by section 5303, 5304, or 5305 of this title shall encourage to the maximum extent feasible the participation of private enterprise. If equipment or a facility already being used in an urban area is to be acquired under this chapter, the program shall provide that it be improved so that it will better serve the transportation needs of the area.

(b) RELATIONSHIP TO OTHER LIMITATIONS.—Sections 5303-5305 of this title do not authorize—

(1) a metropolitan planning organization to impose a legal requirement on a transportation facility, provider, or project not eligible under this chapter or title 23; and

(2) intervention in the management of a transportation authority.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 795.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5306(a)	49 App.:1607(o).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §8(o); added Nov. 6, 1978, Pub. L. 95-599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100-17, §310, 101 Stat. 227; re-stated Dec. 18, 1991, Pub. L. 102-240, §3012, 105 Stat. 2105.
5306(b)	49 App.:1607(m).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §8(m); added Nov. 6, 1978, Pub. L. 95-599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100-17, §310, 101 Stat. 227; re-stated Dec. 18, 1991, Pub. L. 102-240, §3012, 105 Stat. 2104; Oct. 6, 1992, Pub. L. 102-388, §502(g), 106 Stat. 1566.

In subsection (a), the words “(through modernization, extension, addition, or otherwise)” are omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5303, 5304, 5305, 5307, 5309, 5313, 5314, 5323 of this title; title 23 section 134.

§ 5307. Urbanized area formula grants

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ASSOCIATED CAPITAL MAINTENANCE ITEMS.—The term “associated capital maintenance items” means equipment, tires, tubes, and material, each costing at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used.

(2) DESIGNATED RECIPIENT.—The term “designated recipient” means—

(A) a person designated, consistent with the planning process under sections 5303-5306 of this title, by the chief executive officer of a State, responsible local officials, and publicly owned operators of mass transportation to receive and apportion amounts under section 5336 of this title that are attributable to transportation management areas established under section 5305(a) of this title; or

(B) a State or regional authority if the authority is responsible under the laws of a State for a capital project and for financing and directly providing mass transportation.

(b) GENERAL AUTHORITY.—(1) The Secretary of Transportation may make grants under this section for capital projects and to finance the planning and improvement costs of equipment, facilities, and associated capital maintenance items for use in mass transportation, including the renovation and improvement of historic transportation facilities with related private investment. The Secretary may also make grants under this section to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of less than 200,000. The Secretary may make grants under this section from funds made available for fiscal year 1998 to finance the operating costs of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000.

(2) In a transportation management area designated under section 5305(a) of this title, amounts that cannot be used to pay operating expenses under this section also are available for a highway project if—

(A) that use is approved, in writing, by the metropolitan planning organization under section 5303 of this title after appropriate notice and an opportunity for comment and appeal is provided to affected mass transportation providers;

(B) the Secretary decides the amounts are not needed for investment required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

(C) the metropolitan planning organization in approving the use under subparagraph (A) determines that the local transit needs are being addressed.

(3) A project for the reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used, is a capital project for an associated capital maintenance item under this section.

(c) PUBLIC PARTICIPATION REQUIREMENTS.—Each recipient of a grant shall—

(1) make available to the public information on amounts available to the recipient under this section and the program of projects the recipient proposes to undertake;

(2) develop, in consultation with interested parties, including private transportation providers, a proposed program of projects for activities to be financed;

(3) publish a proposed program of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the recipient;

(4) provide an opportunity for a public hearing in which to obtain the views of citizens on the proposed program of projects;

(5) ensure that the proposed program of projects provides for the coordination of mass transportation services assisted under section 5336 of this title with transportation services assisted from other United States Government sources;

(6) consider comments and views received, especially those of private transportation providers, in preparing the final program of projects; and

(7) make the final program of projects available to the public.

(d) GRANT RECIPIENT REQUIREMENTS.—A recipient may receive a grant in a fiscal year only if—

(1) the recipient, within the time the Secretary prescribes, submits a final program of projects prepared under subsection (c) of this section and a certification for that fiscal year that the recipient (including a person receiving amounts from a chief executive officer of a State under this section)—

(A) has or will have the legal, financial, and technical capacity to carry out the program;

(B) has or will have satisfactory continuing control over the use of equipment and facilities;

(C) will maintain equipment and facilities;

(D) will ensure that elderly and handicapped individuals, or an individual presenting a medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. 401 et seq., 1395 et seq.), will be charged during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section not more than 50 percent of the peak hour fare;

(E) in carrying out a procurement under this section—

(i) will use competitive procurement (as defined or approved by the Secretary);

(ii) will not use a procurement that uses exclusionary or discriminatory specifications; and

(iii) will comply with applicable Buy America laws in carrying out a procurement;

(F) has complied with subsection (c) of this section;

(G) has available and will provide the required amounts as provided by subsection (e) of this section;

(H) will comply with sections 5301(a) and (d), 5303–5306, and 5310(a)–(d) of this title;

(I) has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation; and

(J)(i) will expend for each fiscal year for mass transportation security projects, including increased lighting in or adjacent to a mass transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned mass transportation system, at least one percent of the amount the recipient receives for each fiscal year under section 5336 of this title; or

(ii) has decided that the expenditure for security projects is not necessary; and

(2) the Secretary accepts the certification.

(e) GOVERNMENT'S SHARE OF COSTS.—A grant of the Government for a capital project (including associated capital maintenance items) under this section is for 80 percent of the net project cost of the project. A recipient may provide additional local matching amounts. A grant for operating expenses may not be more than 50 percent of the net project cost of the project. The remainder of the net project cost shall be provided in cash from sources other than amounts of the Government or revenues from providing mass transportation (excluding revenues derived from the sale of advertising and concessions that are more than the amount of those revenues in the fiscal year that ended September 30, 1985). Transit system amounts that make up the remainder shall be from an undistributed cash

surplus, a replacement or depreciation cash fund or reserve, or new capital.

(f) STATEWIDE OPERATING ASSISTANCE.—(1) A State authority that is a designated recipient and providing mass transportation in at least 2 urbanized areas may apply for operating assistance in an amount not more than the amount for all urbanized areas in which it provides transportation.

(2) When approving an application under paragraph (1) of this subsection, the Secretary may not reduce the amount of operating assistance approved for another State or a local transportation authority within the affected urbanized areas.

(g) UNDERTAKING PROJECTS IN ADVANCE.—(1) When a recipient obligates all amounts apportioned to it under section 5336 of this title and then carries out a part of a project described in this section (except a project for operating expenses) without amounts of the Government and according to all applicable procedures and requirements (except to the extent the procedures and requirements limit a State to carrying out a project with amounts of the Government previously apportioned to it), the Secretary may pay to the recipient the Government's share of the cost of carrying out that part when additional amounts are apportioned to the recipient under section 5336 if—

(A) the recipient applies for the payment;

(B) the Secretary approves the payment; and

(C) before carrying out that part, the Secretary approves the plans and specifications for the part in the same way as for other projects under this section.

(2) The Secretary may approve an application under paragraph (1) of this subsection only if an authorization for this section is in effect for the fiscal year to which the application applies. The Secretary may not approve an application if the payment will be more than—

(A) the recipient's expected apportionment under section 5336 of this title if the total amount authorized to be appropriated for the fiscal year to carry out this section is appropriated; less

(B) the maximum amount of the apportionment that may be made available for projects for operating expenses under this section.

(3) The cost of carrying out that part of a project includes the amount of interest earned and payable on bonds issued by the recipient to the extent proceeds of the bonds are expended in carrying out the part. However, the amount of interest allowed under this paragraph may not be more than the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(4) The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (3) of this subsection.

(h) STREAMLINED ADMINISTRATIVE PROCEDURES.—The Secretary shall prescribe streamlined administrative procedures for complying with the certification requirement under sub-

section (d)(1)(B) and (C) of this section for track and signal equipment used in existing operations.

(i) REVIEWS, AUDITS, AND EVALUATIONS.—(1)(A) At least annually, the Secretary shall carry out, or require a recipient to have carried out independently, reviews and audits the Secretary considers appropriate to establish whether the recipient has carried out—

(i) the activities proposed under subsection (d) of this section in a timely and effective way and can continue to do so; and

(ii) those activities and its certifications and has used amounts of the Government in the way required by law.

(B) An audit of the use of amounts of the Government shall comply with the auditing procedures of the Comptroller General.

(2) At least once every 3 years, the Secretary shall review and evaluate completely the performance of a recipient in carrying out the recipient's program, specifically referring to compliance with statutory and administrative requirements and the extent to which actual program activities are consistent with the activities proposed under subsection (d) of this section and the planning process required under sections 5303–5306 of this title. To the extent practicable, the Secretary shall coordinate such reviews with any related State or local reviews.

(3) The Secretary may take appropriate action consistent with a review, audit, and evaluation under this subsection, including making an appropriate adjustment in the amount of a grant or withdrawing the grant.

(j) REPORTS.—A recipient (including a person receiving amounts from a chief executive officer of a State under this section) shall submit annually to the Secretary a report on the revenues the recipient derives from the sale of advertising and concessions.

(k) TRANSIT ENHANCEMENT ACTIVITIES.—

(1) IN GENERAL.—One percent of the funds apportioned to urbanized areas with a population of at least 200,000 under section 5336 for a fiscal year shall be made available for transit enhancement activities in accordance with section 5302(a)(15).

(2) PERIOD OF AVAILABILITY.—Funds apportioned under paragraph (1) shall be available for obligation for 3 years following the fiscal year in which the funds are apportioned. Funds that are not obligated at the end of such period shall be reapportioned under the urbanized area formula program of section 5336.

(3) REPORT.—A recipient of funds apportioned under paragraph (1) shall submit, as part of the recipient's annual certification to the Secretary, a report listing the projects carried out during the preceding fiscal year with those funds.

(l) PROCUREMENT SYSTEM APPROVAL.—A recipient may request the Secretary to approve its procurement system. The Secretary shall approve the system for use for procurements financed under section 5336 of this title if, after consulting with the Administrator for Federal Procurement Policy, the Secretary decides the system provides for competitive procurement.

Approval of a system under this subsection does not relieve a recipient of the duty to certify under subsection (d)(1)(E) of this section.

(m) OPERATING FERRIES OUTSIDE URBANIZED AREAS.—A vessel used in ferryboat operations financed under section 5336 of this title that is part of a State-operated ferry system may be operated occasionally outside the urbanized area in which service is provided to accommodate periodic maintenance if existing ferry service is not reduced significantly by operating outside the area.

(n) RELATIONSHIP TO OTHER LAWS.—(1) Section 1001 of title 18 applies to a certificate or submission under this section. The Secretary may end a grant under this section and seek reimbursement, directly or by offsetting amounts available under section 5336 of this title, when a false or fraudulent statement or related act within the meaning of section 1001 is made in connection with a certification or submission.

(2) Sections 5302, 5318, 5319, 5323(a)(1), (d), and (f), 5332, and 5333 of this title apply to this section and to a grant made under this section. Except as provided in this section, no other provision of this chapter applies to this section or to a grant made under this section.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 795; Pub. L. 103–429, §6(7), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 104–287, §5(11), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105–178, title III, §3007(a)(1), (b)–(h), June 9, 1998, 112 Stat. 347, 348; Pub. L. 105–206, title IX, §9009(e), July 22, 1998, 112 Stat. 855.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5307(a)(1)	49 App.:1607a(j)(1) (last sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(j)(1) (last sentence); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2145; Apr. 2, 1987, Pub. L. 100–17, §§309(b)(1), (2), 327(b), 101 Stat. 227, 238.
5307(a)(2)	49 App.:1607a(m)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(h), (i), (m)(1); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2145, 2147; Apr. 2, 1987, Pub. L. 100–17, §327(b), 101 Stat. 238; Oct. 6, 1992, Pub. L. 102–388, §503(2), 106 Stat. 1567.
5307(b)(1)	49 App.:1607a(j)(1) (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(j)(1) (1st sentence); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2145; Apr. 2, 1987, Pub. L. 100–17, §§309(b)(3), 327(b), 101 Stat. 227, 238.
5307(b)(2)	49 App.:1607a(j)(1) (2d sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(j)(1) (2d sentence); added Dec. 18, 1991, Pub. L. 102–240, §3013(h)(1), 105 Stat. 2107.
5307(b)(3)	49 App.:1607a(j)(1) (3d, 4th sentences).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(j)(1) (3d, 4th sentences); added Apr. 2, 1987, Pub. L. 100–17, §308, 101 Stat. 226.
5307(b)(4)	49 App.:1607a(j)(2).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(j)(2); added Apr. 2, 1987, Pub. L. 100–17, §309(b)(4), 101 Stat. 227.
5307(b)(5)	49 App.:1607a(j)(3).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(j)(3); added Dec. 18, 1991, Pub. L. 102–240, §3013(h)(2), 105 Stat. 2107.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5307(c)	49 App.:1607a(f).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(f); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2144; Apr. 2, 1987, Pub. L. 100–17, §327(b), 101 Stat. 238; Dec. 18, 1991, Pub. L. 102–240, §3013(g), 105 Stat. 2107.
5307(d)(1)	49 App.:1607a(e)(2) (1st, last sentences).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(e)(2); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2143; Apr. 2, 1987, Pub. L. 100–17, §§312(a), 327(b), 101 Stat. 228, 238; Dec. 18, 1991, Pub. L. 102–240, §3013(d), 105 Stat. 2106.
	49 App.:1607a(e)(3).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(e)(3); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2143; Apr. 2, 1987, Pub. L. 100–17, §327(b), 101 Stat. 238; Dec. 18, 1991, Pub. L. 102–240, §3013(f), 105 Stat. 2106.
5307(d)(2)	49 App.:1607a(e)(5).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(e)(5); added Apr. 2, 1987, Pub. L. 100–17, §312(f)(1), 101 Stat. 229.
5307(e)	49 App.:1607a(k)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(k)(1); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2145; Apr. 2, 1987, Pub. L. 100–17, §§309(c), (d), (f), 312(b)(1), 327(b), 101 Stat. 227, 228, 238.
5307(f)	49 App.:1607a (note).	Nov. 21, 1989, Pub. L. 101–164, §334(c), 103 Stat. 1098.
5307(g)	49 App.:1607a(p).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(p); added Apr. 2, 1987, Pub. L. 100–17, §306(b), 101 Stat. 225.
5307(h)	49 App.:1607a(e)(6).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(e)(6); added Dec. 18, 1991, Pub. L. 102–240, §3013(e), 105 Stat. 2106.
5307(i)	49 App.:1607a(g).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(g); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2144; Apr. 2, 1987, Pub. L. 100–17, §§312(f)(2), 327(b), 101 Stat. 229, 238.
5307(j)	49 App.:1607a(e)(4).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(e)(4); added Apr. 2, 1987, Pub. L. 100–17, §312(b)(2), 101 Stat. 228.
5307(k)	49 App.:1607a(e)(2) (2d, 3d sentences).	
5307(l)	49 App.:1607a(i).	
5307(m)	49 App.:1607a(r).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(r); added Dec. 18, 1991, Pub. L. 102–240, §3013(j), 105 Stat. 2107.
5307(n)(1)	49 App.:1607a(h).	
5307(n)(2)	49 App.:1607a(e)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9(e)(1); added Jan. 6, 1983, Pub. L. 97–424, §303, 96 Stat. 2143; Apr. 2, 1987, Pub. L. 100–17, §327(b), 101 Stat. 238; Dec. 18, 1991, Pub. L. 102–240, §3013(c), 105 Stat. 2106.

In subsection (a)(2)(A), the word “required” is omitted as surplus. The word “apportion” is substituted for “dispense” for consistency in this chapter. The word “appropriated” is omitted for clarity.

In subsection (a)(2)(B), the word “authority” is substituted for “agency” for consistency in the revised title and with other titles of the United States Code. The words “by lease, contract, or otherwise” are omitted as surplus.

In subsection (b)(1), the words “by operation or lease or otherwise” are omitted as surplus.

In subsection (b)(3), the words “the Secretary prescribes” are added for clarity. The text of 49 App.:1607a(j)(1) (4th sentence) is omitted as executed.

In subsection (b)(4), the words “(whether by employees of the grant recipient or by contract)” are omitted as surplus.

In subsection (c)(1), the words “of funds” are omitted as surplus. The words “to the recipient” are added for clarity. The words “with such funds” are omitted as surplus.

In subsection (c)(3), the words “as appropriate” are omitted as surplus.

In subsection (c)(5), the words “and shall, if deemed appropriate by the recipient, modify the proposed program of projects” are omitted as surplus.

In subsection (d)(1)(B), the words “through operation or lease or otherwise” are omitted as surplus.

In subsection (d)(1)(D), the words “ensure that elderly and handicapped individuals . . . will be charged during non-peak hours for transportation using or involving a facility or equipment of a project financed under this chapter not more than 50 percent of the peak hour fare” are substituted for 49 App.:1607a(e)(3)(C) and the words “will give the rate required by section 1604(m) of this Appendix” for clarity and consistency in the revised title. The word “duly” is omitted as surplus.

In subsection (d)(1)(J)(ii), the words “has decided” are added for clarity to correct an error in the source provisions being restated.

In subsection (e), the words “at its option”, “public”, “the amount of any”, “by such system”, “Any public or private”, “solely”, and “available in” are omitted as surplus.

In subsection (f), the word “authority” is substituted for “agency or instrumentality” for consistency in the revised title and with other titles of the Code.

In subsection (f)(1), the words “is responsible under State laws for the financing, construction and operation, directly by lease, contract or otherwise, of public transportation services” are omitted as surplus because a State that is a designated recipient has that responsibility. The words “of UMTA funds”, “combined total permissible”, and “regardless of whether the amount for any particular urbanized area is exceeded” are omitted as surplus.

In subsection (f)(2), the word “Secretary” is substituted for “UMTA” [subsequently changed to “FTA” because of section 3004(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 2088)] because of 49:102(b) and 107(a). The words “This provision shall take effect with the fiscal year 1990 section 9 apportionment” are omitted as obsolete.

In subsection (g)(2), before clause (A), the word “applies” is substituted for “is sought beyond the currently authorized funds for such recipient” to eliminate unnecessary words. In clause (A), the words “of funds” are omitted as surplus.

In subsection (g)(3), the words “Subject to the provisions of this paragraph”, “the Federal share of which the Secretary is authorized to pay under this subsection”, and “actually” are omitted as surplus.

In subsection (i)(1)(A), before clause (i), the words “necessary or” are omitted as surplus. In clause (ii), the words “required by law” are substituted for “which is consistent with the applicable requirements of this chapter and other applicable laws” to eliminate unnecessary words.

In subsection (i)(1)(B), the words “Comptroller General” are substituted for “General Accounting Office” because of 31:702(b).

In subsection (i)(2), the words “In addition to the reviews and audits described in paragraph (1)” and “perform a” are omitted as surplus.

Subsection (i)(3) is substituted for 49 App.:1607a(g)(3) to eliminate unnecessary words.

In subsection (l), the words “Administrator for Federal Procurement Policy” are substituted for “Office of Federal Procurement Policy” because of 41:404(b). The words “Such approval shall be binding until withdrawn” are omitted as surplus.

In subsection (n)(1), the words “available under section 5336 of this title” are substituted for “available under this subsection” for clarity.

In subsection (n)(2), the references to sections 5302(a)(8) and 5318 are added for clarity. The source pro-

visions of sections 5302(a)(8) and 5318, enacted by section 317 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17, 101 Stat. 233), were not intended to come under the exclusion stated in 49 App.:1607a(e)(1). The reference to 49 App.:1604(k)(3) is omitted as obsolete. The words “condition, limitation, or other” and “for programs of projects” are omitted as surplus.

PUB. L. 103-429, §6(7)(A)

This amends 49:5307(d)(1)(D) to correct an error in the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 797).

PUB. L. 103-429, §6(7)(B)

This makes a clarifying amendment to 49:5307(d)(1)(E)(iii).

PUB. L. 104-287

This amends 49:5307(a)(2) to delete an obsolete provision.

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(2)(B), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (d)(1)(D), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles II and XVIII of such Act are classified generally to subchapters II (§401 et seq.) and XVIII (§1395 et seq.) respectively, of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1998—Pub. L. 105-178, §3007(a)(1), substituted “Urbanized area formula grants” for “Block grants” in section catchline.

Subsec. (a). Pub. L. 105-178, §3007(b)(1), substituted “In this section, the following definitions apply:” for “In this section—” in introductory provisions.

Subsec. (a)(1). Pub. L. 105-178, §3007(b)(2), inserted “ASSOCIATED CAPITAL MAINTENANCE ITEMS.—The term” after “(1)”.

Subsec. (a)(2). Pub. L. 105-178, §3007(b)(3), inserted “DESIGNATED RECIPIENT.—The term” after “(2)”.

Subsec. (b)(1). Pub. L. 105-178, §3007(h)(1), as added by Pub. L. 105-206, §9009(e), inserted at end “The Secretary may make grants under this section from funds made available for fiscal year 1998 to finance the operating costs of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000.”

Pub. L. 105-178, §3007(c)(1), substituted “and improvement costs of equipment” for “, improvement, and operating costs of equipment” and inserted at end “The Secretary may also make grants under this section to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of less than 200,000.”

Subsec. (b)(2)(A). Pub. L. 105-178, §3007(c)(2)(A), inserted “, in writing,” after “approved”.

Subsec. (b)(2)(C). Pub. L. 105-178, §3007(c)(2)(B)-(4), added subpar. (C).

Subsec. (b)(3), (4). Pub. L. 105-178, §3007(c)(5), (6), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: “A grant for a capital project under this section also is available to finance the leasing of equipment and facilities for use in mass transportation, subject to regulations the Secretary prescribes limiting the grant to leasing arrangements that are more cost effective than acquisition or construction.”

Subsec. (b)(5). Pub. L. 105-178, §3007(c)(5), struck out par. (5) which read as follows: “Amounts under this sec-

tion are available for a highway project under title 23 only if amounts used for the State or local share of the project are eligible to finance either a highway or mass transportation project."

Subsec. (g)(3). Pub. L. 105-178, §3007(d), substituted "the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms." for "the amount by which the estimated cost of carrying out the part (if it would be carried out at the time the part is converted to a regularly financed project) exceeds the actual cost (except interest) of carrying out the part."

Subsec. (i)(2). Pub. L. 105-178, §3007(e), inserted at end "To the extent practicable, the Secretary shall coordinate such reviews with any related State or local reviews."

Subsec. (k). Pub. L. 105-178, §3007(f), amended heading and text of subsec. (k) generally. Prior to amendment, text read as follows: "A certification under subsection (d) of this section and any additional certification required by law to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of the grant application under this section. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(e)(2) of this title."

Subsec. (k)(3). Pub. L. 105-178, §3007(h)(2), as added by Pub. L. 105-206, §9009(e), inserted "preceding" before "fiscal year".

Subsec. (n)(2). Pub. L. 105-178, §3007(g), inserted "5319," after "5318,".

1996—Subsec. (a)(2). Pub. L. 104-287 substituted "title; or" for "title;" in subpar. (A) and "transportation." for "transportation; or" in subpar. (B) and struck out subpar. (C) which read as follows: "a recipient designated under section 5(b)(1) of the Federal Transit Act not later than January 5, 1983."

1994—Subsec. (d)(1)(D). Pub. L. 103-429, §6(7)(A), substituted "section" for "chapter".

Subsec. (d)(1)(E)(iii). Pub. L. 103-429, §6(7)(B), substituted "Buy America" for "Buy-American".

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-287 effective July 5, 1994, see section 8(1) of Pub. L. 104-287, set out as a note under section 5303 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

LOCAL SHARE

Pub. L. 105-178, title III, §3011, June 9, 1998, 112 Stat. 357, provided that:

"(a) IN GENERAL.—Notwithstanding any other provision of law, for fiscal years 1999 through 2003, a recipient of assistance under section 5307 or 5309 of title 49, United States Code, may use, as part of the local matching funds for a capital project (as defined in section 5302(a) of title 49, United States Code), the proceeds from the issuance of revenue bonds.

"(b) MAINTENANCE OF EFFORT.—The Secretary [of Transportation] shall approve of the use of the proceeds from the issuance of revenue bonds for the remainder of

the net project cost (as defined in section 5302(a) of title 49, United States Code) only if the aggregate amount of financial support for mass transportation in the urbanized area from the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the State Transportation Improvement Program under section 135 of title 23, United States Code, is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than January 1, 2003, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report on the recipients described in subsection (a) that have used, as part of the local matching funds for a capital project, the proceeds from the issuance of revenue bonds, during the period described in subsection (a).

"(2) CONTENTS OF REPORT.—The report required by this subsection shall include—

"(A) information on each project undertaken, the amount of the revenue bonds issued, and the status of repayment of the bonds; and

"(B) any recommendations of the Secretary regarding the application of this section."

PILOT PROGRAM FOR INTERCITY RAIL INFRASTRUCTURE INVESTMENT FROM MASS TRANSIT ACCOUNT OF HIGHWAY TRUST FUND

Pub. L. 105-178, title III, §3021, June 9, 1998, 112 Stat. 363; as amended by Pub. L. 105-206, title IX, §9009(m), July 22, 1998, 112 Stat. 857; Pub. L. 105-277, div. A, §101(g) [title III, §354], Oct. 21, 1998, 112 Stat. 2681-439, 2681-476; Pub. L. 106-69, title III, §323, Oct. 9, 1999, 113 Stat. 1020, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall establish a pilot program to determine the benefits of using funds from the Mass Transit Account of the Highway Trust Fund for intercity passenger rail. The funds made available to the State of Oklahoma and the State of Vermont to carry out sections 5307 and 5311 of title 49, United States Code during fiscal years 1998 through 2003 may be used for capital improvements to, and operating assistance for, intercity passenger rail service.

"(b) REPORT.—

"(1) IN GENERAL.—Not later than October 1, 2002, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the pilot program established under this section.

"(2) CONTENTS.—The report submitted under paragraph (1) shall include—

"(A) an evaluation of the effect of the pilot program on alternative forms of transportation within the State of Oklahoma and the State of Vermont;

"(B) an evaluation of the effect of the program on operators of mass transportation and their passengers;

"(C) a calculation of the amount of Federal assistance provided under this section transferred for the provision of intercity passenger rail service; and

"(D) an estimate of the benefits to intercity passenger rail service, including the number of passengers served, the number of route miles covered, and the number of localities served by intercity passenger rail service."

CONTINUATION OF OPERATING ASSISTANCE TO CERTAIN LARGER URBANIZED AREAS

Pub. L. 105-178, title III, §3027(c), June 9, 1998, 112 Stat. 366; as amended by Pub. L. 105-206, title IX, §9009(o)(1), July 22, 1998, 112 Stat. 858; Pub. L. 105-277, div. A, §101(g) [title III, §360], Oct. 21, 1998, 112 Stat.

2681-439, 2681-477; Pub. L. 106-31, title VI, §6004, May 21, 1999, 113 Stat. 113; Pub. L. 106-346, §101(a) [title III, §341], Oct. 23, 2000, 114 Stat. 1356, 1356A-32, provided that:

“(1) PROVISION OF ASSISTANCE.—Notwithstanding any other provision of law, during the period described in paragraph (2), the Secretary [of Transportation] may continue to provide assistance under section 5307 of title 49, United States Code, to finance the operating costs of equipment and facilities for use in mass transportation in any urbanized area (as that term is defined in section 5302 of title 49, United States Code) with a population of at least 200,000, if the Secretary determines that—

“(A) the number of the total bus revenue vehicle-miles operated in or directly serving the area is less than 900,000; and

“(B) the number of buses operated in or directly serving the area does not exceed 15.

“(2) PERIOD DESCRIBED.—For purposes of paragraph (1), the period described in this paragraph is the period beginning on the date of enactment of this Act [June 9, 1998] and ending on the earlier of—

“(A) 3 years after the date of enactment of this Act; and

“(B) the date on which the Secretary determines that—

“(i) the number of the total bus revenue vehicle-miles operated in or directly serving the area is greater than or equal to 900,000; and

“(ii) the number of buses operated in or directly serving the area exceeds 15.

“(3) SERVICES FOR ELDERLY AND PERSONS WITH DISABILITIES.—In addition to assistance made available under paragraph (1), the Secretary may provide assistance under section 5307 of title 49, United States Code, to a transit provider that operates 20 or fewer vehicles in an urbanized area with a population of at least 200,000 to finance the operating costs of equipment and facilities used by the transit provider in providing mass transportation services to elderly and persons with disabilities, provided that such assistance to all entities shall not exceed \$1,444,000 annually.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5302, 5308, 5315, 5319, 5323, 5326, 5327, 5330, 5331, 5333, 5334, 5335, 5336, 5338, 31138 of this title.

§ 5308. Clean fuels formula grant program

(a) DEFINITIONS.—In this section—

(1) the term “clean fuel vehicle” means a vehicle that—

(A) is powered by—

(i) compressed natural gas;

(ii) liquefied natural gas;

(iii) biodiesel fuels;

(iv) batteries;

(v) alcohol-based fuels;

(vi) hybrid electric;

(vii) fuel cell;

(viii) clean diesel, to the extent allowed under this section; or

(ix) other low or zero emissions technology; and

(B) the Administrator of the Environmental Protection Agency has certified sufficiently reduces harmful emissions;

(2) the term “designated recipient” has the same meaning as in section 5307(a)(2); and

(3) the term “eligible project”—

(A) means a project for—

(i) purchasing or leasing clean fuel buses, including buses that employ a lightweight composite primary structure;

(ii) constructing or leasing clean fuel buses or electrical recharging facilities and related equipment;

(iii) improving existing mass transportation facilities to accommodate clean fuel buses;

(iv) repowering pre-1993 engines with clean fuel technology that meets the current urban bus emission standards; or

(v) retrofitting or rebuilding pre-1993 engines if before half life to rebuild; and

(B) in the discretion of the Secretary, may include projects relating to clean fuel, biodiesel, hybrid electric, or zero emissions technology vehicles that exhibit equivalent or superior emissions reductions to existing clean fuel or hybrid electric technologies.

(b) AUTHORITY.—The Secretary shall make grants in accordance with this section to designated recipients to finance eligible projects.

(c) APPLICATION.—

(1) IN GENERAL.—Not later than January 1 of each year, any designated recipient seeking to apply for a grant under this section for an eligible project shall submit an application to the Secretary, in such form and in accordance with such requirements as the Secretary shall establish by regulation.

(2) CERTIFICATION REQUIRED.—An application submitted under paragraph (1) shall contain a certification by the applicant that the grantee will operate vehicles purchased with a grant under this section only with clean fuels.

(d) APPORTIONMENT OF FUNDS.—

(1) FORMULA.—Not later than February 1 of each year, the Secretary shall apportion amounts made available to carry out this section to designated recipients submitting applications under subsection (c), of which—

(A) two-thirds shall be apportioned to designated recipients with eligible projects in urban areas with a population of at least 1,000,000, of which—

(i) 50 percent shall be apportioned, such that each such designated recipient receives a grant in an amount equal to the ratio between—

(I) the number of vehicles in the bus fleet of the eligible project of the designated recipient, weighted by severity of nonattainment for the area in which the eligible project is located, as provided in paragraph (2); and

(II) the total number of vehicles in the bus fleets of all eligible projects in areas with a population of at least 1,000,000 funded under this section, weighted by severity of nonattainment for all areas in which those eligible projects are located, as provided in paragraph (2); and

(ii) 50 percent shall be apportioned, such that each such designated recipient receives a grant in an amount equal to the ratio between—

(I) the number of bus passenger miles (as that term is defined in section 5336(c)) of the eligible project of the designated recipient, weighted by severity of nonattainment of the area in which

the eligible project is located, as provided in paragraph (2); and

(II) the total number of bus passenger miles of all eligible projects in areas with a population of at least 1,000,000 funded under this section, weighted by severity of nonattainment of all areas in which those eligible projects are located, as provided in paragraph (2); and

(B) one-third shall be apportioned to designated recipients with eligible projects in urban areas with a population of less than 1,000,000, of which—

(i) 50 percent shall be apportioned, such that each such designated recipient receives a grant in an amount equal to the ratio between—

(I) the number of vehicles in the bus fleet of the eligible project of the designated recipient, weighted by severity of nonattainment for the area in which the eligible project is located, as provided in paragraph (2); and

(II) the total number of vehicles in the bus fleets of all eligible projects in areas with a population of less than 1,000,000 funded under this section, weighted by severity of nonattainment for all areas in which those eligible projects are located, as provided in paragraph (2); and

(ii) 50 percent shall be apportioned, such that each such designated recipient receives a grant in an amount equal to the ratio between—

(I) the number of bus passenger miles (as that term is defined in section 5336(c)) of the eligible project of the designated recipient, weighted by severity of nonattainment of the area in which the eligible project is located, as provided in paragraph (2); and

(II) the total number of bus passenger miles of all eligible projects in areas with a population of less than 1,000,000 funded under this section, weighted by severity of nonattainment of all areas in which those eligible projects are located, as provided in paragraph (2).

(2) **WEIGHTING OF SEVERITY OF NONATTAINMENT.**—

(A) **IN GENERAL.**—For purposes of paragraph (1), subject to subparagraph (B) of this paragraph, the number of clean fuel vehicles in the fleet, or the number of passenger miles, shall be multiplied by a factor of—

(i) 1.0 if, at the time of the apportionment, the area is a maintenance area (as that term is defined in section 101 of title 23) for ozone or carbon monoxide;

(ii) 1.1 if, at the time of the apportionment, the area is classified as—

(I) a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.); or

(II) a marginal carbon monoxide nonattainment area under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.);

(iii) 1.2 if, at the time of the apportionment, the area is classified as—

(I) a moderate ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.); or

(II) a moderate carbon monoxide nonattainment area under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.);

(iv) 1.3 if, at the time of the apportionment, the area is classified as—

(I) a serious ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.); or

(II) a serious carbon monoxide nonattainment area under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.);

(v) 1.4 if, at the time of the apportionment, the area is classified as—

(I) a severe ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.); or

(II) a severe carbon monoxide nonattainment area under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.); or

(vi) 1.5 if, at the time of the apportionment, the area is classified as—

(I) an extreme ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.); or

(II) an extreme carbon monoxide nonattainment area under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.).

(B) **ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.**—If, in addition to being classified as a nonattainment or maintenance area (as that term is defined in section 101 of title 23) for ozone under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.), the area was also classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area for carbon monoxide, the weighted nonattainment or maintenance area fleet and passenger miles for the eligible project, as calculated under subparagraph (A), shall be further multiplied by a factor of 1.2.

(3) **MAXIMUM GRANT AMOUNT.**—

(A) **IN GENERAL.**—The amount of a grant made to a designated recipient under this section shall not exceed the lesser of—

(i) for an eligible project in an area—

(I) with a population of less than 1,000,000, \$15,000,000; and

(II) with a population of at least 1,000,000, \$25,000,000; or

(ii) 80 percent of the total cost of the eligible project.

(B) **REAPPORTIONMENT.**—Any amounts that would otherwise be apportioned to a designated recipient under this subsection that exceed the amount described in subparagraph (A) shall be reapportioned among other designated recipients in accordance with paragraph (1).

(e) ADDITIONAL REQUIREMENTS.—

(1) LIMITATION ON USES.—Not less than 5 percent of the amount made available by or appropriated under section 5338 in each fiscal year to carry out this section shall be available for any eligible projects for which an application is received from a designated recipient, for—

(A) the purchase or construction of hybrid electric or battery-powered buses; or

(B) facilities specifically designed to service those buses.

(2) CLEAN DIESEL BUSES.—Not more than 35 percent of the amount made available by or appropriated under section 5338 in each fiscal year to carry out this section may be made available to fund clean diesel buses.

(3) BUS RETROFITTING AND REPLACEMENT.—Not more than 5 percent of the amount made available by or appropriated under section 5338 in each fiscal year to carry out this section may be made available to fund retrofitting or replacement of the engines of buses that do not meet the clean air standards of the Environmental Protection Agency, as in effect on the date on which the application for such retrofitting or replacement is submitted under subsection (c)(1).

(f) AVAILABILITY OF FUNDS.—Any amount made available or appropriated under this section—

(1) shall remain available to a project for 1 year after the fiscal year for which the amount is made available or appropriated; and

(2) that remains unobligated at the end of the period described in paragraph (1), shall be added to the amount made available in the following fiscal year.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 800; Pub. L. 105–178, title III, §3008(a), (c), June 9, 1998, 112 Stat. 348; Pub. L. 105–206, title IX, §9009(f), July 22, 1998, 112 Stat. 855.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5308(a)	49 App.:1607a–2(b) (words before “and shall be subject to”).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §9B(a), (b); added Apr. 2, 1987, Pub. L. 100–17, §313, 101 Stat. 229.
5308(b)(1)	49 App.:1607a–2(a).	
5308(b)(2)	49 App.:1607a–2(b) (words after “maintenance items”).	

In subsection (a), the words “The Secretary of Transportation may make” are added for clarity and consistency in this chapter. The words “the purpose of” are omitted as surplus.

In subsection (b)(1), the cross-reference to 49 App.:1617(b) and (c) is corrected because it no longer is correct because of the restatement of 49 App.:1617 by section 3025 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2112), restated as section 5338 of the revised title.

In subsection (b)(2), the words “the limitations contained in” and “applicable to such projects” are omitted as surplus.

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (d)(2), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended. Subpart 2 of part D of title I of the Act is classified to subpart

2 (§7511 et seq.) of part D of subchapter I of chapter 85 of Title 42, The Public Health and Welfare. Subpart 3 of part D of title I of the Act is classified to subpart 3 (§7512 et seq.) of part D of subchapter I of chapter 85 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

AMENDMENTS

1998—Pub. L. 105–178, §3008(a), amended section catchline and text generally. Prior to amendment, text read as follows:

“(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants under this section to be used only for capital projects (including capital maintenance items).

“(b) APPLICATION OF OTHER SECTIONS.—(1) Sections 5307(a)–(d), (h)–(l), and (n) and 5336(a)–(c), (f), (g), and (j) of this title apply to amounts made available under section 5338(a) of this title to carry out this section.

“(2) Sections 5307(e) and 5336(d) of this title apply to grants under this section.”

Subsec. (e)(2). Pub. L. 105–178, §3008(c), as added by Pub. L. 105–206, substituted “35 percent” for “\$50,000,000”.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

CLEAN FUEL VEHICLES

Pub. L. 105–178, title III, §3036, June 9, 1998, 112 Stat. 387, provided that:

“(a) STUDY.—The Comptroller General shall conduct a study of the various low and zero emission fuel technologies for transit vehicles, including compressed natural gas, liquefied natural gas, biodiesel fuel, battery, alcohol based fuel, hybrid electric, fuel cell, and clean diesel to determine—

“(1) the status of the development and use of such technologies;

“(2) the environmental benefits of such technologies under the Clean Air Act [42 U.S.C. 7401 et seq.]; and

“(3) the cost of such technologies and any associated equipment.

“(b) REPORT.—Not later than January 1, 2000, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the results of the study, together with recommendations for incentives to encourage the use of low and zero emission fuel technology for transit vehicles.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5309, 5323, 5333, 5338 of this title.

§ 5309. Capital investment grants and loans

(a) GENERAL AUTHORITY.—(1) The Secretary of Transportation may make grants and loans under this section to assist State and local governmental authorities in financing—

(A) capital projects for new fixed guideway systems, and extensions to existing fixed guideway systems, including the acquisition of real property, the initial acquisition of rolling stock for the systems, alternatives analysis related to the development of the systems, and the acquisition of rights of way, and reloca-

tion, for fixed guideway corridor development for projects in the advanced stages of alternatives analysis or preliminary engineering;

(B) capital projects, including property and improvements (except public highways other than fixed guideway facilities), needed for an efficient and coordinated mass transportation system;

(C) the capital costs of coordinating mass transportation with other transportation;

(D) the introduction of new technology, through innovative and improved products, into mass transportation;

(E) capital projects to modernize existing fixed guideway systems;

(F) capital projects to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities;

(G) mass transportation projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities; and

(H) the development of corridors to support fixed guideway systems, including protecting rights of way through acquisition, construction of dedicated bus and high occupancy vehicle lanes and park and ride lots, and other nonvehicular capital improvements that the Secretary may decide would result in increased mass transportation usage in the corridor.

(2) The Secretary of Transportation shall require that all grants and loans under this subsection be subject to all terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

(b) **LOANS FOR REAL PROPERTY INTERESTS.**—(1) The Secretary of Transportation may make loans under this section to State and local governmental authorities to acquire interests in real property for use on urban mass transportation systems as rights of way, station sites, and related purposes, including reconstruction, renovation, the net cost of property management, and relocation payments made under section 5324(a) of this title.

(2) The Secretary of Transportation may make a loan under paragraph (1) of this subsection for an approved project only after finding that the property reasonably is expected to be required for a mass transportation system and that it will be used for that system within a reasonable time.

(3) An applicant for a loan under this subsection shall provide a copy of the application to the planning agency for the community affected by the project at the same time the application is submitted to the Secretary of Transportation. If the planning agency submits comments to the Secretary not later than 30 days after the application is submitted, or, if the agency requests more time within those 30 days, within a period the Secretary establishes, the Secretary shall consider those comments before taking final action on the application.

(4) A loan agreement under this subsection shall provide that a capital project on the prop-

erty will be started not later than 10 years after the fiscal year in which the agreement is made. If an interest in property acquired under this subsection is not used for the purpose for which it was acquired, an appraisal of the current value of the property or interest shall be made when a decision is made about the use. The decision shall be made within the 10-year period. Two-thirds of the increase in value shall be paid to the Secretary of Transportation for deposit in the Treasury as miscellaneous receipts.

(5) A loan under this subsection must be repaid not later than 10 years after the date of the loan agreement or on the date a grant agreement for a capital project on the property is made, whichever is earlier. Payments made to repay the loan shall be deposited in the Treasury as miscellaneous receipts.

(c) [Reserved.]

(d) **PROJECT AS PART OF APPROVED PROGRAM OF PROJECTS.**—Except as provided in subsections (b)(2) and (e) of this section, the Secretary of Transportation may approve a grant or loan for a project under this section only after finding that the project is part of the approved program of projects required under sections 5303–5306 of this title and that an applicant—

(1) has or will have the legal, financial, and technical capacity to carry out the project, satisfactory continuing control over the use of equipment or facilities, and the capability to maintain the equipment or facilities; and

(2) will maintain the equipment or facilities.

(e) **CRITERIA FOR GRANTS AND LOANS FOR FIXED GUIDEWAY SYSTEMS.**—

(1) **IN GENERAL.**—The Secretary may approve a grant or loan under this section for a capital project for a new fixed guideway system or extension of an existing fixed guideway system only if the Secretary determines that the proposed project is—

(A) based on the results of an alternatives analysis and preliminary engineering;

(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies; and

(C) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct, maintain, and operate the system or extension.

(2) **ALTERNATIVES ANALYSIS AND PRELIMINARY ENGINEERING.**—In evaluating a project under paragraph (1)(A), the Secretary shall analyze and consider the results of the alternatives analysis and preliminary engineering for the project.

(3) **PROJECT JUSTIFICATION.**—In evaluating a project under paragraph (1)(B), the Secretary shall—

(A) consider the direct and indirect costs of relevant alternatives;

(B) consider factors such as congestion relief, improved mobility, air pollution, noise pollution, energy consumption, and all associated ancillary and mitigation costs necessary to carry out each alternative analyzed, and recognize reductions in local infrastructure costs achieved through compact land use development;

(C) identify and consider mass transportation supportive existing land use policies and future patterns, and the cost of suburban sprawl;

(D) consider the degree to which the project increases the mobility of the mass transportation dependent population or promotes economic development;

(E) consider population density and current transit ridership in the corridor;

(F) consider the technical capability of the grant recipient to construct the project;

(G) adjust the project justification to reflect differences in local land, construction, and operating costs; and

(H) consider other factors that the Secretary determines appropriate to carry out this chapter.

(4) LOCAL FINANCIAL COMMITMENT.—

(A) EVALUATION OF PROJECT.—In evaluating a project under paragraph (1)(C), the Secretary shall require that—

(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

(iii) local resources are available to operate the overall proposed mass transportation system (including essential feeder bus and other services necessary to achieve the projected ridership levels) without requiring a reduction in existing mass transportation services to operate the proposed project.

(B) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of local financing under subparagraph (A), the Secretary shall consider—

(i) existing grant commitments;

(ii) the degree to which financing sources are dedicated to the purposes proposed;

(iii) any debt obligation that exists or is proposed by the recipient for the proposed project or other mass transportation purpose; and

(iv) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project.

(5) REGULATIONS.—Not later than 120 days after the date of enactment of the Federal Transit Act of 1998, the Secretary shall issue regulations on the manner in which the Secretary will evaluate and rate the projects based on the results of alternatives analysis, project justification, and the degree of local financial commitment, as required under this subsection.

(6) PROJECT EVALUATION AND RATING.—A proposed project may advance from alternatives analysis to preliminary engineering, and may advance from preliminary engineering to final design and construction, only if the Secretary finds that the project meets the requirements

of this section and there is a reasonable likelihood that the project will continue to meet such requirements. In making such findings, the Secretary shall evaluate and rate the project as “highly recommended”, “recommended”, or “not recommended”, based on the results of alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established under the regulations issued under paragraph (5).

(7) FULL FUNDING GRANT AGREEMENT.—A project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under this subsection. The Secretary shall not enter into a full funding grant agreement for a project unless that project is authorized for final design and construction.

(8) LIMITATIONS ON APPLICABILITY.—

(A) PROJECTS WITH A SECTION 5309 FEDERAL SHARE OF LESS THAN \$25,000,000.—A project for a new fixed guideway system or extension of an existing fixed guideway system is not subject to the requirements of this subsection, and the simultaneous evaluation of similar projects in at least 2 corridors in a metropolitan area may not be limited, if the assistance provided under this section with respect to the project is less than \$25,000,000.

(B) PROJECTS IN NONATTAINMENT AREAS.—The simultaneous evaluation of projects in at least 2 corridors in a metropolitan area may not be limited and the Secretary shall make decisions under this subsection with expedited procedures that will promote carrying out an approved State Implementation Plan in a timely way if a project is—

(i) located in a nonattainment area;

(ii) a transportation control measure (as defined by the Clean Air Act (42 U.S.C. 7401 et seq.)); and

(iii) required to carry out the State Implementation Plan.

(C) PROJECTS FINANCED WITH HIGHWAY FUNDS.—This subsection does not apply to a part of a project financed completely with amounts made available from the Highway Trust Fund (other than the Mass Transit Account).

(D) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—This subsection does not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Transit Act of 1998.

(f) [Reserved.]

(g) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—(1)(A) The Secretary of Transportation may issue a letter of intent to an applicant announcing an intention to obligate, for a project under this section, an amount from future available budget authority specified in law that is

not more than the amount stipulated as the financial participation of the Secretary in the project. The amount shall be sufficient to complete at least an operable segment when a letter is issued for a fixed guideway project.

(B) At least 60 days before issuing a letter under subparagraph (A) of this paragraph or entering into a full funding grant agreement, the Secretary of Transportation shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate and the House and Senate Committees on Appropriations of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

(C) The issuance of a letter is deemed not to be an obligation under sections 1108(c) and (d), 1501, and 1502(a) of title 31 or an administrative commitment.

(D) An obligation or administrative commitment may be made only when amounts are appropriated.

(2)(A) The Secretary of Transportation may make a full funding grant agreement with an applicant. The agreement shall—

(i) establish the terms of participation by the United States Government in a project under this section;

(ii) establish the maximum amount of Government financial assistance for the project;

(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

(iv) make timely and efficient management of the project easier according to the law of the United States.

(B) An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Government. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary of Transportation, that the applicant has shown reasonable diligence in seeking the most favorable financing terms. The amount stipulated in an agreement under this paragraph for a fixed guideway project shall be sufficient to complete at least an operable segment.

(3)(A) The Secretary of Transportation may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

(i) a full funding grant agreement for the project will be made; and

(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

(B) A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary of Transportation decides are appropriate to make efficient, long-term project management easier. A work agreement shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization. Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms. If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

(4)(A) The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements may be not more than the greater of the amount authorized under section 5338(b) of this title for new fixed guideway systems and extensions to existing fixed guideway systems and the amount appropriated under section 5338(h)(5) or an amount equivalent to the last 2 fiscal years of funding authorized under section 5338(b) for new fixed guideway systems and extensions to existing fixed guideway systems, less an amount the Secretary of Transportation reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements may be not more than a limitation specified in law.

(B) For fiscal year 2001 and thereafter, the amount equivalent to the last 2 fiscal years of funding authorized under section 5338(b) for new fixed guideway systems and extensions to existing fixed guideway systems referred to in subparagraph (A) shall be the amount equivalent to the last 3 fiscal years of such authorized funding.

(C) Any increase in the total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements as a result of application of subparagraph (B) instead of subparagraph (A) shall be available as follows:

(1) \$269,100,000 for the Chicago, Illinois Metra commuter rail project, that consists of the fol-

lowing elements: the Kane County extension; the North Central double-tracking project; and the Southwest corridor extension.

(2) \$565,600,000 for the Chicago Transit Authority project that consists of the following elements: Ravenswood Branch station and line improvements and the Douglas Branch reconstruction project.

(3) For new fixed guideways and extensions to existing fixed guideway systems other than for projects referred to in paragraphs (1) and (2); except that for fiscal year 2001, such increase under this paragraph shall not be available for allocation by the department or for making future obligations of the Government and contingent commitments until April 1, 2001.

(D) Of the amount that would be available under subparagraph (A) if subparagraph (B) were not in effect and would have otherwise been allocated by the Federal Transit Administration to those projects referred to in subparagraphs (C)(1) and (C)(2) shall be available as follows:

(1) \$60,000,000 for the Minneapolis Hiawatha corridor light rail project, which shall be in addition to amounts otherwise allocated under subparagraph (A), for a total of \$334,300,000.

(2) \$217,800,000 for the Dulles corridor bus rapid transit project, that consists of a rail extension from the West Falls Church metrorail station to Tysons Corner, Virginia and bus rapid transit from Tysons Corner to the Dulles International Airport.

(E) Any amount that would be available under subparagraph (A) if subparagraph (B) were not in effect and would have otherwise been allocated by the Federal Transit Administration to those projects referred to in subparagraphs (C)(1) and (C)(2), shall not be available for allocation by the department or for making future obligations of the Government and contingent commitments until April 1, 2001, except for those projects referred to in subparagraph (D)(1) and (D)(2).

(F) Future obligations of the Government and contingent commitments made against the contingent commitment authority under section 3032(g)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 for the San Francisco BART to the Airport project for fiscal years 2002, 2003, 2004, 2005 and 2006 shall be charged against section 3032(g)(2) of the Intermodal Surface Transportation Efficiency Act of 1991.

(G) Any amount that would be available under subparagraph (A) if subparagraph (F) were not in effect and would otherwise have been allocated by the Federal Transit Administration to the project in subparagraph (F) shall not be available for allocation by the department or for making future obligations of the Government and contingent commitments until April 1, 2001.

(h) GOVERNMENT'S SHARE OF NET PROJECT COST.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary of Transportation shall estimate the net project cost. A grant for the project is for 80 percent of the net project cost, unless the grant recipient requests a lower grant percentage. The

remainder shall be provided in cash from a source other than amounts of the Government. Transit system amounts that make up the remainder must be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital. The remainder for a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts of the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

(i) LOAN TERM REQUIREMENTS.—Except for a loan under subsection (b) of this section, a loan, including a renewal or extension of the loan, may be made, and a security or obligation may be bought, only if it has a maturity date of not more than 40 years. Interest on a loan may not be less than—

(1) a rate the Secretary of the Treasury establishes, considering the current average yield on outstanding marketable obligations of the Government that have remaining periods of maturity comparable to the average maturity of the loan, adjusted to the nearest .125 percent; plus

(2) an allowance the Secretary of Transportation considers adequate to cover administrative costs and probable losses.

(j) LOAN PAYMENT FORGIVENESS.—A grant agreement for a capital project may forgive repaying the loan and interest in place of a cash grant for the amount forgiven. The amount is part of the grant and part of the contribution of the Government to the cost of the project.

(k) LIMITATION ON MAKING LOANS AND GRANTS FOR PROJECTS.—The Secretary of Transportation may not make a loan under this section for a project for which a grant (except a relocation payment grant) is made under this section. However, the Secretary may make a project grant even though real property for the project has been or will be acquired through a loan under subsection (b) of this section.

(l) FISCAL CAPACITY CONSIDERATIONS.—If the Secretary of Transportation gives priority consideration to financing projects that include more than the non-Government share required under subsection (h) of this section, the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

(m) ALLOCATING AMOUNTS.—

(1) IN GENERAL.—Of the amounts made available by or appropriated under section 5338(b) for grants and loans under this section for each of fiscal years 1998 through 2003—

(A) 40 percent shall be available for fixed guideway modernization;

(B) 40 percent shall be available for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems; and

(C) 20 percent shall be available to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities.

(2) NEW FIXED GUIDEWAY GRANTS.—

(A) LIMITATION ON AMOUNTS AVAILABLE FOR ACTIVITIES OTHER THAN FINAL DESIGN AND CONSTRUCTION.—Not more than 8 percent of the amounts made available in each fiscal year by paragraph (1)(B) shall be available for activities other than final design and construction.

(B) FUNDING FOR FERRY BOAT SYSTEMS.—

(i) AMOUNTS UNDER (1)(B).—Of the amounts made available under paragraph (1)(B), \$10,400,000 shall be available in each of fiscal years 1999 through 2003 for capital projects in Alaska or Hawaii, for new fixed guideway systems and extensions to existing fixed guideway systems that are ferry boats or ferry terminal facilities, or that are approaches to ferry terminal facilities.

(ii) AMOUNTS UNDER 5338(h)(5).—Of the amounts appropriated under section 5338(h)(5), \$3,600,000 shall be available in each of fiscal years 1999 through 2003 for capital projects in Alaska or Hawaii, for new fixed guideway systems and extensions to existing fixed guideway systems that are ferry boats or ferry terminal facilities, or that are approaches to ferry terminal facilities.

(3) BUS AND BUS FACILITY GRANTS.—

(A) CONSIDERATION.—In making grants under paragraph (1)(C), the Secretary shall consider the age of buses, bus fleets, related equipment, and bus-related facilities.

(B) FUNDING FOR BUS TESTING FACILITY.—Of the amounts made available under paragraph (1)(C), \$3,000,000 shall be available in each of fiscal years 1998 through 2003 to carry out section 5318.

(C) FUNDING FOR CLEAN FUELS.—Of the amounts made available under paragraph (1)(C), \$50,000,000 shall be available in each of fiscal years 1999 through 2003 to carry out section 5308.

(D) OTHER THAN URBANIZED AREAS.—Of amounts made available by paragraph (1)(C), not less than 5.5 percent shall be available in each fiscal year for other than urbanized areas.

(4) ELIGIBILITY FOR ASSISTANCE FOR MULTIPLE PROJECTS.—A person applying for or receiving assistance for a project described in subparagraph (A), (B), or (C) of paragraph (1) may receive assistance for a project described in any other of such subparagraphs.

(n) UNDERTAKING PROJECTS IN ADVANCE.—(1) The Secretary of Transportation may pay the Government's share of the net project cost to a State or local governmental authority that carries out any part of a project described in this section or a substitute transit project described in section 103(e)(4)¹ of title 23 without the aid of amounts of the Government and according to all applicable procedures and requirements if—

(A) the State or local governmental authority applies for the payment;

(B) the Secretary approves the payment; and

(C) before carrying out the part of the project, the Secretary approves the plans and

specifications for the part in the same way as other projects under this section or section 103(e)(4)¹ of title 23.

(2) The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part. However, the amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary of Transportation, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

(3) The Secretary of Transportation shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2) of this subsection.

(o)² USE OF DEOBLIGATED AMOUNTS.—An amount available under this section that is deobligated may be used for any purpose under this section.

(o)² REPORTS.—

(1) FUNDING LEVELS AND ALLOCATIONS OF FUNDS FOR FIXED GUIDEWAY SYSTEMS.—

(A) ANNUAL REPORT.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report that includes a proposal on the allocation of amounts to be made available to finance grants and loans for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems among applicants for those amounts.

(B) RECOMMENDATIONS ON FUNDING.—The annual report under this paragraph shall include evaluations and ratings, as required under subsection (e), for each project that is authorized or has received funds under this section since the date of enactment of the Federal Transit Act of 1998 or October 1 of the preceding fiscal year, whichever date is earlier. The report shall also include recommendations of projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years and for the next 10 fiscal years based on information currently available to the Secretary.

(2) SUPPLEMENTAL REPORT ON NEW STARTS.—The Secretary shall submit a report to Congress on the 31st day of August of each year that describes the Secretary's evaluation and rating of each project that has completed alternatives analysis or preliminary engineering since the date of the last report. The report shall include all relevant information that supports the evaluation and rating of each project, including a summary of each project's financial plan.

(3) ANNUAL GAO REVIEW.—The General Accounting Office shall—

¹ See References in Text note below.

² So in original. Two subses. (o) have been enacted.

(A) conduct an annual review of—

(i) the processes and procedures for evaluating and rating projects and recommending projects; and

(ii) the Secretary's implementation of such processes and procedures; and

(B) shall report to Congress on the results of such review by April 30 of each year.

(p) PROJECT DEFINED.—In this section, the term "project" means, with respect to a new fixed guideway system or extension to an existing fixed guideway system, a minimum operable segment of the project.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 800; Pub. L. 104-287, §5(9), (12), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 102-240, title III, §3049(a), as added Pub. L. 105-130, §8, Dec. 1, 1997, 111 Stat. 2559; Pub. L. 105-178, title III, §3009(a), (c)-(h)(1), (3)(D), (i)-(k), June 9, 1998, 112 Stat. 352-357; Pub. L. 105-206, title IX, §9009(g), (h)(3), July 22, 1998, 112 Stat. 855, 856; Pub. L. 106-69, title III, §347, Oct. 9, 1999, 113 Stat. 1024; Pub. L. 106-346, §101(a) [title III, §380], Oct. 23, 2000, 114 Stat. 1356, 1356A-42; Pub. L. 106-554, §1(a)(4) [div. A, §1101], Dec. 21, 2000, 114 Stat. 2763, 2763A-201.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5309(a)(1)-(5).	49 App.:1602(a)(1)(A).	July 9, 1964, Pub. L. 88-365, §3(a)(1)(A), 78 Stat. 303; May 25, 1967, Pub. L. 90-19, §20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91-453, §2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93-503, §§102, 104, 106, 88 Stat. 1566, 1571, 1572; Nov. 6, 1978, Pub. L. 95-599, §302(a), 92 Stat. 2735; Jan. 6, 1983, Pub. L. 97-424, §313, 96 Stat. 2152.
	49 App.:1602(a)(1)(B), (C), (D) (1st, 3d sentences).	July 9, 1964, Pub. L. 88-365, §3(a)(1)(B)-(D), (2)(B), (3), 78 Stat. 303; May 25, 1967, Pub. L. 90-19, §20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91-453, §2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93-503, §§102, 104, 106, 88 Stat. 1566, 1571, 1572; restated Nov. 6, 1978, Pub. L. 95-599, §302(a), 92 Stat. 2735, 2736.
5309(a)(6)	49 App.:1602(a)(1)(E).	July 9, 1964, Pub. L. 88-365, §3(a)(1)(E), 78 Stat. 303; May 25, 1967, Pub. L. 90-19, §20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91-453, §2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93-503, §§102, 104, 106, 88 Stat. 1566, 1571, 1572; Nov. 6, 1978, Pub. L. 95-599, §302(a), 92 Stat. 2736; restated Dec. 18, 1991, Pub. L. 102-240, §3006(a), 105 Stat. 2089.
5309(a)(7)	49 App.:1602(a)(1)(F).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §3(a)(1)(F); added Dec. 18, 1991, Pub. L. 102-240, §3006(b), 105 Stat. 2089.
5309(b)(1)	49 App.:1602(b) (1st sentence).	July 9, 1964, Pub. L. 88-365, §3(b), 78 Stat. 303; May 25, 1967, Pub. L. 90-19, §20(a), 81 Stat. 25; restated Oct. 15, 1970, Pub. L. 91-453, §2(2), 84 Stat. 963; Nov. 6, 1978, Pub. L. 95-599, §302(b), 92 Stat. 2737.
5309(b)(2)	49 App.:1602(a)(2)(B).	
5309(b)(3)	49 App.:1602(b) (8th, last sentences).	
5309(b)(4), (5).	49 App.:1602(b) (2d-6th sentences).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5309(c)	49 App.:1602(a)(5).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §3(a)(5); added Jan. 6, 1983, Pub. L. 97-424, §304(b), 96 Stat. 2149.
5309(d)	49 App.:1602(a)(2)(A).	July 9, 1964, Pub. L. 88-365, §3(a)(2)(A), 78 Stat. 303; May 25, 1967, Pub. L. 90-19, §20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91-453, §2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93-503, §§102, 104, 106, 88 Stat. 1566, 1571, 1572; Nov. 6, 1978, Pub. L. 95-599, §302(a), 92 Stat. 2736; Jan. 6, 1983, Pub. L. 97-424, §304(a), 96 Stat. 2149; restated Apr. 2, 1987, Pub. L. 100-17, §309(e), 101 Stat. 227.
5309(e)(1)	49 App.:1602(a)(3). 49 App.:1602 (note).	Apr. 2, 1987, Pub. L. 100-17, §303(b), 101 Stat. 223.
5309(e) (2)-(7).	49 App.:1602(i).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §3(i); added Apr. 2, 1987, Pub. L. 100-17, §303(a), 101 Stat. 223; restated Dec. 18, 1991, Pub. L. 102-240, §3010, 105 Stat. 2093.
5309(f)(1)	49 App.:1602(a)(1)(D) (last sentence).	
5309(f)(2)	49 App.:1602(a)(1)(D) (2d sentence).	
5309(g)	49 App.:1602(a)(4).	July 9, 1964, Pub. L. 88-365, §3(a)(4), 78 Stat. 303; May 25, 1967, Pub. L. 90-19, §20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91-453, §2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93-503, §§102, 104, 106, 88 Stat. 1566, 1571, 1572; restated Nov. 6, 1978, Pub. L. 95-599, §302(a), 92 Stat. 2735; Jan. 6, 1983, Pub. L. 97-424, §305, 96 Stat. 2150; Apr. 2, 1987, Pub. L. 100-17, §302, 101 Stat. 223; Dec. 18, 1991, Pub. L. 102-240, §3007, 105 Stat. 2090.
5309(h)	49 App.:1603(a).	July 9, 1964, Pub. L. 88-365, §4(a), 78 Stat. 304; May 25, 1967, Pub. L. 90-19, §20(a), 81 Stat. 25; Aug. 1, 1968, Pub. L. 90-448, §704(a), 82 Stat. 535; Oct. 15, 1970, Pub. L. 91-453, §3(a), 84 Stat. 965; Aug. 13, 1973, Pub. L. 93-87, §301(a), 87 Stat. 295; Nov. 26, 1974, Pub. L. 93-503, §103(b), 88 Stat. 1571; Nov. 6, 1978, Pub. L. 95-599, §303(b), 92 Stat. 2737; Jan. 6, 1983, Pub. L. 97-424, §302(b), 96 Stat. 2141; Dec. 18, 1991, Pub. L. 102-240, §3006(f), (g), 105 Stat. 2089.
5309(i)	49 App.:1602(c) (2d, last sentences).	July 9, 1964, Pub. L. 88-365, §3(c), 78 Stat. 303; May 25, 1967, Pub. L. 90-19, §20(a), 81 Stat. 25; restated Oct. 15, 1970, Pub. L. 91-453, §2(2), 84 Stat. 964.
5309(j)	49 App.:1602(b) (7th sentence).	
5309(k)	49 App.:1602(c) (1st sentence).	
5309(l)	49 App.:1603(d).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §4(d); added Dec. 18, 1991, Pub. L. 102-240, §3006(h)(2), 105 Stat. 2090.
5309(m)(1) ..	49 App.:1602(k)(1).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §3(k)(1); added Apr. 2, 1987, Pub. L. 100-17, §305, 101 Stat. 224; restated Dec. 18, 1991, Pub. L. 102-240, §3006(d)(1), 105 Stat. 2089.
5309(m)(2) ..	49 App.:1602(k)(3).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §3(k)(3); added Dec. 18, 1991, Pub. L. 102-240, §3006(d)(2), 105 Stat. 2089.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5309(m)(3) ..	49 App.:1602(j).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §3(j); added Apr. 2, 1987, Pub. L. 100-17, §304, 101 Stat. 223.
5309(m)(4) ..	49 App.:1602(k)(2).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §3(k)(2); added Apr. 2, 1987, Pub. L. 100-17, §305, 101 Stat. 224.
5309(n)	49 App.:1602(l).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §3(l); added Apr. 2, 1987, Pub. L. 100-17, §306(a), 101 Stat. 224; Dec. 18, 1991, Pub. L. 102-240, §3006(e), 105 Stat. 2089.
5309(o)	49 App.:1602(n).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §3(n); added Oct. 6, 1992, Pub. L. 102-388, §502(d), 106 Stat. 1566.

In subsection (a), before clause (1), the words “in accordance with the provisions of this chapter” are omitted as surplus. The words “and on such terms and conditions as the Secretary may prescribe” and 49 App.:1602(a)(1)(D) (3d sentence) are omitted as unnecessary because of section 5334(a) of the revised title and 49:322(a). The words “(directly, through the purchase of securities or equipment trust certificates, or otherwise)” and “and agencies thereof” are omitted as surplus. In clause (1), the word “detailed” is omitted as surplus. In clause (2), the words “capital projects” are substituted for “the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service” for clarity and consistency in this section. The words “Eligible facilities and equipment may include personal property such as buses and other rolling stock, and rail and bus facilities, and real” are omitted as surplus. The text of 49 App.:1602(a)(1)(B) (last sentence) is omitted as obsolete because former 49 App.:1604(a)(4) is executed and is not included in this restatement. In clause (3), the words “the capital costs of” are added for clarity and consistency in this section. The words “highway and” are omitted as surplus.

In subsection (b)(1), the word “finance” is omitted as surplus.

In subsection (b)(2), the words “for real property acquisition” are omitted as surplus. The words “for an approved project” are added for clarity and consistency. The words “which shall be in lieu of the determination required by subparagraph (A)”, “real”, and “connection with” are omitted as surplus.

In subsection (b)(3), the word “comprehensive” is omitted as surplus. The words “by the project” are added for clarity. The words “a period of” and “longer” are omitted as surplus.

In subsection (b)(4), the words “a period not exceeding” and “Each agreement shall provide that” are omitted as surplus. The words “shall be made within the 10-year period” are substituted for “shall not be later than 10 years following the fiscal year in which the agreement is made” to eliminate unnecessary words. The words “if any, over the original cost of the real property” are omitted as surplus. The words “deposit in” are substituted for “credit to” for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(5), the word “actual” is omitted as surplus. The words “deposited in” are substituted for “credited to” for consistency in the revised title and with other titles of the Code.

In subsection (c), before clause (1), the words “grant or loan” are substituted for “assistance” for consistency in the revised section. In clause (1), the words “rail carrier” are substituted for “railroad” for consistency in the revised title and with other titles of the Code.

In subsection (d), before clause (1), the words “Except as provided in subsections (b)(2) and (e) of this section” are added for clarity. In clause (1), the words “through operation or lease or otherwise” are omitted as surplus.

In subsection (e)(2), before clause (A), the word “existing” is added for clarity and consistency.

In subsection (e)(6)(C), the words “Part A of title I of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 1915)” are substituted for “the Federal-Aid Highway Act of 1991” because the Federal-Aid Highway Act of 1991 was title I of H.R. 1531, that was not enacted into law but contained predecessor provisions to Part A of title I of H.R. 2950, enacted into law as the Intermodal Surface Transportation Efficiency Act of 1991.

In subsection (f)(1), the words “or entity” are omitted as surplus.

In subsection (f)(2), before clause (A), the words “for a project under subsection (a)(5) of this section” are added for clarity. In clause (B), the words “whether publicly or privately owned” are omitted as surplus.

In subsection (g)(1)(A), the words “The letter shall be regarded as an intention to obligate” are omitted as surplus.

In subsection (g)(1)(D), the words “pursuant to such a letter of intent” are omitted as surplus.

In subsection (g)(2)(A)(i), the words “and conditions” are omitted as being included in “terms”.

In subsection (g)(4), the word “issued” is omitted as surplus. The text of 49 App.:1602(a)(4)(E) (3d sentence) is omitted as executed. The text of 49 App.:1602(a)(4)(E) (4th and last sentences) is omitted as obsolete.

In subsection (h), the words “nature and extent of” are omitted as surplus. The words “net project cost” are substituted for “what portion of the cost of a project to be assisted under section 1602 of this Appendix cannot be reasonably financed from revenues—which portion shall hereinafter be called ‘net project cost’” because of the definition of “net project cost” in section 5302(a) of the revised title. The words “Except as provided in paragraph (2) of this subsection” are added for clarity. The words “Such remainder may be provided in whole or in part from other than public sources and any public or private”, “solely”, and “at any time” are omitted as surplus. The words “shall be deemed” are omitted as unnecessary since the text is a statement of a legal conclusion.

In subsection (i), before clause (1), the words “Except for a loan under subsection (b) of this section” are added for clarity. The words “made under this section” and “at a rate” are omitted as surplus. In clause (1), the word “market” is omitted as surplus. In clause (2), the words “under the program” are omitted as surplus.

In subsection (j), the words “loan and interest” are substituted for “principal and accrued interest on the loan then outstanding” to eliminate unnecessary words.

In subsection (m)(1)(B) and (3), the word “existing” is added for clarity and consistency.

In subsection (m)(1), before clause (A), the words “Subject to paragraph (3)” are omitted as surplus. The reference to fiscal year 1992 is omitted as obsolete.

In subsection (m)(3), before clause (A), the words “Not later than 30 days after April 2, 1987” are omitted as executed. The words “prepare and” are omitted as surplus. The text of 49 App.:1602(j)(1) is omitted as obsolete because 49 App.:1602(k)(1) was restated by section 3006(d)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 2089) and clause (D) was not carried forward.

In subsection (m)(4), the text of 49 App.:1602(k)(2)(B) is omitted as expired.

In subsection (n)(2), the words “Subject to the provisions of this paragraph”, “the Federal share of which the Secretary is authorized to pay under this subsection”, and “actually” are omitted as surplus.

PUB. L. 104-287, §5(12)(A)

This amends 49:5309(a) to clarify the restatement of 49 App.:1602(a)(1) by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 800).

PUB. L. 104-287, §5(12)(B)

This amends 49:5309(e)(4)(B) to correct an erroneous cross-reference.

PUB. L. 104-287, §5(12)(C)

This amends 49:5309(m)(1)(A) to make a conforming amendment.

REFERENCES IN TEXT

The date of enactment of the Federal Transit Act of 1998, referred to in subsecs. (e)(5), (8)(D) and (o)(1)(B), is the date of enactment of title III of Pub. L. 105-178, which was approved June 9, 1998.

The Clean Air Act, referred to in subsec. (e)(8)(B)(ii), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (g)(3)(A), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

Section 3032(g)(2) of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (g)(4)(F), is section 3032(g)(2) of Pub. L. 102-240, title III, Dec. 18, 1991, 105 Stat. 2125, which is not classified to the Code.

Section 103 of title 23, referred to in subsec. (n)(1), was amended generally by Pub. L. 105-178, title I, §1106(b), June 9, 1998, 112 Stat. 131, and, as so amended, no longer contains a subsec. (e)(4).

AMENDMENTS

2000—Subsec. (g)(4). Pub. L. 106-346 designated existing provisions as subpar. (A) and added subpars. (B) to (G).

Subsec. (g)(4)(D)(2). Pub. L. 106-554 struck out “light” before “rail extension”.

1999—Subsec. (g)(1)(B). Pub. L. 106-69 inserted “and the House and Senate Committees on Appropriations” after “Committee on Banking, Housing, and Urban Affairs of the Senate”.

1998—Pub. L. 105-178, §3009(a), substituted “Capital investment” for “Discretionary” in section catchline.

Subsec. (a)(1)(E) to (H). Pub. L. 105-178, §3009(c), added subpars. (E) and (F), redesignated former subpars. (F) and (G) as (G) and (H), respectively, and struck out former subpar. (E) which read as follows: “transportation projects that enhance urban economic development or incorporate private investment, including commercial and residential development, because the projects—

“(i) enhance the effectiveness of a mass transportation project and are related physically or functionally to that mass transportation project; or

“(ii) establish new or enhanced coordination between mass transportation and other transportation;”

Subsec. (c). Pub. L. 105-178, §3009(d), amended subsec. (c) generally, substituting “[Reserved.]” for former heading and text which read as follows:

“(c) CONSIDERATION OF DECREASED COMMUTER RAIL TRANSPORTATION.—The Secretary of Transportation shall consider the adverse effect of decreased commuter rail transportation when deciding whether to approve a grant or loan under this section to acquire a rail line and all related facilities—

“(1) owned by a rail carrier subject to reorganization under title 11; and

“(2) used to provide commuter rail transportation.”

Subsec. (e). Pub. L. 105-178, §3009(k)(1), as added by Pub. L. 105-206, §9009(g), in par. (3)(C), substituted “suburban sprawl” for “urban sprawl”, and in par. (6), substituted “or ‘not recommended’, based” for “or not

‘recommended’, based” in second sentence and inserted “of the” before “criteria established” in last sentence.

Pub. L. 105-178, §3009(e), reenacted heading without change and amended text of subsec. (e) generally. Prior to amendment, subsec. (e) related to, in par. (1), applicability of subsection to projects, in par. (2), approval of grants or loans for capital projects, in par. (3), criteria for making approval decisions, in par. (4), issuance of guidelines on evaluation of alternatives, project justification, and degree of local financial commitment, in par. (5), advancement of project from alternatives analysis to preliminary engineering, in par. (6), exemptions from requirements of subsection, and in par. (7), requirement of full financing agreement.

Subsec. (f). Pub. L. 105-178, §3009(h)(1), amended subsec. (f) generally, substituting “[Reserved.]” for former heading and text which read as follows:

“(f) REQUIRED PAYMENTS AND ELIGIBLE COSTS OF PROJECTS THAT ENHANCE URBAN ECONOMIC DEVELOPMENT OR INCORPORATE PRIVATE INVESTMENT.—(1) Each grant or loan under subsection (a)(5) of this section shall require that a person making an agreement to occupy space in a facility pay a reasonable share of the costs of the facility through rental payments and other means.

“(2) Eligible costs for a project under subsection (a)(5) of this section—

“(A) include property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space, and a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall; but

“(B) do not include construction of a commercial revenue-producing facility or a part of a public facility not related to mass transportation.”

Subsec. (g). Pub. L. 105-178, §3009(f)(1), substituted “Funding” for “Financing” in heading.

Subsec. (g)(1)(B). Pub. L. 105-178, §3009(f)(3), substituted “At least 60 days” for “At least 30 days” and “letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project” for “issuance of the letter” and inserted “or entering into a full funding grant agreement” after “subparagraph (A) of this paragraph”.

Subsec. (g)(2)(A), (B), (3)(A)(i). Pub. L. 105-178, §3009(f)(2), substituted “full funding” for “full financing”.

Subsec. (g)(4). Pub. L. 105-178, §3009(k)(2), as added by Pub. L. 105-206, §9009(g), substituted “5338(b) of this title for new fixed guideway systems and extensions to existing fixed guideway systems and the amount appropriated under section 5338(h)(5) or an amount equivalent to the last 2 fiscal years of funding authorized under section 5338(b) for new fixed guideway systems and extensions to existing fixed guideway systems” for “5338(a) of this title to carry out this section or an amount equivalent to the total authorizations under section 5338(b) for new fixed guideway systems and extensions to existing fixed guideway systems for fiscal years 2002 and 2003”.

Pub. L. 105-178, §3009(f)(2), (4), substituted “full funding” for “full financing” before “grant agreements” in two places and “an amount equivalent to the total authorizations under section 5338(b) for new fixed guideway systems and extensions to existing fixed guideway systems for fiscal years 2002 and 2003” for “50 percent of the uncommitted cash balance remaining in the Mass Transit Account of the Highway Trust Fund (including amounts received from taxes and interest earned that are more than amounts previously obligated)”.

Subsec. (m). Pub. L. 105-178, §3009(k)(3), as added by Pub. L. 105-206, §9009(g), substituted “5338(b)” for “5338” in introductory provisions of par. (1), added par. (2) and struck out former par. (2) relating to limitation on amounts available for activities other than final design and construction, redesignated par. (4) as (3)(C), added pars. (3)(D) and (4), and struck out par. (5) relating to funding for ferry boat systems.

Pub. L. 105-178, §3009(g), reenacted heading without change and amended text of subsec. (m) generally, substituting provisions allocating amounts for fiscal years 1998 to 2003 for provisions allocating amounts for each fiscal year ending Sept. 30 from 1993 to 1997 and for period of Oct. 1, 1997 to Mar. 31, 1998.

Subsec. (n)(2). Pub. L. 105-178, §3009(h)(3)(D), as added by Pub. L. 105-206, §9009(h)(3), substituted "in a manner satisfactory" for "in a way satisfactory".

Subsec. (o). Pub. L. 105-178, §3009(i), added subsec. (o) relating to reports.

Subsec. (p). Pub. L. 105-178, §3009(j), added subsec. (p). 1997—Subsec. (m)(1). Pub. L. 102-240, §3049(a), as added by Pub. L. 105-130, inserted "and for the period of October 1, 1997, through March 31, 1998" after "1997".

1996—Subsec. (a). Pub. L. 104-287, §5(12)(A), designated existing provisions as par. (1), redesignated former pars. (1) to (7) as subpars. (A) to (G) of par. (1), respectively, and former subpars. (A) and (B) of par. (5) as subcls. (i) and (ii) of subpar. (E), respectively, and added par. (2).

Subsec. (e)(4)(B). Pub. L. 104-287, §5(12)(B), substituted "paragraph (2)" for "paragraph (1)(B)".

Subsec. (g)(1)(B). Pub. L. 104-287, §5(9), substituted "Transportation and Infrastructure" for "Public Works and Transportation".

Subsec. (m)(1)(A). Pub. L. 104-287, §5(12)(C), inserted "rail" before "fixed guideway modernization".

Subsec. (m)(3). Pub. L. 104-287, §5(9), substituted "Transportation and Infrastructure" for "Public Works and Transportation".

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 5(12) of Pub. L. 104-287 effective July 5, 1994, see section 8(1) of Pub. L. 104-287, set out as a note under section 5303 of this title.

REPORT TO CONGRESS ON USE OF FUNDS UNDER PUB. L. 105-178

Pub. L. 105-200, title IV, §403(b), July 16, 1998, 112 Stat. 670, provided that: "Not later than 2 years after the date of the enactment of this Act [July 16, 1998], the Secretary of Transportation, in consultation with the Secretary of Health and Human Services, shall submit to the Committees on Ways and Means and on Transportation and Infrastructure of the House of Representatives and the Committees on Finance and on Environment and Public Works of the Senate a report that—

"(1) describes the manner in which funds made available under section 3037 of the Transportation Equity Act for the 21st Century [Pub. L. 105-178, set out as a note below] have been used;

"(2) describes whether such uses of such funds has improved transportation services for low-income individuals; and

"(3) contains such other relevant information as may be appropriate."

DOLLAR VALUE OF MOBILITY IMPROVEMENTS

Pub. L. 105-178, title III, §3010, June 9, 1998, 112 Stat. 357, as amended by Pub. L. 105-206, title IX, §9009(i), July 22, 1998, 112 Stat. 856, provided that:

"(a) IN GENERAL.—The Secretary [of Transportation] shall not consider the dollar value of mobility improvements, as specified in the report required under section 5309(o) (as added by this Act), in evaluating projects under section 5309 of title 49, United States Code, in developing regulations, or in carrying out any other duty of the Secretary.

"(b) STUDY.—

"(1) IN GENERAL.—The Comptroller General shall conduct a study of the dollar value of mobility improvements and the relationship of mobility improvements to the overall transportation justification of a new fixed guideway system or extension to an existing system.

"(2) REPORT.—Not later than January 1, 2000, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the results of the study under paragraph (1), including an analysis of the factors relevant to determining the dollar value of mobility improvements."

JOB ACCESS AND REVERSE COMMUTE GRANTS

Pub. L. 105-178, title III, §3037, June 9, 1998, 112 Stat. 387, as amended by Pub. L. 105-206, title IX, §9009(w), July 22, 1998, 112 Stat. 862, provided that:

"(a) FINDINGS.—Congress finds that—

"(1) two-thirds of all new jobs are in the suburbs, whereas three-quarters of welfare recipients live in rural areas or central cities;

"(2) even in metropolitan areas with excellent public transit systems, less than half of the jobs are accessible by transit;

"(3) in 1991, the median price of a new car was equivalent to 25 weeks of salary for the average worker, and considerably more for the low-income worker;

"(4) not less than 9,000,000 households and 10,000,000 Americans of driving age, most of whom are low-income workers, do not own cars;

"(5) 94 percent of welfare recipients do not own cars;

"(6) nearly 40 percent of workers with annual incomes below \$10,000 do not commute by car;

"(7) many of the 2,000,000 Americans who will have their Temporary Assistance to Needy Families grants (under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) terminated by the year 2002 will be unable to get to jobs they could otherwise hold;

"(8) increasing the transit options for low-income workers, especially those who are receiving or who have recently received welfare benefits, will increase the likelihood of those workers getting and keeping jobs; and

"(9) many residents of cities and rural areas would like to take advantage of mass transit to gain access to suburban employment opportunities.

"(b) DEFINITIONS.—In this section, the following definitions shall apply:

"(1) ELIGIBLE LOW-INCOME INDIVIDUAL.—The term 'eligible low-income individual' means an individual whose family income is at or below 150 percent of the poverty line (as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section) for a family of the size involved.

"(2) ELIGIBLE PROJECT AND RELATED TERMS.—

"(A) IN GENERAL.—The term 'eligible project' means an access to jobs project or a reverse commute project.

"(B) ACCESS TO JOBS PROJECT.—The term 'access to jobs project' means a project relating to the development of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment. The Secretary [of Transportation] may make access to jobs grants for—

"(i) capital projects and to finance operating costs of equipment, facilities, and associated capital maintenance items related to providing access to jobs under this section;

"(ii) promoting the use of transit by workers with nontraditional work schedules;

"(iii) promoting the use by appropriate agencies of transit vouchers for welfare recipients and eli-

gible low-income individuals under specific terms and conditions developed by the Secretary; and

“(iv) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986 [26 U.S.C. 132].

“(C) REVERSE COMMUTE PROJECT.—The term ‘reverse commute project’ means a project related to the development of transportation services designed to transport residents of urban areas, urbanized areas, and areas other than urbanized areas to suburban employment opportunities, including any project to—

“(i) subsidize the costs associated with adding reverse commute bus, train, carpool, van routes, or service from urban areas, urbanized areas, and areas other than urbanized areas, to suburban workplaces;

“(ii) subsidize the purchase or lease by a nonprofit organization or public agency of a van or bus dedicated to shuttling employees from their residences to a suburban workplace; or

“(iii) otherwise facilitate the provision of mass transportation services to suburban employment opportunities.

“(3) EXISTING TRANSPORTATION SERVICE PROVIDERS.—The term ‘existing transportation service providers’ means mass transportation operators and governmental agencies and nonprofit organizations that receive assistance from Federal, State, or local sources for nonemergency transportation services.

“(4) QUALIFIED ENTITY.—The term ‘qualified entity’ means—

“(A) with respect to any proposed eligible project in an urbanized area with a population of at least 200,000, the applicant or applicants selected by the appropriate metropolitan planning organization that meets the requirements of this section, including the planning and coordination requirements in subsection (i), from among designated recipients under section 5307(a)(2) of title 49, United States Code, local governmental authorities and agencies, and nonprofit organizations; and

“(B) with respect to any proposed eligible project in an urbanized area with a population of less than 200,000, or an area other than an urbanized area, the applicant or applicants selected by the chief executive officer of the State in which the area is located that meets the requirements of this section, including the planning and coordination requirements in subsection (i), from among designated recipients under section 5307(a)(2) of title 49, United States Code, local governmental authorities and agencies, and nonprofit organizations.

“(5) WELFARE RECIPIENT.—The term ‘welfare recipient’ means an individual who receives or received aid or assistance under a State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] (whether in effect before or after the effective date of the amendments made by title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2110) [see Effective Date note set out under 42 U.S.C. 601]) at any time during the 3-year period before the date on which the applicant applies for a grant under this section.

“(c) GENERAL AUTHORITY.—

“(1) IN GENERAL.—The Secretary may make access to jobs grants and reverse commute grants under this section to assist qualified entities in financing eligible projects.

“(2) COORDINATION.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

“(d) APPLICATIONS.—Each qualified entity seeking to receive a grant under this section for an eligible project shall submit to the Secretary an application in such form and in accordance with such requirements as the Secretary shall establish.

“(e) PROHIBITION.—Grants awarded under this section may not be used for planning or coordination activities.

“(f) FACTORS FOR CONSIDERATION.—In awarding grants under this section to applicants under subsection (d), the Secretary shall consider—

“(1) the percentage of the population in the area to be served by the applicant that are welfare recipients;

“(2) in the case of an applicant seeking assistance to finance an access to jobs project, the need for additional services (including bicycling) in the area to be served by the applicant to transport welfare recipients and eligible low-income individuals to and from specified jobs, training, and other employment support services, and the extent to which the proposed services will address those needs;

“(3) the extent to which the applicant demonstrates—

“(A) coordination with, and the financial commitment of, existing transportation service providers; and

“(B) coordination with the State agency that administers the State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.];

“(4) the extent to which the applicant demonstrates maximum utilization of existing transportation service providers and expands transit networks or hours of service, or both;

“(5) the extent to which the applicant demonstrates an innovative approach that is responsive to identified service needs;

“(6) the extent to which the applicant—

“(A) in the case of an applicant seeking assistance to finance an access to jobs project, presents a regional transportation plan for addressing the transportation needs of welfare recipients and eligible low-income individuals; and

“(B) identifies long-term financing strategies to support the services under this section;

“(7) the extent to which the applicant demonstrates that the community to be served has been consulted in the planning process; and

“(8) in the case of an applicant seeking assistance to finance a reverse commute project, the need for additional services identified in a regional transportation plan to transport individuals to suburban employment opportunities, and the extent to which the proposed services will address those needs.

“(g) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

“(h) COST SHARING.—

“(1) MAXIMUM AMOUNT.—The amount of a grant under this section may not exceed 50 percent of the total project cost.

“(2) NONGOVERNMENTAL SHARE.—

“(A) IN GENERAL.—The portion of the total cost of an eligible project that is not funded under this section—

“(i) shall be provided in cash from sources other than revenues from providing mass transportation, but may include amounts received under a service agreement; and

“(ii) may be derived from amounts appropriated to or made available to a department or agency of the Federal Government (other than the Department of Transportation) that are eligible to be expended for transportation.

“(B) INAPPLICABILITY.—For purposes of subparagraph (A)(ii), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vi) of the Social Security Act [42 U.S.C. 603(a)(5)(C)(vi)] shall not apply to Federal or State funds to be used for transportation services.

“(i) PLANNING REQUIREMENTS.—

“(1) IN GENERAL.—The requirements of sections 5303 through 5306 of title 49, United States Code, apply to any grant made under this section.

“(2) COORDINATION.—Each application for a grant under this section shall reflect coordination with and the approval of affected transit grant recipients. The eligible access to jobs projects financed under this section shall be part of a coordinated public transit-human services transportation planning process.

“(j) GRANT REQUIREMENTS.—A grant under this section shall be subject to—

“(1) all of the terms and conditions to which a grant made under section 5307 of title 49, United States Code, is subject; and

“(2) such other terms and conditions as are determined by the Secretary.

“(k) PROGRAM EVALUATION.—

“(1) COMPTROLLER GENERAL.—Beginning 6 months after the date of enactment of this Act [June 9, 1998], and every 6 months thereafter, the Comptroller General of the United States shall—

“(A) conduct a study to evaluate the grant program authorized under this section; and

“(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the results of each study under subparagraph (A).

“(2) DEPARTMENT OF TRANSPORTATION.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

“(A) conduct a study to evaluate the access to jobs grant program authorized under this section; and

“(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the results of the study under subparagraph (A).

“(l) AUTHORIZATION AND ALLOCATION.—

“(1) IN GENERAL.—

“(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out this section—

“(i) \$40,000,000 for fiscal year 1999;

“(ii) \$60,000,000 for fiscal year 2000;

“(iii) \$80,000,000 for fiscal year 2001;

“(iv) \$100,000,000 for fiscal year 2002; and

“(v) \$120,000,000 for fiscal year 2003.

“(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out this section—

“(i) \$10,000,000 for fiscal year 1999;

“(ii) \$15,000,000 for fiscal year 2000;

“(iii) \$20,000,000 for fiscal year 2001;

“(iv) \$25,000,000 for fiscal year 2002; and

“(v) \$30,000,000 for fiscal year 2003.

“(C) ADDITIONAL AMOUNTS.—In addition to amounts made available under subparagraphs (A) and (B) under the Transportation Discretionary Spending Guarantee for the Mass Transit Category, there are authorized to be appropriated to carry out this section—

“(i) \$100,000,000 for fiscal year 1999;

“(ii) \$75,000,000 for fiscal year 2000;

“(iii) \$50,000,000 for fiscal year 2001; and

“(iv) \$25,000,000 for fiscal year 2002.

“(2) SET-ASIDE FOR REVERSE COMMUTE PROJECTS.—Of amounts made available by or appropriated under subparagraphs (A) and (B) of paragraph (1) to carry out this section in each fiscal year, not more than \$10,000,000 shall be used for grants for reverse commute projects.

“(3) ALLOCATION.—The amounts made available by or appropriated under paragraph (1) to carry out this section in each fiscal year shall be allocated as follows:

“(A) 60 percent shall be allocated for eligible projects in urbanized areas with populations of at least 200,000.

“(B) 20 percent shall be allocated for eligible projects in urbanized areas with populations of less than 200,000.

“(C) 20 percent shall be allocated for eligible projects in areas other than urbanized areas.”

ENCOURAGEMENT OF ADVERSELY AFFECTED INDUSTRIES TO COMPETE FOR CONTRACTS

Pub. L. 91-453, §10, Oct. 15, 1970, 84 Stat. 968, as amended by Pub. L. 102-240, title III, §3003(b), Dec. 18, 1991, 105 Stat. 2088, provided that: “The Secretary of Transportation shall in all ways (including the provision of technical assistance) encourage industries adversely affected by reductions in Federal Government spending on space, military, and other Federal projects to compete for the contracts provided for under sections 3 and 6 of the Federal Transit Act (49 U.S.C. 1602 and 1605) [now 49 U.S.C. 5309 and 5312], as amended by this Act.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5301, 5310, 5315, 5318, 5319, 5320, 5323, 5324, 5327, 5328, 5331, 5333, 5334, 5337, 5338 of this title; title 42 sections 3013, 3338.

§ 5310. Formula grants and loans for special needs of elderly individuals and individuals with disabilities

(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants and loans to—

(1) State and local governmental authorities to help them provide mass transportation service planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities; and

(2) the chief executive officer of each State for allocation to—

(A) private nonprofit corporations and associations to help them provide that transportation service when the transportation service provided under clause (1) of this subsection is unavailable, insufficient, or inappropriate; or

(B) governmental authorities—

(i) approved by the State to coordinate services for elderly individuals and individuals with disabilities; or

(ii) that certify to the chief executive officer that no nonprofit corporation or association readily is available in an area to provide service under this subsection.

(b) APPORTIONING AND TRANSFERRING AMOUNTS.—The Secretary shall apportion amounts made available under section 5338(a) of this title under a formula the Secretary administers that considers the number of elderly individuals and individuals with disabilities in each State. Any State's apportionment remaining available for obligation at the beginning of the 90-day period before the end of the period of availability of the apportionment is available to the chief executive officer of the State for transfer to supplement amounts apportioned to the State under section 5311(c) or 5336(a)(1) of this title.

(c) STATE PROGRAM OF PROJECTS.—Amounts made available for this section may be used for transportation projects to assist in providing transportation services for elderly individuals and individuals with disabilities that are included in a State program of projects. A program shall be submitted annually to the Secretary for approval and shall contain an assurance that the program provides for maximum feasible coordination of transportation services

assisted under this section with transportation services assisted by other United States Government sources.

(d) ELIGIBLE CAPITAL EXPENSES.—A recipient of amounts under this section may include acquiring transportation services as an eligible capital expense.

(e) APPLICATION OF SECTION 5309.—(1) A grant or loan under subsection (a)(1) of this section is subject to all requirements of a grant or loan under section 5309 of this title, and is deemed to have been made under section 5309.

(2) A grant or loan under subsection (a)(2) of this section is subject to requirements similar to those under paragraph (1) of this subsection to the extent the Secretary considers appropriate.

(f) MINIMUM REQUIREMENTS AND PROCEDURES FOR RECIPIENTS.—In carrying out section 5301(d) of this title, section 165(b) of the Federal-Aid Highway Act of 1973 (Public Law 93-87, 87 Stat. 282), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (consistent with Government-wide standards to carry out section 504), the Secretary shall prescribe regulations establishing minimum criteria a recipient of Government financial assistance under this chapter or a law referred to in section 165(b) shall comply with in providing mass transportation service to elderly individuals and individuals with disabilities and procedures for the Secretary to monitor compliance with the criteria. The regulations shall include provisions for ensuring that organizations and groups representing elderly individuals and individuals with disabilities are given adequate notice of, and an opportunity to comment on, the proposed activity of a recipient to achieve compliance with the regulations.

(g) LEASING VEHICLES.—The Secretary shall prescribe guidelines allowing vehicles bought under this section to be leased to local governmental authorities to improve transportation services designed to meet the special needs of elderly individuals and individuals with disabilities.

(h) MEAL DELIVERY SERVICE TO HOMEBOUND INDIVIDUALS.—Mass transportation service providers receiving assistance under this section or section 5311(c) of this title may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing mass transportation service or reduce service to mass transportation passengers.

(i) TRANSFER OF FACILITIES AND EQUIPMENT.—With the consent of the recipient currently having a facility or equipment acquired with assistance under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

(j) FARES NOT REQUIRED.—This chapter does not require that elderly individuals and individuals with disabilities be charged a fare.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 807; Pub. L. 105-178, title III, §3013(a), June 9, 1998, 112 Stat. 359.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5310(a)	49 App.:1612(b) (1st sentence words before cl. (1)), cls. (1) (words before 3d comma), (2) (words before "with such grants").	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §16(b) (1st sentence); added Oct. 15, 1970, Pub. L. 91-453, §8, 84 Stat. 967; restated Aug. 13, 1973, Pub. L. 93-87, §301(g), 87 Stat. 295; Dec. 18, 1991, Pub. L. 102-240, §3021(1)-(4), 105 Stat. 2110.
5310(b)	49 App.:1612(c)(2), (3).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §16(c); added Dec. 18, 1991, Pub. L. 102-240, §3021(6), 105 Stat. 2110; Oct. 6, 1992, Pub. L. 102-388, §502(k), 106 Stat. 1567.
5310(c)	49 App.:1612(c)(1).	
5310(d)	49 App.:1612(b) (1st sentence cl. (3)).	
5310(e)	49 App.:1612(b) (1st sentence cls. (1) (words after 3d comma), (2) (words after "service under this subsection").	
5310(f)	49 App.:1612(e).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §16(e); added Jan. 6, 1983, Pub. L. 97-424, §317(c), 96 Stat. 2153; Apr. 2, 1987, Pub. L. 100-17, §327(a)(4), 101 Stat. 238; Dec. 18, 1991, Pub. L. 102-240, §3021(1), (5), 105 Stat. 2110.
5310(g)	49 App.:1612(c)(4).	
5310(h)	49 App.:1612(f).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §16(f); added Apr. 2, 1987, Pub. L. 100-17, §321, 101 Stat. 235; restated Dec. 18, 1991, Pub. L. 102-240, §3021(5), (7), 105 Stat. 2110, 2111.
5310(i)	49 App.:1614(g) (related to 1612(b)).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §18(g) (related to §16(b)); added Nov. 6, 1978, Pub. L. 95-599, §313, 92 Stat. 2750; restated Dec. 18, 1991, Pub. L. 102-240, §3022, 105 Stat. 2111.
5310(j)	49 App.:1604b.	Nov. 26, 1974, Pub. L. 93-503, §108, 88 Stat. 1572.

In this section, the words "governmental authorities" are substituted for "public bodies" because of section 5302(a) of the revised title.

In subsection (a), before clause (1), the words "In addition to the grants and loans otherwise provided for under this chapter" are omitted as surplus. In clauses (1) and (2), the words "the specific purpose of" are omitted as surplus. In clause (1), the words "or agencies thereof" are omitted as surplus.

In subsection (b), the words "for expenditure", "to the States", and "amounts of a" are omitted as surplus.

In subsection (d), the words "A recipient of amounts under this section" are added for clarity to correct an error in the source provisions. The words "under a contract, lease, or other arrangement" are omitted as surplus.

In subsection (e), the words "terms, conditions . . . and provisions" are omitted as surplus.

In subsection (e)(1), the words "and is deemed" are substituted for "and being considered for the purposes of all other laws" for consistency in the revised title and with other titles of the United States Code.

In subsection (e)(2), the words "insofar as may be appropriate" and "necessary or . . . for purposes of this paragraph" are omitted as surplus.

In subsection (f), the words "any applicable" are omitted as surplus. The words "prescribe regulations establishing" are substituted for "not later than ninety days after January 6, 1983, publish in the Federal Register for public comment, proposed regulations and, not later than one hundred and eighty days after January 6, 1983, promulgate final regulations, establishing" to eliminate unnecessary and executed words. Section 3021(1) of the Intermodal Surface Transportation Effi-

ciency Act of 1991 (Public Law 102-240, 105 Stat. 2110) is applied to 49 App.:1612(e) to carry out the apparent intent of Congress.

In subsection (g), the words “not later than 60 days following December 18, 1991” are omitted as obsolete. The words “and agencies” are omitted as surplus.

In subsection (j), the words “elderly individuals and individuals with disabilities” are substituted for “elderly and handicapped persons” for consistency.

REFERENCES IN TEXT

Section 165(b) of the Federal-Aid Highway Act of 1973, referred to in subsec. (f), is section 165(b) of Pub. L. 93-87, which is set out as a note under section 142 of Title 23, Highways.

AMENDMENTS

1998—Pub. L. 105-178 substituted “Formula grants” for “Grants” in section catchline.

RURAL TRANSPORTATION ACCESSIBILITY INCENTIVE PROGRAM

Pub. L. 105-178, title III, §3038, June 9, 1998, 112 Stat. 392, as amended by Pub. L. 105-206, title IX, §9009(x), July 22, 1998, 112 Stat. 862; Pub. L. 106-346, §101(a) [title III, §336], Oct. 23, 2000, 114 Stat. 1356, 1356A-31, provided that:

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) INTERCITY, FIXED-ROUTE OVER-THE-ROAD BUS SERVICE.—The term ‘intercity, fixed-route over-the-road bus service’ means regularly scheduled bus service for the general public, using an over-the-road bus, that—

“(A) operates with limited stops over fixed routes connecting 2 or more urban areas not in close proximity or connecting 1 or more rural communities with an urban area not in close proximity;

“(B) has the capacity for transporting baggage carried by passengers; and

“(C) makes meaningful connections with scheduled intercity bus service to more distant points.

“(2) OTHER OVER-THE-ROAD BUS SERVICE.—The term ‘other over-the-road bus service’ means any other transportation using over-the-road buses including local fixed-route service, commuter service, and charter or tour service (including tour or excursion service that includes features in addition to bus transportation such as meals, lodging, admission to points of interest or special attractions or the services of a tour guide).

“(3) OVER-THE-ROAD BUS.—The term ‘over-the-road bus’ means a bus characterized by an elevated passenger deck located over a baggage compartment.

“(b) GENERAL AUTHORITY.—The Secretary [of Transportation] shall make grants under this section to operators of over-the-road buses to finance the incremental capital and training costs of complying with the Department of Transportation’s final rule regarding accessibility of over-the-road buses required by section 306(a)(2)(B) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12186(a)(2)(B)).

“(c) GRANT CRITERIA.—In selecting applicants for grants under this section, the Secretary shall consider—

“(1) the identified need for over-the-road bus accessibility for persons with disabilities in the areas served by the applicant;

“(2) the extent to which the applicant demonstrates innovative strategies and financial commitment to providing access to over-the-road buses to persons with disabilities;

“(3) the extent to which the over-the-road bus operator acquires equipment required by the final rule prior to any required timeframe in the final rule;

“(4) the extent to which financing the costs of complying with the Department of Transportation’s final rule regarding accessibility of over-the-road buses presents a financial hardship for the applicant; and

“(5) the impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of the requirements on service to rural areas and for low-income individuals.

“(d) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

“(e) FEDERAL SHARE OF COSTS.—The Federal share of costs under this section shall be provided from funds made available to carry out this section. The Federal share of the costs for a project shall not exceed 90 percent of the project cost.

“(f) GRANT REQUIREMENTS.—A grant under this section shall be subject to all of the terms and conditions applicable to subrecipients who provide intercity bus transportation under section 5311(f) of title 49, United States Code, and such other terms and conditions as the Secretary may prescribe.

“(g) FUNDING.—

“(1) INTERCITY, FIXED-ROUTE OVER-THE-ROAD BUS SERVICE.—Of amounts made available by or appropriated under section 5338(a)(2) of title 49, United States Code (before allocation under section 5338(a)(2)(C) of that title), the following amounts shall be available for operators of over-the-road buses used substantially or exclusively in intercity, fixed-route over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation’s final rule regarding accessibility of over-the-road buses:

“(A) \$2,000,000 for fiscal year 1999.

“(B) \$2,000,000 for fiscal year 2000.

“(C) \$3,000,000 for fiscal year 2001.

“(D) \$5,250,000 for fiscal year 2002.

“(E) \$5,250,000 for fiscal year 2003.

Such sums shall remain available until expended.

“(2) OTHER OVER-THE-ROAD BUS SERVICE.—Of amounts made available by or appropriated under section 5338(a)(2) of title 49, United States Code (before allocation under section 5338(a)(2)(C) of that title), \$6,800,000 shall be available for fiscal years 2000 through 2003 for operators of other over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation’s final rule regarding accessibility of over-the-road buses. Such sums shall remain available until expended.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5301, 5307, 5323, 5333, 5334, 5338, 31138 of this title; title 42 section 3013.

§ 5311. Formula grants for other than urbanized areas

(a) DEFINITION.—In this section, “recipient” includes a State authority, a local governmental authority, a nonprofit organization, and an operator of mass transportation service.

(b) GENERAL AUTHORITY.—(1) The Secretary of Transportation may make grants for transportation projects that are included in a State program of mass transportation service projects (including service agreements with private providers of mass transportation service) for areas other than urbanized areas. The program shall be submitted annually to the Secretary. The Secretary may approve the program only if the Secretary finds that the program provides a fair distribution of amounts in the State, including Indian reservations, and the maximum feasible coordination of mass transportation service assisted under this section with transportation service assisted by other United States Government sources.

(2) The Secretary of Transportation shall carry out a rural transportation assistance pro-

gram in nonurbanized areas. In carrying out this paragraph, the Secretary may make grants and contracts for transportation research, technical assistance, training, and related support services in nonurbanized areas.

(c) APPORTIONING AMOUNTS.—The Secretary of Transportation shall apportion amounts made available under section 5338(a) of this title so that the chief executive officer of each State receives an amount equal to the total amount apportioned multiplied by a ratio equal to the population of areas other than urbanized areas in a State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent of the following: the latest Government census, the population estimate the Secretary of Commerce prepares after the 4th year after the date the latest census is published, or the population estimate the Secretary of Commerce prepares after the 8th year after the date the latest census is published. The amount may be obligated by the chief executive officer for 2 years after the fiscal year in which the amount is apportioned. An amount that is not obligated at the end of that period shall be reapportioned among the States for the next fiscal year.

(d) USE FOR LOCAL TRANSPORTATION SERVICE.—A State may use an amount apportioned under this section for a project included in a program under subsection (b) of this section and eligible for assistance under this chapter if the project will provide local transportation service, as defined by the Secretary of Transportation, in an area other than an urbanized area.

(e) USE FOR ADMINISTRATION AND TECHNICAL ASSISTANCE.—(1) The Secretary of Transportation may allow a State to use not more than 15 percent of the amount apportioned under this section to administer this section and provide technical assistance to a recipient, including project planning, program and management development, coordination of mass transportation programs, and research the State considers appropriate to promote effective delivery of mass transportation to an area other than an urbanized area.

(2) Except as provided in this section, a State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

(f) INTERCITY BUS TRANSPORTATION.—(1) A State shall expend at least 15 percent of the amount made available in each fiscal year after September 30, 1993, to carry out a program to develop and support intercity bus transportation. Eligible activities under the program include—

- (A) planning and marketing for intercity bus transportation;
- (B) capital grants for intercity bus shelters;
- (C) joint-use stops and depots;
- (D) operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects; and
- (E) coordinating rural connections between small mass transportation operations and intercity bus carriers.

(2) A State does not have to comply with paragraph (1) of this subsection in a fiscal year in which the chief executive officer of the State

certifies to the Secretary of Transportation that the intercity bus service needs of the State are being met adequately.

(g) GOVERNMENT'S SHARE OF COSTS.—(1) In this subsection, "amounts of the Government or revenues" do not include amounts received under a service agreement with a State or local social service agency or a private social service organization.

(2) A grant of the Government for a capital project under this section may not be more than 80 percent of the net cost of the project, as determined by the Secretary of Transportation. A grant to pay a subsidy for operating expenses may not be more than 50 percent of the net cost of the operating expense project. At least 50 percent of the remainder shall be provided in cash from sources other than amounts of the Government or revenues from providing mass transportation. Transit system amounts that make up the remainder shall be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

(h) AMOUNTS FOR OPERATING ASSISTANCE.—An amount made available under this section may be used for operating assistance.

(i) TRANSFER OF FACILITIES AND EQUIPMENT.—With the consent of the recipient currently having a facility or equipment acquired with assistance under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

(j) RELATIONSHIP TO OTHER LAWS.—(1) Sections 5323(a)(1)(D) and 5333(b) of this title apply to this section but the Secretary of Labor may waive the application of section 5333(b).

(2) This subsection does not affect or discharge a responsibility of the Secretary of Transportation under a law of the United States.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 809; Pub. L. 105-178, title III, §3014(a), June 9, 1998, 112 Stat. 359.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5311(a)	49 App.:1614(c) (3d sentence).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §18(b), (c) (2d, 3d sentences), (d), (e) (1st-4th sentences), (f); added Nov. 6, 1978, Pub. L. 95-599, §313, 92 Stat. 2749, 2750.
5311(b)(1)	49 App.:1614(b) (1st sentence 18th-last words, 2d, last sentences), (c) (2d sentence words between 1st and 2d commas).	
5311(b)(2)	49 App.:1614(h).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §18(h); added Apr. 2, 1987, Pub. L. 100-17, §323, 101 Stat. 235.
5311(c)	49 App.:1614(a) (1st sentence).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §18(a) (1st sentence); added Nov. 6, 1978, Pub. L. 95-599, §313, 92 Stat. 2748; Jan. 6, 1983, Pub. L. 97-424, §316(a), 96 Stat. 2153.
	49 App.:1614(a) (2d sentence).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §18(a) (2d sentence); added Nov. 6, 1978, Pub. L. 95-599, §313, 92 Stat. 2748; Dec. 18, 1991, Pub. L. 102-240, §3024, 105 Stat. 2112.

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
	49 App.:1614(c) (1st sentence).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §18(c) (1st sentence); added Nov. 6, 1978, Pub. L. 95-599, §313, 92 Stat. 2749; Jan. 6, 1983, Pub. L. 97-424, §316(b), 96 Stat. 2153.
5311(d)	49 App.:1614(b) (1st sentence 1st-17th words), (c) (2d sentence words before 1st and after 2d commas).	
5311(e)(1)	49 App.:1614(d).	
5311(e)(2)	49 App.:1614(c) (4th sentence).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §18(c) (4th sentence); added Apr. 2, 1987, Pub. L. 100-17, §322, 101 Stat. 235.
5311(f)	49 App.:1614(i).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §18(i); added Dec. 18, 1991, Pub. L. 102-240, §3023, 105 Stat. 2111.
5311(g)(1)	49 App.:1614(e) (last sentence).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §18(e) (last sentence); added Dec. 19, 1985, Pub. L. 99-190, §326, 99 Stat. 1289.
5311(g)(2)	49 App.:1614(e) (1st-4th sentences).	
5311(h)	49 App.:1614(c) (last sentence).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §18(c) (last sentence); added Oct. 6, 1992, Pub. L. 102-388, §502(l), 106 Stat. 1567.
5311(i)	49 App.:1614(g) (related to this section).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §18(g) (related to this section); added Nov. 6, 1978, Pub. L. 95-599, §313(a), 92 Stat. 2750; re-stated Dec. 18, 1991, Pub. L. 102-240, §3022, 105 Stat. 2111.
5311(j)	49 App.:1614(f).	

In subsection (a), the words “Eligible” and “and agencies thereof” are omitted as surplus.

In subsection (b)(1), the words “The Secretary of Transportation may make grants” are added for clarity and consistency in this chapter. The word “equitable” is omitted as being included in “fair”.

In subsection (b)(2), the words “establish and” are omitted as executed. The word “direct” is omitted as surplus.

In subsection (c), the words “for expenditure in each fiscal year” are omitted as surplus. The words “so that” are substituted for “Such sums shall be made available for expenditure for public transportation projects in areas other than urbanized areas on the basis of a formula under which” to eliminate unnecessary words. The words “will be entitled to” and “as designated by the Bureau of the Census” are omitted as surplus. The words “United States” are substituted for “all the States” for consistency in the revised title and with other titles of the Code. The words “available”, “a period of”, and “the close of” are omitted as surplus.

In subsection (d), the words “included in a program under subsection (b) of this section” are substituted for 49 App.:1614(b) (1st-17th words) and “which are appropriate for areas other than urbanized areas” to eliminate unnecessary words. The words “for assistance” are added for clarity.

In subsection (e)(1), the words “of funds under this section. Such technical assistance” and “(public and private)” are omitted as surplus.

In subsections (e)(2) and (g)(2), the word “grant” is substituted for “share” for consistency in this chapter.

In subsection (f), the text of 49 App.:1614(i)(3) is omitted as obsolete.

In subsection (f)(1), before clause (A), the words “Subject to paragraph (2)” are omitted as surplus. The reference to fiscal year 1992 is omitted as obsolete.

In subsection (g)(2), the words “under this chapter”, “as defined by the Secretary”, “Any public or private”, “solely”, and “available in” are omitted as surplus.

Subsection (h) is substituted for 49 App.:1614(c) (last sentence) for clarity and consistency in this chapter and to eliminate unnecessary words.

In subsection (j)(1), the text of 49 App.:1614(f) (1st sentence) is omitted as unnecessary because of section 5334(a) of the revised title and 49:322(a). The words “in carrying out projects” are omitted as surplus.

AMENDMENTS

1998—Pub. L. 105-178, §3014(a)(1), substituted “Formula grants” for “Financial assistance” in section catchline.

Subsec. (f)(1). Pub. L. 105-178, §3014(a)(2), struck out “10 percent of the amount made available in the fiscal year ending September 30, 1993, and” before “15 percent of the amount” in introductory provisions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5302, 5310, 5319, 5323, 5327, 5331, 5333, 5334, 5336, 5338, 24305, 31138 of this title.

§ 5312. Research, development, demonstration, and training projects

(a) RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS.—The Secretary of Transportation (or the Secretary of Housing and Urban Development when required by section 5334(i) of this title) may undertake, or make grants or contracts (including agreements with departments, agencies, and instrumentalities of the United States Government) for, research, development, and demonstration projects related to urban mass transportation that the Secretary decides will help reduce urban transportation needs, improve mass transportation service, or help mass transportation service meet the total urban transportation needs at a minimum cost. The Secretary may request and receive appropriate information from any source. This subsection does not limit the authority of the Secretary under another law.

(b) RESEARCH, INVESTIGATIONS, AND TRAINING.—(1) The Secretary of Transportation (or the Secretary of Housing and Urban Development when required by section 5334(i) of this title) may make grants to nonprofit institutions of higher learning—

(A) to conduct competent research and investigations into the theoretical or practical problems of urban transportation; and

(B) to train individuals to conduct further research or obtain employment in an organization that plans, builds, operates, or manages an urban transportation system.

(2) Research and investigations under this subsection include—

(A) the design and use of urban mass transportation systems and urban roads and highways;

(B) the interrelationship between various modes of urban and interurban transportation;

(C) the role of transportation planning in overall urban planning;

(D) public preferences in transportation;

(E) the economic allocation of transportation resources; and

(F) the legal, financial, engineering, and esthetic aspects of urban transportation.

(3) When making a grant under this subsection, the appropriate Secretary shall give preference to an institution that brings together

knowledge and expertise in the various social science and technical disciplines related to urban transportation problems.

(c) TRAINING FELLOWSHIPS AND INNOVATIVE TECHNIQUES AND METHODS.—(1) The Secretary of Transportation may make grants to States, local governmental authorities, and operators of mass transportation systems to provide fellowships to train personnel employed in managerial, technical, and professional positions in the mass transportation field.

(2) The Secretary of Transportation may make grants to State and local governmental authorities for projects that will use innovative techniques and methods in managing and providing mass transportation.

(3) A fellowship under this subsection may be for not more than one year of training in an institution that offers a program applicable to the mass transportation industry. The recipient of the grant shall select an individual on the basis of demonstrated ability and for the contribution the individual reasonably can be expected to make to an efficient mass transportation operation. A grant for a fellowship may not be more than the lesser of \$24,000 or 75 percent of—

(A) tuition and other charges to the fellowship recipient;

(B) additional costs incurred by the training institution and billed to the grant recipient; and

(C) the regular salary of the fellowship recipient for the period of the fellowship to the extent the salary is actually paid or reimbursed by the grant recipient.

(d) JOINT PARTNERSHIP PROGRAM FOR DEPLOYMENT OF INNOVATION.—

(1) DEFINITION OF CONSORTIUM.—In this subsection, the term “consortium”—

(A) means 1 or more public or private organizations located in the United States that provide mass transportation service to the public and 1 or more businesses, including small- and medium-sized businesses, incorporated in a State, offering goods or services or willing to offer goods and services to mass transportation operators; and

(B) may include, as additional members, public or private research organizations located in the United States, or State or local governmental authorities.

(2) GENERAL AUTHORITY.—The Secretary may, under terms and conditions that the Secretary prescribes, enter into grants, contracts, cooperative agreements, and other agreements with consortia selected in accordance with paragraph (4), to promote the early deployment of innovation in mass transportation services, management, operational practices, or technology that has broad applicability. This paragraph shall be carried out in consultation with the transit industry by competitively selected consortia that will share costs, risks, and rewards of early deployment of innovation.

(3) CONSORTIUM CONTRIBUTION.—A consortium assisted under this subsection shall provide not less than 50 percent of the costs of any joint partnership project. Any business, organization, person, or governmental body

may contribute funds to a joint partnership project.

(4) NOTICE REQUIREMENT.—The Secretary shall periodically give public notice of the technical areas for which joint partnerships are solicited, required qualifications of consortia desiring to participate, the method of selection and evaluation criteria to be used in selecting participating consortia and projects, and the process by which innovation projects described in paragraph (1) will be awarded.

(5) USE OF REVENUES.—The Secretary shall accept, to the maximum extent practicable, a portion of the revenues resulting from sales of an innovation project funded under this section. Such revenues shall be accounted for separately within the Mass Transit Account of the Highway Trust Fund and shall be available to the Secretary for activities under this subsection. Annual revenues that are less than \$1,000,000 shall be available for obligation without further appropriation and shall not be subject to any obligation limitation.

(e) INTERNATIONAL MASS TRANSPORTATION PROGRAM.—

(1) ACTIVITIES.—The Secretary is authorized to engage in activities to inform the United States domestic mass transportation community about technological innovations available in the international marketplace and activities that may afford domestic businesses the opportunity to become globally competitive in the export of mass transportation products and services. Such activities may include—

(A) development, monitoring, assessment, and dissemination domestically of information about worldwide mass transportation market opportunities;

(B) cooperation with foreign public sector entities in research, development, demonstration, training, and other forms of technology transfer and exchange of experts and information;

(C) advocacy, in international mass transportation markets, of firms, products, and services available from the United States;

(D) informing the international market about the technical quality of mass transportation products and services through participation in seminars, expositions, and similar activities; and

(E) offering those Federal Transit Administration technical services which cannot be readily obtained from the United States private sector to foreign public authorities planning or undertaking mass transportation projects if the cost of these services will be recovered under the terms of each project.

(2) COOPERATION.—The Secretary may carry out activities under this subsection in cooperation with other Federal agencies, State or local agencies, public and private nonprofit institutions, government laboratories, foreign governments, or any other organization the Secretary determines is appropriate.

(3) FUNDING.—The funds available to carry out this subsection shall include revenues paid to the Secretary by any cooperating organization or person. Such revenues shall be ac-

counted for separately within the Mass Transit Account of the Highway Trust Fund and shall be available to the Secretary to carry out activities under this subsection, including promotional materials, travel, reception, and representation expenses necessary to carry out such activities. Annual revenues that are less than \$1,000,000 shall be available for obligation without further appropriation and shall not be subject to any obligation limitation. Not later than January 1 of each fiscal year, the Secretary shall publish a report on the activities under this paragraph funded from the account.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 811; Pub. L. 105–178, title III, §3015(a), June 9, 1998, 112 Stat. 359.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5312(a)	49 App.:1605(a).	July 9, 1964, Pub. L. 88–365, §6(a), 78 Stat. 305; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, §13(b), 84 Stat. 969.
	49 App.:1605(d).	July 9, 1964, Pub. L. 88–365, §6(d), 78 Stat. 305; Sept. 8, 1966, Pub. L. 89–562, §3, 80 Stat. 717; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25.
5312(b)(1)	49 App.:1607c(a) (1st, 2d sentences).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §11(a); added Sept. 8, 1966, Pub. L. 89–562, §2(a)(2), 80 Stat. 716.
5312(b)(2)	49 App.:1607c(a) (3d sentence).	
5312(b)(3)	49 App.:1607c(a) (last sentence).	
5312(c)(1)	49 App.:1607b (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §10; added Sept. 8, 1966, Pub. L. 89–562, §2(a)(2), 80 Stat. 716; restated Nov. 6, 1978, Pub. L. 95–599, §306, 92 Stat. 2744.
5312(c)(2)	49 App.:1603(c) (1st sentence).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §4(c) (1st sentence); added Nov. 6, 1978, Pub. L. 95–599, §303(e), 92 Stat. 2739; Apr. 2, 1987, Pub. L. 100–17, §320, 101 Stat. 235; Dec. 18, 1991, Pub. L. 102–240, §3006(h)(1), 105 Stat. 2090.
5312(c)(3)	49 App.:1607b (2d–last sentences).	

In subsections (a) and (b)(1), the words “(or the Secretary of Housing and Urban Development when required by section 5334(i) of this title)” are added for clarity.

In subsection (a), the word “working” is omitted as surplus. The words “departments, agencies, and instrumentalities of the United States Government” are substituted for “other Federal departments and agencies” for consistency in the revised title and with other titles of the United States Code. The words “all phases of”, “(including the development, testing, and demonstration of new facilities, equipment, techniques, and methods)”, “In carrying out the provisions of this section”, “or data as he deems”, “public or private”, and “contained . . . section 1701d–3 of title 12 or . . . other provision of” are omitted as surplus.

In subsection (b)(1), before clause (A), the words “public and private”, “assist in establishing or carrying on comprehensive research in the problems of transportation in urban areas. Such grants shall be used to”, and “and qualified” are omitted as surplus. In clause (A), the words “or both” are omitted as surplus.

In subsection (b)(3), the word “appropriate” is added for clarity.

In subsection (c)(1), the words “and agencies thereof” are omitted as surplus.

In subsection (c)(3), before clause (A), the words “public or private training” and “the sum of” are omitted as surplus. In clause (B), the words “in connection with the fellowship” are omitted as surplus.

AMENDMENTS

1998—Subsecs. (d), (e). Pub. L. 105–178 added subsecs. (d) and (e).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5313, 5314, 5333, 5334, 5338 of this title.

§ 5313. State planning and research programs

(a) COOPERATIVE RESEARCH PROGRAM.—(1) The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(d) of this title are available for a mass transportation cooperative research program. The Secretary of Transportation shall establish an independent governing board for the program. The board shall recommend mass transportation research, development, and technology transfer activities the Secretary considers appropriate.

(2) The Secretary may make grants to, and cooperative agreements with, the National Academy of Sciences to carry out activities under this subsection that the Secretary decides are appropriate.

(b) STATE PLANNING AND RESEARCH.—(1) The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(c) of this title shall be apportioned to States for grants and contracts consistent with the purposes of sections 5303–5306, 5312, 5315, 5317,¹ and 5322 of this title. The amounts shall be apportioned so that each State receives an amount equal to the population in urbanized areas in the State, divided by the population in urbanized areas in all States, as shown by the latest available decennial census. However, a State must receive at least .5 percent of the amount apportioned under this subsection.

(2) A State, as the State considers appropriate, may authorize part of the amount made available under this subsection to be used to supplement amounts available under subsection (a) of this section.

(3) An amount apportioned under this subsection—

(A) remains available for 3 years after the fiscal year in which the amount is apportioned; and

(B) that is unobligated at the end of the 3-year period shall be reapportioned among the States for the next fiscal year.

(c) GOVERNMENT’S SHARE.—When there would be a clear and direct financial benefit to an entity under a grant or contract financed under subsection (a) of this section, the Secretary shall establish a United States Government share consistent with the benefit.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 812; Pub. L. 105–178, title III, §3029(b)(4), (5), June 9, 1998, 112 Stat. 372.)

¹ See References in Text note below.

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5313(a)	49 App.:1622(a)(1).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §26(a); added Dec. 18, 1991, Pub. L. 102-240, §3030, 105 Stat. 2117; Oct. 6, 1992, Pub. L. 102-388, §502(r), 106 Stat. 1567.
5313(b)	49 App.:1622(a)(2).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §26(b)(8) (related to subsection (a)(1)); added Dec. 18, 1991, Pub. L. 102-240, §3030, 103 Stat. 2119.
5313(c)	49 App.:1622(b)(8) (related to subsection (a)(1)).	

In subsection (b)(1), the word “total” is omitted as surplus.

In subsection (b)(2), the word “subsection” in the source provision is translated as if it were “paragraph” to reflect the apparent intent of Congress.

In subsection (b)(3)(A), the words “for obligation”, “a period of”, and “the close of” are omitted as surplus.

REFERENCES IN TEXT

Section 5317 of this title, referred to in subsec. (b)(1), was repealed by Pub. L. 105-178, title V, §5110(c), June 9, 1998, 112 Stat. 444.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105-178, §3029(b)(4), substituted “The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(d)” for “Fifty percent of the amounts made available under section 5338(g)(3)”.

Subsec. (b)(1). Pub. L. 105-178, §3029(b)(5), substituted “The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(c)” for “Fifty percent of the amounts made available under section 5338(g)(3)”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5314, 5338 of this title.

§ 5314. National planning and research programs

(a) PROGRAM.—(1) The amounts made available under subsections (d) and (h)(7) of section 5338 of this title are available to the Secretary of Transportation for grants and contracts for the purposes of sections 5303-5306, 5312, 5315, 5317,¹ and 5322 of this title, as the Secretary considers appropriate.

(2) Of the amounts made available under paragraph (1) of this subsection, the Secretary shall make available at least \$3,000,000 to provide mass transportation-related technical assistance, demonstration programs, research, public education, and other activities the Secretary considers appropriate to help mass transportation providers comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.). To the extent practicable, the Secretary shall carry out this paragraph through a contract with a national nonprofit organization serving individuals with disabilities that has a demonstrated capacity to carry out the activities.

(3) Not more than 25 percent of the amounts available under paragraph (1) of this subsection is available to the Secretary for special demonstration initiatives, subject to terms the Secretary considers consistent with this chapter, except that section 5323(a)(1)(D) of this title ap-

¹ See References in Text note below.

plies to an operational grant financed in carrying out section 5312(a) of this title. For a non-renewable grant of not more than \$100,000, the Secretary shall provide expedited procedures on complying with the requirements of this chapter.

(4)(A) The Secretary may undertake a program of mass transportation technology development in coordination with affected entities.

(B) The Secretary shall establish an Industry Technical Panel composed of representatives of transportation suppliers and operators and others involved in technology development. A majority of the Panel members shall represent the supply industry. The Panel shall assist the Secretary in identifying priority technology development areas and in establishing guidelines for project development, project cost sharing, and project execution.

(C) The Secretary shall develop guidelines for cost sharing in technology development projects financed under this paragraph. The guidelines shall be flexible and reflect the extent of technical risk, market risk, and anticipated supplier benefits and payback periods.

(5) The Secretary may use amounts appropriated under this subsection to supplement amounts available under section 5313(a) of this title, as the Secretary considers appropriate.

(b) GOVERNMENT’S SHARE.—When there would be a clear and direct financial benefit to an entity under a grant or contract financed under subsection (a) of this section, the Secretary shall establish a United States Government share consistent with the benefit.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 812; Pub. L. 105-178, title III, §§3016, 3029(b)(6), June 9, 1998, 112 Stat. 361, 372.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5314(a)	49 App.:1622(b)(1)-(7).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §26(b)(1)-(8) (related to this subsection); added Dec. 18, 1991, Pub. L. 102-240, §3030, 105 Stat. 2118.
5314(b)	49 App.:1622(b)(8) (related to this subsection).	

In subsection (a)(2), the word “subsection” in the source provision is translated as if it were “paragraph” to reflect the apparent intent of Congress.

In subsection (a)(3), the words “conditions, requirements, and provisions” are omitted as being included in “terms”.

In subsection (a)(4)(C), the word “section” in the source provision is translated as if it were “paragraph” to reflect the apparent intent of Congress.

REFERENCES IN TEXT

Section 5317 of this title, referred to in subsec. (a)(1), was repealed by Pub. L. 105-178, title V, §5110(c), June 9, 1998, 112 Stat. 444.

The Americans with Disabilities Act of 1990, referred to in subsec. (a)(2), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105-178, §3029(b)(6), substituted “subsections (d) and (h)(7) of section 5338” for “section 5338(g)(4)”.

Subsec. (a)(2). Pub. L. 105-178, §3016, substituted “\$3,000,000” for “\$2,000,000”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5338 of this title.

§ 5315. National transit institute

(a) ESTABLISHMENT AND DUTIES.—The Secretary of Transportation shall make grants to Rutgers University to establish a national transit institute. In cooperation with the Federal Transit Administration, State transportation departments, public mass transportation authorities, and national and international entities, the institute shall develop and conduct training programs of instruction for United States Government, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid mass transportation work. The programs may include courses in recent developments, techniques, and procedures related to—

- (1) mass transportation planning;
- (2) management;
- (3) environmental factors;
- (4) acquisition and joint use of rights of way;
- (5) engineering and architectural design;
- (6) procurement strategies for mass transportation systems;
- (7) turnkey approaches to delivering mass transportation systems;
- (8) new technologies;
- (9) emission reduction technologies;
- (10) ways to make mass transportation accessible to individuals with disabilities;
- (11) construction, construction management, insurance, and risk management;
- (12) maintenance;
- (13) contract administration;
- (14) inspection;
- (15) innovative finance; and
- (16) workplace safety.

(b) RELATED EDUCATIONAL AND TRAINING PROGRAMS.—The Secretary shall delegate to the institute the authority of the Secretary to develop and conduct educational and training programs related to mass transportation.

(c) PROVIDING EDUCATION AND TRAINING.—Education and training of Government, State, and local transportation employees under this section shall be provided—

- (1) by the Secretary at no cost to the States and local governments for subjects that are a Government program responsibility; or
- (2) when the education and training are paid under subsection (d) of this section, by the State, with the approval of the Secretary, through grants and contracts with public and private agencies, other institutions, individuals, and the institute.

(d) AVAILABILITY OF AMOUNTS.—Not more than .5 percent of the amounts made available for a fiscal year beginning after September 30, 1991, to a State or public mass transportation authority in the State to carry out sections 5307 and 5309 of this title is available for expenditure by the

State and public mass transportation authorities in the State, with the approval of the Secretary, to pay not more than 80 percent of the cost of tuition and direct educational expenses related to educating and training State and local transportation employees under this section.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 813; Pub. L. 104-287, §5(13), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 105-178, title III, §3017(a), June 9, 1998, 112 Stat. 361; Pub. L. 105-206, title IX, §9009(l), July 22, 1998, 112 Stat. 857.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5315(a)	49 App.:1625(a) (1st-3d sentences).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §29(a)-(c); added Dec. 18, 1991, Pub. L. 102-240, §6022, 105 Stat. 2185.
5315(b)	49 App.:1625(a) (last sentence).	
5315(c)	49 App.:1625(c).	
5315(d)	49 App.:1625(b).	

In subsection (a), before clause (1), the word “conduct” is substituted for “administer” for consistency in this section.

In subsection (d), the word “department” is omitted for consistency in this section.

PUB. L. 104-287

This amends 49:5315(d), 5317(b)(5), and 5323(b)(1), (c), and (e) to correct erroneous cross-references.

AMENDMENTS

1998—Pub. L. 105-178, §3017(a)(1), as amended by Pub. L. 105-206 substituted “transit” for “mass transportation” in section catchline.

Subsec. (a). Pub. L. 105-178, §3017(a)(2)(A), as amended by Pub. L. 105-206 substituted “national transit institute” for “national mass transportation institute” in introductory provisions.

Subsec. (a)(5). Pub. L. 105-178, §3017(a)(2)(B), as amended by Pub. L. 105-206 inserted “and architectural design” before semicolon at end.

Subsec. (a)(7). Pub. L. 105-178, §3017(a)(2)(C), as amended by Pub. L. 105-206 substituted “delivering” for “carrying out”.

Subsec. (a)(11). Pub. L. 105-178, §3017(a)(2)(D), as amended by Pub. L. 105-206 inserted “, construction management, insurance, and risk management” before semicolon at end.

Subsec. (a)(15), (16). Pub. L. 105-178, §3017(a)(2)(E)-(G), as amended by Pub. L. 105-206 added pars. (15) and (16).

1996—Subsec. (d). Pub. L. 104-287 substituted “sections 5307 and 5309” for “sections 5304 and 5306”.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-287 effective July 5, 1994, see section 8(l) of Pub. L. 104-287, set out as a note under section 5303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5313, 5314, 5338 of this title.

[[§ 5316, 5317. Repealed. Pub. L. 105-178, title V, § 5110(c), June 9, 1998, 112 Stat. 444]

Section 5316, Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 814; Pub. L. 104-59, title III, §338(c)(5), Nov. 28, 1995, 109 Stat. 605, related to university research institutes.

Section 5317, Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 815; Pub. L. 104-287, §5(14), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 105-178, title III, §3029(b)(7), June 9, 1998, 112 Stat. 372, related to transportation centers.

§ 5318. Bus testing facility

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish one facility for testing a new bus model for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise. The facility shall be established by renovating a facility built with assistance of the United States Government to train rail personnel.

(b) OPERATION AND MAINTENANCE.—The Secretary shall enter into a contract or cooperative agreement with, or make a grant to, a qualified person or organization to operate and maintain the facility. The contract, cooperative agreement, or grant may provide for the testing of rail cars and other mass transportation vehicles at the facility.

(c) FEES.—The person operating and maintaining the facility shall establish and collect fees for the testing of vehicles at the facility. The Secretary must approve the fees.

(d) AVAILABILITY OF AMOUNTS TO PAY FOR TESTING.—The Secretary shall enter into a contract or cooperative agreement with, or make a grant to, the operator of the facility under which the Secretary shall pay 80 percent of the cost of testing a vehicle at the facility from amounts available under section 5309(m)(1)(C) of this title. The entity having the vehicle tested shall pay 20 percent of the cost.

(e) REVOLVING LOAN FUND.—The Secretary has a bus testing revolving loan fund consisting of amounts authorized for the fund under section 317(b)(5) of the Surface Transportation and Uniform Relocation Assistance Act of 1987. The Secretary shall make available as repayable advances from the fund to the person operating and maintaining the facility amounts to operate and maintain the facility.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 817; Pub. L. 103-429, §6(8), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 105-178, title III, §§3018, 3029(b)(8), June 9, 1998, 112 Stat. 361, 372.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5318(a)	49 App.:1608 (note).	Apr. 2, 1987, Pub. L. 100-17, §317(b)(1), 101 Stat. 233; Dec. 18, 1991, Pub. L. 102-240, §6021(b), 105 Stat. 2184.
5318(b)	49 App.:1608 (note).	Apr. 2, 1987, Pub. L. 100-17, §317(b)(2), 101 Stat. 233.
5318(c)	49 App.:1608 (note).	Apr. 2, 1987, Pub. L. 100-17, §317(b)(3), 101 Stat. 233.
5318(d)	49 App.:1602(m) (2d-last sentences).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §3(m) (2d-last sentences); added Dec. 18, 1991, Pub. L. 102-240, §3009, 105 Stat. 2093.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5318(e)	49 App.:1608 (note).	Apr. 2, 1987, Pub. L. 100-17, §317(b)(5), 101 Stat. 233; Dec. 18, 1991, Pub. L. 102-240, §6021(c), 105 Stat. 2184.
	49 App.:1608 (note).	Apr. 2, 1987, Pub. L. 100-17, 101 Stat. 132, §317(b)(6); added Dec. 18, 1991, Pub. L. 102-240, §6021(d), 105 Stat. 2184.

In subsection (c), the words “Under the contract entered into under paragraph (2)” are omitted as surplus.

In subsection (d), the words “to the operator of the facility” are omitted as surplus.

In subsection (e), the text of section 317(b)(5) of the Surface Transportation and Relocation Assistance Act of 1987 (Public Law 100-17, 101 Stat. 132) is omitted as obsolete. The words “operating and maintaining the facility” are substituted for “described in paragraph (3)” for clarity.

PUB. L. 103-429

This amends 49:5318(e) to correct an erroneous cross-reference.

REFERENCES IN TEXT

Section 317(b)(5) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, referred to in subsec. (e), is section 317(b)(5) of Pub. L. 100-17, which was set out as a note under section 1608 of former Title 49, Transportation, and was repealed by Pub. L. 103-272, §7(b), July 5, 1994, 108 Stat. 1379. For further details, see Historical and Revision Notes for Pub. L. 103-272 above.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105-178, §3018(a), substituted “enter into a contract or cooperative agreement with, or make a grant to,” for “make a contract with” and inserted “or organization” after “qualified person”, “, cooperative agreement, or grant” after “The contract”, and “mass transportation” after “and other”.

Subsec. (d). Pub. L. 105-178, §§3018(b), 3029(b)(8), substituted “enter into a contract or cooperative agreement with, or make a grant to,” for “make a contract with” and “5309(m)(1)(C) of this title” for “5338(j)(5) of this title”.

1994—Subsec. (e). Pub. L. 103-429 inserted “Uniform” before “Relocation”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5307, 5309, 5323, 5333, 5336 of this title.

§ 5319. Bicycle facilities

A project to provide access for bicycles to mass transportation facilities, to provide shelters and parking facilities for bicycles in or around mass transportation facilities, or to install equipment for transporting bicycles on mass transportation vehicles is a capital project eligible for assistance under sections 5307, 5309, and 5311 of this title. Notwithstanding sections 5307(e), 5309(h), and 5311(g) of this title, a grant of the United States Government under this chapter for a project made eligible by this section is for 90 percent of the cost of the project, except that, if the grant or any portion of the

grant is made with funds required to be expended under section 5307(k) and the project involves providing bicycle access to mass transportation, that grant or portion of that grant shall be at a Federal share of 95 percent.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 818; Pub. L. 105-178, title III, §3019, June 9, 1998, 112 Stat. 362.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5319	49 App.:1621.	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §25; added Apr. 2, 1987, Pub. L. 100-17, §326, 101 Stat. 237.

The words “For purposes of this chapter” and “racks or other” are omitted as surplus. The word “grant” is substituted for “share” for consistency in this chapter.

AMENDMENTS

1998—Pub. L. 105-178 substituted “made eligible by this section is for 90 percent of the cost of the project, except that, if the grant or any portion of the grant is made with funds required to be expended under section 5307(k) and the project involves providing bicycle access to mass transportation, that grant or portion of that grant shall be at a Federal share of 95 percent” for “under this section is for 90 percent of the cost of the project”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5307 of this title.

§ 5320. Suspended light rail system technology pilot project

(a) **PURPOSE.**—The purpose of this section is to provide for the construction by a public entity of a suspended light rail system technology pilot project—

(1) to assess the state of new technology for a suspended light rail system; and

(2) to establish the feasibility, costs, and benefits of using the system to transport passengers.

(b) **GENERAL REQUIREMENTS.**—The project shall—

(1) use new rail technology with individual vehicles on a prefabricated elevated steel guideway;

(2) be stability-seeking with a center of gravity for the detachable passenger vehicles located below the point of wheel-rail contact; and

(3) use vehicles that are driven by overhead bogies with high efficiency, low maintenance electric motors for each wheel, operating in a slightly sloped plane from vertical for the wheels and the running rails, to further increase stability, acceleration, and braking performance.

(c) **COMPETITION.**—(1) The Secretary of Transportation shall conduct a national competition to select a public entity with which to make a full funding grant agreement to construct the project. Not later than April 16, 1992, the Secretary shall select 3 public entities to be finalists in the competition. In conducting the competition and selecting public entities, the Secretary shall consider—

(A) the public entity’s demonstrated understanding and knowledge of the project and its

technical, managerial, and financial capacity to construct, manage, and operate the project; and

(B) maximizing potential contributions to the cost of the project by State, local, and private sector entities, including donation of in-kind services and materials.

(2) The Secretary shall award a grant to each finalist to be used to participate in the final phase of the competition under procedures the Secretary prescribes. A grant may not be more than 80 percent of the cost of participating. A finalist may not receive more than one-third of the amount made available under subsection (h)(1)(A) of this section.

(3) Not later than July 15, 1992, the Secretary shall select from among the 3 finalists a public entity with which to make a full funding grant agreement.

(d) **ENVIRONMENTAL IMPACT.**—Not later than 270 days after a public entity is selected under subsection (c) of this section, the Secretary shall approve and publish in the Federal Register a notice announcing either a finding of no significant impact or a draft environmental impact statement for the project. The alternatives analysis for the project shall include a decision on whether to construct the project. If a draft statement is published, the Secretary, not later than 180 days after publication, shall approve and publish in the Federal Register a notice of completion of a final environmental impact statement.

(e) **FULL FUNDING GRANT AGREEMENT.**—Not later than 60 days after carrying out the requirements of subsection (d) of this section, the Secretary shall make a full funding grant agreement under section 5309 of this title with the public entity selected under subsection (c) of this section to construct the project. The agreement shall provide that the system vendor for the project shall finance—

(1) 100 percent of any deficit incurred in operating the project in the first 2 years of revenue operations of the project; and

(2) 50 percent of any deficit incurred in operating the project in the 3d year of revenue operations of the project.

(f) **NOTICE TO PROCEED.**—Not later than 30 days after making the full funding grant agreement, the Secretary shall issue a notice to proceed with construction.

(g) **OPTION NOT TO CONSTRUCT AND REAWARDING THE GRANT.**—(1) Not later than 30 days after completing preliminary engineering and design, the selected public entity shall decide whether to proceed to constructing the project. If the entity decides not to proceed—

(A) the Secretary shall not make the full funding grant agreement;

(B) remaining amounts received shall be returned to the Secretary and credited to the Mass Transit Account of the Highway Trust Fund; and

(C) the Secretary shall use the credited amount and other amounts to be provided under this section to award to another entity selected under subsection (c)(1) of this section a grant under section 5309 of this title to construct the project.

(2) Not later than 60 days after a decision is made under paragraph (1) of this subsection, a grant shall be awarded under paragraph (1)(C) of this subsection after completing a competitive process for selecting the grant recipient.

(h) FINANCING.—(1) The Secretary shall pay from amounts provided under section 5309 of this title the following:

(A) at least \$1,000,000 for the fiscal year ending September 30, 1992, for grants under subsection (c)(2) of this section.

(B) at least \$4,000,000 for the fiscal year ending September 30, 1993, for the United States Government share of the costs (as determined under section 5309 of this title) if the systems planning, alternatives analysis, preliminary engineering, and design and environmental impact statement are required by law for the project.

(C) at least \$30,000,000 for the fiscal year ending September 30, 1994, as provided in the grant agreement under subsection (e) of this section, for the Government share of the construction costs of the project.

(2) The grant agreement under subsection (e) of this section shall provide that for the 3d year of revenue operations of the project, the Secretary shall pay from amounts provided under this section the Government share of operating costs in an amount equal to the lesser of 50 percent of the deficit incurred in operating the project in that year or \$300,000.

(3) Amounts not expended under paragraph (1)(A) of this subsection are available for the Government share of costs described in paragraph (1)(B) and (C) of this subsection.

(4) Amounts under paragraph (1)(B) and (C) of this subsection remain available until expended.

(i) GOVERNMENT'S SHARE OF COSTS.—The Government share of the cost of constructing the project is 80 percent of the net cost of the project.

(j) PROJECT NOT SUBJECT TO MAJOR CAPITAL INVESTMENT POLICY.—The project is not subject to the major capital investment policy of the Federal Transit Administration.

(k) REPORT.—Not later than January 30, 1993, and each year after that date, the Secretary shall submit to Congress a report on the progress and results of the project.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 818; Pub. L. 103-429, §6(9), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 105-178, title III, §3009(h)(3)(A), June 9, 1998, 112 Stat. 356; Pub. L. 105-206, title IX, §9009(h)(1), July 22, 1998, 112 Stat. 856.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5320(a)	49 App.:1622(c)(2).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §26(c); added Dec. 18, 1991, Pub. L. 102-240, §3030, 105 Stat. 2119.
5320(b)	49 App.:1622(c)(3).	
5320(c)	49 App.:1622(c)(4).	
5320(d)	49 App.:1622(c)(5) (1st-3d sentences).	
5320(e)	49 App.:1622(c)(1), (8).	
5320(f)	49 App.:1622(c)(6).	
5320(g)	49 App.:1622(c)(7).	
5320(h)	49 App.:1622(c)(9).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5320(i)	49 App.:1622(c)(10).	
5320(j)	49 App.:1622(c)(5) (last sentence).	
5320(k)	49 App.:1622(c)(11).	

In subsections (c)(1), before clause (A), and (h)(2), the words "Notwithstanding any other provision of law" are omitted as surplus.

In subsection (c)(1), before clause (A), the text of 49 App.:1622(c)(4)(B) is omitted as executed.

In subsection (d), the words "or not" and "actually" are omitted as surplus.

In subsection (e), before clause (1), the words "negotiate and" are omitted as surplus.

In subsections (g)(1)(C) and (h)(1)(C) and (2), the word "section" in the source provision is translated as if it were "subsection" to reflect the apparent intent of Congress.

In subsection (g)(1), before clause (A), the words "or not" and "actual" are omitted as surplus. In clause (C), the words "another entity" are substituted for "entities", and the words "paragraph 4)(e)" in the source provision are translated as if they were "paragraph 4)(C)", for clarity.

PUB. L. 103-429

This amends 49:5320(g)(2) to correct an erroneous cross-reference.

AMENDMENTS

1998—Subsec. (c)(1), (3). Pub. L. 105-178, §3009(h)(3)(A)(i), substituted "full funding" for "full financing".

Subsec. (e). Pub. L. 105-178, §3009(h)(3)(A)(ii), as amended by Pub. L. 105-206, substituted "Funding" for "Financing" in heading.

Pub. L. 105-178, §3009(h)(3)(A)(i), substituted "full funding" for "full financing".

Subsecs. (f), (g)(1)(A). Pub. L. 105-178, §3009(h)(3)(A)(i), substituted "full funding" for "full financing".

1994—Subsec. (g)(2). Pub. L. 103-429 substituted "paragraph (1)(C) of this subsection" for "paragraph (1)(C) of this section".

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

§ 5321. Crime prevention and security

The Secretary of Transportation may make capital grants from amounts available under section 5338 of this title to mass transportation systems for crime prevention and security. This chapter does not prevent the financing of a project under this section when a local governmental authority other than the grant applicant has law enforcement responsibilities.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 820.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5321	49 App.:1620.	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §24; added Apr. 2, 1987, Pub. L. 100-17, §325, 101 Stat. 237.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 13931.

§ 5322. Human resource programs

The Secretary of Transportation may undertake, or make grants and contracts for, programs that address human resource needs as they apply to mass transportation activities. A program may include—

- (1) an employment training program;
- (2) an outreach program to increase minority and female employment in mass transportation activities;
- (3) research on mass transportation personnel and training needs; and
- (4) training and assistance for minority business opportunities.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 820.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5322	49 App.:1616.	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §20; added Nov. 6, 1978, Pub. L. 95-599, §315, 92 Stat. 2751.

In this section, before clause (1), the word “make” is substituted for “provide financial assistance by” to eliminate unnecessary words. The words “national and local” are omitted as surplus. The text of 49 App.:1616 (last sentence) is omitted as surplus.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5313, 5314, 5338 of this title.

§ 5323. General provisions on assistance

(a) INTERESTS IN PROPERTY.—(1) Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or buy property of, a private mass transportation company, for a capital project for property acquired from a private mass transportation company after July 9, 1964, or to operate mass transportation equipment or a mass transportation facility in competition with, or in addition to, transportation service provided by an existing mass transportation company, only if—

- (A) the Secretary of Transportation finds the assistance is essential to a program of projects required under sections 5303-5306 of this title;
- (B) the Secretary of Transportation finds that the program, to the maximum extent feasible, provides for the participation of private mass transportation companies;
- (C) just compensation under State or local law will be paid to the company for its franchise or property; and
- (D) the Secretary of Labor certifies that the assistance complies with section 5333(b) of this title.

(2) A governmental authority may not use financial assistance of the United States Government to acquire land, equipment, or a facility used in mass transportation from another governmental authority in the same geographic area.

(b) NOTICE AND PUBLIC HEARING.—(1) An application for a grant or loan under this chapter for a capital project that will affect substantially a community, or the mass transportation service of a community, must include a certificate of the applicant that the applicant has—

- (A) provided an adequate opportunity for a public hearing with adequate prior notice;
- (B) held that hearing unless no one with a significant economic, social, or environmental interest requested one;
- (C) considered the economic, social, and environmental effects of the project; and
- (D) found that the project is consistent with official plans for developing the urban area.

(2) Notice of a hearing under this subsection shall include a concise description of the proposed project and shall be published in a newspaper of general circulation in the geographic area the project will serve. If a hearing is held, a copy of the transcript of the hearing shall be submitted with the application.

(c) ACQUIRING NEW BUS MODELS.—Amounts appropriated or made available under this chapter after September 30, 1989, may be obligated or expended to acquire a new bus model only if a bus of the model has been tested at the facility established under section 5318 of this title.

(d) CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—(1) Financial assistance under this chapter may be used to buy or operate a bus only if the applicant, governmental authority, or publicly owned operator that receives the assistance agrees that, except as provided in the agreement, the governmental authority or an operator of mass transportation for the governmental authority will not provide charter bus transportation service outside the urban area in which it provides regularly scheduled mass transportation service. An agreement shall provide for a fair arrangement the Secretary of Transportation considers appropriate to ensure that the assistance will not enable a governmental authority or an operator for a governmental authority to foreclose a private operator from providing intercity charter bus service if the private operator can provide the service.

(2) On receiving a complaint about a violation of an agreement, the Secretary of Transportation shall investigate and decide whether a violation has occurred. If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement. In addition to a remedy specified in the agreement, the Secretary may bar a recipient under this subsection or an operator from receiving further assistance when the Secretary finds a continuing pattern of violations of the agreement.

(e) BUS PASSENGER SEAT FUNCTIONAL SPECIFICATIONS.—The initial advertising by a State or local governmental authority for bids to acquire buses using financial assistance under this chapter may include passenger seat functional specifications that are at least equal to performance

specifications the Secretary of Transportation prescribes. The specifications shall be based on a finding by the State or local governmental authority of local requirements for safety, comfort, maintenance, and life cycle costs.

(f) SCHOOLBUS TRANSPORTATION.—(1) Financial assistance under this chapter may be used for a capital project, or to operate mass transportation equipment or a mass transportation facility, only if the applicant agrees not to provide schoolbus transportation that exclusively transports students and school personnel in competition with a private schoolbus operator. This subsection does not apply—

(A) to an applicant that operates a school system in the area to be served and a separate and exclusive schoolbus program for the school system;

(B) unless a private schoolbus operator can provide adequate transportation that complies with applicable safety standards at reasonable rates; and

(C) to a State or local governmental authority if it or a direct predecessor in interest from which it acquired the duty of transporting school children and personnel, and facilities to transport them, provided schoolbus transportation at any time after November 25, 1973, but before November 26, 1974.

(2) An applicant violating an agreement under this subsection may not receive other financial assistance under this chapter.

(g) BUYING BUSES UNDER OTHER LAWS.—Subsections (d) and (f) of this section apply to financial assistance to buy a bus under sections 103(e)(4)¹ and 142(a) or (c) of title 23. However, subsection (f)(1)(C) of this section applies to sections 103(e)(4)¹ and 142(a) or (c) only if schoolbus transportation was provided at any time after August 12, 1972, but before August 13, 1973.

(h) GRANT AND LOAN PROHIBITIONS.—A grant or loan may not be used to—

(1) pay ordinary governmental or nonproject operating expenses; or

(2) support a procurement that uses an exclusionary or discriminatory specification.

(i) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—A grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or vehicle-related equipment (including clean fuel or alternative fuel vehicle-related equipment) for purposes of complying with or maintaining compliance with the Clean Air Act, is for 90 percent of the net project cost of such equipment attributable to compliance with those Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs of such equipment attributable to compliance with those Acts.

(j) BUY AMERICA.—(1) The Secretary of Transportation may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

(2) The Secretary of Transportation may waive paragraph (1) of this subsection if the Secretary finds that—

(A) applying paragraph (1) would be inconsistent with the public interest;

(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

(C) when procuring rolling stock (including train control, communication, and traction power equipment) under this chapter—

(i) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the rolling stock; and

(ii) final assembly of the rolling stock has occurred in the United States; or

(D) including domestic material will increase the cost of the overall project by more than 25 percent.

(3) In this subsection, labor costs involved in final assembly are not included in calculating the cost of components.

(4) The Secretary of Transportation may not make a waiver under paragraph (2) of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

(A) has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection; and

(B) has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies.

(5) A person is ineligible under subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, to receive a contract or subcontract made with amounts authorized under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 1914) if a court or department, agency, or instrumentality of the Government decides the person intentionally—

(A) affixed a “Made in America” label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this subsection applies but not produced in the United States; or

(B) represented that goods described in clause (A) of this paragraph were produced in the United States.

(6) The Secretary of Transportation may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

(7) OPPORTUNITY TO CORRECT INADVERTENT ERROR.—The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly

¹ See References in Text note below.

complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.

(k) PARTICIPATION OF GOVERNMENTAL AGENCIES IN DESIGN AND DELIVERY OF TRANSPORTATION SERVICES.—To the extent feasible, governmental agencies and nonprofit organizations that receive assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services—

(1) shall participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

(2) shall be included in the planning for those services.

(l) APPLICATION OF SECTION 135 OF TITLE 23.—The planning and programming requirements of section 135 of title 23 apply to a grant made under sections 5307–5311 of this title.

(m) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES.—The Secretary of Transportation shall prescribe regulations requiring a preaward and postdelivery review of a grant under this chapter to buy rolling stock to ensure compliance with Government motor vehicle safety requirements, subsection (j) of this section, and bid specifications requirements of grant recipients under this chapter. Under this subsection, independent inspections and review are required, and a manufacturer certification is not sufficient.

(n) SUBMISSION OF CERTIFICATIONS.—A certification required under this chapter and any additional certification or assurance required by law or regulation to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of a grant application under this chapter. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(e)(2).

(o) GRANT REQUIREMENTS.—The grant requirements under sections 5307 and 5309 apply to any project under this chapter that receives any assistance or other financing under the Transportation Infrastructure Finance and Innovation Act of 1998.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 821; Pub. L. 103–429, §6(10), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 104–287, §5(15), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 105–178, title III, §3020, June 9, 1998, 112 Stat. 362.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5323(a)(1)	49 App.:1602(e).	July 9, 1964, Pub. L. 88–365, §3(e), 78 Stat. 303; Sept. 8, 1966, Pub. L. 89–562, §2(b)(1), 80 Stat. 716; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, §2(1), 84 Stat. 962; Nov. 6, 1978, Pub. L. 95–599, §302(c), 92 Stat. 2737.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103–272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5323(a)(2)	49 App.:1608(e).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(e), (g); added Nov. 6, 1978, Pub. L. 95–599, §308(d), 92 Stat. 2747.
5323(b)	49 App.:1602(d).	July 9, 1964, Pub. L. 88–365, §3(d), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; restated Oct. 15, 1970, Pub. L. 91–453, §2(2), 84 Stat. 964.
5323(c)	49 App.:1608(h)(1).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(h)(1); added Apr. 2, 1987, Pub. L. 100–17, §317(a), 101 Stat. 233.
5323(d)	49 App.:1602(f).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(f); added Jan. 4, 1974, Pub. L. 93–650, §1(a), 89 Stat. 2–1; Aug. 22, 1974, Pub. L. 93–383, §813(a), 88 Stat. 737; Nov. 26, 1974, Pub. L. 93–503, §109(b), 88 Stat. 1573.
5323(e)	49 App.:1608(g).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(g); added Nov. 26, 1974, Pub. L. 93–503, §109(a), 88 Stat. 1572.
5323(f)	49 App.:1602(g).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §3(g); added Nov. 26, 1974, Pub. L. 93–503, §109(a), 88 Stat. 1572.
5323(g)	49 App.:1602a.	Aug. 13, 1973, Pub. L. 93–87, §164, 87 Stat. 281; Jan. 4, 1974, Pub. L. 93–650, §1(b), 89 Stat. 2–1; Aug. 22, 1974, Pub. L. 93–383, §813(b), 88 Stat. 737.
5323(h)	49 App.:1602(a)(2)(C).	July 9, 1964, Pub. L. 88–365, §3(a)(2)(C), 78 Stat. 303; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91–453, §2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93–503, §§102, 104, 106, 88 Stat. 1566, 1571, 1572; restated Nov. 6, 1978, Pub. L. 95–599, §302(a), 92 Stat. 2736.
5323(i)	49 App.:1608(m).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, §12(m); added Dec. 18, 1991, Pub. L. 102–240, §3020, 105 Stat. 2110.
5323(j)(1)	23:101 (note).	Jan. 6, 1983, Pub. L. 97–424, §165(a) (related to the Urban Mass Transportation Act of 1964), 96 Stat. 2136; Mar. 9, 1984, Pub. L. 98–229, §10, 98 Stat. 57; Dec. 18, 1991, Pub. L. 102–240, §1048(a), 105 Stat. 1999.
5323(j)(2)	23:101 (note).	Jan. 6, 1983, Pub. L. 97–424, §165(b) (related to the Urban Mass Transportation Act of 1964), 96 Stat. 2137; Apr. 2, 1987, Pub. L. 100–17, §§133(a)(6), 337(a)(1), (b), (c), 101 Stat. 171, 241.
5323(j)(3)	23:101 (note).	Jan. 6, 1983, Pub. L. 97–424, §165(c) (related to the Urban Mass Transportation Act of 1964), 96 Stat. 2137.
5323(j)(4)	23:101 (note).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, §165(g) (related to the Urban Mass Transportation Act of 1964); added Dec. 18, 1991, Pub. L. 102–240, §1048(b), 105 Stat. 2000.
5323(j)(5)	23:101 (note).	Jan. 6, 1983, Pub. L. 97–424, 96 Stat. 2097, §165(f) (related to the Urban Mass Transportation Act of 1964); added Dec. 18, 1991, Pub. L. 102–240, §1048(b), 105 Stat. 1999.
5323(j)(6)	23:101 (note).	Jan. 6, 1983, Pub. L. 97–424, §165(d) (related to the Urban Mass Transportation Act of 1964), 96 Stat. 2137.

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103-272

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5323(j)(7)	23:101 (note).	Jan. 6, 1983, Pub. L. 97-424, 96 Stat. 2097, §165(e) (related to the Urban Mass Transportation Act of 1964); added Dec. 18, 1991, Pub. L. 102-240, §1048(b), 105 Stat. 1999.
5323(k)	49 App.:1607(q).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §8(q); added Oct. 6, 1992, Pub. L. 102-388, §502(i), 106 Stat. 1566.

In subsection (a)(1), before clause (A), the words “directly or indirectly”, “any facilities or other”, “reconstructing”, and “for the purpose of providing by contract or otherwise” are omitted as surplus. In clause (C), the words “and adequate”, “acquisition of”, and “applicable” are omitted as surplus. In clause (D), the words “the requirements of” are omitted as surplus.

In subsection (a)(2), the words “may not use” are substituted for “None of the provisions of this chapter shall be construed to authorize” to eliminate unnecessary words. The words “the purpose of financing” are omitted as surplus.

In subsections (b)(1), (c), and (e), the words “except section 5307” are added for clarity because of 49 App.:1607a(e)(1), restated as section 5307(n)(2) of the revised title.

In subsection (b)(1), before clause (A), the word “reconstruction” is omitted as surplus. In clause (B), the words “in the matter” are omitted as surplus. In clause (C), the word “environmental” is substituted for “and its impact on the environment” to eliminate unnecessary words. In clause (D), the word “comprehensive” is omitted as surplus.

In subsection (b)(2), the word “description” is substituted for “statement” for clarity.

In subsections (d)–(f) and (h), the word “Federal” is omitted as surplus.

In subsections (d) and (f), the word “provide” is substituted for “engage in”, and the word “transportation” is substituted for “operations”, for consistency.

In subsection (d)(1), the words “with the Secretary”, “and equitable”, and “publicly and privately owned” are omitted as surplus.

In subsection (d)(2), the words “alleged”, “take appropriate action to”, “and conditions”, and “for mass transportation facilities and equipment” are omitted as surplus.

In subsection (e), the words “This subsection shall apply to” and “which is acquiring such buses” are omitted as surplus. The words “occurring on or after November 6, 1978” are omitted as executed. The words “In the case of” are omitted as surplus. The words “may include” are substituted for “the Secretary shall permit . . . to provide in advertising for bids for” to eliminate unnecessary words.

In subsection (f)(1), before clause (A), the words “for use in providing public”, “to any applicant for such assistance”, and “and the Secretary” are omitted as surplus. The word “agrees” is substituted for “shall have first entered into an agreement that such applicant” to eliminate unnecessary words. In clause (A), the words “with respect to operation of a schoolbus program” are omitted as surplus.

Subsection (g) is substituted for 49 App.:1602a to eliminate unnecessary words.

In subsection (j), the word “goods” is substituted for “products” for consistency.

In subsection (j)(1), the words “Notwithstanding any other provision of law” are omitted as surplus.

In subsection (j)(2), before clause (A), the words “The Secretary of Transportation may waive” are substituted for “shall not apply” for clarity. In clause (B), the words “steel, iron, and goods” are substituted for

“materials and products” for consistency. In clause (C), before subclause (i), the words “bus and other” are omitted as surplus. In subclauses (i) and (ii), the words “rolling stock” are substituted for “vehicle or equipment” for consistency. In clause (D), the word “contract” is omitted as surplus.

In subsection (j)(4), before clause (A), the words “The Secretary of Transportation may not make a waiver under” are substituted for “shall not apply” for clarity. The words “government of a foreign country” are substituted for “foreign country”, and the word “Government” is added, for consistency in the revised title and with other titles of the United States Code.

In subsection (j)(5), before clause (A), the words “the debarment, suspension, and ineligibility procedures in” are omitted as surplus. The words “department, agency, or instrumentality of the Government” are substituted for “Federal agency” for consistency in the revised title and with other titles of the Code. In clause (A), the word “produced” is substituted for “made” for consistency.

In subsection (k), the word “statewide” is omitted as surplus.

PUB. L. 103-429, §6(10)(A)

This makes a clarifying amendment to the catchline for 49:5323(j).

PUB. L. 103-429, §6(10)(B)

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5323(l)	49 App.:1608(j).	July 9, 1964, Pub. L. 88-365, §12(j), as added Apr. 2, 1987, Pub. L. 100-17, §319, 101 Stat. 234.

The word “review” is substituted for “audit” for clarity. The words “buses and other” are omitted as surplus.

PUB. L. 104-287

This amends 49:5315(d), 5317(b)(5), and 5323(b)(1), (c), and (e) to correct erroneous cross-references.

REFERENCES IN TEXT

Section 103 of title 23, referred to in subsec. (g), was amended generally by Pub. L. 105-178, title I, §1106(b), June 9, 1998, 112 Stat. 131, and, as so amended, no longer contains a subsec. (e)(4).

The Americans with Disabilities Act of 1990, referred to in subsec. (i), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Clean Air Act, referred to in subsec. (i), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (j)(5), is Pub. L. 102-240, Dec. 18, 1991, 105 Stat. 1914. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 101 of this title and Tables.

The Transportation Infrastructure Finance and Innovation Act of 1998, referred to in subsec. (o), is chapter 1 (§§1501-1504) of subtitle E of title I of Pub. L. 105-178, June 9, 1998, 112 Stat. 241, which is classified principally to subchapter II (§181 et seq.) of chapter 1 of Title 23, Highways. For complete classification of this Act to the Code, see Short Title of 1998 Amendment note set out under section 101 of Title 23 and Tables.

AMENDMENTS

1998—Subsec. (d). Pub. L. 105-178, §3020(a), substituted “Condition on Charter Bus Transportation Service” for “Buying and Operating Buses” in heading.

Subsec. (i). Pub. L. 105-178, §3020(c), amended heading and text of subsec. (i) generally. Prior to amendment, text read as follows: "A Government grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment required by the Clean Air Act (42 U.S.C. 7401 et seq.) or the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) is for 90 percent of the net project cost of the equipment that is attributable to complying with those Acts. The Secretary of Transportation, through practicable administrative procedures, may determine the costs attributable to that equipment."

Subsec. (j)(7). Pub. L. 105-178, §3020(b), inserted heading and amended text of par. (7) generally. Prior to amendment, text read as follows: "Not later than January 1, 1995, the Secretary of Transportation shall submit to Congress a report on purchases from foreign entities waived under paragraph (2) of this subsection in the fiscal years ending September 30, 1992, and September 30, 1993. The report shall indicate the dollar value of items for which waivers were granted."

Subsecs. (k) to (m). Pub. L. 105-178, §3020(d), added subsec. (k) and redesignated former subsecs. (k) and (l) as (l) and (m), respectively.

Subsec. (n). Pub. L. 105-178, §3020(e), added subsec. (n).

Subsec. (o). Pub. L. 105-178, §3020(f), added subsec. (o). 1996—Subsecs. (b)(1), (c), (e). Pub. L. 104-287 struck out "(except section 5307)" after "under this chapter". 1994—Subsec. (j). Pub. L. 103-429, §6(10)(A), substituted "America" for "American" in heading.

Subsec. (l). Pub. L. 103-429, §6(10)(B), added subsec. (l).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-287 effective July 5, 1994, see section 8(1) of Pub. L. 104-287, set out as a note under section 5303 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

FINAL ASSEMBLY OF BUSES

Pub. L. 105-178, title III, §3035, June 9, 1998, 112 Stat. 387, provided that:

"(a) IN GENERAL.—All buses manufactured on or after September 1, 1999, that are purchased with Federal funds by recipients of assistance from the Federal Transit Administration shall conform with the Federal Transit Administration Guidance on Buy America Requirements, dated March 18, 1997.

"(b) RULE OF CONSTRUCTION.—For purposes of this section, a bus shall be considered to be manufactured on or after September 1, 1999, if the manufacturing process for that bus is not completed on or before August 31, 1999."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5307, 5311, 5314, 5324, 5333, 5334, 5336 of this title; title 23 sections 135, 142.

§ 5324. Limitations on discretionary and special needs grants and loans

(a) RELOCATION PROGRAM REQUIREMENTS.—Financial assistance may be provided under section 5309 of this title only if the Secretary of Transportation decides that—

(1) an adequate relocation program is being carried out for families displaced by a project; and

(2) an equal number of decent, safe, and sanitary dwellings are being, or will be, provided to those families in the same area or in another area generally not less desirable for public utilities and public and commercial facili-

ties, at rents or prices within the financial means of those families, and with reasonable access to their places of employment.

(b) ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—(1) In carrying out section 5301(e) of this title, the Secretary of Transportation shall cooperate and consult with the Secretaries of Agriculture, Health and Human Services, Housing and Urban Development, and the Interior and the Council on Environmental Quality on each project that may have a substantial impact on the environment.

(2) In carrying out section 5309 of this title, the Secretary of Transportation shall review each transcript of a hearing submitted under section 5323(b) of this title to establish that an adequate opportunity to present views was given to all parties with a significant economic, social, or environmental interest and that the project application includes a statement on—

(A) the environmental impact of the proposal;

(B) adverse environmental effects that cannot be avoided;

(C) alternatives to the proposal; and

(D) irreversible and irretrievable impacts on the environment.

(3)(A) The Secretary of Transportation may approve an application for financial assistance under section 5309 of this title only if the Secretary makes written findings, after reviewing the application and any hearings held before a State or local governmental authority under section 5323(b) of this title, that—

(i) an adequate opportunity to present views was given to all parties with a significant economic, social, or environmental interest;

(ii) the preservation and enhancement of the environment, and the interest of the community in which a project is located, were considered; and

(iii) no adverse environmental effect is likely to result from the project, or no feasible and prudent alternative to the effect exists and all reasonable steps have been taken to minimize the effect.

(B) If a hearing has not been conducted or the Secretary of Transportation decides that the record of the hearing is inadequate for making the findings required by this subsection, the Secretary shall conduct a hearing on an environmental issue raised by the application after giving adequate notice to interested persons.

(C) A finding of the Secretary of Transportation under subparagraph (A) of this paragraph shall be made a matter of public record.

(c) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and, after a grant is made, may not regulate any charge for the system. However, the Secretary may require the local governmental authority, corporation, or association to comply with any undertaking provided by it related to its grant application.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 824.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5324(a)	49 App.:1606(a).	July 9, 1964, Pub. L. 88-365, §7(a), 78 Stat. 305; May 25, 1967, Pub. L. 90-19, §20(a), 81 Stat. 25.
5324(b)(1)	49 App.:1610(a) (last sentence).	July 9, 1964, Pub. L. 88-365, §14(a) (last sentence)-(c), 78 Stat. 308; Sept. 8, 1966, Pub. L. 89-562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90-19, §20(a), 81 Stat. 25; restated Oct. 15, 1970, Pub. L. 91-453, §6, 84 Stat. 966.
5324(b)(2)	49 App.:1610(b).	July 9, 1964, Pub. L. 88-365, §12(d), 78 Stat. 307; Aug. 10, 1965, Pub. L. 89-117, §1109, 79 Stat. 507; Sept. 8, 1966, Pub. L. 89-562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90-19, §20(a), 81 Stat. 25; Nov. 6, 1978, Pub. L. 95-599, §308(c), 92 Stat. 2747.
5324(b)(3)	49 App.:1610(c).	
5324(c)	49 App.:1608(d).	

In subsection (a), before clause (1), the word “provided” is substituted for “extended” for clarity. The words “to any project” are omitted as surplus. In clause (2), the words “available . . . displaced” are omitted as surplus.

In subsection (b)(1), the words “Health and Human Services” are substituted for “Health, Education, and Welfare” in section 14(a) (last sentence) of the Urban Mass Transportation Act of 1964 (Public Law 88-365, 78 Stat. 308) [subsequently changed to the Federal Transit Act by section 3003(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 2087)] because of 20:3508(b).

In subsection (b)(2), before clause (A), the words “In carrying out section 5306 of this title” are added for clarity and consistency with subsections (b)(3) and (c) of this section. The word “detailed” is omitted as surplus. In clause (B), the words “should the proposal be implemented” are omitted as surplus. In clause (D), the words “which may be involved in the proposed project should it be implemented” are omitted as surplus.

In subsection (b)(3)(A), before clause (i), the word “financial” is added for clarity. The words “full and complete” are omitted as surplus. In clause (ii), the word “fair” is omitted as surplus. In clause (iii), the word “either” is omitted as surplus.

In subsection (b)(3)(B), the words “before the State or local agency pursuant to section 1602(d) of this Appendix” and “before the State or local public agency . . . to permit him” are omitted as surplus.

In subsection (c), the words “The Secretary of Transportation may not” are substituted for “None of the provisions of this chapter shall be construed to authorize the Secretary to” to eliminate unnecessary words. The words “in any manner . . . mode of” and “rates, fares, tolls, rentals, or other . . . fixed or prescribed . . . by any local public or private transit agency” are omitted as surplus. The words “However, the Secretary may” are substituted for “but nothing in this subsection shall prevent the Secretary from taking such actions as may be necessary to” to eliminate unnecessary words. The words “local governmental authority, corporation, or association” are substituted for “agency or agencies” for consistency with sections 5309 and 5310 of the revised title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5309, 5334 of this title.

§ 5325. Contract requirements

(a) NONCOMPETITIVE BIDDING.—A capital project or improvement contract for which a grant or loan is made under this chapter, if the contract is not made through competitive bid-

ding, shall provide that records related to the contract shall be made available to the Secretary of Transportation and the Comptroller General, or an officer or employee of the Secretary or Comptroller General, when conducting an audit and inspection.

(b) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—A contract or requirement for program management, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which a grant or loan is made under this chapter shall be awarded in the same way as a contract for architectural and engineering services is negotiated under title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.) or an equivalent qualifications-based requirement of a State. When awarding such contracts, recipients of assistance under this chapter shall maximize efficiencies of administration by accepting nondisputed audits conducted by other governmental agencies, as provided in subparagraphs (C) through (F) of section 112(b)(2) of title 23, United States Code. This subsection does not apply to the extent a State has adopted or adopts by law a formal procedure for procuring those services.

(c) EFFICIENT PROCUREMENT.—A recipient may award a procurement contract under this chapter to other than the lowest bidder when the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 825; Pub. L. 104-287, §5(16), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 105-178, title III, §3022, June 9, 1998, 112 Stat. 363; Pub. L. 105-206, title IX, §9009(n), July 22, 1998, 112 Stat. 857.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5325(a)	49 App.:1608(b)(1).	July 9, 1964, Pub. L. 88-365, §12(b)(1), 78 Stat. 306; Sept. 8, 1966, Pub. L. 89-562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90-19, §20(a), 81 Stat. 25; Nov. 6, 1978, Pub. L. 95-599, §308(a)(1), 92 Stat. 2745.
5325(b)	49 App.:1608(b)(2).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §12(b)(2); added Nov. 6, 1978, Pub. L. 95-599, §308(a)(2), 92 Stat. 2745; restated Jan. 6, 1983, Pub. L. 97-424, §308, 96 Stat. 2151.
5325(c)	49 App.:1608(b)(3).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §12(b)(3); added Apr. 2, 1987, Pub. L. 100-17, §315(a), 101 Stat. 232.
5325(d)	49 App.:1608(b)(4).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §12(b)(4); added Apr. 2, 1987, Pub. L. 100-17, §316, 101 Stat. 232.

In subsection (a), the words “reconstruction”, “in furtherance of the purposes”, “by applicants”, “procedures as defined by the Secretary”, “of the contracting parties”, and “the operations or activities under” are omitted as surplus. The words “shall be made available to” are substituted for “shall . . . have access to”, and the words “an officer or employee of the Secretary or Comptroller General” are substituted for “any of their duly authorized representatives”, for consistency in

the revised title and with other titles of the United States Code.

Subsection (b) is substituted for 49 App.:1608(b)(2) for clarity. The text of 49 App.:1608(b)(2) (last sentence) is omitted as executed.

PUB. L. 104-287

This amends the catchline for 49:5325(d) to make a clarifying amendment.

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (b), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Title IX of the Act is classified generally to subchapter VI (§541 et seq.) of chapter 10 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105-178, §3022(b), as added by Pub. L. 105-206, inserted “or requirement” after “A contract” and “When awarding such contracts, recipients of assistance under this chapter shall maximize efficiencies of administration by accepting nondisputed audits conducted by other governmental agencies, as provided in subparagraphs (C) through (F) of section 112(b)(2) of title 23, United States Code.” before “This subsection does not apply”.

Pub. L. 105-178, §3022(a)(1), (2), redesignated subsec. (d) as (b) and struck out heading and text of former subsec. (b). Text read as follows: “A recipient of financial assistance of the United States Government under this chapter may make a contract to expend that assistance to acquire rolling stock—

“(1) based on—

“(A) initial capital costs; or

“(B) performance, standardization, life cycle costs, and other factors; or

“(2) with a party selected through a competitive procurement process.”

Subsec. (c). Pub. L. 105-178, §3022(a)(1), (3), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: “A recipient of a grant under section 5307 of this title procuring an associated capital maintenance item under section 5307(b) may make a contract directly with the original manufacturer or supplier of the item to be replaced, without receiving prior approval of the Secretary, if the recipient first certifies in writing to the Secretary that—

“(1) the manufacturer or supplier is the only source for the item; and

“(2) the price of the item is no more than the price similar customers pay for the item.”

Subsec. (d). Pub. L. 105-178, §3022(a)(2), redesignated subsec. (d) as (b).

1996—Subsec. (d). Pub. L. 104-287 substituted “ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS” for “MANAGEMENT, ARCHITECTURAL, AND ENGINEERING CONTRACTS” in heading.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-287 effective July 5, 1994, see section 8(1) of Pub. L. 104-287, set out as a note under section 5303 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5334 of this title.

§ 5326. Special procurements

(a) TURNKEY SYSTEM PROJECTS.—

(1) TURNKEY SYSTEM PROJECT DEFINED.—In this subsection, the term “turnkey system project” means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build a mass transportation system or an operable segment thereof that meets specific performance criteria. Such project may also include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

(2) SELECTION OF TURNKEY PROJECTS.—To advance new technologies and lower the cost of a capital project for a new mass transportation system or an operable segment of a mass transportation system, the Secretary of Transportation shall allow solicitation for a turnkey system project to be financed under this chapter to be awarded conditionally before United States Government requirements have been met on the project if the award is made without prejudice to carrying out those requirements. Government financial assistance under this chapter may be made available for the project after the recipient complies with Government requirements.

(3) DEMONSTRATIONS.—To develop guidelines applying generally to turnkey system projects, the Secretary may approve at least 2 projects for an initial demonstration phase. The results of the demonstration projects (and other projects using this procurement method on December 18, 1991) shall be considered in developing guidelines to carry out this subsection.

(b) MULTIYEAR ROLLING STOCK.—(1) A recipient procuring rolling stock with Government financial assistance under this chapter may make a multiyear contract to buy the rolling stock and replacement parts under which the recipient has an option to buy additional rolling stock or replacement parts for not more than 5 years after the date of the original contract.

(2) The Secretary shall allow at least 2 recipients to act on a cooperative basis to procure rolling stock in compliance with this subsection and other Government procurement requirements.

(c) ACQUIRING ROLLING STOCK.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

(1) based on—

(A) initial capital costs; or

(B) performance, standardization, life cycle costs, and other factors; or

(2) with a party selected through a competitive procurement process.

(d) PROCURING ASSOCIATED CAPITAL MAINTENANCE ITEMS.—A recipient of assistance under section 5307 procuring an associated capital maintenance item under section 5307(b) may enter into a contract directly with the original manufacturer or supplier of the item to be replaced, without receiving prior approval of the Secretary, if the recipient first certifies in writing to the Secretary that—

- (1) the manufacturer or supplier is the only source for the item; and
 - (2) the price of the item is no more than the price that similar customers pay for the item.
- (Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 826; Pub. L. 103-429, §6(11), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 105-178, title III, §3023(a), (b), June 9, 1998, 112 Stat. 364.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5326	49 App.:1608(I).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §12(I); added Dec. 18, 1991, Pub. L. 102-240, §3019, 105 Stat. 2109; Oct. 6, 1992, Pub. L. 102-388, §502(j), 106 Stat. 1567.

In subsection (a)(1), the word “individual” is omitted as surplus.

In subsection (a)(2), the word “relevant” is omitted as surplus.

In subsection (b)(1), the word “contract” is substituted for “agreement” for consistency in this section.

In subsection (b)(2), the words “form a consortium (or otherwise)” are omitted as surplus.

In subsection (c), before clause (1), the words “a procurement contract” are substituted for “in connection with a procurement” for clarity. In clause (1), the words “including smaller and medium sized agencies” are omitted as surplus.

PUB. L. 103-429

This amends 49:5326(a)(3) to provide consistent terminology in 49:5326.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105-178, §3023(a)(1), added par. (1) and struck out former par. (1) which read as follows: “In this subsection, ‘turnkey system project’ means a project under which a recipient makes a contract with a seller, firm, or consortium of firms to construct a mass transportation system that meets specific performance criteria and that the seller operates for a period of time.”

Subsec. (a)(2). Pub. L. 105-178, §3023(a)(2), (4), inserted heading, inserted “or an operable segment of a mass transportation system” after “transportation system” in text, and realigned margins.

Subsec. (a)(3). Pub. L. 105-178, §3023(a)(3), (4), inserted heading and realigned margins.

Subsec. (c). Pub. L. 105-178, §3023(b), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: “A recipient may award a procurement contract under this chapter to other than the lowest bidder when the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs. Not later than March 17, 1992, the Secretary shall—

“(1) make appropriate changes in existing procedures to make the policy stated in this subsection readily practicable for all mass transportation authorities; and

“(2) prescribe guidance that clarifies and carries out the policy.”

Subsec. (d). Pub. L. 105-178, §3023(b), added subsec. (d). 1994—Subsec. (a)(3). Pub. L. 103-429 substituted “guidelines” for “regulations” after “develop”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5334 of this title.

§ 5327. Project management oversight

(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—To receive United States Government financial assistance for a major capital project under this chapter or the National Capital Transportation Act of 1969 (Public Law 91-143, 83 Stat. 320), a recipient must prepare and carry out a project management plan approved by the Secretary of Transportation. The plan shall provide for—

- (1) adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;
- (2) a budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;
- (3) a construction schedule for the project;
- (4) a document control procedure and record-keeping system;
- (5) a change order procedure that includes a documented, systematic approach to the handling of construction change orders;
- (6) organizational structures, management skills, and staffing levels required throughout the construction phase;
- (7) quality control and quality assurance functions, procedures, and responsibilities for construction, system installation, and integration of system components;
- (8) material testing policies and procedures;
- (9) internal plan implementation and reporting requirements;
- (10) criteria and procedures to be used for testing the operational system or its major components;
- (11) periodic updates of the plan, especially related to project budget and project schedule, financing, ridership estimates, and the status of local efforts to enhance ridership where ridership estimates partly depend on the success of those efforts; and
- (12) the recipient’s commitment to submit a project budget and project schedule to the Secretary each month.

(b) PLAN APPROVAL.—(1) The Secretary shall approve a plan not later than 60 days after it is submitted. If the approval cannot be completed within 60 days, the Secretary shall notify the recipient, explain the reasons for the delay, and estimate the additional time that will be required.

(2) The Secretary shall inform the recipient of the reasons when a plan is disapproved.

(c) LIMITATIONS ON USE OF AVAILABLE AMOUNTS.—(1) The Secretary may use not more than .5 percent of amounts made available for a fiscal year to carry out section 5307, 5309, or 5311 of this title, an interstate transfer mass transportation project under section 103(e)(4)¹ of title 23 as in effect on September 30, 1991, or a project under the National Capital Transportation Act

¹ See References in Text note below.

of 1969 (Public Law 91-143, 83 Stat. 320) to make a contract to oversee the construction of a major project under section 5307, 5309, 5311, or 103(e)(4)¹ or that Act. The Secretary may use when necessary not more than an additional .25 percent of amounts made available in a fiscal year to carry out a major project under section 5309 to make a contract to oversee the construction of the project.

(2) The Secretary may use amounts available under paragraph (1) of this subsection to enter into contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under paragraph (1) and to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section. Subsections (a), (b), and (e) of this section do not apply to contracts under this paragraph.

(3) The Government shall pay the entire cost of carrying out a contract under this subsection.

(d) ACCESS TO SITES AND RECORDS.—Each recipient of assistance under this chapter or section 14(b) of the National Capital Transportation Act of 1969 (Public Law 91-143, 83 Stat. 320), as added by section 2 of the National Capital Transportation Amendments of 1979 (Public Law 96-184, 93 Stat. 1320), shall provide the Secretary and a contractor the Secretary chooses under subsection (c) of this section with access to the construction sites and records of the recipient when reasonably necessary.

(e) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall include—

(1) a definition of “major capital project” for subsection (c) of this section that excludes a project to acquire rolling stock or to maintain or rehabilitate a vehicle; and

(2) a requirement that oversight begin during the preliminary engineering stage of a project, unless the Secretary finds it more appropriate to begin the oversight during another stage of the project, to maximize the transportation benefits and cost savings associated with project management oversight.

(f) FINANCIAL PLAN.—A recipient of financial assistance for a project under this chapter with an estimated total cost of \$1,000,000,000 or more shall submit to the Secretary an annual financial plan for the project. The plan shall be based on detailed annual estimates of the cost to complete the remaining elements of the project and on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 826; Pub. L. 103-429, §6(12), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 104-287, §5(17), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 105-178, title III, §3024, June 9, 1998, 112 Stat. 364.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5327(a)	49 App.:1619(d), (e).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §23(b)-(g); added Apr. 2, 1987, Pub. L. 100-17, §324, 101 Stat. 236.
5327(b)	49 App.:1619(g).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5327(c)(1)	49 App.:1619(a).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §23(a); added Apr. 2, 1987, Pub. L. 100-17, §324, 101 Stat. 235; Dec. 18, 1991, Pub. L. 102-240, §3027, 105 Stat. 2115.
5327(c)(2)	49 App.:1619(h).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §23(h); added Nov. 21, 1989, Pub. L. 101-164, §340, 103 Stat. 1099.
5327(c)(3)	49 App.:1619(b).	
5327(d)	49 App.:1619(c).	
5327(e)	49 App.:1619(f).	

In subsection (a), before clause (1), the words “as required in each case by the Secretary” are omitted as surplus. In clause (1), the words “such items as” and “where applicable” are omitted as surplus.

In subsection (c)(1), the words “Beginning October 1, 1987” are omitted as executed. The words “with any person” are omitted as surplus.

In subsection (c)(2), the words “In addition to the purposes provided for under subsection (a) of this section” and “with any person” are omitted as surplus. The cross-reference to paragraph (1) is not changed. The cross-reference in 49 App.:1619(h), the source provision being restated in this subsection, is no longer correct, but is apparently still meant to apply to funds made available under 49 App.:1619(a).

In subsection (e), before clause (1), the text of 49 App.:1619(f) (2d sentence) is omitted as executed. In clause (1), The words “vehicles or other” and “the performance of” are omitted as surplus.

PUB. L. 103-429

This amends 49:5327(c)(1) to correct an erroneous cross-reference.

PUB. L. 104-287

This amends 49:5327(c) to correct an erroneous cross-reference.

REFERENCES IN TEXT

The National Capital Transportation Act of 1969, referred to in subsecs. (a), (c)(1), and (d), is Pub. L. 91-143, Dec. 9, 1969, 83 Stat. 320, as amended, which amended section 24 of Title 12, Banks and Banking, and section 684 of Title 40, Public Buildings, Property, and Works, and repealed sections 651, 652, 661 to 665, 671, 682, and 683 of Title 40 and provisions set out as notes under section 651 of Title 40. Section 14(b) of that Act is not classified to the Code. For complete classification of this Act to the Code, see Tables.

Section 103 of title 23, referred to in subsec. (c)(1), was amended generally by Pub. L. 105-178, title I, §1106(b), June 9, 1998, 112 Stat. 131, and, as so amended, no longer contains a subsec. (e)(4).

AMENDMENTS

1998—Subsec. (c)(2). Pub. L. 105-178, §3024(a), substituted “enter into contracts” for “make contracts” and inserted “and to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section” before period at end of first sentence.

Subsec. (f). Pub. L. 105-178, §3024(b), added subsec. (f). 1996—Subsec. (c)(1). Pub. L. 104-287 substituted “to carry out a major project under section 5309” for “to carry out a major project under section 5307”.

1994—Subsec. (c)(1). Pub. L. 103-429 substituted “section 5307, 5309, 5311, or 103(e)(4) or that Act” for “section 5307, 5309, 5311, or 103(e)(4) of that Act”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-287 effective July 5, 1994, see section 8(1) of Pub. L. 104-287, set out as a note under section 5303 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

FINANCING OF OVERSIGHT ACTIVITIES

Pub. L. 107-87, title III, §319, Dec. 18, 2001, 115 Stat. 858, provided that: "Beginning in fiscal year 2002 and thereafter, the Secretary may use up to 1 percent of the amounts made available to carry out 49 U.S.C. 5309 for oversight activities under 49 U.S.C. 5327."

§ 5328. Project review

(a) SCHEDULE.—(1) When the Secretary of Transportation allows a new fixed guideway project to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant in alternatives analysis and in preparing a draft environmental impact statement and shall approve the draft for circulation not later than 45 days after the applicant submits the draft to the Secretary.

(2) After the draft is circulated and not later than 30 days after the applicant selects a locally preferred alternative, the Secretary shall allow the project to advance to the preliminary engineering stage if the Secretary finds the project is consistent with section 5309(e).

(3) The Secretary shall issue a record of decision and allow a project to advance to the final design stage of construction not later than 120 days after the final environmental impact statement for the project is completed.

(4) The Secretary shall make a full funding grant agreement under section 5309 of this title for a project not later than 120 days after the project enters the final design stage of construction. The agreement shall provide for a United States Government share of the construction cost at least equal to the Government share estimated in the Secretary's most recent report required under 5309(o)(1)¹ or an update of the report unless the applicant requests otherwise.

(b) ALLOWED DELAYS.—(1) Advancement of a project under the time requirements of subsection (a) of this section may be delayed only—

(A) for the time the applicant may request; or

(B) during the time the Secretary finds, after reasonable notice and an opportunity for comment, that the applicant, for reasons attributable only to the applicant, has not complied substantially with the provisions of this chapter applicable to the project.

(2) Not more than 10 days after imposing a delay under paragraph (1)(B) of this subsection, the Secretary shall give the applicant a written statement explaining the reasons for the delay and describing actions the applicant must take to end the delay.

(3) At least once every 6 months, the Secretary shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on each situation in which the Secretary has not met a time requirement of subsection (a) of this section or delayed a time requirement under paragraph (1)(B) of this subsection. The report

shall explain the reasons for the delay and include a plan for achieving timely completion of the Secretary's review.

(c) PROGRAM OF INTERRELATED PROJECTS.—(1) In this subsection, a program of interrelated projects includes the following:

(A) the New Jersey Urban Core Project (as defined in title III of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 2087)).

(B) the San Francisco Bay Area Rail Extension Program, consisting of at least an extension of the San Francisco Bay Area Rapid Transit District to the San Francisco International Airport (Phase 1a to Colma and Phase 1b to San Francisco Airport), the Santa Clara County Transit District Tasman Corridor Project, a program element designated by a change to the Metropolitan Transportation Commission Resolution No. 1876, and a program element financed completely with non-Government amounts, including the BART Warm Springs Extension, Dublin Extension, and West Pittsburg Extension.

(C) the Los Angeles Metro Rail Minimum Operable Segment-3 Program, consisting of 7 stations and approximately 11.6 miles of heavy rail subway on the following lines:

(i) one line running west and northwest from the Hollywood/Vine station to the North Hollywood station, with 2 intermediate stations.

(ii) one line running west from the Wilshire/Western station to the Pico/San Vicente station, with one intermediate station.

(iii) the East Side Extension, consisting of an initial line of approximately 3 miles, with at least 2 stations, beginning at Union Station and running generally east.

(D) the Baltimore-Washington Transportation Improvement Program, consisting of 3 extensions of the Baltimore Light Rail to Hunt Valley, Penn Station, and Baltimore-Washington Airport, MARC extensions to Frederick and Waldorf, Maryland, and an extension of the Washington Subway system to Largo, Maryland.

(E) the Tri-County Metropolitan Transportation District of Oregon Light Rail Program, consisting of the locally preferred alternative for the Westside Light Rail Project, including system related costs, contained in the Department of Transportation and Related Agencies Appropriations Act, 1991 (Public Law 101-516, 104 Stat. 2155), and defined in House Report 101-584, the Hillsboro extension to the Westside Light Rail Project contained in that Act, and the locally preferred alternative for the South/North Corridor Project.

(F) the Queens Local/Express Connector Program, consisting of the locally preferred alternative for the connection of the 63d Street tunnel extension to the Queens Boulevard lines, the bell-mouth part of the connector that will allow for future access by commuter rail trains and other subway lines to the 63d Street tunnel extension, planning elements for connecting the upper and lower levels to commuter and subway lines in Long Island City, and planning elements for providing a connec-

¹ So in original. Probably should be "section 5309(o)(1)".

tor for commuter rail transportation to the East side of Manhattan and subway lines to the proposed Second Avenue subway.

(G) the Dallas Area Rapid Transit Authority light rail elements of the New System Plan, consisting of the locally preferred alternative for the South Oak Cliff corridor, the South Oak Cliff corridor extension-Camp Wisdom, the West Oak Cliff corridor-Westmoreland, the North Central corridor-Park Lane, the North Central corridor-Richardson, Plano, and Garland extensions, the Pleasant Grove corridor-Buckner, and the Carrollton corridors-Farmers Branch and Las Colinas terminal.

(H) other programs designated by law or the Secretary.

(2) Consistent with the time requirements of subsection (a) of this section or as otherwise provided by law, the Secretary shall make at least one full financing grant agreement for each program described in paragraph (1) of this subsection. The agreement shall include commitments to advance each of the applicant's program elements (in the program of inter-related projects) through the appropriate program review stages as provided in subsection (a) or as otherwise provided by law and to provide Government financing for each element. The agreement may be changed to include design and construction of a particular element.

(3) When reviewing a project in a program of interrelated projects, the Secretary shall consider the local financial commitment, transportation effectiveness, and other assessment factors of all program elements to the extent consideration expedites carrying out the project.

(4) Including a program element not financed by the Government in a program of interrelated projects does not impose Government requirements that otherwise would not apply to the element.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 828; Pub. L. 104-205, title III, §336, Sept. 30, 1996, 110 Stat. 2974; Pub. L. 104-287, §5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105-178, title III, §3009(h)(2), (3)(B), (C), June 9, 1998, 112 Stat. 356; Pub. L. 105-206, title IX, §9009(h)(2), (3), July 22, 1998, 112 Stat. 856.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5328(a)	49 App.:1602(a)(6).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §3(a)(6)-(8); added Jan. 6, 1983, Pub. L. 97-424, §304(b), 96 Stat. 2150; restated Dec. 18, 1991, Pub. L. 102-240, §3011(a), 105 Stat. 2095.
5328(b)	49 App.:1602(a)(7).	
5328(c)(1)	49 App.:1602(a)(8)(C).	
5328(c)(2)	49 App.:1602(a)(8)(A) (1st-3d sentences).	
5328(c)(3)	49 App.:1602(a)(8)(B).	
5328(c)(4)	49 App.:1602(a)(8)(A) (last sentence).	

In subsection (a)(1), the words "the date on which" are omitted as surplus.

In subsection (a)(2), the words "the criteria set forth in" are omitted as surplus.

In subsection (a)(4), the words "negotiate and" are omitted as surplus. The words "under section 5309 of this title" are added for clarity.

In subsection (b)(1)(A), the words "solely at the applicant's discretion" are omitted as surplus.

In subsection (c)(2), the words "if appropriate" are omitted as surplus.

REFERENCES IN TEXT

The Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (c)(1)(A), is Pub. L. 102-240, Dec. 18, 1991, 105 Stat. 1914, as amended. Title III of the Act is also known as the Federal Transit Act Amendments of 1991. Provisions defining the New Jersey Urban Core Project are contained in section 3031 of the Act, which is not classified to the Code. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 101 of this title and Tables.

The Department of Transportation and Related Agencies Appropriations Act, 1991, referred to in subsec. (c)(1)(E), is Pub. L. 101-516, Nov. 5, 1990, 104 Stat. 2155, as amended. Provisions relating to the Westside Light Rail Program are contained in section 328 of the Act, which is not classified to the Code. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105-178, §3009(h)(2), substituted "5309(e)" for "5309(e)(1)-(6) of this title".

Subsec. (a)(4). Pub. L. 105-178, §3009(h)(3)(C), as added by Pub. L. 105-206, §9009(h)(3), substituted "5309(o)(1)" for "section 5309(m)(2) of this title".

Pub. L. 105-178, §3009(h)(3)(B), as amended by Pub. L. 105-206, §9009(h)(2), substituted "full funding" for "full financing".

1996—Subsec. (b)(3). Pub. L. 104-287 substituted "Transportation and Infrastructure" for "Public Works and Transportation".

Subsec. (c)(1)(E). Pub. L. 104-205 struck out "Westside" after "District of Oregon" and "and" after "House Report 101-584," and inserted before period at end ", and the locally preferred alternative for the South/North Corridor Project".

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of Title 23, Highways.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5333 of this title.

§ 5329. Investigation of safety hazards

(a) GENERAL.—The Secretary of Transportation may investigate a condition in equipment, a facility, or an operation financed under this chapter that the Secretary believes causes a serious hazard of death or injury to establish the nature and extent of the condition and how to eliminate or correct it. If the Secretary establishes that a condition causes a hazard, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for correcting it. The Secretary may withhold further financial assistance under this chapter until a plan is approved and carried out.

(b) REPORT.—Not later than June 15, 1992, the Secretary shall submit to Congress a report containing—

- (1) a description of actions taken to identify and investigate conditions in a facility, equipment, or way of operating as part of the findings and decisions required of the Secretary in providing a grant or loan under this chapter;

(2) a description of actions of the Secretary to correct or eliminate, as a requirement for making an amount available through a grant or loan under this chapter, a condition found to create a serious hazard of death or injury;

(3) a summary of all passenger-related deaths and injuries resulting from an unsafe condition in a facility, equipment, or way of operating a facility or equipment at least partly financed under this chapter;

(4) a summary of all employee-related deaths and injuries resulting from an unsafe condition in a facility, equipment, or way of operating a facility or equipment at least partly financed under this chapter;

(5) a summary of action of the Secretary to correct or eliminate the unsafe condition to which the deaths and injuries referred to in clauses (3) and (4) of this subsection were attributed;

(6) a summary of actions of the Secretary to alert mass transportation operators of the nature of the unsafe condition found to create a serious hazard of death or injury; and

(7) recommendations of the Secretary to Congress of any legislative or administrative actions necessary to ensure that all recipients of amounts under this chapter will undertake the best way available to correct or eliminate hazards of death or injury, including—

- (A) a timetable for undertaking actions;
- (B) an estimate of the capital and operating cost to take the actions; and
- (C) minimum standards for establishing and carrying out safety plans by recipients of amounts under this chapter.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 830.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5329(a)	49 App.:1618(a).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §22(a); added Jan. 6, 1983, Pub. L. 97-424, §318(b), 96 Stat. 2154; Dec. 18, 1991, Pub. L. 102-240, §3026(1), 105 Stat. 2114.
5329(b)	49 App.:1618(b).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §22(b); added Dec. 18, 1991, Pub. L. 102-240, §3026(2), 105 Stat. 2114.

In subsection (a), the words “manner of” are omitted as surplus. The word “how” is substituted for “the means which might best be employed” to eliminate unnecessary words. The words “or eliminating” and “from the local public body” are omitted as surplus. The words “a plan is approved and carried out” are substituted for “he approves such plan and the local public body implements such plan” to eliminate unnecessary words.

In subsection (b)(1) and (2), the words “a description of” are added for clarity.

§ 5330. Withholding amounts for noncompliance with safety requirements

(a) APPLICATION.—This section applies only to States that have rail fixed guideway mass transportation systems not subject to regulation by the Federal Railroad Administration.

(b) GENERAL AUTHORITY.—The Secretary of Transportation may withhold not more than 5 percent of the amount required to be appropriated for use in a State or urbanized area in

the State under section 5307 of this title for a fiscal year beginning after September 30, 1994, if the State in the prior fiscal year has not met the requirements of subsection (c) of this section and the Secretary decides the State is not making an adequate effort to comply with subsection (c).

(c) STATE REQUIREMENTS.—A State meets the requirements of this section if the State—

(1) establishes and is carrying out a safety program plan for each fixed guideway mass transportation system in the State that establishes at least safety requirements, lines of authority, levels of responsibility and accountability, and methods of documentation for the system; and

(2) designates a State authority as having responsibility—

(A) to require, review, approve, and monitor the carrying out of each plan;

(B) to investigate hazardous conditions and accidents on the systems; and

(C) to require corrective action to correct or eliminate those conditions.

(d) MULTISTATE INVOLVEMENT.—When more than one State is subject to this section in connection with a single mass transportation authority, the affected States may designate an entity (except the mass transportation authority) to ensure uniform safety standards and enforcement and to meet the requirements of subsection (c) of this section.

(e) AVAILABILITY OF WITHHELD AMOUNTS.—(1) An amount withheld under subsection (b) of this section remains available for apportionment for use in the State until the end of the 2d fiscal year after the fiscal year for which the amount may be appropriated.

(2) If a State meets the requirements of subsection (c) of this section before the last day of the period for which an amount withheld under subsection (b) of this section remains available under paragraph (1) of this subsection, the Secretary, on the first day on which the State meets the requirements, shall apportion to the State the amount withheld that remains available for apportionment for use in the State. An amount apportioned under this paragraph remains available until the end of the 3d fiscal year after the fiscal year in which the amount is apportioned. An amount not obligated at the end of the 3-year period shall be apportioned for use in other States under section 5336 of this title.

(3) If a State does not meet the requirements of subsection (c) of this section at the end of the period for which an amount withheld under subsection (b) of this section remains available under paragraph (1) of this subsection, the amount shall be apportioned for use in other States under section 5336 of this title.

(f) REGULATIONS.—Not later than December 18, 1992, the Secretary shall prescribe regulations stating the requirements for complying with subsection (c) of this section.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 831.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5330(a)	49 App.:1624(d).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §28; added Dec. 18, 1991, Pub. L. 102-240, §3029, 105 Stat. 2116.
5330(b)	49 App.:1624(a).	
5330(c)	49 App.:1624(b)(1), (2).	
5330(d)	49 App.:1624(b)(3).	
5330(e)	49 App.:1624(c).	
5330(f)	49 App.:1624(e).	

In subsection (e)(1), the words “under subsection (a) of this section from apportionment for use in any State in a fiscal year” are omitted as surplus.

In subsection (e)(2) and (3), the words “from apportionment” and “for apportionment for use in a State” are omitted as surplus.

§ 5331. Alcohol and controlled substances testing

(a) DEFINITIONS.—In this section—

(1) “controlled substance” means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) whose use the Secretary of Transportation decides has a risk to transportation safety.

(2) “person” includes any entity organized or existing under the laws of the United States, a State, territory, or possession of the United States, or a foreign country.

(3) “mass transportation” means any form of mass transportation, except a form the Secretary decides is covered adequately, for employee alcohol and controlled substances testing purposes, under section 20140 or 31306 of this title.

(b) TESTING PROGRAM FOR MASS TRANSPORTATION EMPLOYEES.—(1)(A) In the interest of mass transportation safety, the Secretary shall prescribe regulations that establish a program requiring mass transportation operations that receive financial assistance under section 5307, 5309, or 5311 of this title or section 103(e)(4)¹ of title 23 to conduct preemployment, reasonable suspicion, random, and post-accident testing of mass transportation employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of a controlled substance in violation of law or a United States Government regulation, and to conduct reasonable suspicion, random, and post-accident testing of such employees for the use of alcohol in violation of law or a United States Government regulation. The regulations shall permit such operations to conduct preemployment testing of such employees for the use of alcohol.

(B) When the Secretary of Transportation considers it appropriate in the interest of safety, the Secretary may prescribe regulations for conducting periodic recurring testing of mass transportation employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a Government regulation.

(2) In prescribing regulations under this subsection, the Secretary of Transportation—

(A) shall require that post-accident testing of such a mass transportation employee be

conducted when loss of human life occurs in an accident involving mass transportation; and

(B) may require that post-accident testing of such a mass transportation employee be conducted when bodily injury or significant property damage occurs in any other serious accident involving mass transportation.

(c) DISQUALIFICATIONS FOR USE.—(1) When the Secretary of Transportation considers it appropriate, the Secretary shall require disqualification for an established period of time or dismissal of any employee referred to in subsection (b)(1) of this section who is found—

(A) to have used or been impaired by alcohol when on duty; or

(B) to have used a controlled substance, whether or not on duty, except as allowed for medical purposes by law or regulation.

(2) This section does not supersede any penalty applicable to a mass transportation employee under another law.

(d) TESTING AND LABORATORY REQUIREMENTS.—In carrying out subsection (b) of this section, the Secretary of Transportation shall develop requirements that shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimens;

(2) for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any amendments to those guidelines, including mandatory guidelines establishing—

(A) comprehensive standards for every aspect of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing;

(B) the minimum list of controlled substances for which individuals may be tested; and

(C) appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that a laboratory involved in controlled substances testing under this section have the capability and facility, at the laboratory, of performing screening and confirmation tests;

(4) provide that all tests indicating the use of alcohol or a controlled substance in violation of law or a Government regulation be confirmed by a scientifically recognized method of testing capable of providing quantitative information about alcohol or a controlled substance;

(5) provide that each specimen be subdivided, secured, and labeled in the presence of the tested individual and that a part of the specimen be retained in a secure manner to prevent

¹ See References in Text note below.

the possibility of tampering, so that if the individual's confirmation test results are positive the individual has an opportunity to have the retained part tested by a 2d confirmation test done independently at another certified laboratory if the individual requests the 2d confirmation test not later than 3 days after being advised of the results of the first confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations that may be necessary and in consultation with the Secretary of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (except information about alcohol or a controlled substance) of employees, except that this clause does not prevent the use of test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(e) **REHABILITATION.**—The Secretary of Transportation shall prescribe regulations establishing requirements for rehabilitation programs that provide for the identification and opportunity for treatment of any mass transportation employee referred to in subsection (b)(1) of this section who is found to have used alcohol or a controlled substance in violation of law or a Government regulation. The Secretary shall decide on the circumstances under which employees shall be required to participate in a program. This subsection does not prevent a mass transportation operation from establishing a program under this section in cooperation with another mass transportation operation.

(f) **RELATIONSHIP TO OTHER LAWS, REGULATIONS, STANDARDS, AND ORDERS.**—(1) A State or local government may not prescribe, issue, or continue in effect a law, regulation, standard, or order that is inconsistent with regulations prescribed under this section. However, a regulation prescribed under this section does not preempt a State criminal law that imposes sanctions for reckless conduct leading to loss of life, injury, or damage to property.

(2) In prescribing regulations under this section, the Secretary of Transportation—

(A) shall establish only requirements that are consistent with international obligations of the United States; and

(B) shall consider applicable laws and regulations of foreign countries.

(3) This section does not prevent the Secretary of Transportation from continuing in effect, amending, or further supplementing a regulation prescribed before October 28, 1991, governing the use of alcohol or a controlled substance by mass transportation employees.

(g) **INELIGIBILITY FOR ASSISTANCE.**—A person is not eligible for financial assistance under section 5307, 5309, or 5311 of this title or section 103(e)(4)² of title 23 if the person is required,

under regulations the Secretary of Transportation prescribes under this section, to establish a program of alcohol and controlled substances testing and does not establish the program.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 832; Pub. L. 103-429, §6(13), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 104-59, title III, §342(a), Nov. 28, 1995, 109 Stat. 608.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5331(a)	49 App.:1618a(a).	Oct. 28, 1991, Pub. L. 102-143, § 6, 105 Stat. 962.
5331(b)	49 App.:1618a(b).	
5331(c)	49 App.:1618a(f).	
5331(d)	49 App.:1618a(d).	
5331(e)	49 App.:1618a(c).	
5331(f)	49 App.:1618a(e).	
5331(g)	49 App.:1618a(g).	

In subsection (a), before clause (1), the text of 49 App.:1618a(a)(3) is omitted as surplus because the complete name of the Secretary of Transportation is used the first time the term appears in a section. In clause (3), the words "controlled substances" are substituted for "drug" for consistency in this section.

In subsection (b)(1)(B), the word "also" is omitted as surplus.

In subsection (b)(2)(B), the words "may require" are substituted for "as determined by the Secretary" for clarity and to eliminate unnecessary words.

In subsection (d), the word "samples" is omitted as surplus.

In subsection (d)(2), before subclause (A), the word "subsequent" is omitted as surplus.

In subsection (d)(3), the words "of any individual" are omitted as surplus.

In subsection (d)(4), the words "by any individual" are omitted as surplus.

In subsection (d)(5), the word "tested" is substituted for "assayed" for consistency. The words "2d confirmation test" are substituted for "independent test" for clarity and consistency.

In subsection (d)(6), the word "Secretary" is substituted for "Department" for consistency in the revised title and with other titles of the United States Code.

In subsection (f)(1), the word "prescribe" is substituted for "adopt" for consistency in the revised title and with other titles of the Code. The word "rule" is omitted as being synonymous with "regulation". The word "ordinance" is omitted as being included in "law" and "regulation". The words "whether the provisions apply specifically to mass transportation employees, or to the general public" are omitted as surplus.

In subsection (f)(3), the word "prevent" is substituted for "restrict the discretion of" to eliminate unnecessary words.

In subsection (g) the words "in accordance with such regulations" are omitted as surplus.

PUB. L. 103-429

This amends 49:5331(a)(3) to correct an erroneous cross-reference.

REFERENCES IN TEXT

Section 103 of title 23, referred to in subs. (b)(1)(A) and (g), was amended generally by Pub. L. 105-178, title I, §1106(b), June 9, 1998, 112 Stat. 131, and, as so amended, no longer contains a subsec. (e)(4).

AMENDMENTS

1995—Subsec. (b)(1)(A). Pub. L. 104-59 added subpar. (A) and struck out former subpar. (A) which read as follows: "In the interest of mass transportation safety, the Secretary of Transportation shall prescribe regula-

² See References in Text note below.

tions not later than October 28, 1992, that establish a program requiring mass transportation operations that receive financial assistance under section 5307, 5309, or 5311 of this title or section 103(e)(4) of title 23 to conduct preemployment, reasonable suspicion, random, and post-accident testing of mass transportation employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a United States Government regulation.”

1994—Subsec. (a)(3). Pub. L. 103-429 substituted “section 20140 or 31306” for “subchapter III of chapter 201 or section 31306”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

§ 5332. Nondiscrimination

(a) DEFINITION.—In this section, “person” includes a governmental authority, political subdivision, authority, legal representative, trust, unincorporated organization, trustee, trustee in bankruptcy, and receiver.

(b) PROHIBITIONS.—A person may not be excluded from participating in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance under this chapter because of race, color, creed, national origin, sex, or age.

(c) COMPLIANCE.—(1) The Secretary of Transportation shall take affirmative action to ensure compliance with subsection (b) of this section.

(2) When the Secretary decides that a person receiving financial assistance under this chapter is not complying with subsection (b) of this section, a civil rights law of the United States, or a regulation or order under that law, the Secretary shall notify the person of the decision and require action be taken to ensure compliance with subsection (b).

(d) AUTHORITY OF SECRETARY FOR NONCOMPLIANCE.—If a person does not comply with subsection (b) of this section within a reasonable time after receiving notice, the Secretary shall—

(1) direct that no further financial assistance of the United States Government under this chapter be provided to the person;

(2) refer the matter to the Attorney General with a recommendation that a civil action be brought;

(3) proceed under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); and

(4) take any other action provided by law.

(e) CIVIL ACTIONS BY ATTORNEY GENERAL.—The Attorney General may bring a civil action for appropriate relief when—

(1) a matter is referred to the Attorney General under subsection (d)(2) of this section; or

(2) the Attorney General believes a person is engaged in a pattern or practice in violation of this section.

(f) APPLICATION AND RELATIONSHIP TO OTHER LAWS.—This section applies to an employment or business opportunity and is in addition to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 834.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5332(a)	49 App.:1615(a)(5).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §19; added Nov. 6, 1978, Pub. L. 95-599, §314, 92 Stat. 2750.
5332(b)	49 App.:1615(a)(1) (1st sentence).	
5332(c)	49 App.:1615(a)(2), (3)(A).	
5332(d)	49 App.:1615(a)(3)(B).	
5332(e)	49 App.:1615(a)(4).	
5332(f)	49 App.:1615(a)(1) (last sentence).	

In subsection (a), the words “the term” and “one or more” are omitted as surplus. The words “partnerships, associations, corporations” and “mutual companies, joint-stock companies” are omitted because of 1:1.

In subsection (b), the word “receiving” is substituted for “funded in whole or in part through” to eliminate unnecessary words.

In subsection (c)(2), the words “directly or indirectly”, “issued”, and “necessary” are omitted as surplus.

In subsection (d), before clause (1), the words “does not” are substituted for “fails or refuses to” to eliminate unnecessary words. The words “period of” and “pursuant to paragraph (a) of this subsection” are omitted as surplus. In clause (2), the word “appropriate” is omitted as surplus. In clause (3), the words “proceed under” are substituted for “exercise the powers and functions provided by” to eliminate unnecessary words.

In subsection (e), before clause (1), the words “in any appropriate district court of the United States” and “including injunctive relief” are omitted as surplus.

In subsection (f), the words “considered to be” and “and not in lieu of” are omitted as surplus.

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsecs. (d)(3) and (f), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5307, 5336 of this title.

§ 5333. Labor standards

(a) PREVAILING WAGES REQUIREMENT.—The Secretary of Transportation shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed with a grant or loan under this chapter be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a-5). The Secretary of Transportation may approve a grant or loan only after being assured that required labor standards will be maintained on the construction work. For a labor standard under this subsection, the Secretary of Labor has the same duties and powers stated in Reorganization Plan No. 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(b) EMPLOYEE PROTECTIVE ARRANGEMENTS.—(1) As a condition of financial assistance under sections 5307-5312, 5318(d), 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(b) of this title, the interests

of employees affected by the assistance shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. The agreement granting the assistance under sections 5307–5312, 5318(d), 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(b) shall specify the arrangements.

(2) Arrangements under this subsection shall include provisions that may be necessary for—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of individual employees against a worsening of their positions related to employment;

(D) assurances of employment to employees of acquired mass transportation systems;

(E) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and

(F) paid training or retraining programs.

(3) Arrangements under this subsection shall provide benefits at least equal to benefits established under section 11326 of this title.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 835; Pub. L. 104–88, title III, §308(e), Dec. 29, 1995, 109 Stat. 947; Pub. L. 105–178, title III, §3029(b)(9), June 9, 1998, 112 Stat. 372.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5333(a)	49 App.:1609(a), (b).	July 9, 1964, Pub. L. 88–365, §13, 78 Stat. 307; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), (b)(2), 80 Stat. 715, 716; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25.
5333(b)	49 App.:1609(c).	

In subsection (a), the words “take such action as may be necessary to”, “the performance of”, “the assistance of”, and “at rates” are omitted as surplus. The word “same” is added for clarity. The words “duties and powers” are substituted for “authority and functions” for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the reference to sections 5307, 5308, 5310, and 5311 of the revised title is added for clarity because of 49 App.:1607a(e)(1), 1607a–2(a), 1612(b), and 1614(f), restated as sections 5307(n)(2), 5308(b)(1), 5310(a), and 5311(i) of the revised title. The reference to section 5312 is added for clarity because it is intended that 49 App.:1609(c) cover research, development, training, and demonstration projects. The words “terms and conditions of the protective” are omitted as surplus.

In subsection (b)(2), before clause (A), the words “without being limited to” are omitted as being included in “include”. The words “such provisions as may be necessary for” are omitted as surplus. In clause (C), the word “individual” is omitted as surplus.

In subsection (b)(3), the words “section 11347 of this title” are substituted for and coextensive with “section 5(2)(f) of the Act of February 4, 1887 (24 Stat. 379), as amended” in section 13(c) of the Urban Mass Transportation Act of 1964 (Public Law 88–365, 78 Stat. 307) on authority of section 3(b) of the Act of October 17, 1978 (Public Law 95–473, 92 Stat. 1466).

REFERENCES IN TEXT

Act of March 3, 1931, referred to in subsec. (a), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, known as

the Davis-Bacon Act, which is classified generally to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

Reorganization Plan No. 14 of 1950, referred to in subsec. (a), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–178 substituted “5338(b)” for “5338(j)(5)” in two places.

1995—Subsec. (b)(3). Pub. L. 104–88 substituted “11326” for “11347”.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5307, 5311, 5323, 5334, 5336 of this title; title 23 sections 106, 182, 322.

§ 5334. Administrative provisions

(a) GENERAL AUTHORITY.—In carrying out this chapter, the Secretary of Transportation may—

(1) prescribe terms for a project under sections 5307 and 5309–5311 of this title (except terms the Secretary of Labor prescribes under section 5333(b) of this title);

(2) sue and be sued;

(3) foreclose on property or bring a civil action to protect or enforce a right conferred on the Secretary of Transportation by law or agreement;

(4) buy property related to a loan under this chapter;

(5) agree to pay an annual amount in place of a State or local tax on real property acquired or owned under this chapter;

(6) sell, exchange, or lease property, a security, or an obligation;

(7) obtain loss insurance for property and assets the Secretary of Transportation holds;

(8) consent to a modification in an agreement under this chapter;

(9) include in an agreement or instrument under this chapter a covenant or term the Secretary of Transportation considers necessary to carry out this chapter; and

(10) collect fees to cover the costs of training or conferences, including costs of promotional materials, sponsored by the Federal Transit Administration to promote mass transportation and credit amounts collected to the appropriation concerned.

(b) PROCEDURES FOR PRESCRIBING REGULATIONS.—(1) The Secretary of Transportation shall prepare an agenda listing all areas in which the Secretary intends to propose regulations governing activities under this chapter within the following 12 months. The Secretary shall publish the proposed agenda in the Federal Register as part of the Secretary’s semiannual regulatory agenda that lists regulatory activities of the Federal Transit Administration. The Secretary shall submit the agenda to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate on the day the agenda is published.

(2) Except for emergency regulations, the Secretary of Transportation shall give interested parties at least 60 days to participate in a regulatory proceeding under this chapter by submitting written information, views, or arguments, with or without an oral presentation, except when the Secretary for good cause finds that public notice and comment are unnecessary because of the routine nature or insignificant impact of the regulation or that an emergency regulation should be issued. The Secretary may extend the 60-day period if the Secretary decides the period is insufficient to allow diligent individuals to prepare comments or that other circumstances justify an extension.

(3) An emergency regulation ends 120 days after it is issued.

(4) The Secretary of Transportation shall comply with this section (except subsections (h) and (i)) and sections 5323(a)(2), 5323(c), 5323(e), 5324(c), 5325(a), 5325(b), 5326(c), and 5326(d) when proposing or carrying out a regulation governing an activity under this chapter, except for a routine matter or a matter with no significant impact.

(c) BUDGET PROGRAM AND SET OF ACCOUNTS.—The Secretary of Transportation shall—

(1) submit each year a budget program as provided in section 9103 of title 31; and

(2) maintain a set of accounts for audit under chapter 35 of title 31.

(d) DEPOSITORY AND AVAILABILITY OF AMOUNTS.—The Secretary of Transportation shall deposit amounts made available to the Secretary under this chapter in a checking account in the Treasury. Receipts, assets, and amounts obtained or held by the Secretary to carry out this chapter are available for administrative expenses to carry out this chapter.

(e) BINDING EFFECT OF FINANCIAL TRANSACTION.—A financial transaction of the Secretary of Transportation under this chapter and a related voucher are binding on all officers and employees of the United States Government.

(f) DEALING WITH ACQUIRED PROPERTY.—Notwithstanding another law related to the Government acquiring, using, or disposing of real property, the Secretary of Transportation may deal with property acquired under subsection (a)(3) or (4) of this section in any way. However, this subsection does not—

(1) deprive a State or political subdivision of a State of jurisdiction of the property; or

(2) impair the civil rights, under the laws of a State or political subdivision of a State, of an inhabitant of the property.

(g) TRANSFER OF ASSETS NO LONGER NEEDED.—(1) If a recipient of assistance under this chapter decides an asset acquired under this chapter at least in part with that assistance is no longer needed for the purpose for which it was acquired, the Secretary of Transportation may authorize the recipient to transfer the asset to a local governmental authority to be used for a public purpose with no further obligation to the Government. The Secretary may authorize a transfer for a public purpose other than mass transportation only if the Secretary decides—

(A) the asset will remain in public use for at least 5 years after the date the asset is transferred;

(B) there is no purpose eligible for assistance under this chapter for which the asset should be used;

(C) the overall benefit of allowing the transfer is greater than the interest of the Government in liquidation and return of the financial interest of the Government in the asset, after considering fair market value and other factors; and

(D) through an appropriate screening or survey process, that there is no interest in acquiring the asset for Government use if the asset is a facility or land.

(2) A decision under paragraph (1) of this section must be in writing and include the reason for the decision.

(3) This subsection is in addition to another law related to using and disposing of a facility or equipment under an assistance agreement.

(4) PROCEEDS FROM THE SALE OF TRANSIT ASSETS.—

(A) IN GENERAL.—When real property, equipment, or supplies acquired with assistance under this chapter are no longer needed for mass transportation purposes as determined under the applicable assistance agreement, the Secretary may authorize the sale, transfer, or lease of the assets under conditions determined by the Secretary and subject to the requirements of this subsection.

(B) USE.—The net income from asset sales, uses, or leases (including lease renewals) under this subsection shall be used by the recipient to reduce the gross project cost of other capital projects carried out under this chapter.

(C) RELATIONSHIP TO OTHER AUTHORITY.—The authority of the Secretary under this subsection is in addition to existing authorities controlling allocation or use of recipient income otherwise permissible in law or regulation in effect prior to the date of enactment of this paragraph.

(h) TRANSFER OF AMOUNTS AND NON-GOVERNMENT SHARE.—(1) Amounts made available for a mass transportation project under title 23 shall be transferred to and administered by the Secretary of Transportation under this chapter. Amounts made available for a highway project under this chapter shall be transferred to and administered by the Secretary under title 23.

(2) The provisions of title 23 related to the non-Government share apply to amounts under title 23 used for mass transportation projects. The provisions of this chapter related to the non-Government share apply to amounts under this chapter used for highway projects.

(i) AUTHORITY OF SECRETARY OF HOUSING AND URBAN DEVELOPMENT.—The Secretary of Housing and Urban Development shall—

(1) carry out section 5312(a) and (b)(1) of this title related to—

(A) urban transportation systems and planned development of urban areas; and

(B) the role of transportation planning in overall urban planning; and

(2) advise and assist the Secretary of Transportation in making findings under section 5323(a)(1)(A) of this title.

(j) RELATIONSHIP TO OTHER LAWS.—(1) Section 9107(a) of title 31 applies to the Secretary of Transportation under this chapter.

(2) Section 3709 of the Revised Statutes (41 U.S.C. 5) applies to a contract for more than \$1,000 for services or supplies related to property acquired under this chapter.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 836; Pub. L. 104-287, §5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 104-316, title I, §127(a), Oct. 19, 1996, 110 Stat. 3840; Pub. L. 105-178, title III, §§3023(c), 3025(a), (b)(1), (c), June 9, 1998, 112 Stat. 364, 365.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5334(a)	49 App.:1608(a) (1st sentence related to 12:1749a(c) (1)-(3) (1st sentence), (4)-(8), (10)).	July 9, 1964, Pub. L. 88-365, §12(a), 78 Stat. 306; Sept. 8, 1966, Pub. L. 89-562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90-19, §20(a), 81 Stat. 25.
5334(b)	49 App.:1608(i)(1), (2). 49 App.:1608(i)(3).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §12(i)(1), (2); added Apr. 2, 1987, Pub. L. 100-17, §318(a), 101 Stat. 233. July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §12(i)(3); added Dec. 18, 1991, Pub. L. 102-240, §3017, 105 Stat. 2108.
5334(c)	49 App.:1608(a) (1st sentence related to 12:1749a(a) (less proviso)).	
5334(d)	49 App.:1608(a) (1st sentence related to 12:1749a(b), last sentence).	
5334(e)	49 App.:1608(a) (1st sentence related to 12:1749a(a) (provisio)).	
5334(f)	49 App.:1608(a) (1st sentence related to 12:1749a(c)(3) (last sentence)).	
5334(g)	49 App.:1608(k).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §12(k); added Dec. 18, 1991, Pub. L. 102-240, §3018, 105 Stat. 2108.
5334(h)	49 App.:1607(k).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §8(k); added Nov. 6, 1978, Pub. L. 95-599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100-17, §310, 101 Stat. 227; re-stated Dec. 18, 1991, Pub. L. 102-240, §3012, 105 Stat. 2104; Oct. 6, 1992, Pub. L. 102-368, §502(a), 106 Stat. 1566.
5334(i)	49 App.:1608 (note) (related to authority and functions reserved to Secretary of Housing and Urban Development).	Reorg. Plan No. 2 of 1968, eff. June 30, 1968, §1(a)(1) (related to authority and functions reserved to Secretary of Housing and Urban Development), 82 Stat. 1369.
5334(j)(1)	49 App.:1608(a) (1st sentence related to 12:1749a(e)).	
5334(j)(2)	49 App.:1608(a) (1st sentence related to 12:1749a(d)).	

In subsections (c)-(f), and (j), the relevant substantive provisions of 12:1749a are substituted for “shall . . . have the functions, powers, and duties set forth in section 1749a of title 12, except subsections (c)(2) and (f) of such section” for clarity. The reference to subsection (c)(2) is omitted as obsolete because section 201(d)(1) of the Housing and Community Development Technical Amendments Act of 1984 (Public Law 98-479, 98 Stat. 2228) repealed 12:1749a(c)(2). The words “(in addition to any authority otherwise vested in him)” are omitted as surplus.

In subsection (a), the text of 49 App.:1608(a) (1st sentence related to 12:1749a(c)(8)) is omitted as obsolete. Before clause (1), the words “carrying out this chapter” are substituted for “the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter” to eliminate unnecessary words.

In clause (1), the words “(except terms the Secretary of Labor prescribes under section 5333(b) of this title)” are added for clarity because 49 App.:1608(a) only applies to the Secretary of Transportation and does not supersede the responsibility of the Secretary of Labor. In clause (3), the word “civil” is added for clarity. The words “contract, or other” are omitted as surplus. In clause (4), the words “bid for and . . . at any foreclosure or any other sale” are omitted as surplus. In clause (6), the words “at public or private sale”, “real or personal”, and “upon such terms as he may fix” are omitted as surplus. Clause (8) is substituted for 49 App.:1608(a) (1st sentence related to 12:1749a(c)(7)) to eliminate unnecessary words. In clause (9), the word “provisions” is omitted as surplus. The words “carry out this chapter” are substituted for “assure that the purposes of this subchapter will be achieved” to eliminate unnecessary words.

In subsection (b), the words “regulatory” and “regulatory proceeding” are substituted for “rulemaking” for consistency in the revised title and because “rule” and “regulation” are synonymous.

In subsection (b)(1), the words “Federal Transit Administration” are substituted for “Urban Mass Transportation Administration” because of section 3004(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 2088). The words “also” and “required by the first sentence of this paragraph” are omitted as surplus.

In subsection (c), before clause (1), the words “In the performance of, and with respect to, the functions, powers, and duties vested in him by this subchapter . . . notwithstanding the provisions of any other law” are omitted as surplus. In clause (1), the words “prepare . . . and” and “for wholly owned Government corporations” are omitted as surplus.

Subsection (d) is substituted for 49 App.:1608(a) (1st sentence related to 12:1749a(b) and last sentence) to eliminate unnecessary words.

In subsection (e), the words “such . . . as the making of loans” are omitted as surplus. The words “under this chapter” are added for clarity. The word “related” is substituted for “in connection with such financial transactions” to eliminate unnecessary words. The words “approved by the Secretary” are omitted as surplus. The word “binding” is substituted for “final and conclusive” to eliminate unnecessary words. The words “and employees” are added for consistency in the revised title and with other titles of the United States Code.

In subsection (f), before clause (1), the words “in any way” are substituted for “complete, administer, remodel and convert, dispose of, lease and otherwise” to eliminate unnecessary words. In clause (1), the words “civil or criminal” are omitted as surplus. In clause (2), the words “political subdivision of a State” are substituted for “local” for consistency.

In subsection (g)(1), before clause (A), the words “facilities and equipment and other”, “(including land)”, and “first” are omitted as surplus.

In subsection (g)(3), the words “and not in lieu of” are omitted as surplus.

Subsection (i) is substituted for section 1(a)(1) (related to authority and functions reserved to Secretary of Housing and Urban Development) of Reorganization Plan No. 2 of 1968 to eliminate unnecessary words. The reference to 49 App.:1602(c)(1) is translated as a reference to 49 App.:1602(e)(1) because section 2(1) of the Urban Mass Transportation Assistance Act of 1970 (Public Law 91-453, 84 Stat. 962) redesignated subsection (c) as subsection (e). The references to 49 App.:1603(a) (1st sentence), 1604, and 1607c(b) and former 49 App.:1607a are omitted as obsolete because of section 103(a) of the National Mass Transportation Act of 1974 (Public Law 93-503, 88 Stat. 1567) and sections 303(b), 305(a), and 307 of the Federal Public Transportation Act of 1978 (Public Law 95-599, 92 Stat. 2737, 2743, 2747). Reference to 49 App.:1607c(c) is omitted because it was enacted after the Reorganization Plan and was not intended to be within the scope of the Plan.

Subsection (j)(1) is substituted for 49 App.:1608(a) (1st sentence related to 12:1749a(e)) to eliminate unnecessary words.

REFERENCES IN TEXT

The date of enactment of this paragraph, referred to in subsec. (g)(4)(C), is the date of enactment of Pub. L. 105-178, which was approved June 9, 1998.

AMENDMENTS

1998—Pub. L. 105-178, §3025(b)(1), inserted “provisions” after “Administrative” in section catchline.

Subsec. (a)(10). Pub. L. 105-178, §3025(a), added par. (10).

Subsec. (b)(4). Pub. L. 105-178, §3023(c), substituted “5323(a)(2), 5323(c), 5323(e), 5324(c), 5325(a), 5325(b), 5326(c), and 5326(d)” for “5323(a)(2), (c) and (e), 5324(c), and 5325 of this title”.

Subsec. (g)(4). Pub. L. 105-178, §3025(c), added par. (4). 1996—Subsec. (b)(1). Pub. L. 104-287 substituted “Transportation and Infrastructure” for “Public Works and Transportation”.

Subsec. (c)(2). Pub. L. 104-316 substituted “for” for “the Comptroller General shall”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5302, 5312, 5338 of this title.

§ 5335. Reports and audits

(a) NATIONAL TRANSIT DATABASE.—(1) To help meet the needs of individual mass transportation systems, the United States Government, State and local governments, and the public for information on which to base mass transportation service planning, the Secretary of Transportation shall maintain a reporting system, using uniform categories to accumulate mass transportation financial and operating information and using a uniform system of accounts. The reporting and uniform systems shall contain appropriate information to help any level of government make a public sector investment decision. The Secretary may request and receive appropriate information from any source.

(2) The Secretary may make a grant under section 5307 of this title only if the applicant, and any person that will receive benefits directly from the grant, are subject to the reporting and uniform systems.

(b) BIENNIAL TRANSFERABILITY REPORT.—In January 1993, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on carrying out section 5307(b)(5)¹ of this title. The report shall—

(1) identify, by State, the amount of mass transportation money transferred for non-mass transportation purposes under section 5307(b)(5)¹ of this title during the prior fiscal year;

(2) include an assessment of the impact of the transfers on the mass transportation needs of individuals and communities in the State, including the impact on—

(A) the State’s ability to meet the mass transportation needs of elderly individuals and individuals with disabilities;

(B) efforts to meet the objectives of the Clean Air Act (42 U.S.C. 7401 et seq.) and the

Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

(C) the State’s efforts to extend public mass transportation services to unserved rural areas; and

(3) examine the relative levels of Government mass transportation assistance and services in urban and rural areas in the fiscal year that ended September 30, 1991, and the extent to which the assistance and service has changed in later fiscal years because of mass transportation resources made available under this chapter and the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 1914).

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 838; Pub. L. 104-287, §5(9), (18), Oct. 11, 1996, 110 Stat. 3389, 3390; Pub. L. 104-316, title I, §127(b), Oct. 19, 1996, 110 Stat. 3840; Pub. L. 105-178, title III, §3026, June 9, 1998, 112 Stat. 365.)

HISTORICAL AND REVISION NOTES

PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5335(a)	49 App.:1608(j).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §12(j); added Apr. 2, 1987, Pub. L. 100-17, §319, 101 Stat. 234.
	49 App.:1611(a).	July 9, 1964, Pub. L. 88-365, §15(a), 78 Stat. 308; Sept. 8, 1966, Pub. L. 89-562, §§2(a)(1), 4, 80 Stat. 715, 717; Oct. 15, 1970, Pub. L. 91-453, §7, 84 Stat. 967; re-stated Nov. 26, 1974, Pub. L. 93-503, §111, 88 Stat. 1573.
	49 App.:1611(b).	July 9, 1964, Pub. L. 88-365, §15(b), 78 Stat. 308; Sept. 8, 1966, Pub. L. 89-562, §§2(a)(1), 4, 80 Stat. 715, 717; Oct. 15, 1970, Pub. L. 91-453, §7, 84 Stat. 967; re-stated Nov. 26, 1974, Pub. L. 93-503, §111, 88 Stat. 1573; Jan. 6, 1983, Pub. L. 97-424, §304(c), 96 Stat. 2150.
5335(b)	49 App.:1603(b)(1).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §4(b)(1); added Nov. 6, 1978, Pub. L. 95-599, §303(e), 92 Stat. 2738; re-stated Apr. 2, 1987, Pub. L. 100-17, §307, 101 Stat. 226; Dec. 18, 1991, Pub. L. 102-240, §3006(h) (1), 105 Stat. 2090.
5335(c)	49 App.:1623(a).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §27; added Dec. 18, 1991, Pub. L. 102-240, §3028, 105 Stat. 2115.
5335(d)	49 App.:1623(b).	

In subsection (a), the text of 49 App.:1608(j) is omitted as superseded by 31:ch. 75.

In subsection (a)(1), the words “by January 10, 1977” are omitted as executed. The word “maintain” is substituted for “develop, test, and prescribe” for clarity. The text of 49 App.:1611(a) (3d and 4th sentences) is omitted as executed. The words “or data as he deems” and “public or private” are omitted as surplus.

In subsection (a)(2), the words “After July 1, 1978” are omitted as executed. The reference to 49 App.:1604 is omitted as obsolete. The words “for such grant”, “or organization”, “each . . . both”, and “prescribed under subsection (a) of this section” are omitted as surplus.

In subsection (b)(1), the words “commitments, and reservations” are omitted as surplus.

In subsection (b)(2) and (3), the words “uncommitted, and unreserved” are omitted as surplus.

In subsection (b)(3) and (5), the words “last day” are substituted for “close” for consistency.

In subsection (b)(4), the words “a listing of” are omitted as surplus.

¹ See References in Text note below.

In subsection (b)(5), the words “a status report on all” are omitted as surplus.

In subsection (b)(6), the words “a status report on”, “a letter of credit or other”, and “already” are omitted as surplus.

In subsection (d), before clause (1), the words “the transferability provisions of” are omitted as surplus.

PUB. L. 104-287, §5(18)

This amends 49:5335(d)(2)(B) to amend an erroneous cross-reference.

REFERENCES IN TEXT

Section 5307(b)(5) of this title, referred to in subsec. (b), was repealed by Pub. L. 105-178, title III, §3007(c)(5), June 9, 1998, 112 Stat. 347.

The Clean Air Act, referred to in subsec. (b)(2)(B), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(2)(B), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (b)(3), is Pub. L. 102-240, Dec. 18, 1991, 105 Stat. 1914, as amended. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 101 of this title and Tables.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-178, §3026(a)(1), substituted “National Transit Database” for “Reporting System and Uniform System of Accounts and Records” in heading.

Subsec. (a)(1). Pub. L. 105-178, §3026(a)(2), substituted “using uniform categories” for “by uniform categories,” and “and using a uniform system of accounts” for “and a uniform system of accounts and records”.

Subsecs. (b) to (d). Pub. L. 105-178, §3026(b), redesignated subsec. (d) as (b) and struck out former subsecs. (b) and (c) which related to quarterly reports and biennial needs report, respectively.

1996—Subsec. (b). Pub. L. 104-287, §5(9), substituted “Transportation and Infrastructure” for “Public Works and Transportation” in introductory provisions.

Subsec. (c). Pub. L. 104-316 struck out “and in January of every 2d year after 1993” after “In January 1993” in introductory provisions.

Pub. L. 104-287, §5(9), substituted “Transportation and Infrastructure” for “Public Works and Transportation” in introductory provisions.

Subsec. (d). Pub. L. 104-316 struck out “and in January of every 2d year after 1993” after “In January 1993” in introductory provisions.

Pub. L. 104-287, §5(9), substituted “Transportation and Infrastructure” for “Public Works and Transportation” in introductory provisions.

Subsec. (d)(2)(B). Pub. L. 104-287, §5(18), substituted “Americans with Disabilities Act” for “Americans With Disabilities Act”.

§ 5336. Apportionment of appropriations for formula grants

(a) **BASED ON URBANIZED AREA POPULATION.**—Of the amount made available or appropriated under section 5338(a) of this title—

(1) 9.32 percent shall be apportioned each fiscal year only in urbanized areas with a population of less than 200,000 so that each of those areas is entitled to receive an amount equal to—

(A) 50 percent of the total amount apportioned multiplied by a ratio equal to the population of the area divided by the total population of all urbanized areas with populations of less than 200,000 as shown in the latest United States Government census; and

(B) 50 percent of the total amount apportioned multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary of Transportation, of the number of inhabitants in each square mile; and

(2) 90.68 percent shall be apportioned each fiscal year only in urbanized areas with populations of at least 200,000 as provided in subsections (b) and (c) of this section.

(b) **BASED ON FIXED GUIDEWAY REVENUE VEHICLE-MILES, ROUTE-MILES, AND PASSENGER-MILES.**—(1) In this subsection, “fixed guideway revenue vehicle-miles” and “fixed guideway route-miles” include ferry boat operations directly or under contract by the designated recipient.

(2) Of the amount apportioned under subsection (a)(2) of this section, 33.29 percent shall be apportioned as follows:

(A) 95.61 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(i) 60 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway revenue vehicle-miles attributable to the area, as established by the Secretary of Transportation, divided by the total number of all fixed guideway revenue vehicle-miles attributable to all areas; and

(ii) 40 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway route-miles attributable to the area, established by the Secretary, divided by the total number of all fixed guideway route-miles attributable to all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

(B) 4.39 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(i) the number of fixed guideway vehicle passenger-miles traveled multiplied by the number of fixed guideway vehicle passenger-miles traveled for each dollar of operating cost in an area; divided by

(ii) the total number of fixed guideway vehicle passenger-miles traveled multiplied by the total number of fixed guideway vehicle passenger-miles traveled for each dollar of operating cost in all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transpor-

tation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

(C) Under subparagraph (A) of this paragraph, fixed guideway revenue vehicle- or route-miles, and passengers served on those miles, in an urbanized area with a population of less than 200,000, where the miles and passengers served otherwise would be attributable to an urbanized area with a population of at least 1,000,000 in an adjacent State, are attributable to the governmental authority in the State in which the urbanized area with a population of less than 200,000 is located. The authority is deemed an urbanized area with a population of at least 200,000 if the authority makes a contract for the service.

(D) A recipient's apportionment under subparagraph (A)(i) of this paragraph may not be reduced if the recipient, after satisfying the Secretary of Transportation that energy or operating efficiencies would be achieved, reduces revenue vehicle-miles but provides the same frequency of revenue service to the same number of riders.

(c) **BASED ON BUS REVENUE VEHICLE-MILES AND PASSENGER-MILES.**—Of the amount apportioned under subsection (a)(2) of this section, 66.71 percent shall be apportioned as follows:

(1) 90.8 percent of the total amount apportioned under this subsection shall be apportioned as follows:

(A) 73.39 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 1,000,000 is entitled to receive an amount equal to—

(i) 50 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus revenue vehicle-miles operated in or directly serving the urbanized area divided by the total bus revenue vehicle-miles attributable to all areas;

(ii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown by the latest Government census; and

(iii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary of Transportation, of the number of inhabitants in each square mile.

(B) 26.61 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 200,000 but not more than 999,999 is entitled to receive an amount equal to—

(i) 50 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus revenue vehicle-miles operated in or directly serving the urbanized area divided by the total bus revenue vehicle-miles attributable to all areas;

(ii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied

by a ratio equal to the population of the area divided by the total population of all areas, as shown by the latest Government census; and

(iii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary of Transportation, of the number of inhabitants in each square mile.

(2) 9.2 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(A) the number of bus passenger-miles traveled multiplied by the number of bus passenger-miles traveled for each dollar of operating cost in an area; divided by

(B) the total number of bus passenger-miles traveled multiplied by the total number of bus passenger-miles traveled for each dollar of operating cost in all areas.

(d) [Reserved.]

(e) **DATE OF APPORTIONMENT.**—The Secretary of Transportation shall—

(1) apportion amounts appropriated under subsections (a) and (h)(2) of section 5338 of this title to carry out section 5307 of this title not later than the 10th day after the date the amounts are appropriated or October 1 of the fiscal year for which the amounts are appropriated, whichever is later; and

(2) publish apportionments of the amounts, including amounts attributable to each urbanized area with a population of more than 50,000 and amounts attributable to each State of a multistate urbanized area, on the apportionment date.

(f) **AMOUNTS NOT APPORTIONED TO DESIGNATED RECIPIENTS.**—The chief executive officer of a State may expend in an urbanized area with a population of less than 200,000 an amount apportioned under this section that is not apportioned to a designated recipient as defined in section 5307(a) of this title.

(g) **TRANSFERS OF APPORTIONMENTS.**—(1) The chief executive officer of a State may transfer any part of the State's apportionment under subsection (a)(1) of this section to supplement amounts apportioned to the State under section 5311(c) of this title or amounts apportioned to urbanized areas under this subsection. The chief executive officer may make a transfer only after consulting with responsible local officials and publicly owned operators of mass transportation in each area for which the amount originally was apportioned under this section.

(2) The chief executive officer of a State may transfer any part of the State's apportionment under section 5311(c) of this title to supplement amounts apportioned to the State under subsection (a)(1) of this section.

(3) The chief executive officer of a State may use throughout the State amounts of a State's apportionment remaining available for obligation at the beginning of the 90-day period before the period of the availability of the amounts expires.

(4) A designated recipient for an urbanized area with a population of at least 200,000 may

transfer a part of its apportionment under this section to the chief executive officer of a State. The chief executive officer shall distribute the transferred amounts to urbanized areas under this section.

(5) Capital and operating assistance limitations applicable to the original apportionment apply to amounts transferred under this subsection.

(h) CHANGES OF APPORTIONMENTS.—If sufficient amounts are available, the Secretary of Transportation shall change apportionments under this section between the Mass Transit Account of the Highway Trust Fund and the general fund to ensure that each recipient receives from the general fund at least as much operating assistance made available each fiscal year under this section as the recipient is eligible to receive.

(i) PERIOD OF AVAILABILITY TO RECIPIENTS.—An amount apportioned under this section may be obligated by the recipient for 3 years after the fiscal year in which the amount is apportioned. Not later than 30 days after the end of the 3-year period, an amount that is not obligated at the end of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

(j) APPLICATION OF OTHER SECTIONS.—Sections 5302, 5318, 5323(a)(1), (d), and (f), 5332, and 5333 of this title apply to this section and to a grant made under this section. Except as provided in this section, no other provision of this chapter applies to this section or to a grant made under this section.

(k) CERTAIN URBANIZED AREAS GRANDFATHERED.—An area designated an urbanized area under the 1980 census and not designated an urbanized area under the 1990 census for the fiscal year ending September 30, 1993, is eligible to receive—

(1) 50 percent of the amount the area would have received if the area had been an urbanized area as defined by section 5302(a)(13)¹ of this title; and

(2) an amount equal to 50 percent of the amount that the State in which the area is located would have received if the area had been an area other than an urbanized area.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 840; Pub. L. 104-287, §5(19), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 105-178, title III, §§3027(a), (b), 3029(b)(10), (11), June 9, 1998, 112 Stat. 366, 373.)

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103-272

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5336(b)(1)	49 App.:1607a(b)(2) (last sentence).	
5336(b)(2)(A)	49 App.:1607a(b)(1), (2) (1st sentence).	
5336(b)(2)(B)	49 App.:1607a(b)(3) (1st sentence).	
5336(b)(2)(C)	49 App.:1607a(b)(2) (2d sentence), (3) (last sentence).	
5336(b)(2)(D)	49 App.:1607a(b)(2) (3d sentence).	
5336(b)(2)(E)	49 App.:1607a(b)(4).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §9(b)(4); added Dec. 18, 1991, Pub. L. 102-240, §3013(b), 105 Stat. 2106.
5336(c)(1)	49 App.:1607a(c)(1), (2), (d) (last sentence).	
5336(c)(2)	49 App.:1607a(c)(3).	
5336(d)(1)	49 App.:1607a (k)(2)(A).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §9(k)(2)(A); added Jan. 6, 1983, Pub. L. 97-424, §303, 96 Stat. 2145; Apr. 2, 1987, Pub. L. 100-17, §§312(c)(1), (2), 327(b), 101 Stat. 228, 238.
5336(d)(2)	49 App.:1607a (k)(2)(B).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §9(k)(2)(B); added Apr. 2, 1987, Pub. L. 100-17, §312(c)(3), 101 Stat. 228; Dec. 18, 1991, Pub. L. 102-240, §3013(i), 105 Stat. 2107.
	49 App.:1607a (k)(2)(C).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §9(k)(2)(C); added Apr. 2, 1987, Pub. L. 100-17, §312(c)(3), 101 Stat. 228.
5336(e)	49 App.:1607a(q).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §9(q); added Apr. 2, 1987, Pub. L. 100-17, §312(e), 101 Stat. 229.
5336(f)	49 App.:1607a(m)(2).	
5336(g)	49 App.:1607a(n).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §9(n); added Jan. 6, 1983, Pub. L. 97-424, §303, 96 Stat. 2147; Apr. 2, 1987, Pub. L. 100-17, §§312(d), 327(b), 101 Stat. 229, 238.
5336(h)	49 App.:1607a(t).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §9(t); added Dec. 18, 1991, Pub. L. 102-240, §3013(k), 105 Stat. 2106.
5336(i)	49 App.:1607a(o).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §9(o); added Jan. 6, 1983, Pub. L. 97-424, §303, 96 Stat. 2147; Apr. 2, 1987, Pub. L. 100-17, §§311, 327(b), 101 Stat. 228, 238.
5336(j)	49 App.:1607a(e)(1).	
5336(k)	49 App.:1607a(s).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §9(s); added Dec. 18, 1991, Pub. L. 102-240, §3013(j), 105 Stat. 2108.

In this section, the word “apportioned” is substituted for “available”, “shall be available for expenditure”, “made available”, and “made available for expenditure” for clarity and consistency in this chapter.

In subsection (a)(1), before subclause (A), the words “the sum of” are omitted as surplus.

In subsection (b)(2)(D), the word “provided” is omitted as surplus. The words “is deemed” are substituted for “as if . . . were” for consistency in the revised title and with other titles of the United States Code. The words “directly or indirectly” are omitted as surplus.

In subsection (c)(1)(B), before clause (i), the words “of at least 200,000” are added for clarity.

In subsection (d)(1)(D), the words “Notwithstanding the preceding sentence” and “each fiscal year” are omitted as surplus.

In subsection (d)(2), the words “Beginning on October 1, 1991” are omitted as executed. The words “paragraph (1) of this subsection” are substituted for “under this section that may be used for operating assistance by urbanized areas” to eliminate unnecessary words. The words “(if any)” are omitted as surplus. The words

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<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5336(a)(1)	49 App.:1607a(a)(1).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §9(a); added Jan. 6, 1983, Pub. L. 97-424, §303, 96 Stat. 2141; Apr. 2, 1987, Pub. L. 100-17, §327(b), 101 Stat. 238; Dec. 18, 1991, Pub. L. 102-240, §3013(a), 105 Stat. 2106.
	49 App.:1607a(d).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §9(b)(1)-(3), (c)-(e)(1), (m)(2); added Jan. 6, 1983, Pub. L. 97-424, §303, 96 Stat. 2141, 2147; Apr. 2, 1987, Pub. L. 100-17, §327(b), 101 Stat. 238.
5336(a)(2)	49 App.:1607a(a)(2).	

¹ See References in Text note below.

“Secretary of Labor” are substituted for “Department of Labor” because of 29:551. The text of 49 App.:1607a(k)(2)(B) (2d sentence) is omitted as executed. The text of 49 App.:1607a(k)(2)(B) (last sentence) is omitted as surplus.

In subsection (e)(1), the words “under section 5338(f) of this title” are added for clarity. The words “in accordance with the provisions of this section” are omitted as surplus.

In subsection (e)(2), the words “established by the preceding sentence” are omitted as surplus.

In subsection (g)(1) and (2), the word “part” is substituted for “amount” for clarity.

In subsection (g)(4), the words “including areas of 200,000 or more population” are omitted as surplus.

In subsection (h), the words “in each fiscal year beginning after September 30, 1991” are omitted as obsolete.

In subsection (i), the words “the close of” are omitted as surplus.

In subsection (j), the references to sections 5302(a)(8) and 5318 are added for clarity. The source provisions of sections 5302(a)(8) and 5318, enacted by section 317 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17, 101 Stat. 233), were not intended to come under the exclusion stated in 49 App.:1607a(e)(1). The words “condition, limitation, or other” and “for programs of projects” are omitted as surplus.

In subsection (k), the text of 49 App.:1607a(s)(1) is omitted as obsolete.

PUB. L. 104-287

This amends 49:5336(b)(2) to clarify the restatement of 49 App.:1607a(b) by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 840).

REFERENCES IN TEXT

Section 5302(a) of this title, referred to in subsec. (k)(1), was subsequently amended, and section 5203(a)(13) no longer defines the term “urbanized area”. However, such term is defined elsewhere in that section.

AMENDMENTS

1998—Pub. L. 105-178, §3027(a), substituted “formula grants” for “block grants” in section catchline.

Subsec. (a). Pub. L. 105-178, §3029(b)(10), substituted “5338(a) of this title” for “5338(f) of this title” in introductory provisions.

Subsec. (d). Pub. L. 105-178, §3027(b), amended subsec. (d) generally, substituting “[Reserved.]” for former provisions relating to operating assistance.

Subsec. (e)(1). Pub. L. 105-178, §3029(b)(11), substituted “subsections (a) and (h)(2) of section 5338” for “section 5338(f)”.

1996—Subsec. (b)(2)(A), (B). Pub. L. 104-287, §5(19)(A), inserted at end “An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.”

Subsec. (b)(2)(C) to (E). Pub. L. 104-287, §5(19)(B), (C), redesignated subpars. (D) and (E) as (C) and (D), respectively, and struck out former subpar. (C) which read as follows: “An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subsection.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-287 effective July 5, 1994, see section 8(1) of Pub. L. 104-287, set out as a note under section 5303 of this title.

URBANIZED AREA FORMULA STUDY

Pub. L. 105-178, title III, §3033, June 9, 1998, 112 Stat. 386, provided that:

“(a) STUDY.—The Secretary [of Transportation] shall conduct a study to determine whether the formula for

apportioning funds to urbanized areas under section 5336 of title 49, United States Code, accurately reflects the transit needs of the urbanized areas and, if not, whether any changes should be made either to the formula or through some other mechanism to reflect the fact that some urbanized areas with a population between 50,000 and 200,000 have transit systems that carry more passengers per mile or hour than the average of those transit systems in urbanized areas with a population over 200,000.

“(b) REPORT.—Not later than December 31, 1999, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the results of the study conducted under this section, together with any proposed changes to the method for apportioning funds to urbanized areas with a population over 50,000.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5307, 5308, 5310, 5323, 5330, 5337 of this title.

§ 5337. Apportionment of appropriations for fixed guideway modernization

(a) DISTRIBUTION.—The Secretary shall apportion amounts made available for fixed guideway modernization under section 5309 for each of fiscal years 1998 through 2003 as follows:

(1) The first \$497,700,000 shall be apportioned in the following urbanized areas as follows:

- (A) Baltimore, \$8,372,000.
- (B) Boston, \$38,948,000.
- (C) Chicago/Northwestern Indiana, \$78,169,000.
- (D) Cleveland, \$9,509,500.
- (E) New Orleans, \$1,730,588.
- (F) New York, \$176,034,461.
- (G) Northeastern New Jersey, \$50,604,653.
- (H) Philadelphia/Southern New Jersey, \$58,924,764.
- (I) Pittsburgh, \$13,662,463.
- (J) San Francisco, \$33,989,571.
- (K) Southwestern Connecticut, \$27,755,000.

(2) The next \$70,000,000 shall be apportioned as follows:

(A) 50 percent in the urbanized areas listed in paragraph (1), as provided in section 5336(b)(2)(A).

(B) 50 percent in other urbanized areas eligible for assistance under section 5336(b)(2)(A) to which amounts were apportioned under this section for fiscal year 1997, as provided in section 5336(b)(2)(A) and subsection (e)(1) of this section.

(3) The next \$5,700,000 shall be apportioned in the following urbanized areas as follows:

- (A) Pittsburgh, 61.76 percent.
- (B) Cleveland, 10.73 percent.
- (C) New Orleans, 5.79 percent.

(D) 21.72 percent in urbanized areas to which paragraph (2)(B) applies, as provided in section 5336(b)(2)(A) and subsection (e)(1) of this section.

(4) The next \$186,600,000 shall be apportioned in each urbanized area to which paragraph (1) applies and in each urbanized area to which paragraph (2)(B) applies, as provided in section 5336(b)(2)(A) and subsection (e)(1) of this section.

(5) The next \$70,000,000 shall be apportioned as follows:

(A) 65 percent in the urbanized areas listed in paragraph (1), as provided in section 5336(b)(2)(A) and subsection (e)(2) of this section.

(B) 35 percent to other urbanized areas eligible for assistance under section 5336(b)(2)(A) if the areas contain fixed guideway systems placed in revenue service at least 7 years before the fiscal year in which amounts are made available and in any urbanized area if, before the first day of the fiscal year, the area satisfies the Secretary that the area has modernization needs that cannot adequately be met with amounts received under section 5336(b)(2)(A), as provided in section 5336(b)(2)(A) and subsection (e)(2) of this section.

(6) The next \$50,000,000 shall be apportioned as follows:

(A) 60 percent in the urbanized areas listed in paragraph (1), as provided in section 5336(b)(2)(A) and subsection (e)(2) of this section.

(B) 40 percent to urbanized areas to which paragraph (5)(B) applies, as provided in section 5336(b)(2)(A) and subsection (e)(2) of this section.

(7) Remaining amounts shall be apportioned as follows:

(A) 50 percent in the urbanized areas listed in paragraph (1), as provided in section 5336(b)(2)(A) and subsection (e)(2) of this section.

(B) 50 percent to urbanized areas to which paragraph (5)(B) applies, as provided in section 5336(b)(2)(A) and subsection (e)(2) of this section.

(b) TOTAL AMOUNTS NOT AVAILABLE.—In a fiscal year in which the total amounts authorized under subsection (a)(1) and (2) of this section are not available, the Secretary shall reduce on a proportionate basis the apportionments of all urbanized areas eligible under subsection (a)(1) or (2) to adjust for the amount not available.

(c) NEW JERSEY TRANSIT CORPORATION.—Rail modernization amounts allocated to the New Jersey Transit Corporation under this section may be spent in any urbanized area in which the New Jersey Transit Corporation operates rail transportation, regardless of which urbanized area generates the financing.

(d) AVAILABILITY OF AMOUNTS.—An amount apportioned under this section—

(1) remains available for 3 years after the fiscal year in which the amount is apportioned; and

(2) that is unobligated at the end of the 3-year period shall be reapportioned for the next fiscal year among urbanized areas eligible under subsection (a)(1)–(3) of this section using the apportionment formula of this section.

(e) SPECIAL RULE FOR OCTOBER 1, 1997, THROUGH MARCH 31, 1998.—The Secretary shall determine the amount that each urbanized area is to be apportioned for fixed guideway modernization under this section on a pro rata basis to reflect the partial fiscal year 1998 funding made available by section 5338(b)(1)(F).¹

¹ See References in Text note below.

(e)² ROUTE SEGMENTS TO BE INCLUDED IN AP-PORTIONMENT FORMULAS.—

(1) 1997 STANDARD.—Amounts apportioned under paragraphs (2)(B), (3), and (4) of subsection (a) shall have attributable to each urbanized area only the number of fixed guideway revenue miles of service and number of fixed guideway route miles for segments of fixed guideway systems used to determine apportionments for fiscal year 1997.

(2) OTHER STANDARDS.—Amounts apportioned under paragraphs (5) through (7) of subsection (a) shall have attributable to each urbanized area only the number of fixed guideway revenue miles of service and number of fixed guideway route-miles for segments of fixed guideway systems placed in revenue service at least 7 years before the fiscal year in which amounts are made available.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 844; Pub. L. 103-429, §6(14), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 102-240, title III, §3049(b), as added Pub. L. 105-130, §8, Dec. 1, 1997, 111 Stat. 2559; Pub. L. 105-178, title III, §§3028, 3029(b)(12), June 9, 1998, 112 Stat. 366, 373; Pub. L. 105-206, title IX, §9009(p), July 22, 1998, 112 Stat. 858.)

HISTORICAL AND REVISION NOTES
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Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5337(a)	49 App.:1602(h)(1)-(4).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §3(h)(1)-(6); added Aug. 22, 1974, Pub. L. 93-503, §110, 88 Stat. 1573; Nov. 6, 1978, Pub. L. 95-599, §302(d), 92 Stat. 2737; restated Dec. 18, 1991, Pub. L. 102-240, §3008, 105 Stat. 2091.
5337(b)	49 App.:1602(h)(5).	
5337(c)	49 App.:1602(h)(6).	
5337(d)	49 App.:1602(h)(7).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §3(h)(7); added Oct. 6, 1992, Pub. L. 102-388, §502(c), 106 Stat. 1566.

In subsection (a), the words “for expenditure” are omitted for consistency in this chapter. Before clause (1), the reference to fiscal year 1992 is omitted as obsolete.

In subsection (c), the words “Notwithstanding any other provision of law” are omitted as surplus. The word “paragraph” in the source provision is translated as it were “subsection” to reflect the apparent intent of Congress.

In subsection (d)(1), the words “for obligation”, “a period of”, and “the close of” are omitted as surplus.

PUB. L. 103-429

This amends 49:5337(a)(4) to correct an erroneous cross-reference.

REFERENCES IN TEXT

Section 5338(b)(1), referred to in subsec. (e), was amended generally by Pub. L. 105-178, title III, §3029(a), June 9, 1998, 112 Stat. 368, and, as so amended, no longer contains a subpar. (F).

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-178, §3028(c), as added by Pub. L. 105-206, in par. (2)(B), substituted “(e)(1)” for “(e)”, in par. (3)(D), substituted “(2)(B)” for “(2)(B)(ii)” and “(e)(1)” for “(e)”, in par. (4), substituted “(e)(1)” for “(e)”, and in pars. (5) to (7), substituted “(e)(2)” for “(e)” wherever appearing.

² So in original. Probably should be “(f)”.

Pub. L. 105-178, §3028(a), amended heading and text of subsec. (a) generally, substituting provisions relating to distribution for fiscal years 1998 through 2003 for provisions relating to percentage distribution for fiscal years ending Sept. 30, 1993-1997 and for period of Oct. 1, 1997 through Mar. 31, 1998.

Subsec. (e). Pub. L. 105-178, §3028(b), added subsec. (e) relating to route segments to be included in apportionment formulas.

Subsec. (e)(1). Pub. L. 105-178, §3029(b)(12), which directed substitution of "subsections (b) and (h)(4) of section 5338" for "section 5338(f)", could not be executed because "section 5338(f)" does not appear in text.

1997—Subsec. (a). Pub. L. 102-240, §3049(b)(1), as added by Pub. L. 105-130, inserted "and for the period of October 1, 1997, through March 31, 1998," after "1997," in introductory provisions.

Subsec. (e). Pub. L. 102-240, §3049(b)(2), as added by Pub. L. 105-130, added subsec. (e).

1994—Subsec. (a)(4). Pub. L. 103-429 substituted "section 5336(b)(2)(A) of this title" for "section 5336(B)(2)(A)".

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5333 of this title.

§ 5338. Authorizations

(a) FORMULA GRANTS.—

(1) FISCAL YEAR 1998.—

(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5310, and 5311, \$2,260,000,000 for fiscal year 1998.

(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out sections 5307, 5310, and 5311, \$240,000,000 for fiscal year 1998.

(C) ALLOCATION OF FUNDS.—Of the aggregate of amounts made available by and appropriated under this paragraph for a fiscal year—

(i) \$4,849,950 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

(ii) \$62,219,389 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

(iii) \$134,077,934 shall be available to provide financial assistance for other than urbanized areas under section 5311; and

(iv) \$2,298,852,727 shall be available to provide financial assistance for urbanized areas under section 5307.

(2) FISCAL YEARS 1999 THROUGH 2003.—

(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of

the Highway Trust Fund to carry out sections 5307, 5308, 5310, and 5311—

- (i) \$2,280,000,000 for fiscal year 1999;
- (ii) \$2,478,400,000 for fiscal year 2000;
- (iii) \$2,676,000,000 for fiscal year 2001;
- (iv) \$2,873,600,000 for fiscal year 2002; and
- (v) \$3,071,200,000 for fiscal year 2003.

(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out sections 5307, 5308, 5310, and 5311—

- (i) \$570,000,000 for fiscal year 1999;
- (ii) \$619,600,000 for fiscal year 2000;
- (iii) \$669,000,000 for fiscal year 2001;
- (iv) \$718,400,000 for fiscal year 2002; and
- (v) \$767,800,000 for fiscal year 2003.

(C) ALLOCATION OF FUNDS.—Of the aggregate of amounts made available by and appropriated under this paragraph for a fiscal year—

(i) \$4,849,950 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

(ii) \$50,000,000 shall be available to carry out section 5308; and

(iii) of the remaining amount—

(I) 2.4 percent shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

(II) 6.37 percent shall be available to provide financial assistance for other than urbanized areas under section 5311; and

(III) 91.23 percent shall be available to provide financial assistance for urbanized areas under section 5307.

(b) CAPITAL PROGRAM GRANTS AND LOANS.—

(1) FISCAL YEAR 1998.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309, \$2,000,000,000 for fiscal year 1998.

(2) FISCAL YEARS 1999 THROUGH 2003.—

(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309—

- (i) \$1,805,600,000 for fiscal year 1999;
- (ii) \$1,960,800,000 for fiscal year 2000;
- (iii) \$2,116,800,000 for fiscal year 2001;
- (iv) \$2,272,800,000 for fiscal year 2002; and
- (v) \$2,428,800,000 for fiscal year 2003.

(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out section 5309—

- (i) \$451,400,000 for fiscal year 1999;
- (ii) \$490,200,000 for fiscal year 2000;
- (iii) \$529,200,000 for fiscal year 2001;
- (iv) \$568,200,000 for fiscal year 2002; and
- (v) \$607,200,000 for fiscal year 2003.

(c) PLANNING.—

(1) FISCAL YEAR 1998.—There are authorized to be appropriated to carry out sections 5303, 5304, 5305, and 5313(b), \$47,750,000 for fiscal year 1998.

(2) FISCAL YEARS 1999 THROUGH 2003.—

(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of

the Highway Trust Fund to carry out sections 5303, 5304, 5305, and 5313(b)—

- (i) \$42,200,000 for fiscal year 1999;
- (ii) \$48,400,000 for fiscal year 2000;
- (iii) \$50,200,000 for fiscal year 2001;
- (iv) \$53,800,000 for fiscal year 2002; and
- (v) \$58,600,000 for fiscal year 2003.

(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out sections 5303, 5304, 5305, and 5313(b)—

- (i) \$10,800,000 for fiscal year 1999;
- (ii) \$11,600,000 for fiscal year 2000;
- (iii) \$12,800,000 for fiscal year 2001;
- (iv) \$13,200,000 for fiscal year 2002; and
- (v) \$14,400,000 for fiscal year 2003.

(C) ALLOCATION OF FUNDS.—Of the funds made available by or appropriated under this paragraph for a fiscal year—

- (i) 82.72 percent shall be available for metropolitan planning under sections 5303, 5304, and 5305; and
- (ii) 17.28 percent shall be available for State planning under section 5313(b).

(d) RESEARCH.—

(1) FISCAL YEAR 1998.—There are authorized to be appropriated to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322, \$44,250,000 for fiscal year 1998.

(2) FISCAL YEARS 1999 THROUGH 2003.—

(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322—

- (i) \$36,000,000 for fiscal year 1999;
- (ii) \$37,600,000 for fiscal year 2000;
- (iii) \$37,600,000 for fiscal year 2001;
- (iv) \$39,200,000 for fiscal year 2002; and
- (v) \$39,200,000 for fiscal year 2003.

(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322—

- (i) \$9,000,000 for fiscal year 1999;
- (ii) \$9,400,000 for fiscal year 2000;
- (iii) \$9,400,000 for fiscal year 2001;
- (iv) \$9,800,000 for fiscal year 2002; and
- (v) \$9,800,000 for fiscal year 2003.

(C) ALLOCATION OF FUNDS.—Of the funds made available by or appropriated under this paragraph for a fiscal year—

- (i) not less than \$5,250,000 shall be available for providing rural transportation assistance under section 5311(b)(2);
- (ii) not less than \$8,250,000 shall be available for carrying out transit cooperative research programs under section 5313(a);
- (iii) not less than \$4,000,000 shall be available to carry out programs under the National Transit Institute under section 5315, including not more than \$1,000,000 shall be available to carry out section 5315(a)(16); and

(iv) the remainder shall be available for carrying out national planning and research programs under sections 5311(b)(2), 5312, 5313(a), 5314, and 5322.

(e) UNIVERSITY TRANSPORTATION RESEARCH.—

(1) FISCAL YEAR 1998.—Subject to paragraph 2)(C), there are authorized to be appropriated to carry out section 5505¹ \$6,000,000 for fiscal year 1998.

(2) FISCAL YEARS 1999 THROUGH 2003.—

(A) FROM THE TRUST FUND.—Subject to subparagraph (C), there shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5505, \$4,800,000 for each of fiscal years 1999 through 2003.

(B) FROM THE GENERAL FUND.—Subject to subparagraph (C), in addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out section 5505, \$1,200,000 for each of fiscal years 1999 through 2003.

(C) FUNDING OF CENTERS.—

(i) Of the amounts made available under subparagraph (A) and paragraph (1) for each fiscal year—

(I) \$2,000,000 shall be available for the center identified in section 5505(j)(4)(A); and

(II) \$2,000,000 shall be available for the center identified in section 5505(j)(4)(F).

(ii) For each of fiscal years 1998 through 2001, of the amounts made available under this paragraph and paragraph (1)—

(I) \$400,000 shall be available from amounts made available under subparagraph (A) of this paragraph and under paragraph (1) for each of the centers identified in subparagraphs (E) and (F) of section 5505(j)(3); and

(II) \$350,000 shall be available from amounts made available under subparagraph (B) of this paragraph and under paragraph (1) for each of the centers identified in subparagraphs (E) and (F) of section 5505(j)(3).

(iii) Any amounts made available under this paragraph or paragraph (1) for any fiscal year that remain after distribution under clauses (i) and (ii), shall be available for the purposes identified in section 3015(d) of the Federal Transit Act of 1998.

(3) SPECIAL RULE.—Nothing in this subsection shall be construed to limit the transportation research conducted by the centers funded by this section.

(f) ADMINISTRATION.—

(1) FISCAL YEAR 1998.—There are authorized to be appropriated to carry out section 5334, \$45,738,000 for fiscal year 1998.

(2) FISCAL YEARS 1999 THROUGH 2003.—

(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334—

- (i) \$43,200,000 for fiscal year 1999;
- (ii) \$48,000,000 for fiscal year 2000;
- (iii) \$51,200,000 for fiscal year 2001;
- (iv) \$53,600,000 for fiscal year 2002; and
- (v) \$58,400,000 for fiscal year 2003.

(B) FROM THE GENERAL FUND.—In addition to amounts made available under subpara-

¹ So in original. Probably should be followed by a comma.

graph (A), there are authorized to be appropriated to carry out section 5334—

- (i) \$10,800,000 for fiscal year 1999;
- (ii) \$12,000,000 for fiscal year 2000;
- (iii) \$12,800,000 for fiscal year 2001;
- (iv) \$13,400,000 for fiscal year 2002; and
- (v) \$14,600,000 for fiscal year 2003.

(g) GRANTS AS CONTRACTUAL OBLIGATIONS.—

(1) GRANTS FINANCED FROM THE HIGHWAY TRUST FUND.—A grant or contract approved by the Secretary, that is financed with amounts made available under subsection (a)(1)(A), (a)(2)(A), (b)(1), (b)(2)(A), (c)(2)(A), (d)(2)(A), (e)(2)(A), or (f)(2)(A) is a contractual obligation of the United States Government to pay the Government's share of the cost of the project.

(2) GRANTS FINANCED FROM GENERAL FUNDS.—A grant or contract, approved by the Secretary, that is financed with amounts made available under subsection (a)(1)(B), (a)(2)(B), (b)(2)(B), (c)(1), (c)(2)(B), (d)(1), (d)(2)(B), (e)(1), (e)(2)(B), (f)(1), (f)(2)(B), or (h) is a contractual obligation of the Government to pay the Government's share of the cost of the project only to the extent that amounts are provided in advance in an appropriations Act.

(h) ADDITIONAL AMOUNTS.—In addition to amounts made available by or appropriated under subsections (a) through (f) under the Transportation Discretionary Spending Guarantee for the Mass Transit Category, there are authorized to be appropriated—

(1) to carry out sections 5303, 5304, 5305, and 5313(b)—

- (A) for fiscal year 1999, \$32,000,000;
- (B) for fiscal year 2000, \$33,000,000;
- (C) for fiscal year 2001, \$34,000,000;
- (D) for fiscal year 2002, \$35,000,000; and
- (E) for fiscal year 2003, \$36,000,000;

(2) to carry out section 5307, \$150,000,000 for each of fiscal years 1999 through 2003;

(3) to carry out section 5308, \$100,000,000 for each of fiscal years 1999 through 2003;

(4) to carry out section 5309(m)(1)(A), \$100,000,000 for each of fiscal years 1999 through 2003;

(5) to carry out section 5309(m)(1)(B)—

- (A) for fiscal year 1999¹ \$400,000,000;
- (B) for fiscal year 2000¹ \$410,000,000;
- (C) for fiscal year 2001¹ \$420,000,000;
- (D) for fiscal year 2002¹ \$430,000,000; and
- (E) for fiscal year 2003¹ \$430,000,000;

(6) to carry out section 5309(m)(1)(C), \$100,000,000 for each of fiscal years 1999 through 2003;

(7) to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322—

- (A) for fiscal year 1999, \$31,000,000;
- (B) for fiscal year 2000, \$31,000,000;
- (C) for fiscal year 2001, \$33,000,000;
- (D) for fiscal year 2002, \$33,000,000; and
- (E) for fiscal year 2003, \$34,000,000; and

(8) to carry out section 5334—

- (A) for fiscal year 1999, \$13,000,000;
- (B) for fiscal year 2000, \$14,000,000;
- (C) for fiscal year 2001, \$16,000,000;
- (D) for fiscal year 2002, \$17,000,000; and
- (E) for fiscal year 2003, \$18,000,000.

(i) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (a) through (e), and paragraphs (1) through (7) of subsection (h), shall remain available until expended.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 845; Pub. L. 104-287, §5(20), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 102-240, §3049(c), as added Pub. L. 105-130, §8, Dec. 1, 1997, 111 Stat. 2559; Pub. L. 105-178, title III, §3029(a), (c), June 9, 1998, 112 Stat. 368; Pub. L. 105-206, title IX, §9009(q), July 22, 1998, 112 Stat. 858.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5338(a)	49 App.:1617(a) (less availability).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §21; added Jan. 6, 1983, Pub. L. 97-424, §302(a), 96 Stat. 2140; Apr. 2, 1987, Pub. L. 100-17, §328, 101 Stat. 238; restated Dec. 18, 1991, Pub. L. 102-240, §3025, 105 Stat. 2112; Oct. 6, 1992, Pub. L. 102-388, §502(m)-(q), 106 Stat. 1567.
5338(b)	49 App.:1617(b) (less availability).	
5338(c)	49 App.:1625(d) (1st sentence).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §29(d); added Dec. 18, 1991, Pub. L. 102-240, §6022, 105 Stat. 2185.
5338(d)	49 App.:1607(c)(c)(6).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §11(c)(6); added Dec. 18, 1991, Pub. L. 102-240, §6024, 105 Stat. 2189; Sept. 23, 1992, Pub. L. 102-368, §801, 106 Stat. 1131.
5338(e)(1)	49 App.:1607(c)(b) (8)(B)(iii), (13) (1st sentence).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §11(b) (8)(B)(iii), (10)(C), (13); added Dec. 18, 1991, Pub. L. 102-240, §6023, 105 Stat. 2186, 2187, 2188.
5338(e)(2)	49 App.:1607(c)(b) (1)(C).	
5338(f)	49 App.:1617(g).	
5338(g)-(i) ..	49 App.:1617(c) (less availability), (d) (less availability), (e).	
5338(j)(1)	49 App.:1612(b) (last sentence).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §16(b) (last sentence); added Oct. 15, 1970, Pub. L. 91-453, §8, 84 Stat. 968; Aug. 13, 1973, Pub. L. 93-87, §301(g), 87 Stat. 296; restated Nov. 6, 1978, Pub. L. 95-599, §311(a), 92 Stat. 2748; Jan. 6, 1983, Pub. L. 97-424, §317(a), 96 Stat. 2153.
5338(j)(2)	49 App.:1612(d).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §16(d); added Oct. 15, 1970, Pub. L. 91-453, §8, 84 Stat. 968; Dec. 18, 1991, Pub. L. 102-240, §3021(5), 105 Stat. 2110.
5338(j)(3)	49 App.:1603(c) (last sentence).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §4(c) (last sentence); added Nov. 6, 1978, Pub. L. 95-599, §303(e), 92 Stat. 2739; Dec. 18, 1991, Pub. L. 102-240, §3006(h)(1), 105 Stat. 2090.
5338(j)(4)	49 App.:1617(f) (less availability).	
5338(j)(5)	49 App.:1602(m) (1st sentence).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §3(m) (1st sentence); added Dec. 18, 1991, Pub. L. 102-240, §3009, 105 Stat. 2093.
5338(k)	49 App.:1607(c)(b)(13) (last sentence). 49 App.:1617(b)(4). 49 App.:1625(d) (last sentence).	

HISTORICAL AND REVISION NOTES—CONTINUED
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5338(l)(1)	49 App.:1614(a) (last sentence).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §19(a) (last sentence); added Nov. 6, 1978, Pub. L. 95-599, §313, 92 Stat. 2749.
5338(l)(2)	49 App.:1617(a)-(d), (f) (as (a)-(d), (f) relate to availability).	
5338(l)(3)	49 App.:1607a-2(c).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §9B(c); added Apr. 2, 1987, Pub. L. 100-17, §313, 101 Stat. 229.

In this section, references to fiscal year 1992 are omitted as obsolete.

In subsections (a)(1) and (b)(1), before each clause (A), the word “only” is omitted as surplus.

In subsection (a)(1), before clause (A), the words “for the Secretary of Transportation” are added or clarity and consistency.

In subsections (a)(2) and (b)(2), before each clause (A), and (d), before clause (1), the words “to the Secretary” are added for clarity and consistency.

In subsections (b)(1), before clause (A), and (e)(1), the words “for the Secretary” are added for clarity and consistency.

In subsection (d), the text of 49 App.:1607c(c)(6) (last sentence) is omitted as obsolete.

In subsection (e)(1), the word “section” in the source provision is translated as if it were “subsection” to reflect the apparent intent of Congress.

In subsection (h)(3), the words “relating to university transportation centers” are omitted as surplus.

In subsection (j)(2), the words “set aside and” and “exclusively” are omitted as surplus. The word “mass” is added for consistency in this chapter.

In subsection (k)(1), the words “Notwithstanding any other provision of law” in 49 App.:1607c(b)(13) (last sentence) and 1625(d) (last sentence) are omitted as surplus. The words “financed with” are added for clarity.

In subsection (k)(2), the words “that is financed with” are added for clarity.

In subsection (l)(3)(A), the words “for obligation by the recipient”, “a period of”, and “the close of” are omitted as surplus.

PUB. L. 104-287

This amends 49:5338(g)(2) to correct an erroneous cross-reference.

REFERENCES IN TEXT

Section 3015(d) of the Federal Transit Act of 1998, referred to in subsec. (e)(2)(C)(iii), is section 3015(d) of Pub. L. 105-178, which is set out as a note below.

AMENDMENTS

1998—Pub. L. 105-178, §3029(a), reenacted section catchline without change and amended text generally, substituting provisions relating to authorizations for Federal transit programs for fiscal years 1998 to 2003 for provisions relating to authorizations for Federal transit programs for fiscal years ending Sept. 30, 1993 to 1997 and for period from Oct. 1, 1997 to Mar. 31, 1998.

Subsec. (c)(2)(A). Pub. L. 105-178, §3029(c)(1)-(5), as added by Pub. L. 105-206, substituted “\$42,200,000” for “\$43,200,000”, “\$48,400,000” for “\$46,400,000”, “\$50,200,000” for “\$51,200,000”, “\$53,800,000” for “\$52,800,000”, and “\$58,600,000” for “\$57,600,000” in cls. (i) to (v), respectively.

Subsec. (d)(2)(C)(iii). Pub. L. 105-178, §3029(c)(6), as added by Pub. L. 105-206, inserted “, including not more than \$1,000,000 shall be available to carry out section 5315(a)(16)” before semicolon.

Subsec. (e)(1). Pub. L. 105-178, §3029(c)(7)(A), (B), as added by Pub. L. 105-206, substituted “Subject to paragraph (2)(C), there are” for “There are” and “5505” for “5317(b)”.

Subsec. (e)(2)(A). Pub. L. 105-178, §3029(c)(7)(A), (C)(i), as added by Pub. L. 105-206, substituted “Subject to subparagraph (C), there shall” for “There shall” and “5505” for “5317(b)”.

Subsec. (e)(2)(B). Pub. L. 105-178, §3029(c)(7)(A), (C)(ii), as added by Pub. L. 105-206, substituted “Subject to subparagraph (C), in addition” for “In addition” and “5505” for “5317(b)”.

Subsec. (e)(2)(C). Pub. L. 105-178, §3029(c)(7)(C)(iii), as added by Pub. L. 105-206, added subpar. (C).

Subsec. (e)(3). Pub. L. 105-178, §3029(c)(7)(D), as added by Pub. L. 105-206, added par. (3).

Subsec. (g)(2). Pub. L. 105-178, §3029(c)(8), as added by Pub. L. 105-206, substituted “(c)(1), (c)(2)(B), (d)(1), (d)(2)(B), (e)(1), (e)(2)(B), (f)(1), (f)(2)(B),” for “(c)(2)(B), (d)(2)(B), (e)(2)(B), (f)(2)(B),”.

Subsec. (h). Pub. L. 105-178, §3029(c)(9), as added by Pub. L. 105-206, inserted “under the Transportation Discretionary Spending Guarantee for the Mass Transit Category” after “subsections (a) through (f)” in introductory provisions.

Subsec. (h)(5)(A) to (E). Pub. L. 105-178, §3029(c)(10), as added by Pub. L. 105-206, added subpars. (A) to (E) and struck out former subpars. (A) to (E) which read as follows:

- “(A) for fiscal year 1999, \$600,000,000;
- “(B) for fiscal year 2000, \$610,000,000;
- “(C) for fiscal year 2001, \$620,000,000;
- “(D) for fiscal year 2002, \$630,000,000; and
- “(E) for fiscal year 2003, \$630,000,000.”.

1997—Subsec. (a)(1)(F). Pub. L. 102-240, §3049(c)(1)(A), as added by Pub. L. 105-130, added subpar. (F).

Subsec. (a)(2)(F). Pub. L. 102-240, §3049(c)(1)(B), as added by Pub. L. 105-130, added subpar. (F).

Subsec. (b)(1)(F). Pub. L. 102-240, §3049(c)(2), as added by Pub. L. 105-130, added subpar. (F).

Subsec. (c). Pub. L. 102-240, §3049(c)(3), as added by Pub. L. 105-130, inserted “and not more than \$1,500,000 for the period of October 1, 1997, through March 31, 1998,” after “1997,”.

Subsec. (e). Pub. L. 102-240, §3049(c)(4), as added by Pub. L. 105-130, inserted “and not more than \$3,000,000 is available from the Fund (except the Account) for the Secretary for the period of October 1, 1997, through March 31, 1998,” after “1997,”.

Subsec. (h)(3). Pub. L. 102-240, §3049(c)(5), as added by Pub. L. 105-130, inserted before period at end “and \$3,000,000 is available for section 5317 for the period of October 1, 1997, through March 31, 1998”.

Subsec. (j)(5)(D). Pub. L. 102-240, §3049(c)(6), as added by Pub. L. 105-130, added subpar. (D).

Subsec. (k). Pub. L. 102-240, §3049(c)(7), as added by Pub. L. 105-130, substituted “(e), or (m) of this section” for “or (e) of this section”.

Subsec. (m). Pub. L. 102-240, §3049(c)(8), as added by Pub. L. 105-130, added subsec. (m).

1996—Subsec. (g)(2). Pub. L. 104-287 substituted “section 5311(b)(2)” for “section 5308(b)(2)”.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Title 23, Highways, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-287 effective July 5, 1994, see section 8(1) of Pub. L. 104-287, set out as a note under section 5303 of this title.

ADJUSTMENTS FOR SURFACE TRANSPORTATION
EXTENSION ACT OF 1997

Pub. L. 105-178, title III, §3041, June 9, 1998, 112 Stat. 394, provided that the Secretary of Transportation ensure that the total apportionments and allocations

made to a designated grant recipient under this section for fiscal year 1998 be reduced by the amount apportioned to such designated recipient pursuant to section 8 of Pub. L. 105-130 (amending sections 5309, 5337, and 5338 of this title) and in making the apportionments, the Secretary adjust the amount apportioned to each urbanized area for fixed guideway modernization for fiscal year 1998 to reflect the method of apportioning funds in section 5337(a) of this title.

TRAINING AND CURRICULUM DEVELOPMENT

Pub. L. 105-178, title III, §3015(d), as added by Pub. L. 105-206, title IX, §9009(k)(2), July 22, 1998, 112 Stat. 857, provided that:

“(1) IN GENERAL.—Any funds made available by section 5338(e)(2)(C)(iii) of title 49, United States Code, shall be available in equal amounts for transportation research, training, and curriculum development at institutions identified in subparagraphs (E) and (F) of section 5505(j)(3) of such title.

“(2) SPECIAL RULE.—If the institutions identified in paragraph (1) are selected pursuant to [section] 5505(i)(3)(B) of such title in fiscal year 2002 or 2003, the funds made available to carry out this subsection shall be available to those institutions to carry out the activities required pursuant to section 5505(i)(3)(B) of such title for that fiscal year.”

PROGRAMS OF FEDERAL TRANSIT ADMINISTRATION; LIMITATION ON OBLIGATIONS

Pub. L. 107-87, title III, §309, Dec. 18, 2001, 115 Stat. 855, provided that: “The limitations on obligations for the programs of the Federal Transit Administration shall not apply to any authority under 49 U.S.C. 5338, previously made available for obligation, or to any other authority previously made available for obligation.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 106-346, §101(a) [title III, §311], Oct. 23, 2000, 114 Stat. 1356, 1356A-27.

Pub. L. 106-69, title III, §311, Oct. 9, 1999, 113 Stat. 1018.

Pub. L. 105-277, div. A, §101(g) [title III, §311], Oct. 21, 1998, 112 Stat. 2681-439, 2681-467.

Pub. L. 105-66, title III, §311, Oct. 27, 1997, 111 Stat. 1443.

Pub. L. 104-205, title III, §311, Sept. 30, 1996, 110 Stat. 2971.

Pub. L. 104-50, title III, §312, Nov. 15, 1995, 109 Stat. 455.

Pub. L. 103-331, title III, §313, Sept. 30, 1994, 108 Stat. 2490.

Pub. L. 103-122, title III, §313, Oct. 27, 1993, 107 Stat. 1221.

Pub. L. 102-388, title III, §313, Oct. 6, 1992, 106 Stat. 1546.

Pub. L. 102-143, title III, §313, Oct. 28, 1991, 105 Stat. 941, as amended by Pub. L. 102-240, title III, §§3003(b), 3004(b), Dec. 18, 1991, 105 Stat. 2088.

Pub. L. 101-516, title III, §313, Nov. 5, 1990, 104 Stat. 2181.

Pub. L. 101-164, title III, §314, Nov. 21, 1989, 103 Stat. 1094.

Pub. L. 100-457, title III, §314, Sept. 30, 1988, 102 Stat. 2148.

Pub. L. 100-202, §101(l) [title III, §314], Dec. 22, 1987, 101 Stat. 1329-358, 1329-379.

Pub. L. 99-500, §101(l) [H.R. 5205, title III, §317], Oct. 18, 1986, 100 Stat. 1783-308, and Pub. L. 99-591, §101(l) [H.R. 5205, title III, §317], Oct. 30, 1986, 100 Stat. 3341-308.

Pub. L. 99-190, §101(e) [title III, §322], Dec. 19, 1985, 99 Stat. 1267, 1287.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5303, 5308, 5309, 5310, 5311, 5313, 5314, 5321, 5333, 5336, 5337, 5505 of this title; title 2 section 900; title 23 section 110.

CHAPTER 55—INTERMODAL TRANSPORTATION

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AMENDMENTS

1998—Pub. L. 105-178, title V, §§5110(b), 5111(b), June 9, 1998, 112 Stat. 444, 445, added items 5505 and 5506.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 113 of this title.

SUBCHAPTER I—GENERAL

§ 5501. National Intermodal Transportation System policy

(a) GENERAL.—It is the policy of the United States Government to develop a National Intermodal Transportation System that is economically efficient and environmentally sound, provides the foundation for the United States to compete in the global economy, and will move individuals and property in an energy efficient way.

(b) SYSTEM CHARACTERISTICS.—(1) The National Intermodal Transportation System shall consist of all forms of transportation in a unified, interconnected manner, including the transportation systems of the future, to reduce energy consumption and air pollution while promoting economic development and supporting the United States' preeminent position in international commerce.

(2) The National Intermodal Transportation System shall include a National Highway System consisting of the Dwight D. Eisenhower System of Interstate and Defense Highways and those principal arterial roads that are essential for interstate and regional commerce and travel, national defense, intermodal transfer facilities, and international commerce and border crossings.

(3) The National Intermodal Transportation System shall include significant improvements in public transportation necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly individuals, individuals with disabilities, and economically disadvantaged individuals in urban and rural areas of the United States.

(4) The National Intermodal Transportation System shall provide improved access to ports and airports, the Nation's link to commerce.