

§ 5337. State of good repair grants

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

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

(A) using and occupying a separate right-of-way for the exclusive use of public transportation;

(B) using rail;

(C) using a fixed catenary system;

(D) for a passenger ferry system; or

(E) for a bus rapid transit system.

(2) STATE.—The term “State” means the 50 States, the District of Columbia, and Puerto Rico.

(3) STATE OF GOOD REPAIR.—The term “state of good repair” has the meaning given that term by the Secretary, by rule, under section 5326(b).

(4) TRANSIT ASSET MANAGEMENT PLAN.—The term “transit asset management plan” means a plan developed by a recipient of funding under this chapter that—

(A) includes, at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization; and

(B) the recipient certifies that the recipient complies with the rule issued under section 5326(d).

(b) GENERAL AUTHORITY.—

(1) ELIGIBLE PROJECTS.—The Secretary may make grants under this section to assist State and local governmental authorities in financing capital projects to maintain public transportation systems in a state of good repair, including projects to replace and rehabilitate—

(A) rolling stock;

(B) track;

(C) line equipment and structures;

(D) signals and communications;

(E) power equipment and substations;

(F) passenger stations and terminals;

(G) security equipment and systems;

(H) maintenance facilities and equipment;

(I) operational support equipment, including computer hardware and software;

(J) development and implementation of a transit asset management plan; and

(K) other replacement and rehabilitation projects the Secretary determines appropriate.

(2) INCLUSION IN PLAN.—A recipient shall include a project carried out under paragraph (1) in the transit asset management plan of the recipient upon completion of the plan.

(c) HIGH INTENSITY FIXED GUIDEWAY STATE OF GOOD REPAIR FORMULA.—

(1) IN GENERAL.—Of the amount authorized or made available under section 5338(a)(2)(K),¹ 97.15 percent shall be apportioned to recipients in accordance with this subsection.

(2) AREA SHARE.—

(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be apportioned for fixed guideway systems in accordance with this paragraph.

(B) SHARE.—A recipient shall receive an amount equal to the amount described in subparagraph (A), multiplied by the amount the recipient would have received under this section, as in effect for fiscal year 2011, if the amount had been calculated in accordance with the provisions of section 5336(b)(1) and using the definition of the term “fixed guideway” under subsection (a) of this section, as such sections are in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012, and divided by the total amount apportioned for all areas under this section for fiscal year 2011.

(C) RECIPIENT.—For purposes of this paragraph, the term “recipient” means an entity that received funding under this section, as in effect for fiscal year 2011.

(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be apportioned to recipients in accordance with this paragraph.

(B) VEHICLE REVENUE MILES.—A recipient in an urbanized area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway vehicle revenue miles attributable to the urbanized area, as established by the Secretary, divided by the total number of all fixed guideway vehicle revenue miles attributable to all urbanized areas.

(C) DIRECTIONAL ROUTE MILES.—A recipient in an urbanized area shall receive an amount equal to 40 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway directional route miles attributable to the urbanized area, as established by the Secretary, divided by the total number of all fixed guideway directional route miles attributable to all urbanized areas.

(4) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the share of the total amount apportioned under this subsection that is apportioned to an area under this subsection shall not decrease by more than 0.25 percentage points compared to the share apportioned to the area under this subsection in the previous fiscal year.

(B) SPECIAL RULE FOR FISCAL YEAR 2013.—In fiscal year 2013, the share of the total amount apportioned under this subsection that is apportioned to an area under this subsection shall not decrease by more than 0.25 percentage points compared to the share that would have been apportioned to the area under this section, as in effect for fiscal year 2011, if the share had been calculated using the definition of the term “fixed guideway” under subsection (a) of this section, as in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012.

(5) USE OF FUNDS.—Amounts made available under this subsection shall be available for the exclusive use of fixed guideway projects.

¹ See References in Text note below.

(6) RECEIVING APPORTIONMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), for an area with a fixed guideway system, the amounts provided under this subsection shall be apportioned to the designated recipient for the urbanized area in which the system operates.

(B) EXCEPTION.—An area described in the amendment made by section 3028(a) of the Transportation Equity Act for the 21st Century (Public Law 105-178; 112 Stat. 366) shall receive an individual apportionment under this subsection.

(7) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of fixed guideway vehicle revenue miles or fixed guideway directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of fixed guideway systems placed in revenue service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.

(d) HIGH INTENSITY MOTORBUS STATE OF GOOD REPAIR.—

(1) DEFINITION.—For purposes of this subsection, the term “high intensity motorbus” means public transportation that is provided on a facility with access for other high-occupancy vehicles.

(2) APPORTIONMENT.—Of the amount authorized or made available under section 5338(a)(2)(K),¹ 2.85 percent shall be apportioned to urbanized areas for high intensity motorbus vehicle state of good repair in accordance with this subsection.

(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

(A) IN GENERAL.—The amount described in paragraph (2) shall be apportioned to each area in accordance with this paragraph.

(B) VEHICLE REVENUE MILES.—Each area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of high intensity motorbus vehicle revenue miles attributable to the area, as established by the Secretary, divided by the total number of all high intensity motorbus vehicle revenue miles attributable to all areas.

(C) DIRECTIONAL ROUTE MILES.—Each area shall receive an amount equal to 40 percent of the amount described in subparagraph (A), multiplied by the number of high intensity motorbus directional route miles attributable to the area, as established by the Secretary, divided by the total number of all high intensity motorbus directional route miles attributable to all areas.

(4) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of high intensity motorbus vehicle revenue miles or high intensity motorbus directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of high intensity motorbus systems placed in revenue service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.

(5) USE OF FUNDS.—Amounts apportioned under this subsection may be used for any project that is an eligible project under subsection (b)(1).

(e) GOVERNMENT SHARE OF COSTS.—

(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be for 80 percent of the net project cost of the project. The recipient may provide additional local matching amounts.

(2) REMAINING COSTS.—The remainder of the net project cost shall be provided—

(A) in cash from non-Government sources;

(B) from revenues derived from the sale of advertising and concessions; or

(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

(f) COMPETITIVE GRANTS FOR RAIL VEHICLE REPLACEMENT.—

(1) IN GENERAL.—The Secretary may make grants under this subsection to assist State and local governmental authorities in financing capital projects for the replacement of rail rolling stock.

(2) GRANT REQUIREMENTS.—Except as otherwise provided in this subsection, a grant under this subsection shall be subject to the same terms and conditions as a grant under subsection (b).

(3) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make not more than 3 new awards to eligible projects under this subsection on a competitive basis each fiscal year.

(4) CONSIDERATION.—In awarding grants under this subsection, the Secretary shall consider—

(A) the size of the rail system of the applicant;

(B) the amount of funds available to the applicant under this subsection;

(C) the age and condition of the rail rolling stock of the applicant that has exceeded or will exceed the useful service life of the rail rolling stock in the 5-year period following the grant; and

(D) whether the applicant has identified replacement of the rail vehicles as a priority in the investment prioritization portion of the transit asset management plan of the recipient pursuant to part 625 of title 49, Code of Federal Regulations (or successor regulations).

(5) MAXIMUM SHARE OF COMPETITIVE GRANT ASSISTANCE.—The amount of grant assistance provided by the Secretary under this subsection, as a share of eligible project costs, shall be not more than 50 percent.

(6) GOVERNMENT SHARE OF COST.—The Government share of the cost of an eligible project carried out under this subsection shall not exceed 80 percent.

(7) MULTI-YEAR GRANT AGREEMENTS.—

(A) IN GENERAL.—An eligible project for which a grant is provided under this subsection may be carried out through a multi-year grant agreement in accordance with this paragraph.

(B) REQUIREMENTS.—A multi-year grant agreement under this paragraph shall—

(i) establish the terms of participation by the Federal Government in the project; and

(ii) establish the maximum amount of Federal financial assistance for the project that may be provided through grant payments to be provided in not more than 3 consecutive fiscal years.

(C) FINANCIAL RULES.—A multi-year grant agreement under this paragraph—

(i) shall obligate an amount of available budget authority specified in law; and

(ii) 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.

(D) STATEMENT OF CONTINGENT COMMITMENT.—A multi-year agreement under this paragraph shall state that the contingent commitment is not an obligation of the Federal Government.

(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; Pub. L. 108-88, §8(b)(2), Sept. 30, 2003, 117 Stat. 1121; Pub. L. 109-59, title III, §3035(a), Aug. 10, 2005, 119 Stat. 1629; Pub. L. 110-244, title II, §201(m), June 6, 2008, 122 Stat. 1611; Pub. L. 111-147, title IV, §435, Mar. 18, 2010, 124 Stat. 89; Pub. L. 111-322, title II, §2305, Dec. 22, 2010, 124 Stat. 3528; Pub. L. 112-5, title III, §305, Mar. 4, 2011, 125 Stat. 19; Pub. L. 112-30, title I, §135, Sept. 16, 2011, 125 Stat. 352; Pub. L. 112-102, title III, §305, Mar. 30, 2012, 126 Stat. 277; Pub. L. 112-140, title III, §305, June 29, 2012, 126 Stat. 398; Pub. L. 112-141, div. B, §20027, div. G, title III, §113005, July 6, 2012, 126 Stat. 723, 985; Pub. L. 114-94, div. A, title III, §3015, Dec. 4, 2015, 129 Stat. 1478; Pub. L. 117-58, div. C, §30016, Nov. 15, 2021, 135 Stat. 911.)

HISTORICAL AND REVISION NOTES
PUB. L. 103-272

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.

Editorial Notes

REFERENCES IN TEXT

Section 5338, referred to in subssecs. (c)(1) and (d)(2), was amended generally by Pub. L. 117-58, div. C, §30017, Nov. 15, 2021, 135 Stat. 912. As amended, section 5338(a)(2)(K) no longer relates to allocations of funds to carry out this section, but such provision can be found elsewhere in section 5338.

The date of enactment of the Federal Public Transportation Act of 2012, referred to in subsec. (c)(2)(B), (4)(B), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112-141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways.

Section 3028(a) of the Transportation Equity Act for the 21st Century (Public Law 105-178; 112 Stat. 366), referred to in subsec. (c)(6)(B), amended generally subsec. (a) of this section. See 1998 Amendment note below.

AMENDMENTS

2021—Subsec. (f). Pub. L. 117-58 added subsec. (f).

2015—Subsec. (c)(1). Pub. L. 114-94, §3015(b)(1), substituted “5338(a)(2)(K)” for “5338(a)(2)(I)”.

Subsec. (c)(2)(B). Pub. L. 114-94, §3015(a)(1), inserted “the provisions of” before “section 5336(b)(1)”.

Subsec. (d)(2). Pub. L. 114-94, §3015(a)(2)(A), (b)(2), substituted “5338(a)(2)(K)” for “5338(a)(2)(I)” and inserted “vehicle” after “motorbus”.

Subsec. (d)(5). Pub. L. 114-94, §3015(a)(2)(B), added par. (5).

Subsec. (e). Pub. L. 114-94, §3015(a)(3), added subsec. (e).

2012—Pub. L. 112-141, §20027, amended section generally. Prior to amendment, section related to apportionment based on fixed guideway factors.

Subsec. (g). Pub. L. 112-141, §113005, struck out subsec. (g). Text read as follows: “The Secretary shall apportion amounts made available for fixed guideway modernization under section 5309 for the period beginning on October 1, 2011, and ending on June 30, 2012, in accordance with subsection (a), except that the Secretary shall apportion 75 percent of each dollar amount specified in subsection (a).”

Pub. L. 112-140, §§1(c), 305, temporarily amended subsec. (g) generally, enacting similar provisions but directing the Secretary to apportion 76 percent of each dollar amount specified in subsec. (a) for the period beginning on Oct. 1, 2011, and ending on July 6, 2012. See Effective and Termination Dates of 2012 Amendment note below.

Pub. L. 112-102 amended subsec. (g) generally. Prior to amendment, text read as follows: “The Secretary shall apportion amounts made available for fixed guideway modernization under section 5309 for the period beginning on October 1, 2011, and ending on March 31, 2012, in accordance with subsection (a), except that the Secretary shall apportion 50 percent of each dollar amount specified in subsection (a).”

2011—Subsec. (a). Pub. L. 112-30, §135(1), substituted “2012” for “2011” in introductory provisions.

Pub. L. 112-5, §305(1), substituted “2011” for “2010” in introductory provisions.

Subsec. (g). Pub. L. 112-30, §135(2), added subsec. (g).

Pub. L. 112-5, §305(2), struck out subsec. (g). Text read as follows: “The Secretary shall apportion amounts made available for fixed guideway modernization under section 5309 for the period beginning October 1, 2010, and ending March 4, 2011, in accordance with subsection (a), except that the Secretary shall apportion ¹⁵⁵/₁₀₀ths of each dollar amount specified in subsection (a).”

2010—Subsec. (a). Pub. L. 111-147, §435(1), substituted “2010” for “2009” in introductory provisions.

Subsec. (g). Pub. L. 111-322 amended subsec. (g) generally. Prior to amendment, text read as follows: “The Secretary shall apportion amounts made available for fixed guideway modernization under section 5309 for the period beginning October 1, 2010, and ending December 31, 2010, in accordance with subsection (a), except that the Secretary shall apportion 25 percent of each dollar amount specified in subsection (a).”

Pub. L. 111-147, § 435(2), added subsec. (g).

2008—Subsec. (a). Pub. L. 110-244 substituted “for each of fiscal years 2005 through 2009” for “for each of fiscal years 1998 through 2003” in introductory provisions.

2005—Pub. L. 109-59, § 3035(a)(1), substituted “Apportionment based on fixed guideway factors” for “Apportionment of appropriations for fixed guideway modernization” in section catchline.

Subsec. (f). Pub. L. 109-59, § 3035(a)(2), added subsec. (f).

2003—Subsec. (e). Pub. L. 108-88 struck out subsec. (e) relating to special rule.

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.

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)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE AND TERMINATION DATES OF 2012 AMENDMENT

Amendment by section 20027 of Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as a note under section 101 of Title 23, Highways.

Amendment by section 113005 of Pub. L. 112-141 effective July 1, 2012, see section 114001 of Pub. L. 112-141, set out as a note under section 5305 of this title.

Amendment by Pub. L. 112-140 to cease to be effective on July 6, 2012, with text as amended by Pub. L. 112-140 to revert back to read as it did on the day before June 29, 2012, and amendments by Pub. L. 112-141 to be executed as if Pub. L. 112-140 had not been enacted, see section 1(c) of Pub. L. 112-140, set out as a note under section 101 of Title 23, Highways.

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.

SPECIAL RULE FOR PARTIAL FISCAL YEAR FUNDING

Pub. L. 108-310, § 8(b), Sept. 30, 2004, 118 Stat. 1154, provided for pro rata apportionment for fixed guideway modernization to reflect partial fiscal year 2005 funding.

Pub. L. 108-88, § 8(b)(1), Sept. 30, 2003, 117 Stat. 1121, as amended by Pub. L. 108-202, § 9(b), Feb. 29, 2004, 118 Stat. 485; Pub. L. 108-224, § 7(b), Apr. 30, 2004, 118 Stat. 633; Pub. L. 108-263, § 7(b), June 30, 2004, 118 Stat. 704, which directed the Secretary of Transportation to determine the amount that each urbanized area would be apportioned for fixed guideway modernization under section 5337 of this title on a pro rata basis reflecting partial fiscal year 2004 funding made available under section 5338 of this title, was repealed by Pub. L. 108-280, § 7(b), July 30, 2004, 118 Stat. 882.

§ 5338. Authorizations

(a) GRANTS.—

(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5310, 5311, 5312, 5314, 5318, 5335, 5337, 5339, and 5340, section 20005(b) of the Federal Public Transportation Act of 2012 (49 U.S.C. 5303 note; Public Law 112-141), and section 3006(b) of the Federal Public Transportation Act of 2015 (49 U.S.C. 5310 note; Public Law 114-94)—

- (A) \$13,355,000,000 for fiscal year 2022;
- (B) \$13,634,000,000 for fiscal year 2023;
- (C) \$13,990,000,000 for fiscal year 2024;
- (D) \$14,279,000,000 for fiscal year 2025; and
- (E) \$14,642,000,000 for fiscal year 2026.

(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

- (A) \$184,647,343 for fiscal year 2022, \$188,504,820 for fiscal year 2023, \$193,426,906 for fiscal year 2024, \$197,422,644 for fiscal year 2025, and \$202,441,512 for fiscal year 2026 shall be available to carry out section 5305;
- (B) \$13,157,184 for fiscal year 2022, \$13,432,051 for fiscal year 2023, \$13,782,778 for fiscal year 2024, \$14,067,497 for fiscal year 2025, and \$14,425,121 for fiscal year 2026 shall be available to carry out section 20005(b) of the Federal Public Transportation Act of 2012 (49 U.S.C. 5303 note; Public Law 112-141);
- (C) \$6,408,288,249 for fiscal year 2022, \$6,542,164,133 for fiscal year 2023, \$6,712,987,840 for fiscal year 2024, \$6,851,662,142 for fiscal year 2025, and \$7,025,844,743 for fiscal year 2026 shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307;
- (D) \$371,247,094 for fiscal year 2022, \$379,002,836 for fiscal year 2023, \$388,899,052 for fiscal year 2024, \$396,932,778 for fiscal year 2025, and \$407,023,583 for fiscal year 2026 shall be available to provide financial assistance for services for the enhanced mobility of seniors and individuals with disabilities under section 5310;
- (E) \$4,605,014 for fiscal year 2022, \$4,701,218 for fiscal year 2023, \$4,823,972 for fiscal year