

(3) PROJECT SELECTION AND PLANNING.—A recipient of funds under this section shall certify to the Secretary that—

(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

(h) GOVERNMENT'S SHARE OF COSTS.—

(1) CAPITAL PROJECTS.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

(3) REMAINDER.—The remainder of the net project costs—

(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.

(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

(5) LIMITATION ON OPERATING ASSISTANCE.—A recipient 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.

(i) PROGRAM EVALUATION.—

(1) COMPTROLLER GENERAL.—Beginning one year after the date of enactment of the Federal Public Transportation Act of 2005, and every 2 years thereafter, the Comptroller General shall—

(A) conduct a study to evaluate the grant program authorized by this section; and

(B) 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 describing the results of the study under subparagraph (A).

(2) DEPARTMENT OF TRANSPORTATION.—Not later than 3 years after the date of enactment of<sup>1</sup> Federal Public Transportation Act of 2005, the Secretary shall—

(A) conduct a study to evaluate the effectiveness of the grant program authorized by this section and the effectiveness of recipi-

ents making grants to subrecipients under this section; and

(B) transmit to the committees referred to in paragraph (1)(B) a report describing the results of the study under subparagraph (A).

(Added Pub. L. 109-59, title III, §3018(a), Aug. 10, 2005, 119 Stat. 1601.)

#### REFERENCES IN TEXT

Section 132 of the Internal Revenue Code of 1986, referred to in subsec. (a)(1)(D), is classified to section 132 of Title 26, Internal Revenue Code.

The Social Security Act, referred to in subsec. (a)(6), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The date of enactment of the Federal Public Transportation Act of 2005, referred to in subsec. (i), is the date of enactment of title III of Pub. L. 109-59, which was approved Aug. 10, 2005.

#### PRIOR PROVISIONS

A prior 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, prior to repeal by Pub. L. 105-178, title V, §5110(c), June 9, 1998, 112 Stat. 444.

### § 5317. New freedom program

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

(1) RECIPIENT.—The term “recipient” means a designated recipient (as defined in section 5307(a)(2)) and a State that receives a grant under this section directly.

(2) SUBRECIPIENT.—The term “subrecipient” means a State or local governmental authority, nonprofit organization, or operator of public transportation services that receives a grant under this section indirectly through a recipient.

(b) GENERAL AUTHORITY.—

(1) GRANTS.—The Secretary may make grants under this section to a recipient for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.

(2) ADMINISTRATIVE EXPENSES.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

(c) APPORTIONMENTS.—

(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section as follows:

(A) 60 percent of the funds shall be apportioned among designated recipients (as defined in section 5307(a)(2)) for urbanized areas with a population of 200,000 or more in the ratio that—

(i) the number of individuals with disabilities in each such urbanized area; bears to

<sup>1</sup> So in original. Probably should be followed by “the”.

(ii) the number of individuals with disabilities in all such urbanized areas.

(B) 20 percent of the funds shall be apportioned among the States in the ratio that—

(i) the number of individuals with disabilities in urbanized areas with a population of less than 200,000 in each State; bears to

(ii) the number of individuals with disabilities in urbanized areas with a population of less than 200,000 in all States.

(C) 20 percent of the funds shall be apportioned among the States in the ratio that—

(i) the number of individuals with disabilities in other than urbanized areas in each State; bears to

(ii) the number of individuals with disabilities in other than urbanized areas in all States.

(2) USE OF APPORTIONED FUNDS.—Funds apportioned under paragraph (1) shall be used for projects as follows:

(A) Funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more.

(B) Funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of less than 200,000.

(C) Funds apportioned under paragraph (1)(C) shall be used for projects serving other than urbanized areas.

(3) TRANSFERS.—

(A) IN GENERAL.—A State may transfer any funds apportioned to it under paragraph (1)(B) or (1)(C), or both, to an apportionment under section 5311(c) or 5336, or both.

(B) LIMITED TO ELIGIBLE PROJECTS.—Any funds transferred pursuant to this paragraph shall be made available only for eligible projects selected under this section.

(C) CONSULTATION.—A State may make a transfer of an amount under this subsection only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was awarded under subsection (d)(4).

(d) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) shall conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this section.

(2) STATEWIDE SOLICITATION.—A recipient of funds apportioned under subsection (c)(1)(B) or (c)(1)(C) shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this section.

(3) APPLICATION.—Recipients and subrecipients seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

(4) GRANT AWARDS.—The recipient shall award grants under paragraphs (1) and (2) on a competitive basis.

(e) GRANT REQUIREMENTS.—

(1) IN GENERAL.—A grant under this section shall be subject to all the requirements of section 5310 to the extent the Secretary considers appropriate.

(2) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

(f) COORDINATION.—

(1) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

(2) WITH NONPROFIT PROVIDERS.—A recipient that transfers funds to an apportionment under section 5336 pursuant to subsection (c)(2) shall certify that the project for which the funds are requested under this section has been coordinated with nonprofit providers of services.

(3) PROJECT SELECTION AND PLANNING.—Beginning in fiscal year 2007, a recipient of funds under this section shall certify that—

(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

(g) GOVERNMENT'S SHARE OF COSTS.—

(1) CAPITAL PROJECTS.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

(3) REMAINDER.—The remainder of the net project costs—

(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.

(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

(5) LIMITATION ON OPERATING ASSISTANCE.—A recipient 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.

(Added Pub. L. 109-59, title III, § 3019(a), Aug. 10, 2005, 119 Stat. 1605.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(1), 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.

PRIOR PROVISIONS

A prior 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, prior to repeal by Pub. L. 105-178, title V, §5110(c), June 9, 1998, 112 Stat. 444.

§ 5318. Bus testing facility

(a) FACILITY.—The Secretary shall maintain one facility for testing a new bus model for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise.

(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 public 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 to carry out this section. The entity having the vehicle tested shall pay 20 percent of the cost.

(e) ACQUIRING NEW BUS MODELS.—Amounts appropriated or made available under this chapter may be obligated or expended to acquire a new bus model only if a bus of that model has been tested at the facility maintained by the Secretary under subsection (a).

(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; Pub. L. 109-59, title III, §§ 3002(b)(4), 3020, Aug. 10, 2005, 119 Stat. 1545, 1608.)

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.                                                           |

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

| Revised Section | Source (U.S. Code)                   | Source (Statutes at Large)                                                                                                          |
|-----------------|--------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| 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. |
| 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.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-59, §3020(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “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.”

Subsec. (b). Pub. L. 109-59, §3002(b)(4), substituted “public transportation” for “mass transportation”.

Subsec. (d). Pub. L. 109-59, §3020(b), substituted “to carry out this section” for “under section 5309(m)(1)(C) of this title”.

Subsec. (e). Pub. L. 109-59, §3020(c), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: “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.”

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.