

H. R. 1105

One Hundred Eleventh Congress

of the

United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday,
the sixth day of January, two thousand and nine*

An Act

Making omnibus appropriations for the fiscal year ending September 30, 2009,
and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Omnibus Appropriations Act,
2009”

**DIVISION I—TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT,
AND RELATED AGENCIES APPROPRIATIONS ACT, 2009**

Title I—Department of Transportation

Title II—Department of Housing and Urban Development

Title III—Related Agencies

Title IV—General Provisions This Act

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary,
\$98,248,000, of which not to exceed \$2,400,000 shall be available
for the immediate Office of the Secretary; not to exceed \$759,000
shall be available for the immediate Office of the Deputy Secretary;
not to exceed \$19,838,000 shall be available for the Office of the
General Counsel; not to exceed \$10,107,000 shall be available for
the Office of the Under Secretary of Transportation for Policy;
not to exceed \$10,200,000 shall be available for the Office of the
Assistant Secretary for Budget and Programs; not to exceed
\$2,400,000 shall be available for the Office of the Assistant Secretary
for Governmental Affairs; not to exceed \$26,000,000 shall
be available for the Office of the Assistant Secretary for Administration;
not to exceed \$2,020,000 shall be available for the Office
of Public Affairs; not to exceed \$1,595,000 shall be available for
the Office of the Executive Secretariat; not to exceed \$1,369,000
shall be available for the Office of Small and Disadvantaged Business
Utilization; not to exceed \$8,675,000 for the Office of Intelligence,

Security, and Emergency Response; and not to exceed \$12,885,000 shall be available for the Office of the Chief Information Officer: *Provided*, That the Secretary of Transportation is authorized H. R. 1105—393

to transfer funds appropriated for any office of the Office of the Secretary to any other office of the Office of the Secretary: *Provided further*, That no appropriation for any office shall be increased or decreased by more than 5 percent by all such transfers: *Provided further*, That notice of any change in funding greater than 5 percent shall be submitted for approval to the House and Senate Committees on Appropriations: *Provided further*, That not to exceed \$60,000 shall be for allocation within the Department for official reception and representation expenses as the Secretary may determine: *Provided further*, That notwithstanding any other provision of law, excluding fees authorized in Public Law 107–71, there may be credited to this appropriation up to \$2,500,000 in funds received in user fees: *Provided further*, That none of the funds provided in this Act shall be available for the position of Assistant Secretary for Public Affairs: *Provided further*, That of the funds provided under this heading, \$100,000 shall be provided through reimbursement to the Department of Transportation’s Office of Inspector General to audit the Working Capital Fund’s financial statements.

FINANCIAL MANAGEMENT CAPITAL

For necessary expenses for upgrading and enhancing the Department of Transportation’s financial systems, and reengineering business processes, \$5,000,000, to remain available until expended.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, \$9,384,000.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, systems development, development activities, and making grants, to remain available until expended, \$18,300,000.

WORKING CAPITAL FUND

Necessary expenses for operating costs and capital outlays of the Working Capital Fund, not to exceed \$128,094,000, shall be paid from appropriations made available to the Department of Transportation: *Provided*, That such services shall be provided on a competitive basis to entities within the Department of Transportation: *Provided further*, That the above limitation on operating expenses shall not apply to non-DOT entities: *Provided further*, That no funds appropriated in this Act to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency modal administrator: *Provided further*, That no assessments may be levied against any program, budget activity, subactivity or project funded by this Act unless notice

of such assessments and the basis therefor are presented to the House and Senate Committees on Appropriations and are approved by such Committees.

MINORITY BUSINESS RESOURCE CENTER PROGRAM

For the cost of guaranteed loans, \$353,000, as authorized by 49 U.S.C. 332: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the H. R. 1105—394

Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed \$18,367,000. In addition, for administrative expenses to carry out the guaranteed loan program, \$559,000.

MINORITY BUSINESS OUTREACH

For necessary expenses of Minority Business Resource Center outreach activities, \$3,056,000, to remain available until September 30, 2010: *Provided*, That notwithstanding 49 U.S.C. 332, these funds may be used for business opportunities related to any mode of transportation.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

(INCLUDING TRANSFER OF FUNDS)

In addition to funds made available from any other source to carry out the essential air service program under 49 U.S.C. 41731 through 41742, \$73,013,000, to be derived from the Airport and Airway Trust Fund, to remain available until expended: *Provided*, That, in determining between or among carriers competing to provide service to a community, the Secretary may consider the relative subsidy requirements of the carriers: *Provided further*, That, if the funds under this heading are insufficient to meet the costs of the essential air service program in the current fiscal year, the Secretary shall transfer such sums as may be necessary to carry out the essential air service program from any available amounts appropriated to or directly administered by the Office of the Secretary for such fiscal year.

COMPENSATION FOR AIR CARRIERS

(RESCISSION)

Of the amounts made available under this heading, all unobligated balances as of the date of enactment of this Act are hereby permanently rescinded.

ADMINISTRATIVE PROVISIONS—OFFICE OF THE SECRETARY OF TRANSPORTATION

SEC. 101. The Secretary of Transportation is authorized to transfer the unexpended balances available for the bonding assistance program from “Office of the Secretary, Salaries and expenses” to “Minority Business Outreach”.

SEC. 102. None of the funds made available in this Act to the Department of Transportation may be obligated for the Office of the Secretary of Transportation to approve assessments or reimbursable agreements pertaining to funds appropriated to the modal administrations in this Act, except for activities underway on the date of enactment of this Act, unless such assessments or agreements have completed the normal reprogramming process for Congressional notification.

SEC. 103. None of the funds made available under this Act may be obligated or expended to establish or implement a program under which essential air service communities are required to H. R. 1105—395 assume subsidy costs commonly referred to as the EAS local participation program.

SEC. 104. The Secretary or his or her designee may engage in activities with States and State legislators to consider proposals related to the reduction of motorcycle fatalities.

FEDERAL RAILROAD ADMINISTRATION

SAFETY AND OPERATIONS

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, \$159,445,000, of which \$12,268,890 shall remain available until expended.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, \$33,950,000, to remain available until expended.

CAPITAL ASSISTANCE TO STATES—INTERCITY PASSENGER RAIL SERVICE

To enable the Federal Railroad Administrator to make grants to States for the capital costs of improving existing intercity passenger rail service and providing new intercity passenger rail service, \$90,000,000, to remain available until expended: *Provided*, That grants shall be provided to a State only on a reimbursable basis: *Provided further*, That grants cover no more than 50 percent of the total capital cost of a project selected for funding: *Provided further*, That no more than 10 percent of funds made available under this program may be used for planning activities that lead H. R. 1105—412

directly to the development of a passenger rail corridor investment plan consistent with the requirements established by the Administrator: *Provided further*, That no later than eight months following enactment of this Act, the Secretary shall establish and publish

criteria for project selection, set a deadline for grant applications, and provide a schedule for project selection: *Provided further*, That to be eligible for this assistance, States must include intercity passenger rail service as an integral part of statewide transportation planning as required under section 135 of title 23, United States Code: *Provided further*, That to be eligible for capital assistance the specific project must be on the Statewide Transportation Improvement Plan at the time of the application to qualify: *Provided further*, That the Secretary give priority to capital and planning applications for projects that improve the safety and reliability of intercity passenger trains, involve a commitment by freight railroads to an enforceable on-time performance of passenger trains of 80 percent or greater, involve a commitment by freight railroads of financial resources commensurate with the benefit expected to their operations, improve or extend service on a route that requires little or no Federal assistance for its operations, and involve a commitment by States or railroads of financial resources to improve the safety of highway/rail grade crossings over which the passenger service operates: *Provided further*, That the Administrator is directed to report to the Committees on Appropriations not later than 180 days upon enactment of this Act detailing the recipients and outcomes of grants issued pursuant to Public Law 110-116, under this heading, the Capital Assistance to States Program, any and all usage and performance fees paid to a freight railroad for access to the right of way: *Provided further*, That the Administrator may retain up to one-quarter of 1 percent of the funds provided under this heading to fund the award and oversight by the Administrator of grants made under this heading.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING PROGRAM

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided*, That pursuant to section 502 of such Act, as amended, no new direct loans or loan guarantee commitments shall be made using Federal funds for the credit risk premium during fiscal year 2009.

RAIL LINE RELOCATION AND IMPROVEMENT PROGRAM

For necessary expenses of carrying out section 20154 of title 49, United States Code, as authorized by section 9002 of Public

Law 109–59, \$25,000,000, to remain available until expended.
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OPERATING GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make quarterly grants to the National Railroad Passenger Corporation for operation of intercity passenger rail, \$550,000,000, to remain available until expended: *Provided*, That the Secretary shall withhold such sums as shall be necessary for the costs associated with the second retroactive wage payment to Amtrak employees and shall transmit such funding to the corporation for the sole and exclusive purpose of making such payments only at such time as said payments are due: *Provided further*, That such remaining amounts available under this paragraph shall be available for the Secretary to approve funding to cover operating losses for the Corporation only after receiving and reviewing a grant request for each specific train route: *Provided further*, That each such grant request shall be accompanied by a detailed financial analysis, revenue projection, and capital expenditure projection justifying the Federal support to the Secretary's satisfaction: *Provided further*, That the Corporation is directed to achieve savings through operating efficiencies including, but not limited to, modifications to food and beverage service and first class service: *Provided further*, That the Inspector General of the Department of Transportation shall report to the House and Senate Committees on Appropriations beginning 3 months after the date of the enactment of this Act and quarterly thereafter with estimates of the savings accrued as a result of all operational reforms instituted by the Corporation: *Provided further*, That not later than 120 days after enactment of this Act, the Corporation shall transmit to the House and Senate Committees on Appropriations the status of its plan to improve the financial performance of food and beverage service and its plan to improve the financial performance of first class service (including sleeping car service): *Provided further*, That the Corporation shall report quarterly to the House and Senate Committees on Appropriations on its progress against the milestones and target dates contained in the plan provided in fiscal year 2008 and quantify savings realized to date on a monthly basis compared to those projected in the plan, identify any changes in the plan or delays in implementing these plans, and identify the causes of delay and proposed corrective measures: *Provided further*, That not later than 90 days after enactment of this Act, the Corporation shall transmit, in electronic format, to the Secretary, the House and Senate Committees on Appropriations, the House Committee on Transportation

and Infrastructure and the Senate Committee on Commerce, Science, and Transportation a comprehensive business plan approved by the Board of Directors for fiscal year 2009 under section 24104(a) of title 49, United States Code: *Provided further*, That the business plan shall include, as applicable, targets for ridership, revenues, and capital and operating expenses: *Provided further*, That the plan shall also include a separate accounting of such targets for the Northeast Corridor; commuter service; longdistance Amtrak service; State-supported service; each intercity train route, including Autotrain; and commercial activities including contract operations: *Provided further*, That the business plan shall include a description of the work to be funded, along with cost estimates and an estimated timetable for completion of the projects H. R. 1105—414

covered by this business plan: *Provided further*, That the Corporation shall continue to provide monthly reports in electronic format regarding the pending business plan, which shall describe the work completed to date, any changes to the business plan, and the reasons for such changes, and shall identify all sole source contract awards which shall be accompanied by a justification as to why said contract was awarded on a sole source basis: *Provided further*, That the Corporation's business plan and all subsequent supplemental plans shall be displayed on the Corporation's website within a reasonable timeframe following their submission to the appropriate entities: *Provided further*, That none of the funds under this heading may be obligated or expended until the Corporation agrees to continue abiding by the provisions of paragraphs 1, 2, 5, 9, and 11 of the summary of conditions for the direct loan agreement of June 28, 2002, in the same manner as in effect on the date of enactment of this Act: *Provided further*, That none of the funds provided in this Act may be used after March 1, 2006, to support any route on which Amtrak offers a discounted fare of more than 50 percent off the normal, peak fare: *Provided further*, That the preceding proviso does not apply to routes where the operating loss as a result of the discount is covered by a State and the State participates in the setting of fares: *Provided further*, That of the amounts made available under this heading not less than \$18,500,000 shall be available for the Amtrak Office of Inspector General.

CAPITAL AND DEBT SERVICE GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make quarterly grants to the National Railroad Passenger Corporation for the maintenance and repair of capital infrastructure owned by the

Corporation, including railroad equipment, rolling stock, legal mandates and other services, \$940,000,000, to remain available until expended, of which not to exceed \$285,000,000 shall be for debt service obligations: *Provided*, That the Secretary may retain up to one-quarter of 1 percent of the funds under this heading to fund the oversight by the Federal Railroad Administration of the design and implementation of capital projects funded by grants made under this heading: *Provided further*, That the Secretary shall approve funding for capital expenditures, including advance purchase orders of materials, for the Corporation only after receiving and reviewing a grant request for each specific capital grant justifying the Federal support to the Secretary's satisfaction: *Provided further*, That none of the funds under this heading may be used to subsidize operating losses of the Corporation: *Provided further*, That none of the funds under this heading may be used for capital projects not approved by the Secretary of Transportation or on the Corporation's fiscal year 2009 business plan: *Provided further*, That, the business plan shall be accompanied by a comprehensive fleet plan for all Amtrak rolling stock which shall address the Corporation's detailed plans and timeframes for the maintenance, refurbishment, replacement and expansion of the Amtrak fleet: *Provided further*, That said fleet plan shall establish year-specific goals and milestones and discuss potential, current, and preferred financing options for all such activities.

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EFFICIENCY INCENTIVE GRANTS TO THE NATIONAL RAILROAD
PASSENGER CORPORATION
(RESCISSION)

Of the amounts made available under this heading in Public Laws 109–115 and 110–5, all unobligated balances as of the date of enactment of this provision are hereby rescinded.

ADMINISTRATIVE PROVISIONS—FEDERAL RAILROAD ADMINISTRATION

SEC. 151. The Secretary may purchase promotional items of nominal value for use in public outreach activities to accomplish the purposes of 49 U.S.C. 20134: *Provided*, That the Secretary shall prescribe guidelines for the administration of such purchases and use.

SEC. 152. Hereafter, notwithstanding any other provision of law, funds provided in this Act for the National Railroad Passenger Corporation shall immediately cease to be available to said Corporation in the event that the Corporation contracts to have services provided at or from any location outside the United States. For purposes of this section, the word “services” shall mean any service

that was, as of July 1, 2006, performed by a full-time or parttime Amtrak employee whose base of employment is located within the United States.

SEC. 153. The Secretary of Transportation may receive and expend cash, or receive and utilize spare parts and similar items, from non-United States Government sources to repair damages to or replace United States Government owned automated track inspection cars and equipment as a result of third party liability for such damages, and any amounts collected under this section shall be credited directly to the Safety and Operations account of the Federal Railroad Administration, and shall remain available until expended for the repair, operation and maintenance of automated track inspection cars and equipment in connection with the automated track inspection program.

SEC. 154. The Federal Railroad Administrator shall submit a quarterly report on April 1, 2009, and quarterly reports thereafter, to the House and Senate Committees on Appropriations detailing the Administrator's efforts at improving the on-time performance of Amtrak intercity rail service operating on non-Amtrak owned property. Such reports shall compare the most recent actual ontime performance data to pre-established on-time performance goals that the Administrator shall set for each rail service, identified by route. Such reports shall also include whatever other information and data regarding the on-time performance of Amtrak trains the Administrator deems to be appropriate. The amounts made available in this title under the heading "Office of the Secretary, Salaries and Expenses" shall be reduced \$100,000 for each day after the first day of each quarter that the quarterly reports required by this section are not submitted to the Congress.