

MIPRC Template for 2020 Legislative Resolution in Support of Improved Passenger Rail On-Time Performance Through Giving Amtrak the Ability to Enforce Its Transportation Preference on Freight Rail Lines

WHEREAS... Congress created Amtrak under the Rail Passenger Service Act of 1970 (Public Law 91–158) and Amtrak began serving customers on May 1, 1971, taking over the operation of most intercity passenger trains in exchange for access to the national rail network; and

WHEREAS... Congress passed the Amtrak Improvement Act of 1973 (Public Law 93–146), which gives intercity and commuter rail passenger transportation preference over freight transportation in using a rail line, junction, or crossing – a right codified as section 24308(c) of title 49, United States Code; and

WHEREAS... U.S.C. Sec. 24308(c) of Title 49 states, “Except in an emergency, intercity and commuter rail passenger transportation provided by or for Amtrak has preference over freight transportation in using a rail line, junction, or crossing unless the [Surface Transportation] Board orders otherwise under this subsection. A rail carrier affected by this subsection may apply to the Board for relief. If the Board, after an opportunity for a hearing under section 553 of title 5, decides that preference for intercity and commuter rail passenger transportation materially will lessen the quality of freight transportation provided to shippers, the Board shall establish the rights of the carrier and Amtrak on reasonable terms”; and

WHEREAS... Many host railroads have ignored the law by refusing to give passenger rail the priority to which it is statutorily entitled, resulting in poor and declining on-time performance by Amtrak on most host railroads. According to Amtrak during fiscal year 2019 alone, this caused 6.5 million customers on state-supported and long-distance trains to arrive at their destination late; and

WHEREAS... Amtrak’s Office of Inspector General, in a [2019 report](#), showed poor on-time performance wastes taxpayer dollars to the extent that a mere five percent improvement on all Amtrak routes would result in \$12.1 million in cost savings to Amtrak in the first year, If on-time performance on long-distance routes reached 75 percent for a year, Amtrak would realize an estimated \$41.9 million in operating cost savings along with a one-time savings of \$336 million due to a reduction in equipment replacement needs; and

WHEREAS... On-time passenger rail performance on host railroads has historically been driven by the existence of an effective means to enforce Amtrak’s preference rights as shown historically by:

- (A) Enactment of the Passenger Rail Investment and Improvement Act (PRIIA) of 2008 (division B of [Public Law 110–432](#)), which included provisions for the enforcement of these preference rights:
 - a. two months afterward, the on-time performance of long-distance trains improved from 56 percent to 77 percent and Class I freight train interference delays across all routes declined by 40 percent;
 - b. One year after enactment of PRIIA, freight train interference delays had declined by 54 percent and the on-time performance of long-distance trains reached 85 percent;
- (B) Removal in 2014 of some of those provisions after being ruled unconstitutional by a Washington, D.C., Circuit Court: long-distance train on-time performance declined from 72 percent to 50 percent, and freight train interference delays increased 59 percent; and

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WHEREAS... As a result of violations of Amtrak’s right to preference, Amtrak has been consistently unable on host railroad networks to meet its Congressionally-mandated mission and goals and does not have an effective mechanism to enforce its statutory preference right in order to fulfill its mission and goals; and

WHEREAS... Only the United States Attorney General can bring a civil action for equitable relief in a district court of the United States to enforce Amtrak’s preference rights, but has done so just once in Amtrak’s entire history – against the Southern Pacific Transportation Company in 1979,

NOW THEREFORE LET IT BE RESOLVED:

...That this body supports a strong intercity passenger rail network;

...That this body supports passage of U.S. [S.2922](#), the proposed “Rail Passenger Fairness Act,” providing Amtrak the ability to enforce its preference rights by bringing a civil action before a Federal district court (the so-called “private right of action”);

...That this body urges this state’s Congressional delegation to support S.2922;

...That this resolution be immediately transmitted to each member of this state’s Congressional delegation.

The Midwest Interstate Passenger Rail Commission (MIPRC) is an eight-state compact commission that promotes, coordinates and supports regional improvements to passenger rail service. Enacted in 2000, MIPRC brings together state leaders from across the region on a bipartisan basis to work towards developing and implementing a 21st century passenger rail system.

For further information, please contact:

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