

THE MIDWEST INTERSTATE PASSENGER RAIL COMMISSION is an eight-state interstate compact commission that promotes, coordinates and supports regional improvements to passenger rail service. Our member states include Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, North Dakota and Wisconsin. 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. Accomplishing our goal involves adding the Midwest Regional Rail Initiative network and additional state-supported corridors to the region's existing passenger rail infrastructure.

MIPRC has taken a primary role in advocating for the federal government to develop an enduring collaboration with states for passenger rail development similar to the partnership it has with states for other modes of transportation. MIPRC also works to ensure that Midwestern states have the support and interstate coordination they need to move forward with the region's passenger rail improvement plans.

MIPRC asks that Congress continue to work with the states to sustain and improve passenger rail service in our region and country. As Congress undertakes reauthorization of the FAST Act, which expires in 2020, we ask that you support inclusion of the following elements:

I. RAIL TITLE IN SURFACE TRANSPORTATION REAUTHORIZATION. In December 2015, Congress laid the groundwork for the development of a truly multi-modal transportation system in our nation with passage of the Fixing America's Surface Transportation (FAST) Act. For the first time in transportation legislative history, intercity passenger rail and Amtrak reauthorization language were included as part of this comprehensive five-year surface transportation bill (Title XI).

Recommendation: Intercity passenger rail is a critical part of our nation's transportation system. MIPRC asks Members of Congress to support the continued inclusion of intercity passenger rail and Amtrak reauthorization in the overall surface transportation reauthorization bill.

II. SUSTAINED FUNDING FOR INTERCITY PASSENGER RAIL (IPR). As with all modes of transportation, long term, robust, stable federal funding for intercity passenger rail service and development is crucial to its success. The Midwest's plans to strengthen passenger rail service in the region have begun to be realized, through funding made available initially through the High Speed Intercity Passenger Rail (HSIPR) program, and subsequently through the rail grants established in the FAST Act.

Recommendations: MIPRC ask Congress to reauthorize and continue strong funding for Amtrak and the three rail grants created in the FAST Act. In addition, MIPRC asks that Congress study opportunities to create revenue streams for IPR through passenger facility charges and allow states to implement such user fees.

III. GRANTS FOR INTERCITY PASSENGER RAIL PLANNING AND IMPLEMENTATION. The FAST Act authorized \$2.2 billion over five years (FFY 2016 to FFY 2020) for three new competitive rail development grant programs that build off the previous \$10 billion federal passenger rail investment through the High-Speed Intercity Passenger Rail Program. MIPRC has supported full funding of these grants each year of their authorization, as well as funding for Better Utilizing Investments to Leverage Development (BUILD) discretionary grants (formerly TIGER). Intercity passenger rail development in MIPRC states have benefited greatly from the awards announced to date:

III. GRANTS FOR INTERCITY PASSENGER RAIL PLANNING AND IMPLEMENTATION (CONT.)

- 1. Consolidated Rail Infrastructure and Safety Improvements (Sec. 11301):** Purpose is to improve the safety, efficiency, and reliability of passenger and freight rail systems. Eligible activities include a wide range of capital, regional and corridor planning, environmental analyses, research, workforce development, and training projects. General Funds. Match: Up to 80-20, but preference given to projects seeking no more than 50-50.
CRISI funding: Congress authorized \$1.1 billion for CRISI FY 2016-20, and has appropriated \$1.266 billion over the five years. Through 2019, FRA issued six NOFOs, and awarded five, totaling \$680 million of the \$940.5 million appropriated through FY 2019. MIPRC states have been awarded 27.32 percent of total non-PTC CRISI awards to date.
- 2. Federal-State Partnership for State of Good Repair (Sec. 11302):** Purpose is to reduce the state of good repair backlog on publicly-owned or Amtrak-owned infrastructure, equipment, and facilities. Eligible activities include capital projects to (1) replace existing assets in-kind or with assets that increase capacity or service levels, (2) ensure that service can be maintained while existing assets are brought into a state of good repair, (3) bring existing assets into a state of good repair. General Funds. Match: Up to 80-20, but preference given to projects seeking no more than 50-50.
State of Good Repair funding: Congress authorized \$997 million for this grant FY 2017-20, and has appropriated \$875 million. Through 2019, FRA issued two NOFOs for this grant, and in August of 2019, awarded \$272.25 million in the first round of grant awards. MIPRC states will receive up to \$66.9 million.
- 3. Restoration and Enhancement Grants (Sec. 11303):** Purpose is to provide operating assistance to initiate, restore, or enhance intercity passenger rail transportation. Grants are limited to three years of operating assistance per route and may not be renewed. General Funds. Match: 80-20 in 1st year, 60-40 in 2nd year, 40-60 in third year; priority given to projects seeking less than those matches.
R&E funding: Congress authorized \$100 million for this grant FY 2017-20, and appropriated \$32 million. FRA has issued two NOFOs for this grant, and through 2019 has awarded one (not in a Midwestern state), for \$4.8 million.
- 4. Better Utilizing Investments to Leverage Development (BUILD) (formerly TIGER):** Purpose is to invest in surface transportation infrastructure that will have a significant local or regional impact. BUILD funding can support roads, bridges, transit, rail, ports or intermodal transportation. General Funds.
BUILD funding: Through the 2019 awards, 17 projects in six MIPRC states received funding to make critical passenger rail improvements, for a total of \$334 million. State and local matches totaled \$536 million.

Recommendations: MIPRC asks Congress to reauthorize and increase funding for the three grant programs, and to urge the Federal Railroad Administration to expedite NOFOs and awards for these programs. We also ask Congress to include authorization of BUILD (along with robust funding) in the reauthorization legislation.

IV. AMTRAK NATIONAL NETWORK. MIPRC has strongly supported continued operation of all of Amtrak's long-distance corridors. New and expanded passenger rail service should continue providing rural communities the vital access to transportation that our nation's long-distance IPR corridors currently provide. As the voice of intercity passenger rail for the Midwest, MIPRC provides important insight to the future of intercity passenger rail service.

Recommendation: MIPRC asks Congress to study the future of the national network and include MIPRC as a stakeholder. We also ask that Congress mandate preservation of the current National Network while it is being studied.

MIPRC Surface Transportation Reauthorization Positions (cont.)

V. STATE SUPPORTED CORRIDORS: Sec. 209 of the Passenger Rail Investment and Improvement Act required all states to assume primary financial responsibility of passenger rail routes under 750 miles in length outside the Northeast Corridor. It further required Amtrak and the affected states to develop a uniform cost methodology for assigning those costs. The Midwest currently has eight state-supported passenger rail routes. During the past ten years, ridership on Midwestern corridor routes has increased nine percent and revenue has grown by 33 percent. During FY 2017, the four MIPRC states with state-supported routes paid a combined total of \$85.7 million to Amtrak to provide its state-supported IPR routes.

Recommendations: MIPRC asks Congress to consider providing additional federal funding support to states for increasing IPR frequencies and routes.

VI. AMTRAK RIGHT OF PREFERENCE. 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. 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. 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. A 2019 report by Amtrak’s Office of Inspector General 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. 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 (currently 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).

Recommendations: In 2019, U.S. Senator Dick Durbin (D-IL) introduced the 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”). MIPRC recommends the language of the Rail Passenger Fairness Act be incorporated into reauthorization. MIPRC further urges Congress to study the prevalence of poor Amtrak on-time performance due to host railroads’ refusal to give passenger rail the priority to which it is statutorily entitled, and to urge the U.S. Department of Justice to initiate a preference enforcement action against any host railroad with an egregious history of such action.

VII. AMTRAK ACCOUNTING AND REPORTING SYSTEMS. Amtrak uses the Amtrak Performance Tracking System (APT) to allocate costs and revenues to service lines. There have been reports, referenced by Members of Congress such as Kansas Sen. Jerry Moran, that the accounting system may inflate costs associated with the National Network.

Recommendation: MIPRC asks that Congress commission a comprehensive review of Amtrak’s cost distribution system as developed by the Volpe Center, and include a review panel that includes state DOTs.

MIPRC Surface Transportation Reauthorization Positions (cont.)

VIII. MIPRC CONCURRENCE WITH AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS (AASHTO) COUNCIL ON RAIL TRANSPORTATION (CORT) POSITIONS. MIPRC agrees with the following policies endorsed by AASHTO CORT to be included in the upcoming reauthorization, with some additions:

- A. **Legislation to Clarify that States are not Railroads.** The System Safety Program works to improve railroad safety through structured, proactive processes and procedures developed and implemented by railroads. It applies to “Railroads that operate intercity or commuter passenger train service on the general railroad system of transportation and railroads that provide commuter or other short-haul rail passenger train service in a metropolitan or suburban area (as described by 49 U.S.C. 20102(2)), including public authorities operating passenger train service.” (49 U.S.C. §270.1) State DOTs are committed to safety, service quality, and reliability of the rail network; however, it is important to clarify that states, and political subdivisions of states, who sponsor, but do not operate intercity passenger rail services, are not railroads nor are they railroad carriers. This clarification is critical as states do not need to endure additional regulatory burdens as they endeavor to utilize the rail mode as part of the nation’s multimodal transportation network.

Recommendations: In 2017, U.S. Senator Deb Fischer (R-NE) introduced the Railroad Advancement of Innovation and Leadership with Safety (RAILS) Act. Section 225 of the bill includes language that clarifies that States are not rail carriers if they do not operate a rail service. AASHTO and MIPRC recommend the language be incorporated into reauthorization. *Further, MIPRC asks that Congress study how to “level the playing field” between Amtrak and other rail operators on issues of access, insurance, etc.*

- B. **Reauthorization of the State-Amtrak Intercity Passenger Rail Committee (SAIPRC).** The State-Amtrak Intercity Passenger Rail Committee (SAIPRC) was established under the FAST Act (§11204) to further implement Section 209 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) and to promote mutual cooperation and planning related to Amtrak’s rail operations and related activities on state-supported routes. SAIPRC members represent Amtrak, the Federal Railroad Administration, and 21 agencies in 18 states responsible for funding 29 Amtrak routes. Altogether, the 29 State-Supported IPR Services carry approximately one-half of all Amtrak riders nationwide and represent an important and growing part of the Amtrak national network. States contribute approximately \$750 million in ticket revenue and direct payments to Amtrak. Over 10 years, ridership on the state-supported IPR Services has grown by 25%.

Recommendations: Section 11101 (f) of the Fast Act authorized up to \$2 million per year for the programs and activities of SAIPRC as a set-aside from the funds appropriated to Amtrak’s National Network account. AASHTO and MIPRC concur that it is important that Congress reauthorize SAIRPC at the same level of funding to continue the partnership working to promote innovative practices and investment programs that support a vibrant and efficient State and national passenger rail network to meet the growing needs of traveling public and encourage economic growth. *In addition, MIPRC recommends that Congress provide funding to the SAIPRC states to conduct an independent audit of Amtrak.*

VIII. MIPRC CONCURRENCE WITH AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS (AASHTO) COUNCIL ON RAIL TRANSPORTATION (CORT) POSITIONS (CONT.).

- C. **Reauthorization of the Next Generation Corridor Equipment and Pool Committee.** The Passenger Rail Investment and Improvement Act of 2008 directed Amtrak, states, FRA and industry to establish the Next Generation Corridor Equipment Pool Committee (NGEC) to standardize and streamline the process for designing and obtaining next-generation passenger rail equipment purchased with federal funding (§24101). NGEC is the national leader in standardization, acquisition, financing and management of passenger rail equipment. The Committee effectively developed six specifications that focus on single level car, bi-level car, single level train sets, diesel-electric locomotive, diesel multiple units, and dual-mode locomotive. Its document control procedures enable a review of the use of specifications and requests for modifications in order to continuously improve these specifications as new developments are conceived in vehicle production/manufacturing. The committee has succeeded in lowering operating and maintenance costs and extending vehicle life expectancy. Lastly, NGEC sparked domestic production, invigorated the supply chain and created high-wage jobs.

Recommendations: MIPRC and AASHTO concur that it is important that Congress reauthorize the committee at the same funding level in order to improve future equipment needs. *Furthermore, MIPRC asks that Congress require anyone using federal funds to use NGEC standards and specifications.*

- D. **Reauthorization of Operation Lifesaver, Inc.** Operation Lifesaver, Inc. (OLI) (49 U.S.C. §1418) is a nonprofit public safety education and awareness organization dedicated to reducing collisions, fatalities and injuries at highway-rail crossings and trespassing on or near railroad tracks. With a nationwide network of passionate volunteers, OLI provides free safety presentations and creates education programs and public awareness campaigns to reach audiences of all ages. The organization reached 2.1 million people directly via 21,226 safety presentations, 245 training sessions and 1,821 special events conducted by state programs nationwide in 2017. In addition, 333 CDL drivers and 1,912 school bus drivers were exposed to OLI's online eLearning safety programs during the year. It is important for Congress to support OLI to promote education, enforcement and engineering to keep people safe around tracks and railway crossings.

Recommendation: AASHTO and MIPRC recommend that Congress reauthorize Operation Lifesaver.

- E. **Reauthorization of Railway Highway Crossing Program.** The Railway-Highway Crossings (Section 130) Program provides funds for the elimination of hazards at railway-highway crossings. The Section 130 Program has been correlated with a significant decrease in fatalities at railway-highway grade crossings. Since the Program's inception in 1987 through 2014, for which most recent data is available, fatalities at these crossings have decreased by 57 percent.

Recommendations: AASHTO and MIPRC recommend that Congress reauthorize Section 130, with the following changes:

- A. Increase federal match for Section 130 program to 100% federal share similar to many other highway safety programs.
- B. Increase the limit of \$7,500 incentive payment of Section 130 funds for the closing of a highway/railway grade crossing to *at least* \$100,000. *MIPRC further recommends incentive payments for closures should be at least equal the cost to install activity warning devices at a crossing to make it go away (typically \$100,000 to \$300,000).*
- C. Add eligibility of Section 130 funds for the replacement of functionally obsolete warning devices.

For further information, please contact:

Laura Kliewer, Director; Midwest Interstate Passenger Rail Commission; The Council of State Governments; 701 E. 22nd St., Ste. 110; Lombard, IL 60148; 630.925.1922 • lkliwer@csg.org