

# United States Senate

WASHINGTON, DC 20510

February 25, 2016

240236

240237

EP 726

EP 728

The Honorable Daniel R. Elliott, III  
The Honorable Deb Miller  
The Honorable Ann D. Begeman  
Surface Transportation Board  
395 E Street, SW  
Washington, DC 20423

**ENTERED**  
**Office of Proceedings**  
**March 3, 2016**  
**Part of**  
**Public Record**

Dear Chairman Elliott, Vice Chairman Miller, and Ms. Begeman,

We are writing today to express our concern regarding the Surface Transportation Board's (STB) recent Notice of Proposed Rulemaking on On-Time Performance and "Policy Statement" on Amtrak's statutory right of preference. While we appreciate the STB taking action on its passenger train performance oversight responsibilities, we believe the proposed rule and policy statement could have harmful effects for rail passengers and communities.

## **Proposed Rulemaking**

The STB proposes to measure on-time performance in accordance with the arrival of Amtrak trains at their final station only. However, each Amtrak train makes many stops along its journey before reaching its final destination. In fact, more than two-thirds of Amtrak passengers do not travel to the final destination of a route. It is our understanding that many trains regularly fall behind schedule at intermediate stations only to benefit from built-in recovery time at the end of a route. Under the proposed rule, persistent delays at these intermediate stations would not be subject to STB oversight. This is despite the preexisting federal precedent and current practice of measuring on-time performance in accordance with the arrival of Amtrak trains at all stations along a route.

We encourage you to consider the needs of the many States and communities with intermediate stations when developing a final rule. All Amtrak passengers deserve protection under on-time performance standards, not just those using stations at the end of a route.

## **Policy Statement**

In 1973, in response to poor on-time performance of Amtrak trains operating over freight rail lines, Congress granted Amtrak trains statutory preference over freight trains. A plain reading of the statute suggests that preference shall be granted with only two possible exceptions: in the event of an emergency; and when a host railroad applies to the STB for relief and the STB, after a hearing, establishes alternate rights on reasonable terms.

In its policy statement, the STB suggests that passenger train preference is not absolute, and that it can be ignored – without any hearing – in cases other than emergencies or in case-specific instances where a host railroad applies for and the STB grants relief. This could have negative consequences for the performance of passenger trains and the people and communities they serve.

We believe Congress's intent was that Amtrak trains be given preferential treatment over freight transportation save for the two limited exceptions stated in the law itself, and we urge you to reconsider the policy statement and take a more straightforward approach to interpreting the statute.

Sincerely,



ROGER F. WICKER  
United States Senator



CORY A. BOOKER  
United States Senator