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Resolution 99-10
Railroad Revitalization and Regulatory Reform Act

WHEREAS, the Federal Courts of the United States have interpreted the Railroad Revitalization and Regulatory Reform Act of 1976 (4-R Act) to permit federal court review of a railroad's claim of overvaluation of its property; and

WHEREAS, the 4-R Act has been expanded by these courts to encompass far more than originally intended by effectively creating a privileged class of taxpayers who may avoid the traditional state or local judicial and administrative review process required of all other taxpayers and by applying the prohibitions of the 4-R Act to taxes other than property taxes; and

WHEREAS, these decisions substitute the federal courts for state and local assessment review bodies and make it difficult for local governments and school districts to determine their tax base or receive even preliminary payment of taxes until years after the taxes are due; and

WHEREAS, railroads and all taxpayers are provided protection by the United States Constitution; and

WHEREAS, such other industries as natural gas pipelines, electric utilities, and telecommunications have either actively sought or expressed an interest in obtaining federal legislation extending the privileges of the 4-R Act to themselves; and

WHEREAS, legislation has been introduced in previous sessions of Congress which would have amended the 4-R Act to limit the railroads' privileged access to federal courts by requiring the railroads to exhaust all available state or local judicial and administrative remedies prior to review by the federal courts of a claim of overassessment, repeal the "any other tax" provision, and clarify that federal courts do not have the authority to review railroad valuations determined by state and local assessors; and

WHEREAS, since 1996 the U.S. Supreme Court has issued a number of decisions reaffirming the States' 11th Amendment sovereign immunity from suits in federal court, which in turn has led some federal district and circuit courts to dismiss 4-R actions brought against state and local governments for lack of jurisdiction; now therefore

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BE IT RESOLVED, that the Multistate Tax Commission will continue to seek via the legislative and judicial process, an equitable resolution to taxpayer inequities caused by the 4-R Act.

Adopted the 30th day of July 1999, by the Multistate Tax Commission.

Attest: _____
Dan R. Bucks
Executive Director