

Before the Transportation Committee

New York State Senate

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Fire and Life Safety Needs in the Penn Station-New York Tunnels

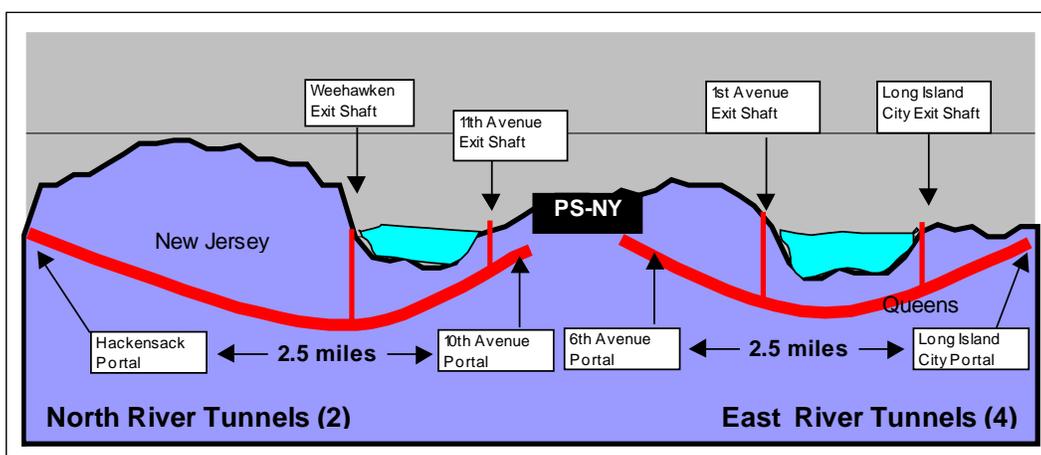


**Statement of
Mark R. Dayton**

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Senator Trunzo, Senator Skelos, and Senator Kuhl:

Six times in the past year, we have alerted the U.S. Congress to our concerns with the longstanding fire and life-safety needs in the tunnels approaching Penn Station in New York City. Nearly \$900 million is needed to bring existing systems up to par with modern safety standards, including the replacement of narrow, winding, spiral staircases, installation of modern ventilation fans, and the rehabilitation of benchwalls. In 1998, Amtrak warned Congress that unless improvements were made rapidly, the age and condition of the tunnels, coupled with the projected growth in traffic, would raise the potential for a serious and consequential



accident. Still, this work is not scheduled for completion until 2014.

While we do not believe that operations through these tunnels are so unsafe as to merit closing them until the work is complete, the current extended schedule of repairs places the public at prolonged and unnecessary risk. We have seen no evidence that the tunnels are structurally unsound and have been assured by Amtrak engineers as well as the Federal Railroad Administration that other than deteriorated benchwalls, the integrity of the tunnel structures are not in question.

Absent sufficient funding to fully address the safety needs in the tunnels, Amtrak, the Long Island Railroad, and New Jersey Transit have prioritized expenditures to date on projects that will minimize the probability of an incident. These include keeping track, signals, and equipment in a state of good repair as well as substantially upgrading the flammability characteristics of equipment that operates through these tunnels. The three railroads have also worked with the local fire departments in New York and New Jersey to develop an emergency response protocol to tunnel fires that emphasizes alternatives to evacuating passengers in the tunnels.

On December 18, 2000, the Office of Inspector General sent a letter to Representative Frank Wolf (R-Va.) outlining our concerns with the specific needs in the Penn Station tunnels, the timeline for addressing them, and the necessary funding levels. I have included this letter as an attachment to the statement I have prepared today. (Office of Inspector General, CC-2001-043, December 18, 2000)

Since our letter to Congress last December, Amtrak has initiated a number of projects that demonstrate an intent to make the most out of the limited Federal capital funding it has available in 2001. Among its efforts are:

- Designing a dry standpipe system that will have the ability to remotely charge and drain. The system will be incrementally operational and Amtrak is committed to having the system fully implemented by the end of FY 2004.
- Modeling to determine whether fans mounted on highrail vehicles could be used as an interim emergency ventilation system.
- Expediting design work necessary to open up the currently closed cross passageway in the East River tunnels to provide an additional avenue for evacuation between tunnels.
- Beginning the feasibility analysis for the installation of closed circuit cameras in the tunnels to enhance monitoring capability.
- In addition, Amtrak continues to meet regularly with the Fire Department of New York senior leadership to address concerns about the tunnels and is in the process of procuring vehicles that could be used to bring response personnel into the tunnels in the event of fire or other emergency.

Today, I would like to make four points concerning the life safety needs in the tunnels:

First, accelerating the schedule for life-safety improvements can only be accomplished if adequate funding is made available;

Second, multiple options exist for funding improvements in the tunnels;

Third, divestiture of the tunnels is not a viable option in the near term; and

Finally, the redevelopment of Penn Station and the tunnel fire and life-safety improvements are distinct and separate projects.

Accelerating the Schedule for Life-Safety Improvements Can Only Be Accomplished if Adequate Funding is Made Available

While Amtrak owns the North and East River tunnels, any discussion of who should be responsible for funding the nearly \$900 million in repairs and how they should be funded must take into consideration the variance between ownership and use of the tunnels by multiple stakeholders. While Amtrak owns and operates the tunnels, it is by far the minority user of them. Less than 20 percent of the tunnel traffic is attributable to Amtrak's intercity passenger service. Other users of the tunnels, which include the Long Island Railroad and New Jersey Transit, bear responsibility for ensuring safe transport of their passengers through these tunnels. The burden of funding the life-safety work resides with all users of these tunnels, not just Amtrak as the owner. It will be important to determine the likely cost sharing responsibility of the respective entities as a prerequisite for identifying a permanent funding solution.

Last fall, Amtrak, the Long Island Railroad, and New Jersey Transit developed an accelerated schedule that would complete all work by 2010, and the most critical projects by 2005. But accelerating the schedule *can only be accomplished if adequate funding is made available*. Amtrak's available funding in recent years, coupled with contributions from the Long Island Railroad and New Jersey Transit, has been insufficient to meet minimum investments necessary to support the spending plan, resulting in several projects being pushed out further in the schedule. The average investment in the tunnel project in the last 2 years was \$27.5 million per year. An annual average investment of \$90 million (in 2002 dollars) would be required to adhere to the accelerated 2010 schedule.

Multiple Options for Funding Improvements in the Penn Station-New York Tunnels.

The required safety investments in the Penn Station-New York tunnels could be financed in a number of ways. *Regardless of the instrument used, we believe it is essential that funds be specifically earmarked for fire-safety needs in the Penn Station-New York tunnels. Earmarking the funds would ensure that they could not be diverted for any other purpose.* Following are four possible funding options.

- Funds equal to Amtrak's share of total project costs could be provided in a supplemental 2001 Federal appropriation or 2002 appropriation that would be available until expended (the last portion in 2010, or sooner if possible). Such an appropriation would likely cover only Amtrak's expected contributions, which would be considerably less than the total project cost of nearly

\$900 million. The other users of the tunnels would need to find matches at the State or local level.

The benefit to Amtrak's co-users of a full appropriation at the start – vs. annual appropriations – is the assurance of a steady stream of funds that will be available when needed to cover Amtrak's share of the costs. Because of the multi-year nature of many of the projects, uncertain or uneven levels of funding in the past has made it difficult to schedule project starts and coordinate matching funds. By appropriating the full amount up front and removing any uncertainty over funding, the safety projects should be able to proceed as quickly as operationally feasible.

- Federal transit discretionary funds could be earmarked to Long Island Railroad and New Jersey Transit to fund the safety projects. This approach could substitute for a separate appropriation as outlined above, or could be used in conjunction with it to help fund Long Island Railroad's and New Jersey Transit's share of the projects' costs. The disadvantage of this approach is that appropriations would be done on an annual basis, which could affect the long-range planning for and start of multi-year projects.
- The current version of the High Speed Rail Investment Act (S. 250) allows for up to \$3 billion to be used on the Northeast Corridor over the next 10 years for projects generating a State or local match of at least 20 percent. This approach has the benefit of ensuring the long-term funding necessary to expedite the work, however, that funding is somewhat less certain than a direct appropriation. Because the share of the projects that are the responsibility of Long Island Railroad and New Jersey Transit would be used, in part, for the escrow account to pay off the bonds, if Long Island Railroad or New Jersey Transit have trouble securing the necessary funds, projects could be delayed.

In addition, the current version of the bill does not earmark funds for the Penn Station tunnels which means that these projects will need to compete with other projects, including those that promise a high rate of return. However, because one of the factors that can be considered in selecting projects includes the level of the proposed match, a higher contribution by the MTA or others would work in its favor.

- A separate bond bill, similar in design to the High Speed Rail Investment Act, could be enacted specifically and only to pay for the tunnel safety investments. Similar to S. 250, Amtrak would be given authority to issue bonds in an amount equal to its share of the life-safety work. Interest payments would be made by taxpayers in the form of a tax credit to bondholders and prepayment of principal would be secured by some or all of the matching contribution from

the other entities funding the projects. This approach would provide the same benefits and limitations as earmarking the High Speed Rail Investment Act.

Divestiture Is Not A Viable Short-Term Option.

The possibility has been raised of transferring the Northeast Corridor infrastructure, including the tunnels, from Amtrak to another entity. That entity would then assume responsibility for funding and completing the fire safety projects. While this option may appear attractive from a capital funding perspective, it should be noted that such an option would have serious operational implications for all users in and out of Penn Station. An extensive analysis of this proposal would be necessary before presenting this as a viable solution. For example, a complete evaluation of the acquiring entity's safety history, project management abilities, and funding availability would be necessary. Other plans would need to be in place regarding integration of emergency response, construction planning, shared usage of facilities and dispatching. A transfer of ownership where these issues have not been well-planned could result in significant service disruptions in the short-term and potential compromises to emergency response capabilities.

These tunnels represent one of Amtrak's greatest assets, which it values between \$4 billion and \$6 billion and appropriate compensation would need to be a consideration in any divestiture proposal. Until these issues have been resolved, we do not consider transferring ownership of the Penn Station-New York infrastructure, in part or total, to be a viable alternative.

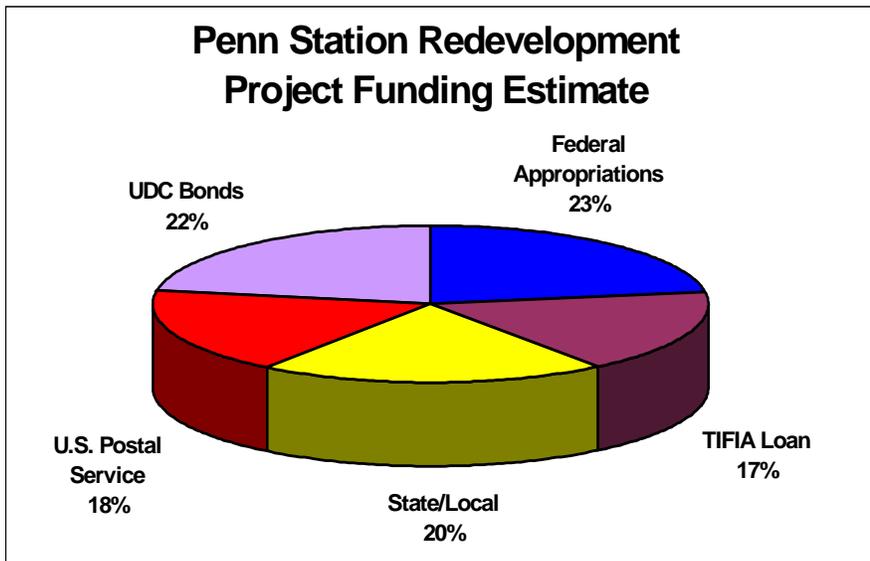
The Redevelopment of Penn Station and the Tunnel Life Safety Improvements are Distinct and Separate Projects.

Questions have been raised concerning the wisdom of moving forward with the redevelopment of Penn Station in the John A. Farley building owned by the U.S. Postal Service when the critical life-safety needs in the tunnels beneath the existing station have not been addressed. While the projects are in close proximity to each other, the actual level of interconnectivity between the projects is substantially limited.

In 1994, Congress authorized the first funds for Amtrak to begin the Penn Station Redevelopment project. Since then, Congress has required most of the funds provided for the project to be used on life safety improvements. Amtrak spent these funds as directed, investing in projects that included replacing escalators and making emergency safety repairs within the existing Penn Station. In 1995, the

Penn Station Redevelopment Corporation (PSRC) was chartered by the New York State Urban Development Corporation as a separate corporation tasked with overseeing the engineering, design and construction of the new station. Securing funding for the project then became the responsibility of the PSRC.

With a current estimated cost of over \$800 million, Federal appropriations account for approximately \$183 million, or less than a quarter of the total project costs¹. The remaining funds, including a TIFIA loan², state and local funds, State-issued bonds, and funds from the U.S. Postal Service have all been committed based on the merits of the Redevelopment Project³. Redirecting funds from the Redevelopment Project to the tunnel life-safety needs would require a significantly more complex transaction than Congress simply canceling a check to one project and issuing it to another.



While the two projects are being independently funded and managed, because of their close proximity, there are some areas of overlap. The tunnel life-safety project includes funds for ventilation work necessitated by station expansion included in the Penn Station Redevelopment. The assumption is that this work will be funded, at least in part, by the PSRC project budget, although the cost and scope of work has not been finalized. The Station Redevelopment will improve the safety of the Penn Station complex as a whole by providing additional access and egress options through platform escalators.

¹ Funding shares may change subject to finalization of total project costs.

² Federal Transportation Infrastructure Finance and Innovation Act of 1998

³ Proceeds from the bonds issued by the New York State Urban Development Corporation have not yet been committed. A rating has not yet been assigned to the bonds pending signed lease agreements with Amtrak, the Port Authority of New York, and the Postal Service.

Thank you for inviting us to participate in this public hearing today. We are encouraged by the attention Congress has directed to the very serious fire and life-safety needs in the New York tunnels and believe that an effort will be made to provide some form of Federal assistance. We hope that this interest can be replicated at the State and local level and a similar commitment made to finding a solution to finance these important projects.