



**TESTIMONY FROM THE  
EMPIRE STATION PASSENGERS ASSOCIATION  
NEW YORK STATE DEPT. OF TRANSPORTATION AND MTA'S PROPOSED BUDGETS**

**JANUARY 24, 2024**

Good afternoon,

Finance Committee Chair Krueger, Ways and Means Committee Chair Weinstein and members of the Legislative committees here today. Thank you for the opportunity to testify on the proposed budget for the New York State Department of Transportation. My name is Steve Strauss, and I am the Executive Director of the Empire State Passengers Association.

The Empire State Passengers Association is a statewide advocacy organization working on behalf of intercity passenger rail riders for more reliable, more frequent and faster Amtrak service in the state. We also have parallel interests in the downstate commuter rail network and local transit everywhere. While this year's testimony is influenced by the release last year of the Empire Corridor Rail Service Development Plan, many of the issues ESPA believes are hindering the State's ability to take full advantage of the opportunities in the Infrastructure Investment and Jobs Act of 2021 remain. New Yorkers cannot expect more frequent, more reliable and faster passenger train service across the state until we build a more robust passenger and freight rail program within NYS DOT.

### **Governor's Budget**

The Governor's Budget proposes spending approximately \$90 million for the State's passenger and freight rail programs. The same as in prior years. It calls for \$44.3 million from the Dedicated Highway and Bridge Trust Fund (DHBTF) to be used to pay for the cost of Amtrak service in New York State. Since 2009 the Passenger Rail Investment and Improvement Act has required states to fund the cost of Amtrak service on routes of 750 miles or less. New York State funds the net operating and capital cost of all Amtrak service

in New York except for the Lake Shore Limited train which is a federally-subsidized long distance train. (Funding for the NEC uses a different set of rules and cost allocation formulas.)

The remaining \$45.5 million of rail funding supports the Passenger and Freight Rail Assistance Program (PFRAP) using \$10 million from the DHBTF and \$35.5 million from the NY Works Capital Projects Fund. PFRAP is a discretionary capital projects fund administered by NYS DOT. PFRAP funds could be used to match federal infrastructure grants for passenger rail projects.

The Governor's budget proposes a 10 person increase in Full Time Equivalents for the Department but no change in headcount for the Office of Passenger and Freight Transportation Program.

If one reviews the Governor's FY2025 Executive Budget Briefing Book one finds almost no mention of the State's passenger rail program even after the 2023 release of the Empire Corridor Service Development Plan, which calls for spending approximately \$350 million a year for 25 years to rebuild and expand intercity passenger train service across the state.

Last year the Governor specifically noted plans to replace the Livingston Avenue rail bridge in Albany in her State of the State speech. This year her speech made no mention of the Livingston Avenue Bridge project and the FY25 Executive Briefing Book claims that the DOT Five Year Capital Plan will "modernize" the Bridge.

ESPA must reluctantly conclude that the Administration has not made improving intercity passenger rail a high priority for FY2025.

NYS DOT's Office of Passenger and Freight Rail continues to lack the resources to adequately oversee Amtrak operations in the state and we question whether the Major Capital Projects staff have the necessary resources to administer the many projects defined in the Service Development Plan that are necessary to improve intercity passenger rail service in the Empire and Adirondack corridors.

The State's difficulty in filling vacancies and retaining employees at State agencies was the topic of a State Senate Civil Service and Pensions Committee hearing last year and ESPA presented written testimony on this problem.

## **DOT Operating Budget and Issues**

For new members of the committees, ESPA wishes to repeat our earlier remarks about state funding of Amtrak service. Under federal law, New York State pays the net operating and

capital cost of **all** Amtrak service in the state. This has been the case since implementation of the Passenger Rail Investment and Improvement Act of 2008. Apart from the Lake Shore Limited, a federally subsidized long-distance train, all Hudson Valley and Empire Corridor trains and the Adirondack train to Montreal are state-funded trains.

Subject to negotiations with Amtrak, New York controls Amtrak service in the Empire state – this includes the amount of service offered, the frequency of service, the price of tickets and the quantity and quality of on-board services and amenities.

Each year Administrations request approximately \$44 million for the Amtrak subsidy in the state budget. NYS DOT uses the funding for both operating and capital costs incurred by Amtrak within the state although the exact details of how these funds are spent remain proprietary and prevent Legislative or public review. While some information on the contract payments is technically available via the NYS Comptroller’s website, there is no reasonable way for elected officials and the public to understand exactly how much or for what the State is paying Amtrak.

ESPA recommends that the Legislature support the Governor’s commitment to government transparency through public release and audit of passenger service vendor contracts (i.e., the Amtrak contract) by the State Comptroller. ESPA believes additional disclosure is the first step in providing greater accountability from both agencies as to the quality and quantity of Amtrak service in the State. Are we getting what we pay for?

ESPA is happy to report that Amtrak ridership in New York State is now exceeding 2019, pre-Covid levels. This has been achieved despite the fact that the last two Hudson Valley trains suspended during Covid will not return to service until this March 4<sup>th</sup> and the popular Sunday-only eastbound afternoon train across the state is currently not operating.

New Yorkers are choosing to ride trains and many more would ride if the seats were available. Hudson Valley trains consistently sell out on Fridays, Saturdays and Sundays and often on Thursdays. Ridership is particularly strong west of Albany; up 16 percent in FY2023 over pre-Covid levels. The State has worked with Amtrak to lengthen some weekend trains to six cars, but more work needs to be done to supply more seats to meet the growing demand for passenger train service.

The Governor’s FY2025 Budget material makes little or no mention of intercity passenger rail service north of Poughkeepsie. In the DOT Agency Presentation, there is no information provided on activities that will be the focus of State Rail Program staff and what capital projects State DOT intends to seek federal financial assistance for. ESPA believes the lack of specific, public, details of a plan for the maintenance and improvement of intercity passenger rail service in New York is a serious shortcoming of the Governor’s budget.

ESPA does want to fully acknowledge NYS DOT staff's active pursuit of discretionary grants for the Livingston Avenue Bridge and several other smaller bridge replacement projects. Staff have also submitted applications for funding for communications and signal upgrade work in the Hudson and Mohawk valleys and new high-level platforms at Hudson.

ESPA believes the State's Rail Program would be stronger and enjoy more active support from the Legislature, County Executives, localities and Amtrak riders if the Administration made known its passenger rail improvement plan. Most states publish their plans and share them with affected communities. Massachusetts has been quite open about its East-West Rail program plans despite the fact that it is dependent on federal discretionary grants for implementation.

### **Metropolitan Transportation Authority Budget Matters**

ESPA notes that important projects to improve service reliability and capacity on Metro-North's Hudson line have been delayed due to the lack of capital funds. These projects benefit both Metro-North and Amtrak riders in the Hudson Valley and are part of the larger plan to improve Amtrak service across the Empire Corridor. These projects are detailed in a 2005 Hudson Valley Rail Needs study sponsored by Metro-North, NYS DOT, Amtrak and CSX.

It is also clear that the Hudson line is increasingly at risk from climate change driven weather disruptions that are frequently flooding tracks in the vicinity of Garrison, Ossining and the South Bronx. The need to harden the corridor and improve drainage must be considered in near term MTA Capital Plans. The Legislature should encourage the MTA to spend some of the revenue from Congestion Pricing fees on these Hudson line needs.

### **Creating a Robust State Rail Program within NYS DOT**

ESPA continues to worry about the ability of NYS DOT to take advantage of the passenger rail funding available to the State from the IIJA. ESPA believes it is time for NYS DOT to build a robust state rail program like those in Wisconsin, Connecticut, Michigan, North Carolina, Virginia and California. These states and others have pro-active state rail programs that not only fund their Section 209 Amtrak trains, but also include strong Amtrak oversight activity, multi-year planning programs for improvements to rail service and capital programs designed to take advantage of the billions in new federal matching funds from the Federal Railroad Administration. Other states are in a stronger position to win discretionary federal grants because they geared up and investing resources in their rail programs.

ESPA encourages NYS DOT to implement a rail performance Dashboard to measure important customer service data such as the percent of trains leaving and arriving on-time, percent of trains that are sold out, ridership by route and other key performance indicators.

NYS's rail planning activities are also insufficient. The Federal Railroad Administration requires states to maintain a State Rail Plan and update them every four years. The last approved NYS Rail Plan was issued in 2009. The failure to update our State Rail Plan sends a negative message to the Federal Railroad Administration and could jeopardize New York's eligibility to apply for and receive FRA discretionary grants in the future. ESPA urges NYS DOT to initiate an update to our expired State Rail Plan.

## **A Capital Program That Can Compete for the Federal Rail Infrastructure Funds**

New York State's last major investments in non-station related passenger rail asset improvements were the completion of the fourth track and related signal system improvements at Rensselaer station and the addition of a second track between Rensselaer and Schenectady. These were great projects that have resulted in noticeable on-time improvements for Amtrak service in the state. These projects were funded primarily by the Federal Recovery Act in 2009.

There have been few other significant intercity passenger rail investments other than the laudable replacement or rehabilitation of train stations in Niagara Falls, Rochester, Schenectady and downtown Buffalo along with our wonderful new Moynihan Train Hall.

Other than a recent \$28.2 million dollar grant to rebuild and extend the Rhinecliff station platform as a high-level platform, replace the elevators and rehabilitate the historic station, New York State has been unsuccessful in winning discretionary federal infrastructure grants for the Empire Corridor. There is lots of speculation as to why this is the case. Clearly in the most recent announcement of Federal-State Partnership for Intercity Passenger Rail grants the Federal Railroad Administration made a policy decision to go big. Three grantees received a total of \$7 billion and seven additional grantees were awarded a total of \$1.0 billion. New York's several Hudson Valley and Capital Region relatively smaller submissions (including the Livingston Avenue Bridge) went unfunded along with applications from other states.

ESPA fears that weaknesses in the State's program may be hurting our competitiveness. We have a **2009 State Rail Plan** which is supposed to be updated every four years. Our new Empire Corridor Service Development Plan (SDP) receives no mention in State Budget documents and is hard to find on DOT's very dated website. The State has not stepped forward with additional funding options nor added resources to design and build the pipeline of projects outlined in the SDP.

There is a minimum of \$3 billion of Federal-State Partnership dollars that New York can compete for in the next 3 years, but the Legislature and public is not informed of any plan to go after those funds for upstate and Hudson Valley rail projects. Additional discretionary grant funding will be available from the FRA's CRISI program and more general DOT grant programs which are multi-modal, highly competitive and open to passenger rail submissions.

The Legislature should ask DOT for a Five-Year Capital Plan for Passenger Rail Improvements. Such a plan would be different from DOT's highway and transit plans because a rail plan would be dependent on discretionary funding from the federal government rather than the formula money that DOT uses for its highway and transit plans.

There is currently no adequate and modern maintenance facility for Amtrak trains in Niagara Falls, the terminus of the Empire Corridor. Amtrak and NYS DOT have long discussed the construction of a Niagara Falls maintenance facility for train sets, which will be required for the introduction of the new trainsets expected to arrive in the early 2030s. NYS DOT received a federal grant for preliminary engineering for this project in 2009. They completed the preliminary design and environmental review in 2017. The full project cost was around \$113 million in 2017 dollars. Phase I, which would build a weather-protected facility for cleaning and servicing trains, costs less than \$15 million (in 2017 dollars).

An Amtrak Inspector General report confirmed that the Niagara Falls facility needs to be completed in time for the introduction of Amtrak's new Empire Corridor train sets in 2030. Amtrak and NYS DOT need to decide which agency will be the lead on completing the design work and awarding a construction contract. The maintenance facility will bring middle-class, union jobs to Niagara and Erie counties and improve the quality of repairs and reliability of train service in the state. ESPA urges the Legislature to press Amtrak and NYS DOT on advancing this project.

Similarly, NYS DOT has long discussed needed track capacity improvements in the Syracuse area. The SDP proposes realigning station platform tracks and thru-tracks, rebuilding the high-level passenger platforms and replacing the Park Street bridge, which has inadequate clearance for trucks and inadequate track capacity above. With the announcement of the multi-billion-dollar Micron chip plant in the Syracuse area, removing this bottleneck to improve passenger and freight access is even more critical. ESPA encourages members of the Assembly and State Senate to urge the Administration to advance these projects into final design, too.

For too many years New York State used the excuse that there was no federal funding available to advance rail improvement projects. That claim was not generally accurate over the last five years, and it is certainly not true today. Under past Administrations New York

has simply lacked the will or the interest to improve intercity passenger rail service beyond new stations. ESPA urges Governor Hochul to commit the State Department of Transportation to developing a robust and public capital improvement plan for intercity passenger rail service and to implement overdue enhancements to existing service to improve the customer experience.

### **Funding A Key Passenger Amenity**

Finally, ESPA urges the Legislature to fund one passenger amenity missing from the DOT/Amtrak operating budget. Reopening café car food and beverage service on all Hudson Valley trains would be a noticeable passenger amenity improvement. NYS DOT planned to implement this service enhancement in the spring of 2020, but it was cancelled because of the Covid pandemic. With service and ridership recovering well, it is time to reopen the food commissary at Rensselaer and reopen the café cars in the Hudson Valley. Reopening the commissary in Rensselaer will benefit passengers across the state by allowing café car restocking in Rensselaer so that fewer sold-out product situations will occur.

New York State can apply for federal assistance to reopen the commissary and restore food and beverage service through a federal grant program that will soon open for applications. If successful, the federal grant would cover a portion of any capital costs and up to six years of operating costs with the federal share declining incrementally each year.

In closing, let me return to the main theme of ESPA's testimony regarding capital improvement projects for Amtrak service in the state. Time is short, with only three years remaining in the greatly enhanced federal infrastructure program. New York is behind other states that have rail projects much further along in the pipeline. Let's not miss any more of this opportunity.

Thank you for considering our testimony on the NYS Department of Transportation's FY2025 State Budget proposals.

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Empire State Passengers Association