

# Appendix B: Freight and Passenger Funding

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## Oregon State Rail Plan - Implementation Plan

Revised Final DRAFT

March 10, 2023

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The primary purpose of this appendix is to describe:

1. How freight and passenger rail are currently funded in Oregon, and the benefits of public investments in freight and passenger rail systems in Oregon (Section 1).
2. How other states fund rail and how Oregon compares to other states in terms of relative level of capital investment (Section 2).
3. State funding options Oregon could consider increasing capital investments in rail (Section 3).

## 1 Rail Funding in Oregon

### 1.1 Outcomes and Benefits of State Funding for Rail Capital Improvements in Oregon

Investments in freight and passenger rail systems help maintain existing infrastructure in a state of good repair. Investments also help to upgrade and expand rail facilities to meet growing demand for transport of heavier loads and greater volumes by rail. Investments in rail and rolling stock also help eliminate bottlenecks and improve efficiency and reliability of intermodal connections, which in turn help reduce greenhouse gas emissions, and provide a safe and affordable alternative to transport by highway.

### 1.2 Freight Rail Funding in Oregon

Historically, freight rail infrastructure was primarily self-funded by private owners and carriers, but the desire for carbon reduction, road traffic reduction and supply-chain resilience concerns have spurred increasing public interest in funding freight rail infrastructure with both state and federal assistance.

Federal freight rail funding sources are described in more detail in Section 3.1.1 below.

Oregon state funding for freight rail is from three primary state sources:

1. Freight rail capital funding (which also benefits passenger rail along key routes) is available through **Connect Oregon** (see Section 1.4), by means of a competitive grant program, historically funded by lottery-backed bonds and now currently funded through the **Privilege and Use Tax**.
2. The **Grade Crossing Protection Account** is authorized from the State Highway Fund and is used for safety improvements at railroad crossings.
3. The railroad **Gross Revenue Fee** is used for improvements to rail grade crossing improvements and passenger rail operations.

Other state funding sources include direct legislative appropriations, which have been directed to the Coos Bay Rail Line and Lake County's railway.

### 1.3 Passenger Rail Funding in Oregon

Passenger rail funding is needed to support both the ongoing operation of the state-managed Amtrak Cascades service and capital improvements to improve reliability, frequency, and travel times within Oregon.

Federal passenger rail funding sources are described in more detail in Section 3.1.1 below.

State funding for rail capital improvements is available through Connect Oregon. These funds are directed towards freight track improvements but have passenger rail benefits.

Most of the recent funding in Oregon for operation of passenger rail and match for federal grants for capital improvement projects has come from state sources. State funding sources include the Transportation Operating Fund (TOF), General Fund, and custom license plate revenue.

## 1.4 Connect Oregon

The Connect Oregon program provides funds for rail improvements in the absence of a dedicated and sustainable funding source for freight and passenger rail investments. Created in 2005, Connect Oregon has become a national model for public-private partnerships, and has proven to be an innovative infrastructure investment program for Oregon. It uses public fund investments to leverage private-sector investments that provide a benefit to Oregon's multimodal transportation system and the state's critical traded-sector economy. Connect Oregon grants have rehabilitated infrastructure needed to sustain existing commercial activities or start new ones.

ODOT requires Connect Oregon applicants to provide documentation, engineering, and financial data to support the need and benefits of projects. Initial eligibility reviews ensure that both public and private sector applicants meet stringent program requirements, proving fiscal responsibility and financial capacity. All applications are subject to modal committee review with input from Area Commissions on Transportation (ACTs), who provide a regional perspective on the need and viability of projects. The Oregon Transportation Commission (OTC) typically makes the final funding decision on Connect Oregon investments.

As originally enacted Connect Oregon was not envisioned to be used as a matching fund mechanism for obtaining federal grants, although it has been when legislatively mandated. The program could be amended to set aside a portion of Connect Oregon funds specifically for use as state match for federal funding opportunities.

## 2 Rail Funding in Other States

This section summarizes a peer review of how other states fund rail investments, borrowing from a 2019 survey of states by the American Association of State Highway and Transportation Officials (AASHTO), and a more direct summary of rail funding in neighboring Washington and California.

### 2.1 American Association of State Highway and Transportation Officials – State Rail Funding Survey Summary

Rail funding in other states was reviewed to help determine if other states could have viable options for Oregon to utilize in the future. Different states across the nation deploy a variety of funding strategies to fund their rail services. Eighteen states replied to a national survey conducted by AASHTO in 2019<sup>1</sup>. Twelve of the 18 states (66%) responded, saying they have designated programs that provide direct aid for new or expanding rail infrastructure to rail customers. States that provide direct aid do so

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<sup>1</sup> American Association of State Highway and Transportation Officials. A Survey of States – Rail Funding, 2019.

through a combination of grant and loan programs. These are funded through a variety of approaches that include combinations of general funds, revolving loans, toll receipts, gas and sales taxes, or state bonds. A select summary of the states surveyed is listed in Table 1.

**Table 1: Rail Funding Highlights from American Association of State Highway and Transportation Officials Survey (2019)**

State	General Description	Rail Funding Program	Match Requirements	Funding Source
Michigan	No-interest loans to railroads for rail infrastructure preservation and improvements.	Michigan Rail Loan Assistance Program	90% state contribution with \$1M maximum award	<ul style="list-style-type: none"> <li>▪ % Sales tax</li> <li>▪ Portion of registration fees</li> <li>▪ Portion of auto-related sales tax</li> </ul>
	Grants to railroads and owners of multi-user transload facilities to improve public safety, operational efficiency, system accessibility, system capacity and/or system condition.	Michigan Rail Enhancement Grant Program	70% state contribution with \$5M maximum award	
New Jersey	Rail Freight Assistance Program	Grant	50%/50% for Class I 70%/50% Class II 90%/10% Class III	General Fund
Virginia	Passenger rail is funded through its Commonwealth Rail Fund (CRF), most of which is dedicated to the Virginia Passenger Rail Authority (VPRA). Remaining funds are used by the Virginia Division of Rail and Public Transportation for planning purposes.	Commonwealth Rail Fund (CRF)		
		Rail Enhancement Fund		Motor vehicle rental tax
		Intercity Passenger Rail Operating and Capital Fund (IPROC)		State sales tax
Wisconsin	State provides loan and grant funding through two state-funded programs and a statewide rail crossing improvement program.	Freight Railroad Infrastructure	Loans (100%)	General Fund
		Freight Rail Preservation	Grants (80% of rail project cost)	

## 2.2 Washington State

State gas taxes and vehicle license fees can only be used for “highway purposes” and cannot be applied to rail capital projects in Washington.<sup>2</sup> Instead, the state relies on rail funding from fees, permits, and other licenses to support three state agencies that implement rail programs:

- Washington State Department of Transportation (WSDOT),
- Freight Mobility Strategic Investment Board (FMSIB), and
- Utilities and Transportation Commission (UTC).

In addition to specific legislative appropriations, WSDOT administers loan and grant programs for freight rail capital improvement projects, basing awards on a detailed application package and a benefit-cost-analysis. FMSIB administers a competitive grant program for all freight corridor projects (not exclusively rail). The UTC grade crossing protective fund primarily targets safety improvements at rail/highway crossings. Other funding is appropriated directly for WSDOT use or earmarks for specific rail freight and passenger projects. A summary of Washington’s state rail capital funding is listed in Table 2.

### WSDOT State Rail Capital Funding

The Freight Rail Investment Bank (FRIB) loan program and Freight Rail Assistance Program (FRAP) (grant program) are used to fund some freight rail improvements. These programs are administered together, with a joint call for projects being issued each biennium. The FRIB program is a loan program that is only available to public sector entities. Loans generally are limited to \$250,000, although requests for larger amounts will be considered if funds are available. All applicants must provide at least a 20% match. Loans come with a repayment period of no more than 10 years. The FRAP provides grants that are available to both public and private entities. Eligible entities include cities, county rail districts, counties, economic development councils, port districts, and privately or publicly owned railroads. FRAP grants are directed toward larger projects, where it is difficult to gain a contribution and where the rail location or the proposed project is of strategic importance to the state, as well as the local community.

Funds for the FRIB program are administered through the Transportation Infrastructure Account, which functions as a “state infrastructure bank.” Loan funds are repaid into the fund, and then can be available for other projects. FRAP funding comes from the Multimodal Transportation Account (MTA). The MTA is funded by sales tax on new and used vehicles, rental car tax, and fees. The Washington State Legislature also has made specific earmarks to freight rail projects in Washington state using MTA funding.

The Essential Rail Assistance Account is funded by repaid loans, franchise fees, and trackage right fees. It is currently used by the state to fund rehabilitation and maintenance of the state-owned Palouse and Coulee City rail line. Approximately \$1.1M was appropriated in the 2021-23 biennium.

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<sup>2</sup> Restricted by the 18<sup>th</sup> Amendment to the Washington State Constitution

WSDOT's Passenger Rail program has several funding sources for capital projects. Historically, the MTA has funded passenger rail capital improvements. However, a new funding source was created by the state in 2021, the Carbon Emission Reduction Account. Funding for the Carbon Emission Reduction Account comes from revenues from the Climate Commitment Act. The Climate Commitment Act caps and reduces greenhouse gas emissions (GHG) from Washington's largest emitting sources and industries. Businesses covered by the Act must obtain allowance to emit GHGs. Allowances are sold at auction, and the resulting revenues are placed into the Account and can be used for transportation alternatives to single occupancy vehicles. \$50M was appropriated to WSDOT for a match to federal grant opportunities in the 2021-23 biennium.

#### Freight Mobility Strategic Investment Board

The Freight Mobility Investment Board provides funding for freight mobility projects around Washington state for roadways, ports and railroads. Projects are funded from the Freight Mobility Multimodal Account, which is comprised of motor vehicle weight fees, as well as general fund appropriations. The Freight Mobility Investment Board also received appropriations from the Freight Mobility Investment Account. These funds consist of fees, licenses, and permits revenues. The Freight Mobility Multimodal Account provides \$6M and the Freight Mobility Investment Account provides \$3M each biennium (approximately) to fund freight mobility work.

#### Washington Utilities and Transportation Commission

The Washington Utilities and Transportation Commission is the railroad safety regulatory agency in Washington state. It has a modest program that provides grants for the installation and maintenance of railroad crossing signals from the Grade Crossing Protective Account. These funds are from the Public Service Revolving Fund's miscellaneous fees and penalties. Approximately \$500,000 has been available for projects each biennium from this program.

Table 2: Washington's State Freight and Passenger Rail Capital Funding

Agency	State & Local Railroad Funding Programs	Funding Source	Eligibility	Funding Availability
WSDOT	Freight Rail Investment Bank (FRIB)	Transportation Infrastructure Account disbursement by means of low interest loans	Freight Projects: Only Public Entities Recipients provide at least 20% match	2021-23: \$5M. Loans limited to \$250K
WSDOT	Freight Rail Assistance Program (FRAP)	Multimodal Transportation Account Disbursement by means of competitive grants	Freight Projects: Public and Private recipients.	2021-2023 biennium: \$7M <sup>3</sup>
WSDOT	Essential Rail Assistance Account	Repaid Loan funds, fees	Freight Projects: Public and Private recipients.	2021-23 biennium: \$1.1M
WSDOT	Intercity Rail Passenger Program (Amtrak Cascades)	Carbon Emissions Reduction Account (CERA) Multimodal Transportation Account	Passenger: Public and Private recipients	2022-2023 biennium: \$50M CERA \$33M MTA
FMSIB	Freight Mobility Strategic Investments	Freight Mobility Multimodal Account and Freight Mobility Investment Account	Freight: Public and Private recipients.	FMMA \$6M FMIA \$3M each biennium
WUTC	Grade Crossing Protective Account	Public Service Revolving Fund's Miscellaneous Fees and Penalties	Public and Private recipients.	\$500K each biennium

<sup>3</sup> <https://wsdot.wa.gov/sites/default/files/2022-05/2023-2025-FRIB-FRAP-Application-Packet.pdf>

### 2.3 California

State and federal fuel taxes (such as Senate Bill 1) are applied to rail projects, in addition to local and state tax measures, state bonds, and the Cap-and-Trade program. The largest sources of state funding are administered by the California State Transportation Agency (CalSTA) and include the state's Public Transportation Account that is funded by diesel fuel tax and other state accounts, the Greenhouse Gas Reduction fund from Cap-and-Trade, and fixed guideway capital investment grants. These funding sources are applied to both passenger and freight rail projects, with the latter being supported more by private investments and state programs like the Section 190 Grade Separation Program, Trade Corridors Improvement Fund, and Automatic Grade-Crossing Warning Device Maintenance Fund. Certain regions within the state also provide local funding for intercity passenger rail projects, such as Los Angeles County with voter-approved sales tax measures.

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State & Local Rail Funding

California's state and local rail funding sources are summarized and listed in Table 3. Key funding sources include diesel fuel sales tax, general fund, general obligation bonds and local county sales tax.

Table 3: California's State and Local Rail Funding

State & Local Railroad Funding Programs	Funding Source	Eligibility	Funding Availability
Public Transportation Account	Diesel Fuel Sales Tax 4.75% Base + 0.5% (SB 1 Increase)	<ul style="list-style-type: none"> <li>▪ Transit/Intercity and Commuter-Rail</li> <li>▪ Road Maintenance</li> <li>▪ Highway Projects</li> <li>▪ Trade Corridor Projects</li> </ul>	Total Funding:  \$10.8B (10 years)
Greenhouse Gas Reduction Fund (Cap and Trade) – Administered through the Transit and Rail Capital Program	General Fund issued through competitive grants	<ul style="list-style-type: none"> <li>▪ HSR (25%)</li> <li>▪ Affordable Housing (20%)</li> <li>▪ Low Carbon Transit (5%)</li> <li>▪ Transit and Intercity Passenger Rail (10%)</li> </ul>	Transit and Intercity Passenger Rail:  \$3.63B
Proposition 1B	Authorizes \$19.9 Billion in General Obligation Bonds	<ul style="list-style-type: none"> <li>▪ Public Transportation</li> <li>▪ Intercity Rail Improvements</li> <li>▪ Allocation to Local Agencies by formula</li> </ul>	Intercity Rail Improvements:  \$400M
Local Voter-Approved Sales Tax	County Sales Tax	Transit Operators	varies

## 2.4 How Oregon Compares to its Peer States

Some similarities between Oregon and its peer states exist regarding state funding programs and investments in private rail systems.

### *Similarities*

- Both Washington and California have legislated general fund distribution to rail investments through either grants or loans, though California's railroad network and revenue sources are much larger than Oregon's. Similarly, Wisconsin and New Jersey apportion rail investment funds from their general fund.
- California's Greenhouse Gas Reduction Fund provides grants for intercity passenger rail improvements – supported by climate action policies. Oregon has similar greenhouse gas reduction policies as outlined in its *Climate Action Plan 2021-2026*, but does not have a comparable funding program to California's.

### *Dissimilarities*

- Michigan, Virginia, and California have all legislated rail investment programs funded through sales taxes.
- California leans heavily on a portion of its diesel fuel tax for public and private rail investments.

## 3 Near and Long-term Rail Funding in Oregon: Options and Strategies

Section 3.1 outlines the various funding *options* available to ODOT as it looks to fund priority freight and passenger rail improvements.

Section 3.2 highlights a number of *strategies* that Oregon may pursue to fund important freight and passenger rail improvements in years to come.

### 3.1 Rail Funding Options

Federal funding and investment programs for freight and passenger rail are significant and supported by recent and sizeable increases in federal funding since the passage and adoption of the Bipartisan Infrastructure Law (BIL)<sup>4</sup>. Programming stemming from this federal legislation is summarized below. Also summarized in this section are state rail investment funding sources, often used to leverage federal investments within Oregon.

#### *3.1.1 Federal Funding Sources*

Federal funding opportunities exist under the BIL and annual appropriations are summarized in Table 4. These federal funds require a match from state, local, and/or private funds. Federal programs should continue to be pursued and the expansion of these programs at the federal level should be supported and advocated.

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<sup>4</sup>[Infrastructure Investment and Jobs Act \(IIJA\). Public Law 117-58](#), November 15, 2021

Table 4: BIL and Annual Appropriations

	Agency	FFY 2022 IIJA and Annual Appropriations	FFY 2023 IIJA	FFY 2024 IIJA	FFY 2025 IIJA	FFY 2026 IIJA	Total
Rebuilding American Infrastructure with Sustainability and Equity (RAISE) National Infrastructure Investments	USDOT	\$2.3B	\$1.5B	\$1.5B	\$1.5B	\$1.5B	\$8.3B
Amtrak National Network	FRA	\$4.7B	\$3.2B	\$3.2B	\$3.2B	\$3.2B	\$17.5B
Consolidated Rail Infrastructure and Safety Improvements (CRISI)	FRA	\$1.6B	\$1B	\$1B	\$1B	\$1B	\$5.6B
Railroad Crossing Elimination Program	FRA	\$600M	\$600M	\$600M	\$600M	\$600M	\$3.0B
Federal State Partnership (FSP) for Intercity Passenger Rail Grants	FRA	\$9.5B	\$9.5B	\$7.2B	\$7.2B	\$7.2B	\$40.6B
Restoration and Enhancement	FRA	\$0	\$50M	\$50M	\$50M	\$50M	\$200M
Corridor Identification and Development Program (CID)	FRA	\$480M (5% of FSP Funding)	\$480M	\$360M	\$360M	\$360M	\$2.04B <sup>5</sup>

The United States Department of Transportation (USDOT) Federal-State Partnership for Intercity Passenger Rail (FSP) Grant program provides funding for capital projects that reduce the state of good

<sup>5</sup> The FRA is allowed by the IIJA to utilize five percent of appropriated FSP monies to fund the CID program (FRA Budget Estimates Fiscal Year 2023, Federal Railroad Administration, p. 133, as submitted to the Committees on Appropriations, [https://www.transportation.gov/sites/dot.gov/files/2022-04/FRA\\_Budget\\_Estimates\\_FY23.pdf](https://www.transportation.gov/sites/dot.gov/files/2022-04/FRA_Budget_Estimates_FY23.pdf))

repair backlog, improve performance, or expand or establish new intercity passenger rail service, including privately operated intercity passenger rail service, if an eligible applicant is involved.

The USDOT Corridor ID Program (CID) was created by the BIL, and will guide the development of new or enhanced intercity passenger rail and high speed passenger rail services that will help bolster economic growth throughout the U.S.

The USDOT Railroad Rehabilitation and Improvement Financing (RRIF) can be used for development of railroad infrastructure through direct loans and loan guarantees for the planning and delivery of rail equipment or facilities. Eligible borrowers include railroads and state and local governments among others. While RRIF is a possibility for some governments and railroads, this program has complexities involving sustainable revenue streams for loan payback and the authority of governmental borrowers for a 30- to 35-year obligation of debt.

### *3.1.2 Oregon State Funding Sources*

More non-federal funding is needed for federal match and for the improvement and maintenance of freight and passenger rail systems. This non-federal match often is provided by the state, but based on project scope and need, there are contributions from local governments as well as private railroads, or even developers.

Inasmuch as ODOT uses Transportation Operating Fund and Connect Oregon monies as state funding sources for freight and passenger rail capital projects, consideration should be given to establishing within Connect Oregon a fund that can be used for state match to leverage federal grants. It is believed to be within the purview of the OTC to create such an account and set eligibility for its use.

Other potential funding sources could be an increase in appropriations from the existing funding stream derived from tax and lottery revenue.

#### Recent Connect Oregon Projects:

- Mid-Willamette Valley Intermodal Facility – Approved July 2019; completion in August 2022
- Rail Expansion at the Port of Morrow East Beach Industrial Park – completed in May 2021

### 3.2 Key Rail Funding Strategies

The OSRP includes planning strategies that are focused on rail funding, which are listed in Table 7. These strategies are focused on the state’s highest rail funding priorities, given limited state funding. They are also a strong signal of how the state would prioritize rail investments given additional funding. Table 7 is followed by additional funding strategies that Oregon should consider.

Table 7: Priority OSRP Strategies Related to Funding

2h	Continue to work with the Federal Railroad Administration on a Corridor Investment Plan, to facilitate decisions on future rail service in the Amtrak Cascades corridor, including general rail alignment, communities where stations could be located, number of daily trips, travel time objectives and the rail technology to be used.
3b	Leverage and support Class I railroad investments to eliminate critical bottlenecks and choke points.
3c	Leverage investments and support short line railroads to upgrade track and maintain the system in a state of good repair where there is a demonstrated rail system, economic and public benefit for the state and/or region, and when a viable long term business plan has been demonstrated. Work may include incentives for businesses to locate and utilize rail assets. The Industrial Rail Spur Fund or similar improvement opportunities are one example of these incentives.
3e	Make and facilitate investments that address intermodal terminal and rail yard capacity needs consistent with the OSRP (e.g., identification or provision of suitable sites and assistance with permitting requirements), where there is market support for such facilities.
3g	Preserve the rail system through a hierarchy of investment and action: (1) Preserve Service, (2) Preserve Infrastructure, (3) Rail Banking, and (4) Rail Line Abandonment (last resort).
4c	Make investments that benefit system operations for freight, intercity passenger and commuter rail service (or do not degrade one service type in favor of another), that eliminate conflicts in shared-use corridors and among modes and that allow for future service improvements.
4d	Maximize and leverage railroad investments through Connect Oregon and other multimodal funding programs.
4e	Work towards securing a sustainable funding source to address critical freight and, passenger and commuter rail system needs for both capital improvements and operations.
4g	Use public-private and public-public partnerships for system investment that benefits both private and public objectives.

In addition to the existing planning and funding strategies, Oregon should consider other more specific funding and investment strategies. States elsewhere have employed other funding strategies that Oregon should consider, such as:

1. Establishing special districts<sup>6</sup> to fund passenger rail projects through property taxes, including value capture and tax increment financing, and fee additives, such as those applying to rental cars and hotels.
1. For select Oregon highway-railroad grade separation projects (like La Pine Grade Separation of US 97 over BNSF), evaluate how such highway safety improvement projects might compete for state funding and programming in the Oregon Statewide Transportation Improvement Program as part of the multimodal transportation system, to the extent allowed by the state Constitution.
2. Reallocating current and future property taxes collected by counties to the State Rail Rehabilitation Fund for freight rail projects.
3. Allocating additional lottery proceeds for rail projects to supplement Connect Oregon or comprise a fund within Connect Oregon for specific use as state match for federal grants.
4. Establishing a monthly telephone access fee to backfill county funding gaps as a result of the railroad Property Tax Reallocation, since Oregon boasts one of the lowest excise taxes on telecommunications lines and devices, and
5. Ending allocation caps and extend railroad eligibility for an Oregon rail investment tax credit focused on supporting major railroad projects.

For Oregon to fully use the economic engine of rail transportation, programs to invest in the rail network must be maintained and expanded to serve multiple needs statewide including preservation, resilience, and increased safety, capacity and efficiency for freight and passenger train service.

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<sup>6</sup> Oregon Revised Statutes 109 (Special Districts) and ORS 267.510 to 267.650 (Transportation District).