

# Washington State Rail Plan

*Technical Note 6: Institutional Framework and Funding Sources  
for Rail*

# Final Report

*prepared for*

**Washington State Department of Transportation**

*prepared by*

**Cambridge Systematics, Inc.**



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*final report*

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# Executive Summary

This technical note builds on previous deliverables of the Washington State Rail Plan, including Technical Note 4c: *Statewide Freight and Passenger Rail Needs and Opportunities*; Technical Note 2: *Freight and Passenger Rail Inventory*; and Technical Note 5: *Rail Investment Program*. The goal of Technical Note 6: *Institutional Framework and Funding Sources for Rail* is to answer the following key questions:

- What is the institutional structure of the rail system and who owns and operates it?
- What does this mean for implementation of key plan recommendations?
- What market factors influence the rail system?
- What challenges exist to rail system planning?
- What are the traditional sources for funding, financing, and implementing rail capital and operational improvements?
- What are some additional sources of funding, financing, and implementing rail projects that are in use by other states that could be considered by the Washington State Department of Transportation (WSDOT)?

This consolidated technical report provides the institutional context for rail, context for understanding Washington’s rail investment strategies, and a review of existing funding/financing strategies; and proposes additional funding strategies. Some of the key points from this report are summarized below.

## Institutional Framework for Rail

- **WSDOT’s involvement in the rail system is guided by Washington’s Transportation Policy Goals (RCW 47.04.280) established by the legislature, as well as by other relevant Revised Code of Washington (RCW) chapters.** There are many different actors involved in planning and overseeing the rail system, including WSDOT, the Washington Utilities and Transportation Commission (UTC), National Railroad Passenger Corporation (Amtrak), BNSF Railway, and the Union Pacific Railroad. Though each of these agencies may have different goals for their involvement in the state’s rail system, WSDOT’s involvement is governed by Washington’s Transportation Policy Goals (RCW 47.04.280), as well as other RCWs, including RCW 47.76 Rail Freight Service, RCW 47.79 High-Speed Ground Transportation, and RCW 47.29 Transportation Innovative Partnerships.
- **However, the state’s role in the rail system must be balanced with the needs and goals of the private railroads. This is due to the fact that the majority of the state’s rail infrastructure is owned and operated by private freight railroad companies.** Though the railroads have traditionally

partnered with WSDOT to allow for the provision of passenger rail service, and to help plan necessary freight projects, it is nevertheless the responsibility of each railroad to make decisions about capital investments and maintenance spending. Railroads must maintain their infrastructure assets to meet safety standards and to forestall expensive reconstruction, and railroads must consider which expansions of capacity will lead to new business opportunities.

- **The customers served by rail and the commodities carried over the rail system are determined by the private railroad companies as standard business practice.** WSDOT has at times partnered with the private railroads to ensure connectivity to rural or agricultural shippers through programs such as its Freight Rail Assistance Program, or through Public Private Partnerships with Class I railroads. WSDOT also compiled a commodity flow analysis as part of this State Rail Plan in order to better understand what types of commodities currently are moving across the rail system, and what commodities are likely to move in the future. However, WSDOT does not otherwise have a role in determining the types of commodities moving across the state's rail system, nor the type or location of customers served by rail.
- **Freight railroads in the business of interstate commerce have been exempted from most state and local regulation. However, there are a variety of federal agencies involved in freight rail regulation.** These include the Federal Railroad Administration (FRA), which oversees safety in coordination with the UTC. The Surface Transportation Board (STB) oversees economic regulations, the Department of Homeland Security oversees security and hazardous materials (hazmat), and the U.S. Environmental Protection Agency (EPA) oversees emissions and environmental regulations.
- **Railroad operation is a capital-intensive business, and implementing rail improvement projects can be costly and expensive.** In fact, the American Association of Railroads (AAR) estimates that nationally railroad investments in trackage and equipment have grown from \$6.1 billion in 2000 to \$11.6 billion in 2011, a 90 percent increase.
- **WSDOT contributed almost \$270 million towards passenger and freight rail capital improvements between 2002 and 2011.** In Washington, cumulative passenger rail capital funding from state and federal sources was \$188.1 million between fiscal year (FY) 2002 to 2011, including a state contribution of \$160.7 million and a federal contribution of \$24.7 million. Freight rail funding in Washington between 2002 and 2011 totaled \$72.9 million, including a state contribution of \$57 million and a federal contribution of \$15.6 million.<sup>1</sup> These funds were distributed through a variety of state and federal programs, including the WSDOT Freight Rail Assistance

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<sup>1</sup> WSDOT.

Program, the 2009 American Recovery and Reinvestment Act (ARRA), local funding, the Ports of Tacoma and Seattle, rural development grants, and 2003 Transportation Funds. It should be noted that this amount is far less than the needs identified in Technical Note 5: *Rail Investment Plan*.

- **State policies affect freight railroads primarily in taxation, grade crossings, rail safety and economic incentives.** Though the freight railroads are primarily responsible for maintenance of the rail system, the state overlaps in terms of taxation, grade crossings, rail safety and economic incentives. The cumulative influence of these four policy areas can serve to improve rates of return of railroad investments by creating a favorable business climate for railroad development. For instance, various state safety programs can ensure that they are coordinating fully with the FRA programs; and direct funding programs that assist rail projects can increase the effective rate of return for freight railroad investments.
- **Passenger rail is the responsibility of several other federal and state entities.** For example, Amtrak is responsible for Empire Builder/Coast Starlight; WSDOT (in partnership with the Oregon Department of Transportation) is primarily responsible for overseeing Amtrak Cascades, while Sound Transit is primarily responsible for overseeing the Sounder Commuter Rail.
- **Intercity and commuter passenger rail is regulated and administered at the federal level by the FRA, the Federal Transit Administration (FTA) and the STB.** Urban transit systems not connected to the freight rail network, such as light-rail systems, are administered solely by the FTA. Light rail has not been a focus of this State Rail Plan, which has instead focused on long-distance, intercity and commuter passenger rail services.
- **At the state level, involvement in the Class I or short-line freight rail system is mostly accomplished by WSDOT.** WSDOT's role includes integrated passenger and freight rail system planning, administration of two short-line rail assistance programs and public education regarding rail safety and security. Other entities play a role in freight rail system planning. For example, the Freight Mobility Strategic Investment Board (FMSIB) is involved in the prioritization of freight rail projects for potential funding, and the UTC regulates railroad safety under Title 81 RCW. The Washington Community Economic Revitalization Board (CERB) has at times been involved with financing rail projects when it has been shown to encourage new development and the expansion of public benefit.

## Federal Rail Funding and Financing Sources

- **Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21) maintains current federal transportation funding levels at just over \$105 billion for FY 2013 and 2014, consistent with what has been funded under previous bills.** MAP-21 did little to create new funding opportunities for freight or

passenger rail transportation. It did, however, extend several programs that helped fund such projects in the past (including the Projects of National and Regional Significance Program); and increased the funding of a few relevant programs such as the Transportation Infrastructure Finance and Innovation Act (TIFIA).

- **MAP-21 contains several formula programs and discretionary programs that can fund rail projects.** Key formula programs that can fund rail projects under MAP-21 include the Significant Freight Provisions, the Surface Transportation Program, the Congestion Mitigation and Air Quality Program, and the Rail-Highway Crossings Program. The Transportation Alternatives Program is also relevant, since it has been used in other states to convert abandoned rail corridors to trails. Relevant discretionary programs under MAP-21 include Projects of National and Regional Significance. The Fixed Guideway Capital Investment Grants are also of relevance to Sound Transit's investment into the transit system, though it cannot be used by long-distance or intercity passenger rail.
- **At the federal level, there are also several discretionary loan and grant programs that have funded rail projects in Washington.** These programs include the U.S. Department of Transportation's (DOT) Transportation Investment Generating Economic Recovery grants (TIGER), FRA grants, ARRA funding, and Passenger Rail Investment and Improvement Act (PRIIA) funding. There are also loan and tax credit programs, including the U.S. DOT's TIFIA loans, the FRA's Railroad Rehabilitation and Improvement Financing (RRIF) program, and the Railroad Track Maintenance Credit Program offered through the Department of the Treasury - Internal Revenue Service (IRS). Washington railroads have received funds from several of these sources in the past (for example, the Columbia Basin Railroad received a \$3.0 million RRIF loan in 2008). Washington has also had several successful rail-focused TIGER grant applications. These include the North Spokane Corridor Railroad Realignment, which received \$10 million in grant funding towards the \$31.5 million project cost under TIGER IV (2012); and the West Vancouver Freight Access Project, which received \$10 million in grant funding towards the \$92.9 million project cost in TIGER II (2010).<sup>2</sup>

## State and Local Rail Funding and Financing Sources

- **At the state level, most programs that fund rail projects were created in recognition of the environmental, economic, or job creation benefits that can result from rail projects.** Most if these programs are governed by the Washington State Legislature through its appropriations and funding of grant programs. These programs include the Freight Rail Investment Bank,

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<sup>2</sup> [www.dot.gov/sites/dot.dev/files/docs/TIGER\\_CAPITAL\\_GRANTS\\_2010.pdf](http://www.dot.gov/sites/dot.dev/files/docs/TIGER_CAPITAL_GRANTS_2010.pdf).

the Freight Rail Assistance Program, the Grain Train Revolving Fund, the Produce Rail Car Program, the 2005 Transportation Partnership Program, the 2003 Legislative Package, and Multimodal Transportation Programs.

- **Other key entities that help to fund or finance rail include the State Treasury, UTC, individual counties, and ports.** Programs under the Treasury include the Essential Rail Assistance Account, the Transportation Infrastructure Account, and the Transportation Innovative Partnership Account. At the local level, counties, metropolitan planning organizations (MPO), and other entities, such as ports, can also levy fees and taxes, and use grants to fund all or portions of projects.
- **Several other agencies are involved with prioritizing, recommending or studying freight transportation improvements, or for helping to coordinate stakeholder funding opportunities.** At the state level, FMSIB reviews, prioritizes and recommends freight mobility transportation projects that are of strategic importance to Washington. Several other groups have similar mandates on a regional level, including the International Mobility and Trade Corridor Program (IMTC), the Freight Action Strategy for the Everett-Seattle-Tacoma Corridor (FAST Corridor), the Regional Freight Mobility Roundtable, and the Inland Pacific Hub.

### **Innovative Rail Funding and Financing Sources**

- **Currently, Washington rail revenue sources are primarily derived from several sources, including taxes on drivers' licenses, light-vehicle weight fees, auto sales taxes and rental car taxes.** These fees and taxes are deposited into several accounts, including the 2005 Transportation Partnership Program, the 2003 Legislative Transportation Package (the "Nickel" Account), the Multimodal Transportation Account and the Freight Mobility Multimodal Account.
- **There are several potential public revenue sources that are used in other states that may be appropriate for Washington to consider in the future.** These include road usage charge fees, sales tax on motor fuels, lottery proceeds, special districts, railroad property tax reallocation and railroad tax credit. The implementation of any of these revenue sources would require significant additional research, and would likely face considerable implementation hurdles. However, they have proven to be a viable source of rail project funding in other states, and are presented in this technical note as ideas for further consideration and study.
- **Washington should continue to seek innovative funding and financing sources in order to leverage public funds, and to provide more value with limited resources. This includes the use of Public Private Partnerships (PPP).** Even though legislative approval is needed for private rail financing, PPPs allow for the leveraging of public funds with private money and have been used successfully in the past to fund rail projects. Structures of PPPs

that have been successful around the country include, but are not limited to, third-party finance with usage-based revenues, public financing with private contributions and private financing.

# 1.0 Introduction

This technical note builds on previous deliverables of the Washington State Rail Plan, including Technical Note 4c: *Statewide Freight and Passenger Needs and Opportunities*, and Technical Note 2: *Freight and Passenger Rail Inventory*. Technical Note 4c provided a detailed summary of needs for Washington’s rail system, and Technical Note 2 described the state’s freight and passenger rail system. Technical Note 5: *Rail Investment Program* defined the projects and strategies that will help the Washington State Department of Transportation (WSDOT) to address these key rail system needs.

However, implementing rail improvement projects can be costly and complex. Washington’s cumulative passenger rail capital funding from state and federal sources was \$188.1 million between fiscal year (FY) 2002 to 2011, including a state contribution of \$160.7 million and a federal contribution of \$24.7 million. Freight rail funding in Washington between 2002 and 2011 totaled \$72.9 million, including a state contribution of \$57 million and a federal contribution of \$15.6 million.<sup>3</sup> These funds were distributed through a variety of state and federal programs, including the WSDOT Freight Rail Assistance Program, the 2009 American Recovery and Reinvestment Act (ARRA), local funding, the Ports of Tacoma and Seattle, rural development grants, and 2003 Legislative Transportation Package. Though this funding has resulted in numerous improvements to the rail system, evidence suggests that this funding level falls short of actual rail system investment needs. Indeed, some of the projects that will comprise Technical Note 5: *Rail Investment Plan* do not have any funding source identified. To address this shortfall, this technical note suggests some funding programs that may be potential sources for financing rail system improvement projects. Some of these are recognized programs in use in other peer states to fund rail improvements, and others are long-term strategies that Washington could consider in the future.

An additional hurdle when considering rail system capital investment is the complexity of managing a system largely owned and operated by the private sector—yet supporting vital public services, including passenger rail and short-line connections to rural industries. Understanding this context for Washington’s rail improvement strategies is therefore an important and critical part of recommending funding and financing sources. Therefore, the purpose of this technical note is two-fold.

- First, it describes the institutional framework that governs the rail system, including the financial position of the major freight railroad companies, how

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<sup>3</sup> WSDOT.

freight railroad industry might change in the future, how railroads make investment decisions on their networks, and how Washington might consider actions that most directly affect freight railroad investments and operations.

- Second, it provides a review of existing rail funding/financing strategies that are currently in use for freight and passenger rail projects in Washington, including federal, state and local funding and financing mechanisms. It also suggests additional funding and financing options and strategies that may be appropriate for certain projects within the proposed Rail Investment Program, including innovative public revenue-generating mechanisms, such as public private partnerships (PPP).

It accomplishes these two goals in the following four sections:

- **Section 2.0, Institutional Framework for Rail**, discusses state rail powers and authorities; presents the state's role in the rail system as established in previous studies; and then moves into a discussion of the private railroad industry, its history and how the railroads make investment decisions. It finishes with summaries of the agencies and entities involved in federal and state rail governance and planning.
- **Section 3.0, Federal Rail Funding and Financing Sources**, discusses MAP-21 rail funding programs and other federal funding sources, and reviews federal loan and tax programs that have been used in Washington or in peer states to fund rail capital or operational improvements.
- **Section 4.0, State, Regional and Local Funding and Finance Sources**, reviews state-level funding and finance programs, regional partnerships and local sources.
- **Section 5.0, Innovative Rail Funding and Financing Sources**, presents potential future funding sources for Washington to consider. This section presents items that have been used successfully in peer states to fund or finance rail projects. However, implementation of any of these sources would require significant additional analysis in order to assess their feasibility in Washington state.

## 2.0 Institutional Framework for Rail

### 2.1 STATE POWERS AND AUTHORITIES IN RAIL

There are many different agencies involved in planning and overseeing the rail system, including the Washington State Department of Transportation (WSDOT), the Washington Utilities and Transportation Commission (UTC), National Railroad Passenger Corporation (Amtrak), BNSF Railway (BNSF), and the Union Pacific Railroad (UP). Though each of these agencies may have different goals for their involvement in the state's rail system, WSDOT's involvement is guided by the six transportation policy goals established by the legislature, as well as by the other relevant Revised Code of Washington (RCW) chapters. Washington's Transportation Policy Goals (RCW 47.04.280) are summarized in Table 2.1.

Table 2.1 Washington's Transportation Policy Goals as Established by RCW 47.04.280

<b>Economic Vitality</b>	To promote and develop transportation systems that stimulate, support and enhance the movement of people and goods; and ensure a prosperous economy.
<b>Preservation</b>	To maintain, preserve and extend the life and utility of prior investments in transportation systems and services.
<b>Safety</b>	To provide for and improve the safety and security of transportation customers and the transportation system.
<b>Mobility</b>	To improve the predictable movement of goods and people throughout Washington state.
<b>Environment</b>	To enhance Washington's quality of life through transportation investments that promote energy conservation, enhance healthy communities and protect the environment.
<b>Stewardship</b>	To continuously improve the quality, effectiveness and efficiency of the transportation system.

Source: Washington State Legislature, RCW 47.04.280:  
<http://apps.leg.wa.gov/rcw/default.aspx?cite=47.04.280>.

Additional RCWs that guide WSDOT in managing the passenger and freight rail system are described below.

#### Chapter 47.76 RCW, Rail Freight Service

This section provides the overall policy direction for freight rail service in the state. It stipulates that better freight rail planning, better cooperation to preserve

rail lines, and increased financial assistance from the state are all necessary features to maintain and improve the freight rail system within the state. Some of the key statutes included in this section include:

- The implementation of a state rail program.
- The development and implementation of state rail plan by WSDOT and the continuing responsibility for railroad safety issues to be handled by the UTC.
- The policy regarding rail preservation, which is recognized as important for the state, and that alternatives should be considered prior to abandonment.
- The establishment of the Essential Rail Assistance Account to provide assistance to rail lines (discussed in Section 4.0).
- The establishment of a Produce Railcar Pool Program by WSDOT as a result of the success of the Washington Grain Train Program (discussed in Section 4.0).

### **Chapter 47.79 RCW, High-Speed Ground Transportation**

This section establishes a program to promote a high-quality, high-speed, intercity rail system. The statute was enacted based on the legislature's conclusion that high-speed ground transportation provides substantial public benefit for the state to help reduce congestion, reduce emissions while protecting the state's quality of life. The high-speed ground transportation has the following goals:

- Implement high-speed ground transportation service offering top speeds over 150 mph between Everett and Portland, Oregon, by 2020.
- Implement high-speed ground transportation service offering top speeds over 150 mph between Everett and Vancouver, British Columbia (B.C.), by 2025.
- Implement high-speed ground transportation service offering top speeds over 150 mph between Seattle and Spokane by 2030.

The section also contains the following key statutes:

- The development of a high-quality intercity passenger rail service, which shall be developed through incremental upgrading of the existing service. WSDOT shall develop a prioritized list of projects to improve existing passenger rail service and begin new passenger rail service.
- The development of a rail passenger plan that includes ridership forecasts, location assessment and coordination with other agencies.
- It also contained the authorizing language necessary for the redevelopment of the King Street Station (completed in 2013), including granting WSDOT with acquisition power of the station, and terms that helped to facilitate tax

exempt financing of the station. It also granted the establishment of a King Street railroad station facility account as an interest-bearing local account.

## **Chapter 47.29 RCW, Transportation Innovative Partnerships**

This chapter intends to achieve the following goals:

- To provide a well-defined mechanism to facilitate the collaboration between public and private entities in transportation.
- To bring innovative thinking from the private sector and other states to bear on public projects within the state.
- To provide greater flexibility in achieving the transportation projects.
- To allow for creative cost and risk sharing between the public and private partners.

This section establishes the following key statute that guides projects that are to be born out of innovative partnerships:

- Additional transportation commission powers and duties, including approval of new contracts, determining the types of contracts allowed and so on.
- Establishment of eligible projects, including transportation projects of any mode, as well as other structures that are linked to the said transportation project.
- Eligible financing guidelines, such as loans, credits from federal, state, and local sources, including tolls and user fees.
- The establishment of the Transportation Innovative Partnership Account and how the account is to be used (discussed in Section 4.0).

## **2.2 STATE POLICY AS ESTABLISHED IN PREVIOUS STUDIES**

Discussions with WSDOT and numerous passenger and freight rail stakeholders have determined that the policies established in the Washington State Transportation Commission's 2006 *Rail Capacity and System Needs Study*<sup>4</sup> is still relevant. Specifically, this policy states the following:

- Washington should continue to participate in the preservation and improvement of both the freight and passenger rail transportation system, where there are public benefits to Washington state, its businesses, and its communities.

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<sup>4</sup> [www.wstc.wa.gov/rail/RailFinalReport.pdf](http://www.wstc.wa.gov/rail/RailFinalReport.pdf).

- The state should base its decisions to participate in projects, programs and other rail initiatives on a systematic assessment and comparison of benefits and costs across users and across modes.
- Where the state determines there are sufficient public benefits to justify public participation in the preservation and improvement of the rail transportation system, its actions should be guided by the following general principles:
  - Emphasize operations and nonfinancial participation in projects before capital investment.
  - Preserve and encourage competition.
  - Target actions to encourage private investment that advances Washington’s economic development goals.
  - Leverage state participation by allocating cost responsibility among beneficiaries.
  - Require projects to have viable business plans.

Work completed throughout this State Rail Plan helped to clarify the recommendations necessary to support, advance and implement these policy statements.

## **2.3 THE ROLE OF THE PRIVATE RAILROAD INDUSTRY**

The state’s role in the rail system, at all times, must be balanced with the needs and goals of the private railroad industry. This is because the majority of the state’s rail infrastructure is owned and operated by private freight railroad companies. Though the railroads have traditionally partnered with WSDOT to allow for the provision of passenger rail service, and to help plan necessary freight projects, it is nevertheless the responsibility of each railroad to make decisions about capital investments and maintenance spending. Railroads must maintain their infrastructure assets to meet safety standards and to forestall expensive reconstruction, and railroads must consider which expansions of capacity will lead to new business opportunities. Table 2.2 lists the typical sources of funding for operations and maintenance, and the primary categories of capital investment by carrier type. Entries marked with a gray background indicate funding from public sources, which could be through direct (grants, loans, etc.) or indirect (tax credits, abatements, etc.) means. In other words, the items in gray are the typical places and project types that the public-sector partners work directly with the Classes I, II or III carriers to plan or implement rail projects.

**Table 2.2 Typical Sources of Funding Freight Rail Operations and Infrastructure**

Cost Category	Class I Carriers	Class II and III Carriers
Operations and Maintenance	Private capital – Cash flow	Private capital – Cash flow, loans, etc.
Capital Maintenance and Expansion	Private capital – Cash flow, loans, stock, etc.	Private capital – Cash flow, loans, stock, etc. Tax credits, public loans and grants
Cars and Locomotives	Private capital – Direct ownership, third-party lease	Private capital – Direct ownership, third-party lease)
Grade Crossings	Private capital – Cash flow Federal Section 130 and state/local match	Private capital – Cash flow
Customer Facilities	Private capital – Customer cash flow, loans, etc. Freight rail and economic development assistance programs	Private capital – Customer cash flow, loans, etc.

Source: Consultant analysis, Minnesota Statewide Rail Plan.

This arrangement can, at times, add complexity to rail system planning activities, as they require the active participation of the state, but also the private railroads. This relationship will be explained more in the next few pages by reviewing the following:

- The history of the rail system in the 19<sup>th</sup> century and their financial position in 2013.
- Alternative (possible) futures for freight railroads.
- How railroads make investment decisions.
- The ways in which state policy can influence freight railroads and their planning activities.

Subsequent chapters in this technical note will outline the agencies and entities responsible for public-sector participation in the rail system, as well as traditional financing programs used by the public sector in its rail planning activities.

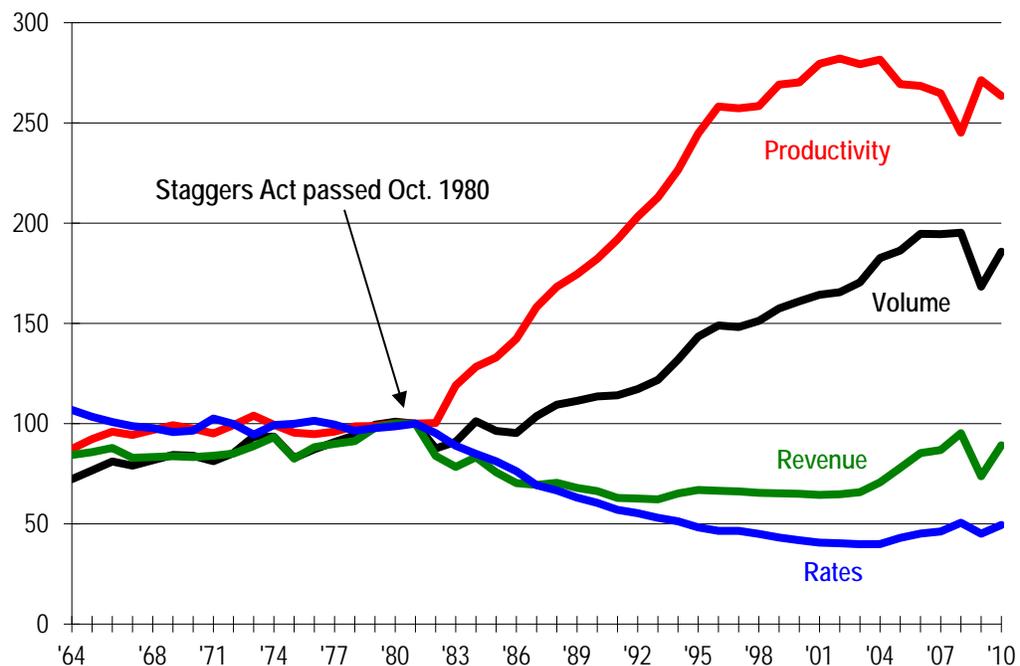
### **History and Financial Condition of the Freight Railroad Industry**

The current U.S. freight railroad network is much smaller than it was when rail was the dominant means of transporting people and goods across the nation. In the 19<sup>th</sup> century, the national rail network grew from 53,000 miles in 1870 to 193,000 miles in 1900; nearly four times as long in three decades. In 1916, the freight railroads reached 254,000 miles; its high water mark in terms of mileage. By that time, freight railroad operations were highly regulated in terms of creating firms, in setting prices, and in reducing services. This regulatory regime remained in place as freight railroads lost market share to automobiles, trucks and airplanes. By 1980, after a series of high-profile railroad bankruptcies and

10 years after passenger rail service had effectively been nationalized to Amtrak, Congress deregulated the freight railroad industry with the passage of the Staggers Rail Act of 1980.

The effects of the Staggers Act have been dramatic, expanding railroad productivity and reducing rail rates paid by shippers in many regions. Figure 2.1 shows the effects of rail deregulation, representing indexed values of productivity, volume, revenue and price.

**Figure 2.1 Railroad Economic Performance as Affected by the Staggers Act (1981 = 100)**



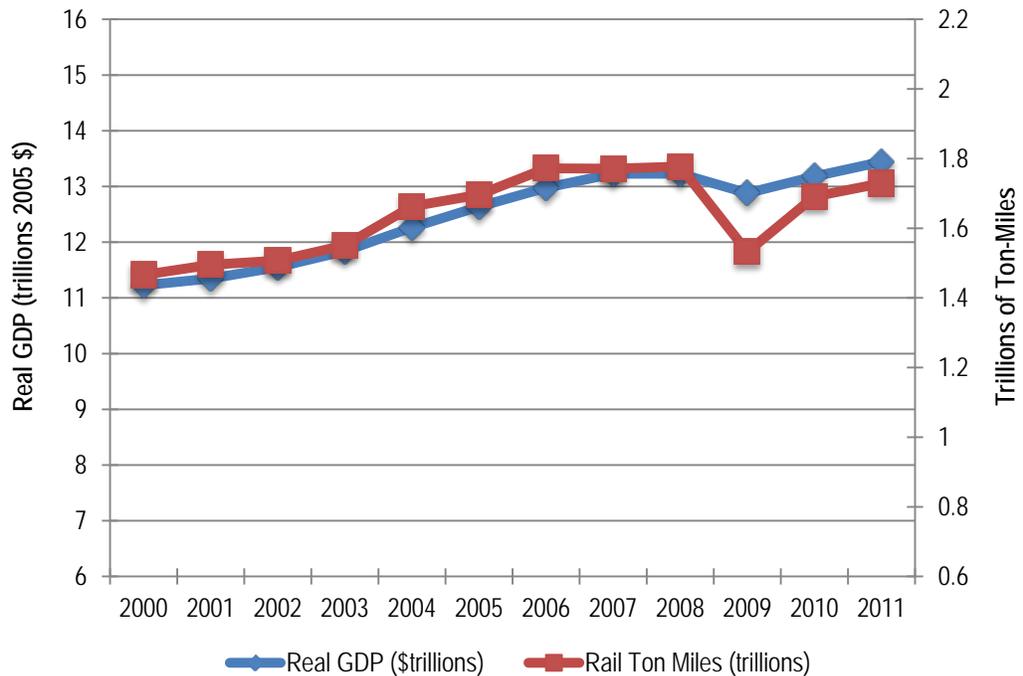
Source: Association of American Railroads (AAR).

Note: Indexed values include rail productivity (revenue ton-miles per constant dollar operating expenses), volume (revenue ton-miles), revenue (operating revenue in constant dollars), and price (revenue in constant dollars per ton-mile).

Deregulation also led to dramatic railroad consolidation, as the number of major freight railroads—classified as Class I by the Surface Transportation Board (STB)—decreased from 41 in 1980 to 7 in 2013. Fewer railroads and new equipment and technologies have reduced the rail workforce from 518,000 in 1980 to 230,000 in 2011. Railroads were also able to abandon and sell unprofitable rail lines more easily, resulting in a decrease in Class I rail route mileage from 164,822 miles in 1980 to 95,514 in 2011.

Freight railroad traffic nationally tracks macroeconomic trends, as shown in Figure 2.2, demonstrating the relationship of real gross domestic product (GDP) and freight rail traffic in ton-miles.

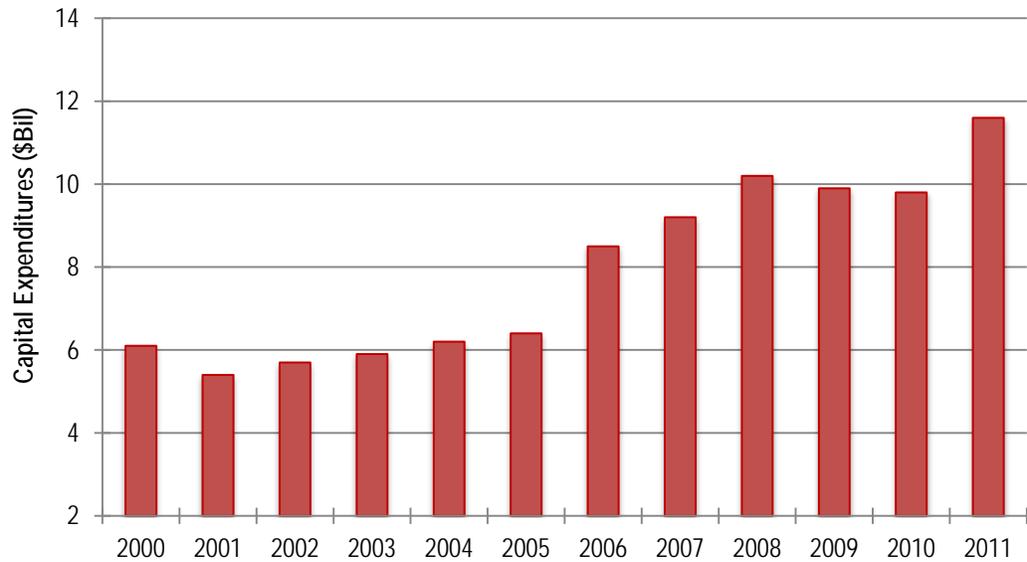
Figure 2.2 Real GDP and Freight Railroad Traffic, 2000 to 2011



Source: Real GDP in chained 2005 dollars, from Economic Indicators, Council on Economic Advisors, 2012. Rail Ton Miles from AAR, 2010 Railroad 10-Year Trends and Railroad Fact Books 2011 and 2012.

Railroads are a capital-intensive business, as the freight railroad companies are solely responsible for the extensive physical assets of track, rights of way, signal and train control systems, and locomotives and many rail cars. Figure 2.3 shows that railroad investments in roadway and equipment have grown from \$6.1 billion in 2000 to \$11.6 billion in 2011, a 90 percent increase. Figure 2.4 shows that this growth in capital spending has been supported by an increase in rail net income, as railroads have been able to deal with fuel cost instability through pricing mechanisms.

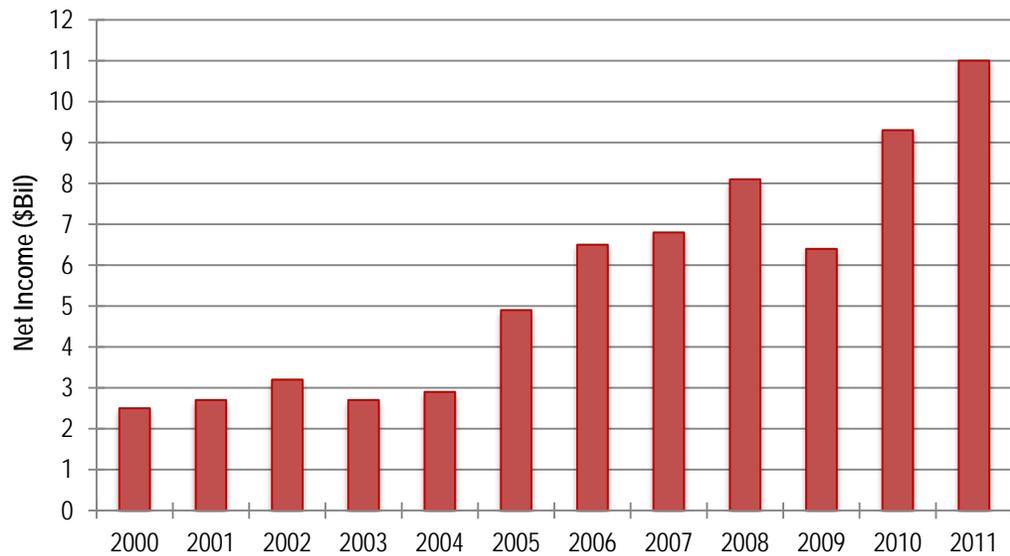
**Figure 2.3 Freight Railroad Roadway<sup>a</sup> and Equipment Spending, 2000 to 2011**



Source: Capital expenditures on roadway and equipment from AAR, 2010 Railroad 10-Year Trends and Railroad Fact Books 2011 and 2012.

<sup>a</sup> Roadway refers to the actual track infrastructure, including yard tracks and sidings.

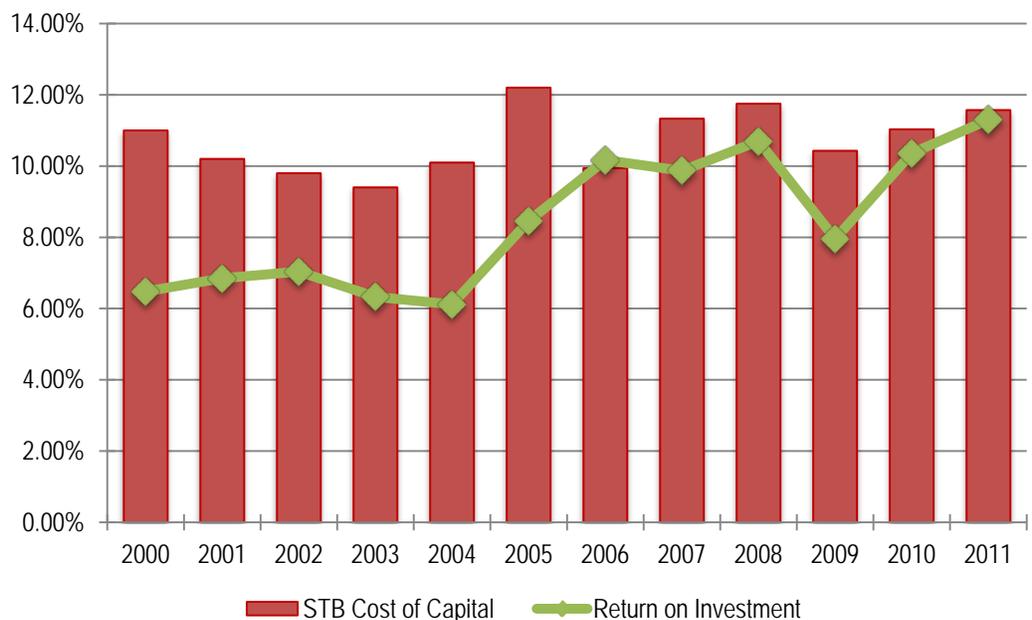
**Figure 2.4 Freight Railroad Net Income, 2000 to 2011**



Source: Net Railway Operating Income from AAR, 2010 Railroad 10-Year Trends and Railroad Fact Books 2011 and 2012.

Since railroads are a capital-intensive industry, larger shares of cash flows are reinvested in capital spending (compared to other industries), which leads to higher relative cost of capital for the railroads in financial markets, leaving a gap between cost of capital and return on investments. Recent increases in net income have led to increased rates of return on railroad investments, closing this gap, as shown in Figure 2.5. The STB monitors these metrics carefully to determine how these financial measures relate and how they affect prices being paid by rail shippers.

**Figure 2.5 Rate of Return on Net Investment and Cost of Capital, Class I Railroads, 2000 to 2011**



Source: AAR, figures based on STB’s Decision in Revenue Adequacy and Cost of Capital proceedings, plus the Railroads’ Schedule 250 submissions, reported in 2010 Railroad 10-Year Trends and Railroad Fact Books 2011 and 2012.

The related matters of rail income, cost of capital and shipper rates hinge on the practice most freight railroads employ known as differential pricing, a strategy by which railroads may charge shippers different rates for similar shipments. Railroads engage in this practice because their average costs will usually exceed their marginal costs. In other words, dividing the total costs of operating and maintaining the entire rail network by the total amount of traffic will be higher than the incremental cost of moving a single shipment over that network.

Freight competition among modes also affects differential pricing. In some markets, shippers may have options with another railroad or with another mode like barges or trucks. In these competitive markets, railroads may price closer to marginal or incremental costs to attract shipper business. This may result in higher rates being paid by shippers in other less competitive markets.

Differential pricing may also mean that a large shipper shipping the same kind of commodity in the same kind of rail car over the same distance could pay different rates in different parts of the country. Differential pricing has resulted in some grain shippers in Washington paying higher relative rates than grain shippers in regions with rail-to-rail and rail-to-barge competition.

Railroads, shippers, regulators and legislators respond to differential pricing by seeking “fair” or “reasonable” rates. Rate fairness would offer rail shippers similar rates for similar shipments; rate reasonableness would limit differential pricing by an upper limit on how much rates exceed marginal costs. Public policies focused on rate fairness may affect revenue adequacy for the railroads, and reduced roadway and equipment spending could affect service reliability for all shippers. A number of shipper associations have sought regulatory relief from the STB based on rate concerns, and have urged Congress to consider other regulatory changes.

### **Alternate Futures for Freight Railroads**

As Washington considers its institutional relationships with freight railroads and the overall state institutional structure and interest in railroads in Washington state, the state should consider how possible changes in the freight railroad industry could affect railroad economics, rail shippers and communities along freight rail lines. The following possible outcomes could affect state interaction with freight railroads:

- **Freight shifts to rail.** National transportation policy could encourage the shift of long-haul freight to railroads in the interests of congestion relief, fuel conservation or environmental reasons. Successive federal transportation authorizations could increase funding flexibility for freight and passenger rail. Both these trends, added to overall macroeconomic growth, could lead to a significant increase in railroad traffic in Washington. This growth could affect communities on busier corridors and lead to more spending on highway-rail grade separations.
- **Energy changes.** Increased production of natural gas nationwide could displace coal as a domestic energy source. This could change railroad economics in unpredictable ways as coal has been such an important revenue-commodity for western railroads that serve Washington. International demand for low-sulfur coal in growing Asian markets could lead to new traffic patterns of coal trains to western ports (already a matter of some controversy in 2013). Continued production of natural gas as a less expensive alternative fuel may lead railroads to explore shifting from diesel fuel to natural gas. This might result in lower emissions for railroad operations.
- **Regulatory changes.** The paragraph above described the shifts from coal to natural gas that may be driven by purely economic considerations. Federal environmental policy could also create the same shift through changes in

power generation regulations that make coal-fired power plants more expensive to operate. Federal laws that might create carbon taxes could also change coal use and could affect freight logistics. Federal laws might also change to affect relationships among railroads and shippers in ways that could affect railroad economics and regional economic development.

## **How Railroads Make Investment Decisions**

Federal and state laws prescribe detailed procedures for transportation planning for highways and transit system at the state and regional levels, and with this State Rail Plan, the state will outline priorities for public-sector investments in the rail system. State rail planners and communities should understand what motivates freight railroad investment decisions, so that public rail investments can be leveraged most effectively.

Each freight railroad makes its own decisions on capital investments and maintenance spending. The railroad must consider which projects will offer the largest returns on investment, balancing projected revenue generation over the life of the asset, life-cycle project costs, all across a network that spans multiple states. Railroads must maintain their infrastructure assets to meet safety standards and to forestall expensive reconstruction, reflecting weather conditions and traffic patterns; all on a scheduled basis to limit rail lines under maintenance-related restrictions. Railroads must consider which expansions of capacity will lead to new business opportunities. When considering investments of capital and personnel, railroads must consider the flexibility inherent in each investment:

- **Locomotives.** Generally, locomotives can travel across the entire rail network and be used almost interchangeably for many kinds of rail moves, with the exception of some specialized yard and switching equipment.
- **Rolling Stock.** Railroads and shippers own rail cars; and many of these cars go beyond the historical box car and are specialized for commodities they carry: coal or grain hoppers; trailers for double-stack containers; tank cars with different kinds of pressurization for chemicals/petroleum/food products; car carriers; finished lumber carriers; cars for rolled steel; and covered and uncovered cars for sand, gravel or scrap steel. These rail cars can be moved to different regions, but their specialized designs can limit flexibility in changing business conditions.
- **Personnel.** Railroad productivity has increased since deregulation, but freight railroads still need people to operate trains over the rails to maintain locomotives and rolling stock, to maintain track and signals, and to control and dispatch movements in yards and between cities. Railroad employees can be motivated to move to where business grows, but most railroad employees are highly specialized, trained and unionized: each crew must meet unique certification and training standards; many belong to craft unions

with work rules specific to the type of work being performed. Thus, railroads face choices in hiring, training and retaining different kinds of employees.

- **Infrastructure.** A new rail line, siding, multiple track, intermodal yard, bridge and wayside equipment (like signals, fiber optic lines, monitoring equipment) all pose unique investment possibilities that are carefully measured by a railroad. But each of these kinds of projects also involves an asset that once installed cannot be moved or redeployed. For this reason, railroads must plan and justify infrastructure investments.

## How State Policy Influences Freight Railroads

Although freight railroads are autonomous entities making independent project investment decisions outside the direct involvement of state rail planning authorities, Washington still has possible actions it can take to influence these freight rail investment decisions. In general,<sup>5</sup> four types of state policies can influence railroad decision-making: taxation, grade crossings, rail safety and economic incentives. The cumulative influence of these four policy areas can serve to improve the rates of return of railroad investments made in a state by creating a more favorable business climate for railroad development.

- **Taxation.** Freight railroads are significant property owners. BNSF and UP have \$19 billion in assessed property value in Washington, according to the Washington Department of Revenue. Therefore, the method of assessment and distribution of property taxes in each state can affect how railroads consider improvements to their property. Since the Department of Revenue uses a valuation method that considers the value of each railroad's total system, the state's taxation policy does not adjust a railroad's valuation based on improvements made to real property.
- **Grade Crossings.** The public comes in contact with the freight railroad network at the physical intersection of a road with the railroad (a road that crosses a railroad at the same grade is referred to as an at-grade crossing, while a location where the road and railroad are separated by a bridge structure is referred to as a grade separation). Since 1987, the federal highway safety program requires states to dedicate a portion of their federal safety funds to grade crossing protection devices, which the railroads are obligated to maintain.
- **Rail Safety.** As explained elsewhere in this technical note and in others, rail safety regulation is the exclusive responsibility of the Federal Railroad Administration (FRA) to preserve consistent enforcement in the interests of interstate commerce. However, states are authorized to participate in the

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<sup>5</sup> Impacts of Public Policy on Rail Development in Missouri, Missouri DOT, September 2009, Report OR10-009, <http://library.modot.mo.gov/RDT/reports/Ri07035/or10009.pdf>.

enforcement of federal rail safety regulations under a program in which state rail safety inspectors are trained and certified by the FRA. The Washington UTC participates in this program with four inspectors: one each in the safety disciplines of track, operating practices, hazardous materials, and signal and train controls.

- **Economic Incentives.** States can offer economic incentives to railroads that expand capacity or offer rail service to new industries that create new jobs. These incentives can be offered in the form of property or sales tax exemptions or reductions for certain kinds of rail equipment or infrastructure improvements. Some states offer direct funding programs for rail infrastructure expansion, similar to Washington programs like the Freight Mobility Strategic Investment Board (FMSIB) grants, and short-line railroad assistance programs, which will be discussed later in this technical note. State funding assistance, either in direct grants or tax policy, can increase the effective rate of return for freight railroad investments, making the state a more attractive place to do business and serve more rail shippers.

## 2.4 FEDERAL GOVERNANCE OF RAIL

Intercity and commuter passenger rail is regulated and administered at the Federal level by the FRA, the Federal Transit Administration (FTA), and the STB.

Freight railroads, in the business of interstate commerce, have been exempted from most state and local regulation,<sup>6</sup> and are instead regulated by the FRA for rail safety, by the STB for economic regulation, and by the Transportation Security Administration for rail security.

There are several federal departments, agencies, and boards involved in rail-related matters. The U.S. Department of Transportation (DOT)—in which both FRA and FTA fall under—has the most extensive involvement; both directly with the carriers and indirectly in conjunction with the state DOTs and regional jurisdictions. The purpose and engagements of the agencies that most heavily impact freight and passenger rail services are summarized in Table 2.3 below.

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<sup>6</sup> Exemptions do not cover all regulations (for example, Chapter 81.48 RCW allows the state to set rail speed limits, and railroads must still comply with Clean Water and Air Act regulations).

**Table 2.3 Federal Agencies Involved in Regulating the Rail Industry**

Agency	Scope of Activity	Authorities/Responsibilities
FRA	Train/track safety	<ul style="list-style-type: none"> <li>• Develops and enforces basic operating rules for train safety, tank car safety, railroad industrial hygiene, rail equipment safety, and grade crossing safety and trespass prevention.</li> <li>• Oversees employee hours of service regulations and signal and train control regulations.</li> <li>• Is responsible for track inspection/audit.</li> <li>• Oversees rail movement of spent nuclear fuel and radioactive waste.</li> <li>• Manages the Rail Safety Improvement Act of 2008 (RSIA).</li> </ul>
	Rail funding/financing	<ul style="list-style-type: none"> <li>• Oversees Railroad Rehabilitation and Improvement Financing (RRIF) program.</li> <li>• Manages the Passenger Rail Improvement and Investment Act (PRIIA).</li> <li>• Manages American Recovery and Reinvestment Act (ARRA) as it relates to intercity passenger and freight railroads.</li> <li>• Administers intercity passenger rail grants through various programs.</li> </ul>
	Guidance	<ul style="list-style-type: none"> <li>• Provides guidance and analysis of intercity passenger rail and high-speed rail services.</li> <li>• Produces National Rail Plan, outlining national priorities for freight and passenger rail networks, incorporates input from state rail plans.</li> </ul>
FTA	Rail funding/financing	<ul style="list-style-type: none"> <li>• Oversees grants to transit providers and ensures grant recipients are managing their programs in accordance with federal, statutory and administrative requirements.</li> <li>• Provides financial support for rolling stock for commuter rail services.</li> </ul>
	Technical assistance	<ul style="list-style-type: none"> <li>• Provides technical assistance and guidance to state and local commuter rail providers.</li> </ul>
	Safety	<ul style="list-style-type: none"> <li>• Administers program to coordinate system safety among all transit providers, including light rail.</li> </ul>
STB	Administrative authority	<ul style="list-style-type: none"> <li>• Mediates conflicts between passenger and freight rail operators, between Amtrak and state-related intercity passenger rail services, and between commuter rail and rail carriers.</li> <li>• Settles railroad rate and service disputes.</li> <li>• Investigates causes of poor on-time performance or other service quality deficiencies of the intercity passenger rail caused by the operator, host freight railroad or managing entity.</li> <li>• Reviews proposed restructuring transactions, including railroad mergers, acquisitions, abandonments and construction.</li> </ul>
Pipeline and Hazardous Material Safety Administration (PHMSA)	Hazardous materials (hazmat) safety	<ul style="list-style-type: none"> <li>• Regulates and enacts rules that ensure safe movement of hazmat.</li> <li>• Tracks data on hazmat.</li> <li>• Permits, inspects and enforces safety of hazmat.</li> </ul>

Agency	Scope of Activity	Authorities/Responsibilities
Department of Homeland Security (DHS)	Rail security	<ul style="list-style-type: none"> <li>Establishes requirements for national rail security strategy and risk assessment.</li> <li>Tracks hazmat shipments.</li> <li>Creates railroad requirements for developing institutional risk assessments.</li> <li>Conducts programs for rail security training.</li> <li>Conducts rail security research and development (R&amp;D).</li> </ul>
Environmental Protection Agency (EPA)	Environmental regulation	<ul style="list-style-type: none"> <li>Regulates locomotive emission standards.</li> </ul>

Source: Agency web sites.

## 2.5 STATE GOVERNANCE OF RAIL

In addition to federal-level governance of rail, various state-level entities are involved in overseeing different aspects of the rail system in Washington. As mentioned before, the primary areas of state involvement in freight rail include taxation, safety, highway-rail grade crossings and economic incentives. Passenger rail on the other hand are under the jurisdiction of federal, state, regional and local agencies; and some of these agencies directly manage and operate the passenger rail services.

The role of WSDOT in rail is different than its role in highways, transit and ferries. In the state highway program, WSDOT is directly responsible for design, construction and maintenance of highway assets. In the rail system, WSDOT has significant responsibilities in intercity passenger rail in the Pacific Northwest Rail Corridor, but even that work depends on coordination with the freight railroads that own and maintain the infrastructure that the state-supported passenger rail services operate over.

This section describes the roles and responsibilities of state and local agencies involved in freight and passenger rail, as well as description of other private-sector stakeholders.

### Freight Rail

State involvement in the freight rail varies by state—there is no dominant, formalized approach to public-sector involvement in the freight rail system. Because of this, states across the country use various approaches to conduct freight rail planning activities and to provide funding. For example, Washington, Oregon, California and Illinois have rail divisions within the DOT that focus on passenger and/or freight rail issues, while other states carry out passenger and freight rail planning through a separate agency attached to the DOT. Most states have an office responsible for freight programs, as well as state funding for freight rail projects. Table 2.4 outlines different institutional approaches to rail

planning and financing, comparing Washington to several other states. The key agencies are also summarized below and in the sections following the table.

#### *Washington State Department of Transportation (WSDOT)*

WSDOT is charged with planning, funding, implementing, constructing and maintaining the multimodal transportation system in the state. WSDOT is responsible for managing and directing the state's freight and passenger capital and operating programs, and developing the Washington State Rail Plan. WSDOT sponsors Amtrak Cascades and the Palouse River and Coulee City Railroad. The WSDOT Rail Division is the designated state rail transportation authority that will also maintain, coordinate and administer the plan.

#### *Freight Mobility Strategic Investment Board (FMSIB)*

FMSIB was created by the Washington State Legislature in 1998 and is established as a rule-making board by Chapter 47.06A.030 RCW. Because FMSIB has funding authority, it also has an important role for rail in Washington to help create a comprehensive and coordinated state program to facilitate freight movement between and among local, national and international markets, which enhances trade opportunities. The Board designates Washington's *Strategic Freight Corridors* and awards grant funds for freight mobility projects. FMSIB is also responsible for convening the Washington State Freight Advisory Committee as an ongoing standing committee of the Board. The federal surface transportation act funding program, Moving Ahead for Progress in the 21<sup>st</sup> Century Act—(MAP-21), June 2012—recommends that each state create such a committee that includes both private and public representatives to advise the state on freight-related issues and participate in the development of the state freight plan.

#### *Utilities and Transportation Commission (UTC)*

The UTC is responsible for regulating railroad safety under Title 81 RCW (transportation), and protects consumers by ensuring that utility and transportation services are fairly priced, available, reliable and safe.

The rail group is part of the UTC Safety and Consumer Protection Division, and the primary responsibility of the rail group is to work with the FRA to inspect rail shipments of hazmat. There are more than 300 inspection points throughout the state, including shippers' facilities, railroad yards and terminals. The UTC also is responsible for inventorying all railroad crossings in the state every three years.

**Table 2.4 Different State Approaches to Rail Governance**

Characteristics	Washington	California	Florida	Illinois	Michigan	Minnesota	New York	North Carolina	Ohio	Pennsylvania	Virginia
Rail Division in DOT?	●	●	●	●	●	●	●	●		●	
Separate agency attached to DOT?									●		●
Office responsible for freight programs?	●	●	●	●		●	●	●	●	●	●
Rail freight programs in DOT?					●						
State funding for freight rail projects?	●	●	●	●	●	●	●	●	●	●	●
Office responsible for passenger programs?	●	●	●	●	●		●	●	●		●
Passenger programs in DOT?						●				●	
State operating support for Amtrak?	●	●		●	●		●	●		●	●
Separate unit for HSR?		●	●		●						
HSR in DOT?					●						
Office responsible for rail safety?			●			●	●	●			
Separate rail safety agency?	●	●		●					●	●	●
<b>Names of Offices</b>	<b>Washington</b>	<b>California</b>	<b>Florida</b>	<b>Illinois</b>	<b>Michigan</b>	<b>Minnesota</b>	<b>New York</b>	<b>North Carolina</b>	<b>Ohio</b>	<b>Pennsylvania</b>	<b>Virginia</b>
Rail Division	●	●	●	●				●			
Bureau of Passenger Transportation Freight, Rail, and Waterways					●						
Freight and Passenger Rail Bureau						●	●				
Rail Development Commission									●		
Bureau of Freight Rail, Ports, and Waterways										●	
Department of Rail and Public Transportation											●

Source: Minnesota Rail Plan 2010, agency web sites.

Note: Washington office name changed to Rail Division in 2013.

### *Washington Community Economic Revitalization Board (CERB)*

A statutorily authorized board, CERB is the state’s strategic economic development resource, focused on creating and retaining jobs in partnership with local governments, and financing public infrastructure that encourages new development and expansion in targeted areas. It receives administrative support from the Washington State Department of Commerce. CERB issues grants and low-interest loans for projects and investments that will support health and viable communities and job creation. CERB grants and loans can be requested by port districts, counties, cities, towns, special purpose districts, and federally-recognized Indian tribes.

Though CERB grants and loans are requested by a wide range of infrastructure, utility and transportation projects, there is precedence for their use to help fund rail projects in Washington. In 2012, CERB pledged a \$257,000 grant for the city of Stevenson to implement a railroad crossing quiet zone; and in 2013 Port of Whitman received a \$500,000 loan and a \$100,000 grant to build two rail spur segments. This latter grant and loan are part of a public private partnership (PPP); in that \$10 million is being provided by the shipper (McGregor Company), and \$138,000 will be provided by the Port of Whitman.<sup>7</sup>

### *Other Stakeholders and Partners*

In addition to governing bodies, there are also stakeholders and partners that often coordinate with public agencies to plan or build the rail system. The state has a leadership role to encourage and build strong partnerships within the public and private sectors that ensures future economic competitiveness and viability among the railroads, ports, shippers, governments, communities and other key stakeholders. Some of these partners and partnerships include:

- **Freight Railroads and Services.** As privately-owned companies, railroads are responsible for the vast majority of their own maintenance and improvement activities. Their motivation to work with the state is often driven by projects that will have demonstrated benefits to the public, as well as to the railroads themselves. Over the years, they have recognized their important role in meeting public goals, such as improved economic development and mobility. Relationships with both Class I and short-line railroads are essential for continued planning of the state’s rail system. Since freight railroad activity is a federal responsibility, some local concerns about freight rail—operating speed in incorporated areas, idling locomotives on sidings near residential areas, movement of hazardous materials—cannot be affected or influenced by local government ordinances. In these cases, local communities and freight railroads must find ways to discuss the respective interests of all

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<sup>7</sup> [www.commerce.wa.gov/media/Pages/PressReleaseView.aspx?pressreleaseid=136](http://www.commerce.wa.gov/media/Pages/PressReleaseView.aspx?pressreleaseid=136).

groups, and balance community quality of life concerns with the national interests of interstate commerce movement.

- **Ports.** Ports provide the public a direct way to own and manage important community assets, such as waterfront, inland and airport facilities. Ports are also gateways for international freight traffic, which is often transported via the Class I or short-line rail network. Their importance to the state's economy means that maintaining port facilities, such as on-dock intermodal terminals, is important for the overall health of the railroad industry.
- **Shippers.** Shippers are the users of the rail system. They move a wide variety of goods, including raw materials, finished goods and waste, from origin to destination. The relationships between shippers and railroads are vitally important as shippers provide the demand for the railroads, while the railroads provide the means for shippers to move their products. A balance among several factors, including pricing, accessibility and alternative modes of transport, are important for establishing healthy shipper-carrier relationships.
- **Regional Planning Organizations.** There are two types of transportation planning organizations in the state with coordination and development roles for projects and programs by region. A metropolitan planning organization (MPO) is formed of elected officials in an urban region with more than 50,000 people. MPOs provide a forum for local decision-making on transportation issues. MPOs also develop 20-year transportation plans and create Transportation Improvement Programs (TIP) for surface transportation projects. A Regional Transportation Planning Organization (RTPO) is formed through a voluntary association of local governments within a county or contiguous counties. RTPOs develop 20-year transportation plans and TIPs for areas within their boundaries. MPOs and RTPOs identify transportation issues. Rail issues that MPOs and RTPOs address include at-grade crossing and multimodal connections. For example, if an at-grade crossing requires federal funding or federal approval, it must be in an approved TIP.

## **Passenger Rail**

Passenger rail services in Washington consist of long-distance passenger rail service (Empire Builder and Coast Starlight), intercity passenger rail service (Amtrak Cascades), and commuter rail service (Sounder Commuter Rail). Many different agencies and stakeholders are involved in planning and managing these rail services. While the long-distance passenger rail lines are primarily managed by Amtrak at the federal level, the intercity passenger rail service is managed at the state level and the commuter rail service is managed at the local level. Table 2.5 summarizes the roles and responsibilities of the key players in administering, planning, operating and funding these services. More detailed roles and responsibilities of each agency/entity are described following the table.

**Table 2.5 Summary of Passenger Rail Roles and Responsibilities**

Roles/Responsibilities	Empire Builder/Coast Starlight	Amtrak Cascades	Sounder Commuter Rail
Management	Amtrak	WSDOT, Oregon DOT (ODOT)	Sound Transit
Operations	Amtrak	Amtrak	BNSF
Planning	Amtrak/WSDOT	WSDOT, ODOT	Sound Transit
Operating funding	Amtrak	WSDOT, ODOT	Sound Transit
Capital funding	Amtrak	WSDOT/ODOT	Sound Transit
Equipment ownership	Amtrak	WSDOT/ODOT	Sound Transit
Equipment maintenance	Amtrak	Talgo on behalf of WSDOT, Amtrak and ODOT	Amtrak
Other partners	Host railroads	BCMoTI, Amtrak, railroad owners, border control agencies	Host railroads

Source: Cambridge Systematics, Inc.

Note: Amtrak ceased funding operations as of October 1, 2013, per PRIIA. BCMoTI is the British Columbia Ministry of Transportation and infrastructure.

The different agencies and stakeholders are listed below.

### *Amtrak*

Amtrak (National Railroad Passenger Corporation) was created in 1970 by the Federal Rail Passenger Act to assume the common carrier obligations of the private railroads. In exchange, Amtrak has the right to priority access of Class I railroad tracks for incremental cost. Amtrak is a private-for-profit corporation with the federal government as majority stockholder.<sup>8</sup> Amtrak operates and manages the Empire Builder long-distance passenger service from Chicago and Seattle/Portland and uses tracks owned by BNSF, Minnesota Commercial, Canadian Pacific, and Metra. Amtrak also operates and manages the Coast Starlight long-distance passenger service from Seattle to Los Angeles, using tracks owned by BNSF, UP, and Southern California Regional Rail Authority (SCRRA). Amtrak funds these two lines through farebox recovery (which is about 56 percent for Empire Builder and 46 percent for Coast Starlight<sup>9</sup>) and federal-level subsidies as discussed in Section 2.0. In addition, it also contributed to about 20 percent of costs for Amtrak Cascades. However, this contribution

<sup>8</sup> Cascades Rail Corridor Management Workplan, January 2013.

<sup>9</sup> The farebox recovery rate was determined by dividing Total Revenue by Total Costs (excluding other post-employment benefits, capital charge, and other costs). This source of this information is Amtrak’s *Monthly Performance Report for September 2012, Appendix C: Route Performance Report*.

terminated on October 1, 2013, as part of PRIIA, which means greater financial burden, but more flexibility and responsibility in providing service.<sup>10</sup> Finally, Amtrak is also responsible for maintaining trains on the Sounder Commuter Rail line.

### *Oregon DOT Rail Division*

ODOT is the state agency in Oregon charged with developing and managing programs related to highways, roads, bridges, railways, public transportation services, transportation safety programs, driving vehicle licensing and motor carrier regulations. The Rail Division within ODOT is responsible for operating the portion of Amtrak Cascades that runs in Oregon. In a pending agreement with Talgo (to be discussed below), ODOT will also be responsible for maintaining its two trainsets.<sup>11</sup>

### *Cascades Rail Corridor Memorandum of Understanding (MOU) and Cascades Rail Corridor Management Workplan*

Operating an intercity train, such as Amtrak Cascades, involves a number of public and private entities in the United States and Canada, including WSDOT, ODOT, the British Columbia Ministry of Transportation and Infrastructure (BCMOTI), Amtrak, BNSF, UP, customs and border control agencies, and Talgo, a train manufacturer. To ensure that Amtrak Cascades operates smoothly, WSDOT and ODOT signed an MOU in March 2012. This MOU committed the two agencies to joint operation of the service as a single corridor. It also called for the development of a *Cascades Rail Corridor Management Workplan*, which was completed in January 2013.

This workplan defines how WSDOT and ODOT will work together to develop a single Cascades Rail Corridor. It establishes a set of common goals, and discusses ways in which resources can be shared across the entire corridor.<sup>12</sup>

### *Central Puget Sound Regional Transit Authority (Sound Transit)*

Sound Transit is a regional transit agency that plans, builds and operates express bus, light-rail and commuter train services through King, Pierce and Snohomish Counties. Sound Transit operates the Sounder commuter rail service through a contract with BNSF. Railcars and locomotives are maintained under a contract with Amtrak. Sound Transit is responsible for all other aspects of running the Sounder commuter rail.

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<sup>10</sup> Cascades Rail Corridor Management Workplan, January 2013.

<sup>11</sup> Ibid.

<sup>12</sup> [www.wsdot.wa.gov/Rail/RailCorridorManagement.htm](http://www.wsdot.wa.gov/Rail/RailCorridorManagement.htm).

### *Other Public Stakeholders*

- **British Columbia Ministry of Transportation and Infrastructure (BCMoTI).** BCMoTI works with WSDOT on program coordination of the Amtrak Cascades line. For example, BCMoTI staff participates in the on-time performance task force and the advisory committee for the State Rail Plan. The state and province work on cross-border passenger rail issues through the Joint Transportation Executive Council, and have a history of success working on issues such as preclearance.
- **Border control agencies.** Since the Amtrak Cascades line involves an international border crossing at Vancouver, B.C., international customs and border control agencies on both the Canadian and the U.S. side are involved to enforce laws and regulations pertaining to passenger entry. The agencies include Canada Border Services Agency and the U.S. Customs and Border Patrol.

### *Private Stakeholders*

- **Class I Railroads.** All passenger rail services in Washington use BNSF and UP railroad tracks, and as a result the relationship between passenger and freight railroads are important to ensure smooth operations. Though, in general, passenger and freight rail coexists on the shared infrastructure, there are sometimes conflicts (as discussed in Technical Note 2: *Freight and Passenger Rail Inventory*). Though 49 U.S.C. Chapter 243 states that intercity and commuter rail passenger trains has preference over freight trains, the level of enforcement is varied; and passenger rail carriers, like Amtrak, have been reluctant to pursue legal remedies. Most recently, the STB was given adjudicatory power to resolve differences between Amtrak and freight carriers, including enforcement of specific on-time standards, as specified in PRIIA.<sup>13</sup>
- **Talgo.** Talgo is the original equipment manufacturer (OEM) of trains used in Amtrak Cascades service and has separate maintenance contracts with equipment owners, WSDOT (three trainsets) and Amtrak (two trainsets). The maintenance contracts are for 20 years and expire in 2019. In 2013, additional Talgo-manufactured trainsets owned by ODOT will begin operating on the corridor.<sup>14</sup>

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<sup>13</sup> <http://uscode.house.gov/download/pls/49C243.txt>.

<sup>14</sup> Cascades Rail Corridor Management Workplan, January 2013.

## 3.0 Federal Rail Funding and Financing Sources

### 3.1 MAP-21 RAIL FUNDING PROGRAMS

Congress reauthorized the federal surface transportation programs in July 2012. The legislation, called “Moving Ahead for Progress in the 21<sup>st</sup> Century” (MAP-21), replaces the previous legislation—Safety, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). MAP-21 includes programs and actions that will impact freight and passenger rail. These will be summarized briefly in this section.

Overall, MAP-21 maintains current federal transportation funding levels at just over \$105 billion for FY 2013 and FY 2014<sup>15</sup> (adjusted for inflation). Based on these authorization levels, it is likely that Washington will continue to receive federal transportation funds for the next several years at levels consistent with what has been received under the previous transportation bills. In this funding climate and with continuing Congressional concerns about growth in the federal deficit, MAP-21 did little to create new funding opportunities for freight or passenger rail transportation programs in the short term. However, MAP-21 did extend several programs that have been used in the past to fund passenger and freight rail projects, and introduced several new programs that could support rail project implementation. For example, MAP-21 maintains the Projects of National and Regional Significance (PNRS) at \$500 million for 2013, and creates a new Transportation Alternatives Program (TAP) to provide funds for various alternative transportation projects, including conversion of abandoned rail for other uses. The TAP program is funded at \$809 million in 2013, and grows to \$820 million in 2014.

These different programs under MAP-21 are summarized in Table 3.1 below and discussed in the text following.

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<sup>15</sup> [www.fhwa.dot.gov/map21/](http://www.fhwa.dot.gov/map21/).

**Table 3.1 Summary of MAP-21 Freight and Passenger Rail Programs**

Program	Type <sup>a</sup>	Code/Agency	Funding Use	Funding Source/Allocation	Funding Levels
Significant Freight Provisions	New – Formula Program	MAP-21 Sections 1115-1118, 1201-1203, 1401, 1510-1511, 32801-32802	Establishment of national freight policy, national freight network, national freight strategic plan, DOT freight plans, performance reports, and so on.	Federal share generally 80%, depends on underlying program	~ \$2B
Surface Transportation Program (STP)	Restructured – Formula Program	MAP-21 Section 1108/Federal Highway Administration (FHWA)	Provides flexible funding that may be used by for projects to preserve and improve highway, bridge, tunnel projects as well as transit capital projects.	Federal share is 80%	2013 – \$10B, 2014 – \$10.1B
Congestion Mitigation and Air Quality Program (CMAQ)	Restructured – Formula Program	MAP-21 Section 1113/ FHWA	Provide funding for projects to help meet requirements of Clean Air Act, including purchase of natural gas vehicles, diesel retrofits, etc.	Federal share generally 90%	2013 – \$2.21B; 2014 – \$2.23B
Rail-Highway Crossings Program (RHCP)	Set-aside from Highway Safety Improvement Program (HSIP) – Formula Program	MAP-21 Section 1519 (U.S.C. Section 130)/ FHWA	Funds safety improvements to reduce the number of fatalities, injuries, and crashes at public grade crossings.	Federal share is 90%	2013 – \$220M, 2014 – \$220M
PNRS	Carried Over – Discretionary Program	MAP-21 Section 1120/ FHWA	Projects of national significance (rail, highway or any project eligible under 23 U.S.C.).	Federal share is 80%	2013 – \$500M
TAP	New – Formula Program	MAP-21 Section 1122/ FHWA	New program that provide funds for various alternative transportation projects, including conversion of abandoned rail for other uses.	Federal share generally 90%	2013 – 809M; 2014 – 820M
Fixed Guideway Capital Investment Grants (New Starts)	Carried Over – Discretionary Program	MAP-21 Section 20008/ FTA	Provides grants for new and expanded rail, bus rapid transit, and ferry systems; defined new category of projects known as core capacity projects.	Maximum Federal share is 80%	2013 – \$1.9B, 2014 – \$1.9B

Source: U.S. DOT, FHWA, FTA, FRA web sites.

<sup>a</sup> For MAP-21 programs, “Carried-over” means the program is carried over from SAFETEA-LU; “New” means the program is a newly established program; and “Restructured” means the program was in SAFETEA-LU, but is reorganized or consolidated.

## Significant Freight Provisions in MAP-21

MAP-21 created a foundation for what may eventually become a national freight program, as well as national freight policy and goals, designation of a national freight network, development of a national freight strategic plan, compilation of a freight transportation condition and performance report, and encouragement of state freight plans. This enhanced focus on freight may be the prelude to increased federal funding for freight projects. In addition, several existing programs (such as Transportation Infrastructure Finance and Innovation Act (TIFIA)) were expanded under MAP-21; again providing opportunity for funding of freight-specific projects. The most significant freight rail-related changes created in MAP-21 are summarized in Table 3.2 below.

**Table 3.2 Significant Freight Provisions in MAP-21**

Provision	Action
Establishes National Freight Policy	Establishes a national freight policy, including establishing goals for national investment into freight infrastructure. These goals are to include economic competitiveness, reducing congestion, increasing productivity and economic efficiency, improving security, making use of performance management and innovation, and enhancing the environment. In addition, this program increases the eligible federal share for freight projects that are funded under other programs from 90 percent to 95 percent for projects on the interstate system, and from 80 percent to 90 percent for other projects.
National Freight Strategic Plan	Calls for development of a National Freight Strategic Plan that would assess the condition and performance of the national freight network (though limited to the highway system). This requires the U.S. DOT to identify highway bottlenecks, major trade gateways, and barriers to improved freight performance on national freight corridors. It also would create a process for addressing multistate projects and projects to improve intermodal connectivity.
State Freight Advisory Committee and State Freight Plans	Encourages states to establish freight advisory committee and develop state freight plans. State freight plans are to be comprehensive plans for immediate- and long-term planning activities and investments to improve the efficiency of freight movement.
National Freight Network	Calls for the establishment of a National Freight Network. This network would consist of a primary network established by the FHWA, but also portions of the interstate system and critical rural freight corridors.

Source: FHWA MAP-21 Significant Freight Provisions Fact Sheet:  
<http://www.fhwa.dot.gov/map21/freight.cfm>.

## Surface Transportation Program (STP)

STP provides an annual average of \$10 billion (nationally) in flexible funding for projects on any federal-aid highway, bridges on public roads, transit capital investments and intracity and/or intercity bus terminals and facilities. Eligible freight projects include preservation of abandoned rail corridors, bridge

clearance increases to accommodate double-stack intermodal trains and freight transfer yards.<sup>16</sup>

In recent years, Washington's allocation has totaled \$95 million (2011), \$100.7 million (2010), and \$97 million (2009). The STP is the most flexible of all the highway programs used in Washington. It has occasionally been used for rail-related projects in Washington, including the King Street Station Renovation, which was completed in 2013.<sup>17</sup>

### **Congestion Mitigation and Air Quality Management (CMAQ)**

CMAQ was created in 1991 to provide innovative funding for transportation projects that improve air quality and help achieve compliance with national air quality standards set forth by the Clean Air Act. Under MAP-21, this program is continued, albeit with slightly different program components. The program encompasses projects and programs that reduce traffic congestion and help meet Federal Clean Air Act requirements. CMAQ funding may be used for freight and passenger rail projects that accomplish the program's air quality goals. CMAQ funds may also be used for intercity passenger rail projects located in a nonattainment or maintenance area, if they reduce emissions and meet the program's other eligibility criteria. Capital costs, as well as operating expenses (for the first three years), are eligible as long as the project contributes to attainment or maintenance of the air quality standard through reduction in vehicle miles traveled (VMT), fuel consumption, or through other factors. The regulations include eligibility for corridors where a portion of the corridor is in a nonattainment area.<sup>18</sup> Washington's CMAQ allocation in FY 2013 is \$35 million.

### **Rail-Highways Crossing (Section 130) Program (RHCP)**

This program is a subset of the Highway Safety Improvement Program focused specifically on improving safety at highway-rail crossings to reduce the number of fatalities, injuries and crashes at public grade crossings. Each state's funding level is determined based on formula factors for the STP and the number of public crossings in the state.<sup>19</sup> The total funding program is very small—with a national maximum of \$220 million per year.<sup>20</sup> The grants are to be used for projects that enhance safety and other projects, including separation or protection of at-grade crossings, the reconstruction of existing railroad grade crossing structures and the relocation of highways or rail lines to eliminate grade

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<sup>16</sup> [www.fhwa.dot.gov/map21/stp.cfm](http://www.fhwa.dot.gov/map21/stp.cfm).

<sup>17</sup> [www.wsdot.wa.gov/projects/rail/kingstreetstationrenovation/](http://www.wsdot.wa.gov/projects/rail/kingstreetstationrenovation/).

<sup>18</sup> [www.fhwa.dot.gov/map21/cmaq.cfm](http://www.fhwa.dot.gov/map21/cmaq.cfm).

<sup>19</sup> [www.fhwa.dot.gov/map21/rhc.cfm](http://www.fhwa.dot.gov/map21/rhc.cfm).

<sup>20</sup> <http://safety.fhwa.dot.gov/safetealu/qa/qa91405.cfm>.

crossings. In general, federal funding is available at a 90 percent share. For certain projects (including signing, pavement markings, active warning devices and crossing closures), the federal share may amount to 100 percent. Regardless, the total funding sources available to address grade-crossing needs are relatively small.

This program is commonly known as Section 130 (U.S.C.), and was enacted under SAFETEA-LU to provide funding for rail safety improvements at grade crossings. Under Section 130, Washington was awarded \$20 million from other state's unspent funds to be used on projects in the 2013 to 2015 timeframe. In Washington, the UTC is responsible for rail safety and selects projects for grade-crossing protection, which are then implemented by WSDOT.<sup>21</sup>

### **Projects of National and Regional Significance Program (PNRS)**

The MAP-21 continued the PNRS from SAFETEA-LU as a discretionary grant program. However, there are a few changes, including:

- Eligibility broadened to include tribal governments and transit agencies.
- Roadways vital to national energy security were added.
- Evaluation criteria are adjusted.

Most importantly for goods movement projects, the list of eligible projects includes any that is eligible under Title 23 (including STP, TIFIA, and CMAQ). This includes highway projects, certain freight rail, some port projects, and intermodal freight transfer facilities. In addition, MAP-21 authorized \$500 million for FY 2013 for apportionment to PNRS.

### **Transportation Alternatives Program (TAP)**

MAP-21 establishes a new program to provide for a variety of alternative transportation projects, including many that were previously eligible activities under separately funded programs. TAP replaces the funding from pre-MAP-21 programs, including Transportation Enhancements, Recreational Trails, Safe Routes to School, and several other discretionary programs, wrapping them into a single funding source. Washington's FY 2013 estimated TAP allocation totals \$7.9 million, spread between the 15 RTPOs.<sup>22</sup> The relatively small size of this program reduces its efficacy for funding rail capital improvements. However, TAP is somewhat related to rail; in that, it provides funding for conversion and

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<sup>21</sup> WSDOT personnel.

<sup>22</sup> [www.wsdot.wa.gov/NR/rdonlyres/A83C9A93-321B-4060-818F-B1BA1116095C/0/FFY2013TAPEstimates.pdf](http://www.wsdot.wa.gov/NR/rdonlyres/A83C9A93-321B-4060-818F-B1BA1116095C/0/FFY2013TAPEstimates.pdf).

use of abandoned railroad corridors for trails for pedestrians, bicyclists or other nonmotorized transportation users.<sup>23</sup>

### **Fixed Guideway Capital Investment Grants (New Starts)**

Commonly referred to as the New Starts program, this program provides grants for new and expanded rail, bus rapid transit and ferry systems that reflect local priorities to improve transportation options in key corridors. This program defines a new category of eligible projects, known as core capacity projects, which expand capacity by at least 10 percent in existing fixed guideway transit corridors that are already at or above capacity today, or are expected to be at or above capacity within five years. The program also includes provisions for streamlining aspects of the New Starts process to increase efficiency and reduce the time required to meet critical milestones.<sup>24</sup> This source of funding only applies to transit, so is a potential source for Sound Transit. It cannot be used to fund any long-distance or intercity passenger rail service.

## **3.2 OTHER FEDERAL FUNDING SOURCES**

Other federal funding sources relevant to freight and passenger rail funding include the 2009 ARRA, the 2008 PRIIA, FRA grants and TIGER grants. These sources are summarized in Table 3.3 and are summarized in the text following.

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<sup>23</sup> [www.fhwa.dot.gov/map21/tap.cfm](http://www.fhwa.dot.gov/map21/tap.cfm).

<sup>24</sup> [www.fta.dot.gov/documents/MAP-21\\_Fact\\_Sheet\\_-\\_Fixed\\_Guideway\\_Capital\\_Investment\\_Grants.pdf](http://www.fta.dot.gov/documents/MAP-21_Fact_Sheet_-_Fixed_Guideway_Capital_Investment_Grants.pdf).

**Table 3.3 Competitive, Unscheduled Federal Programs that Have Been Used to Fund Freight and Passenger Rail Programs**

Program	Type <sup>a</sup>	Code/Agency	Funding Use	Funding Source/ Allocation	Funding Levels
TIGER programs (I-V)	Discretionary	U.S. DOT	Funds for road, rail, transit and port projects that have significant impact on country as a whole on a metropolitan area or a local region.	Various	2009 – \$1.500B 2010 – \$0.600B 2011 – \$0.527B 2012 – \$0.500B 2013 – \$0.474B
Various FRA grants (passenger and freight)	Discretionary	FRA	Including Rail Line Relocations and Improvement Capital Grant, Disaster Assistance Program, High-Speed Intercity Rail Program, Railway-Highway Crossing Hazard Elimination in High-Speed Rail (HSR) Corridors, Amtrak Capital Grants.	Various	Various
ARRA	Discretionary	Title XII, Public Law 111-5, FRA	Support projects to help stimulate economy, including accelerated funding for PRIIA projects	Up to 100% Federal share	\$8B for capital assistance for high-speed rail
PRIIA	Discretionary	49 U.S.C. Chapter 244, Sections 24105, 26106, FRA	Funding to help improve Amtrak, NEC, state-sponsored corridors and development of HSR corridors.	Federal share is 80%	\$2.5 billion appropriated in FY2010, none since

Source: TIGER, FRA, FHWA, ARRA, PRIIA web sites.

## Transportation Investment Generating Economic Recovery (TIGER)

The TIGER Discretionary Grant program provides funds for road, rail, transit and port projects. The grants are awarded on a competitive basis for projects that have a significant impact on the country as a whole, a metropolitan area or a region. There have been four rounds of TIGER grants, with a fifth undergoing selection at the time of writing this report (June 2013). Table 3.4 shows the amount of funding for each round and the number of projects funded under each round, nationwide. The original TIGER I program was authorized and implemented as part of ARRA. In subsequent fiscal years, Congress appropriated new funding for each additional round of TIGER.

Eligible applicants include state, local and tribal governments, including U.S. territories, transit agencies, port authorities, MPOs and other political subdivisions of state or local governments and multistate or multijurisdictional groups.<sup>25</sup> Eligible projects include highway, bridge and port projects in addition to public transportation projects, freight rail projects, and high-speed and intercity passenger rail projects. Though it is unknown whether TIGER cycles will continue, they remain a potential funding source for large, capital-intensive projects. They also remain a very competitive grant source. According the U.S. DOT, only five percent of submitted TIGER applications are selected for award.

Washington has had several successful rail-focused TIGER grant applications. These include the North Spokane Corridor Railroad Realignment, which received \$10 million in grant funding towards the \$31.5 million project cost under TIGER IV (2012); and the West Vancouver Freight Access Project, which received \$10 million in grant funding towards the \$92.9 million project cost in TIGER II (2010).<sup>26</sup>

**Table 3.4 TIGER Grant Allocations, 2009 to 2013**

TIGER Round Year	Total Funding (Millions of Dollars)	Projects Funded	Washington Projects Funded	Rural Projects Funded
TIGER I – 2009	\$1,500	51	1	—
TIGER II – 2010	\$600	42	3	17
TIGER III – 2011	\$527	46	2	20
TIGER IV – 2012	\$500	47	2	19
TIGER V – 2013	\$474	Selection Ongoing	Selection Ongoing	Selection Ongoing

Source: FRA.

<sup>25</sup> [www.dot.gov/tiger/application-resources](http://www.dot.gov/tiger/application-resources).

<sup>26</sup> [www.dot.gov/sites/dot.dev/files/docs/TIGER\\_CAPITAL\\_GRANTS\\_2010.pdf](http://www.dot.gov/sites/dot.dev/files/docs/TIGER_CAPITAL_GRANTS_2010.pdf).

## Federal Railroad Administration (FRA)

The FRA supports passenger and freight railroad through a variety of grant and loan programs to develop safety improvements and relieve congestion. The FRA also encourages the expansion and upgrade of passenger and freight rail infrastructure and services. Some of the grant programs administered by the FRA are discussed below.

- **High-Speed and Intercity Passenger Rail Program (HSIPR).** The aim of the program is to address long-term high- (and higher) speed passenger transport needs in key corridors throughout the country. This grant evolved through developing guidance for ARRA grants, as well as grants offered under subsequent PRIIA appropriations. The current structure is best reflected in the most recent notices of funding availability (NOFA) for FY 2010 appropriations for 80/20 federal/state grants under three program areas: 1) service development program grants issued in the Federal Register on July 1, 2010; 2) individual project grants also issued on July 1, 2010; and 3) planning grants issued in the Federal Register on April 1, 2010. Under the FY 2010 appropriation for these programs, \$2.125 billion were provided for service development program grants, \$245 million were provided for individual projects, and \$50 million were provided for planning grants. Washington state received nearly \$800 million in HSIPR funds, which are currently being used to fund improvement projects along the Pacific Northwest Rail Corridor. This funding will also be used to add two additional daily round trips between Seattle and Portland.<sup>27</sup>
- **Rail Line Relocation and Improvement Capital Grant Program.** This grant program is appropriate for construction projects that improve the route or structure of a rail line and 1) involve a lateral or vertical relocation of any portion of the rail line; or 2) are carried out for the purpose of mitigating the adverse effects of rail traffic on safety, motor vehicle traffic flow, community quality of life or economic development. From FY 2008 to FY 2011, Congress appropriated a total of \$90 million for the program. Funding has been provided to grantees through both congressionally directed spending and competitive grant opportunities. No funding has been provided for this program in the 2012 appropriations process. In Washington, there have been several projects that were selected on a noncompetitive basis; this includes the West Vancouver Freight Access Project (\$2.9 million, 2010; \$0.95 million, 2009) and the Hoquiam Horn Spur Railroad Track Improvement Project (\$0.35 million, 2010). In addition, the Strander Blvd. Rail Realignment project (\$2 million, 2009) was selected on a competitive basis.<sup>28</sup>

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<sup>27</sup> [www.wsdot.wa.gov/funding/stimulus/passengerrail.htm](http://www.wsdot.wa.gov/funding/stimulus/passengerrail.htm).

<sup>28</sup> [www.fra.dot.gov/Page/P0090](http://www.fra.dot.gov/Page/P0090).

- **Railroad Rehabilitation and Repair (Disaster Assistance).** This program provides funds for necessary expenses to make grants to repair and rehabilitate Class II and Class III railroad infrastructure damaged by hurricanes, floods and other natural disasters in areas for which the President declared a major disaster. Washington did not receive any money from this program.
- **Railway-Highway Crossing Hazard Elimination in High-Speed Rail (HSR) Corridors.** The HSR program is authorized by 23 U.S.C. § 104, and has been reauthorized and continued through March 31, 2012. The purpose of the program is to provide funding for safety improvements at both public and private highway-rail grade crossings along federally-designated HSR corridors (11 of them). This program is jointly administered by the FRA and FHWA. Washington received funding from this program, though it is unclear how many projects are directly funded, given such projects received funding bundled with other highway grant programs.<sup>29</sup>
- **Amtrak Grants.** Amtrak uses its federal appropriations, in conjunction with operating revenues and funds from state and local governments, to cover its operating expenses. The FRA is responsible for administering these federal grants to Amtrak since FY 2003. Table 3.5 below shows Amtrak’s funding since 2005, combining both operating and capital grants. In the 2011 to 2013 biennium, Washington state received \$19.43 million Amtrak funds for rail operations, of which a portion is used to fund Amtrak Cascades.<sup>30</sup> Since 1993, Amtrak has invested over \$60 million in Washington state to support capital projects.<sup>31</sup>

Table 3.5 Amtrak Capital Grants Funding Since 2005

Fiscal Year	Annual Total (Millions Dollars)
2005	\$1,207.3
2006	\$1,293.6
2007	\$1,293.6
2008	\$1,325.0
2009	\$1,490
2010	\$1,565

Source: <http://www.fra.dot.gov/Page/P0249>.

<sup>29</sup> [www.fhwa.dot.gov/discretionary/rhchehsr2012info.htm](http://www.fhwa.dot.gov/discretionary/rhchehsr2012info.htm).

<sup>30</sup> [www.wsdot.wa.gov/Rail/Funding.htm](http://www.wsdot.wa.gov/Rail/Funding.htm).

<sup>31</sup> [www.amtrak.com/pdf/factsheets/WASHINGTON11.pdf](http://www.amtrak.com/pdf/factsheets/WASHINGTON11.pdf).

## **The American Recovery and Reinvestment Act of 2009 (ARRA)**

In February of 2009 Congress passed ARRA,<sup>32</sup> also referred as the “Stimulus.” It appropriated \$8 billion in 100 percent federal funding to provide “capital assistance for high-speed rail corridors and intercity passenger rail service.” This program is based on the statutory framework provided by PRIIA and focuses on funding state-sponsored projects. This program also invests in passenger and freight rail transportation projects and port infrastructure, including projects that connect ports to other modes of transportation, and improve the efficiency of freight movement. ARRA also provided \$1.5 billion in 100 percent flexible multimodal funding under TIGER, discussed earlier. Since then, another \$600 million in 80 percent federal funding were appropriated in 2010 for the TIGER II Discretionary Grant Program. The TIGER grant programs have historically provided funding for both passenger and freight rail projects. In all, the FRA has allocated \$766 million in funding for Washington rail projects.<sup>33</sup>

## **The Passenger Rail Investment and Improvement Act of 2008 (PRIIA)**

### *Main Components of PRIIA*

In October 2008 Congress passed the PRIIA.<sup>34</sup> This legislation provided a new statutory framework for a federal/state partnership to fund and develop U.S. high-speed and intercity passenger rail service using 80/20 federal/state capital grants. This legislation requires congressional action each year to appropriate the amounts authorized. PRIIA allocates provisions that help improve passenger rail services, such as:

- Section 301 of PRIIA provides grants for Intercity Passenger Rail Service Capital Assistance.
- Section 501 provides capital grants for HSR Corridor Development for federally designated corridors with planned speeds of 110 mph or more.
- Section 302 Congestion Grants are focused on relieving rail congestion bottlenecks.
- Section 303 requires each state develop and maintain a State Rail Plan in order to be eligible for the funding provided in Sections 301 and 501. This State Rail Plan is prepared to satisfy the Section 303 requirements.

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<sup>32</sup> [www.recovery.gov/About/Pages/The\\_Act.aspx](http://www.recovery.gov/About/Pages/The_Act.aspx).

<sup>33</sup> [www.wsdot.wa.gov/Funding/stimulus/details.htm](http://www.wsdot.wa.gov/Funding/stimulus/details.htm).

<sup>34</sup> [www.fra.dot.gov/Page/P0393](http://www.fra.dot.gov/Page/P0393).

### *PRIIA's Impact to Washington State*

As well as calling for the creation of this State Rail Plan, PRIIA will have other immediate impacts to Washington. The most immediate impact is the PRIIA stipulation that, beginning October 1, 2013, states stopped receiving federal support for intercity passenger rail service. Currently, WSDOT and the ODOT contribute a combined share of 100 percent toward Amtrak Cascades' operating costs. Between 2011 and 2013, Washington paid approximately 50 percent, Oregon contributed approximately 30 percent, and Amtrak contributed approximately 20 percent.<sup>35</sup>

Although the changes effected by PRIIA require states to provide more funding, they also allow states greater control over operational and business decisions, costs and revenues.<sup>36</sup>

WSDOT and ODOT have committed funding toward specific capital improvements to support Amtrak Cascades as well. WSDOT received a federal grant for approximately \$800 million, which it is using to support more frequent and reliable Amtrak Cascades service. This grant will fund 20 projects that focus on adding rail line capacity and upgrading many types of facilities, including tracks, roadway facilities, utilities, stations, train equipment and advanced warning systems. Along with this funding, WSDOT will be required to achieve the following performance targets related to Amtrak Cascades, beginning in 2017: add two round trips between Seattle and Portland; improve on-time performance to 88 percent; and achieve a time savings of 10 minutes between Portland and Seattle.<sup>37</sup>

## **3.3 FEDERAL LOANS AND TAX CREDITS**

The funding programs described in this section include both loans and credit enhancement programs. In the case of loans, a project sponsor borrows funds directly from a state DOT or the federal government under the condition that the funds will be repaid. Credit enhancement involves the state DOT or the federal government making the funds available on a contingent or standby basis. An example of this is a TIFIA loan guarantee. TIFIA provides federal credit assistance to nationally or regionally significant surface transportation projects, including highway, transit and rail projects. The program is a low-cost debt program (borrowing tool) that may be accessed by the private sector (and in some cases the public sector). This can help to decrease the overall financing

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<sup>35</sup> WSDOT and ODOT. (2013). Cascades Rail Corridor Management Workplan: January 2013.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

costs of the program. MAP-21 increased the funding for TIFIA to \$750 million for FY 2013. Table 3.6 lists and summarizes the loans and tax credit programs and their intended use.

To date, Washington has not used TIFIA loans to finance rail projects (though it is using \$300 million of TIFIA money to finance the SR 520 floating bridge project). However, other states have successfully used TIFIA for rail projects. Examples include a \$51 million loan to support the Reno Transportation Rail Access Corridor (ReTRAC), and a \$120 million loan to support the extension of the Dallas Area Rapid Transit Project Orange Line Extension (I-3).<sup>38</sup>

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<sup>38</sup> [www.fhwa.dot.gov/ipd/tifia/projects\\_project\\_profiles/tifia\\_portfolio.htm](http://www.fhwa.dot.gov/ipd/tifia/projects_project_profiles/tifia_portfolio.htm).

**Table 3.6 Federal Loans and Tax Credit Sources**

Program	Code	Projects Funded	Funding	Washington State Examples
TIFIA	23 U.S.C. 181-189	Large surface transportation projects of national significance	Loans and guarantees, contingent Federal loans	<ul style="list-style-type: none"> <li>• Has not been used for rail projects in Washington</li> <li>• Has been used for intermodal rail projects in Nevada and Texas</li> </ul>
Railroad Rehabilitation and Improvement Financing (RRIF) program	Transportation Equity Act for the 21st Century (TEA-21) Section 7203	Acquisition, improvement, or rehabilitation of freight and passenger rail facilities; also refinance existing debt	Direct loans and loan guarantees to public and private entities	<ul style="list-style-type: none"> <li>• \$3 million loan to Columbia Basin Railroad, 2007</li> </ul>
Section 45G Short Line Railroad Tax Credit	IRC Title 26	Railroad tracks	Tax credits to an amount equal to 50 percent of qualified railroad maintenance expenditures up to a maximum credit of \$3,500 per mile of track	<ul style="list-style-type: none"> <li>• Has been used by short-line railroads in numerous states, including Oregon, Idaho, Alaska, and California.</li> </ul>
State Infrastructure Banks (SIB)	National Highway System (NHS) Designation Act Section 350	Transportation projects	Subordinate loans, interest rate buy downs on third-party loans, loan guarantees, and line of credit	<ul style="list-style-type: none"> <li>• Washington has an SIB and has used it to finance highway projects</li> </ul>
Private Activity Bonds	SAFETEA-LU Section 11143	Surface Transportation Projects	National capacity of liability \$15 billion; PAB allocations approved by U.S. DOT total over \$4.2 billion supporting six projects	<ul style="list-style-type: none"> <li>• Has not been used for rail/intermodal projects in Washington</li> <li>• Has been used to finance intermodal stations in Illinois and Kansas</li> </ul>

Source: Refer to each section below for detailed sources.

## Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA Program)

TIFIA provides federal credit assistance to nationally or regionally significant surface transportation projects, including highway, transit and rail projects. The program is designed to fill market gaps and leverage substantial private co-investment by providing projects with supplemental or subordinate debt. The program offers more flexible repayment terms and more favorable interest rates than other lenders. Goods movement projects are eligible, including rail, intermodal terminals and terminal access projects. However, TIFIA and related loan and credit guarantee programs are designed to complement and leverage—not replace—state and local funds.

The amount of TIFIA loans is constrained by the net amount of other revenues that can be generated and the debt service coverage requirement. This requirement means that TIFIA is most appropriate for use with projects that involve user fees and generate some revenue stream.

Congress recently renewed the TIFIA program, increasing the amount of money available for loans and credit guarantees, while also raising the maximum TIFIA loan amount to 49 percent of eligible project cost from 33 percent. In addition, MAP-21 expanded the funds available through TIFIA from \$122 million in FY 2009 to \$750 million in FY 2013 to \$1 billion by FY 2014.

As noted previously, Washington has not used TIFIA loans to finance rail projects (though it is using \$300 million of TIFIA money to finance the SR 520 floating bridge project). However, other states have successfully used TIFIA for rail projects. Examples include a \$51 million loan to support the Reno Transportation Rail Access Corridor (ReTRAC), and a \$120 million loan to support the extension of the Dallas Area Rapid Transit Project Orange Line Extension (I-3).<sup>39</sup>

### Other Loan and Tax Credit Programs

- **RRIF<sup>40</sup> Program.** This program provides direct loans and loan guarantees to acquire, improve or rehabilitate intermodal or rail equipment or facilities, including track, bridges, yards, buildings and shops; refinance outstanding debt incurred for the purposes listed above; and develop or establish new intermodal or railroad facilities. In Washington, the RRIF program was used by the Columbia Basin Railroad in 2007 to procure a \$3 million loan. The loan

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<sup>39</sup> [www.fhwa.dot.gov/ipd/tifia/projects\\_project\\_profiles/tifia\\_portfolio.htm](http://www.fhwa.dot.gov/ipd/tifia/projects_project_profiles/tifia_portfolio.htm).

<sup>40</sup> [www.fra.dot.gov/Page/P0128](http://www.fra.dot.gov/Page/P0128).

was used to purchase 73 miles of track from the BNSF Railway between Connell and Moses Lake in eastern Washington.<sup>41</sup>

- **Section 45G Short-Line Railroad Tax Credit.**<sup>42</sup> This program was authorized within the Internal Revenue Code to provide tax credits to qualified entities for an amount equal to 50 percent of qualified railroad maintenance expenditures on railroad tracks owned or leased by Class II or Class III railroads. The maximum credit amount allowed was \$3,500 per mile of track. The program is currently authorized through December 31, 2013. The American Short Line and Regional Railroad Association (ASLRRA) estimates that the tax credit helps to fund more than \$300 million worth of short-line infrastructure improvements annually.<sup>43</sup> Rail companies in numerous states, including Oregon, California, Idaho and Alaska, have used this Section 45G funding source.<sup>44</sup>
- **SIB Program.** This program encourages states to enter into cooperative agreements with the U.S. Secretary of Transportation to establish funds eligible to be capitalized with federal surface transportation funds of FY 2005 to FY 2009 under SAFETEA-LU. SIBs are capitalized with federal-aid surface transportation funds and matching state funds. SIBs provide various forms of non-grant assistance to public or private entities for eligible projects, including below-market rate subordinate loans, interest rate buy-downs on third-party loans, and guarantees and other forms of credit enhancement. Any debt issued or guaranteed by the SIB must be of investment grade quality. For rail projects funds are made available for capital projects under Subtitle V of Title 49, United States Code.<sup>45</sup> Washington state has an SIB and has used it in the past to fund highway projects. However, MAP-21 has not allowed new 2013 to 2014 funding to be used to capitalize SIBs.<sup>46</sup> Therefore, the potential to use the SIB vehicle may be limited in the near future.
- **Private Activity Bonds (PAB).**<sup>47</sup> SAFETEA-LU amended the Internal Revenue Code to add highway and freight facilities as a project type for which PABs can be issued. PABs are issued by the U.S. DOT directly and are

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<sup>41</sup> [www.aslrra.org/images/whats\\_in\\_the\\_news/views\\_and\\_news/v&n\\_1-7-08.pdf](http://www.aslrra.org/images/whats_in_the_news/views_and_news/v&n_1-7-08.pdf).

<sup>42</sup> [www.progressiverailroading.com/Federal\\_legislation\\_regulation/news/Shortline-tax-credit-extended-through-2013-34648](http://www.progressiverailroading.com/Federal_legislation_regulation/news/Shortline-tax-credit-extended-through-2013-34648).

<sup>43</sup> Ibid.

<sup>44</sup> [www.aslrra.org/45Gsuccess.pdf](http://www.aslrra.org/45Gsuccess.pdf).

<sup>45</sup> [www.fhwa.dot.gov/ipd/finance/tools\\_programs/Federal\\_credit\\_assistance/sibs/index.htm](http://www.fhwa.dot.gov/ipd/finance/tools_programs/Federal_credit_assistance/sibs/index.htm).

<sup>46</sup> Ibid.

<sup>47</sup> [www.fhwa.dot.gov/ipd/p3/tools\\_programs/pabs.htm](http://www.fhwa.dot.gov/ipd/p3/tools_programs/pabs.htm).

limited to \$15 billion allocated among qualified facilities. Interested project sponsors can submit an application to the U.S. DOT, including information about the project description, schedule, financial structure and project readiness. The U.S. DOT considers all applications and recommends some of them for allocation. This provides developers and operators with access to tax-exempt interest rates. PABs have been issued to date for \$3.8 billion for eight projects, including intermodal centers, high-occupancy toll (HOT) lanes and new tunnel construction.<sup>48</sup> None of the eight projects is in Washington. However, two of the projects involve the development of intermodal freight rail centers in Illinois and Kansas.

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<sup>48</sup> [www.fhwa.dot.gov/ipd/p3/tools\\_programs/pabs.htm](http://www.fhwa.dot.gov/ipd/p3/tools_programs/pabs.htm).



## 4.0 State, Regional and Local Funding and Finance Programs

### 4.1 STATE RAIL FUNDING AND FINANCE PROGRAMS

The Washington State Department of Transportation (WSDOT) is the primary agency responsible for planning and funding transportation projects and programs within the state. Other agencies are involved to some extent in funding or prioritizing transportation projects, including the State Treasury, the Washington Utilities and Transportation Commission (UTC), and the Freight Mobility Strategic Investment Board (FMSIB). These agencies are the focus of this section and are summarized in Table 4.1.

**Table 4.1 State Agencies and Programs Involved in Funding and Financing Rail Improvements or Operations**

Agency	Program	Projects Funded/Program Description	Funding
WSDOT	Freight Rail Investment Bank	Has been used to fund small capital rail projects with at least 20% funding match.	\$5.0 million for eligible projects in 2013-2015.
	Freight Rail Assistance Program	WSDOT will prioritize the applications using criteria developed by the department for freight rail assistance.	\$2.75 million for projects in 2013–2015.
	Grain Train Revolving Fund	A self-sustaining program that supports farmers, short-lined railroads, and rural economic development through the use of a fee to use a state-owned grain car.	The funds are generated based on a combination of miles traveled and number of days on the BNSF Railway.
	Produce Rail Car Program	Operates 25 refrigerated rail cars to assist the agricultural community and ensure the availability of necessary equipment.	This program was funded in 2003 with \$2 million in federal grants and \$200,000 in state transportation funds. The program ran from 2003-2012, but is currently not in operation.
	2005 Transportation Partnership Program (TPP)	35 projects that include highways, local roadways, and rail systems.	Freight mobility and economic projects are allocated \$542 million.
	2003 Legislative Transportation Package	Improvements to assist freight transportation on rail systems and local roadways.	\$12 million was invested in freight mobility and economics.
	Multimodal Transportation Programs	Projects such as intercounty service, rush hour transit service and capital projects that improve the connectivity and efficiency of the regional mobility system.	N/A
State Treasury Rail Assistance Programs	Essential Rail Assistance Account	The freight rail projects are prioritized based on eligibility requirements under the rail preservation program.	Loan program to promote rail.
	Transportation Infrastructure Account	Building surface transportation facilities representing critical mobility or economic development needs and involving various transportation modes.	Loans, grants or other means of assistance can be provided in equal amounts or part of the cost to public or private agencies.
	Transportation Innovative Partnership Account	This account will include moneys from the Transportation Innovative Partnership Program to support transportation projects. State can use moneys under this account that is related to a subaccount established.	Loan guarantees, extension of credit, bonds, etc.
UTC		The UTC administers the Grade Crossing Protective Fund (GCPF) to provide grants to railroads, local governments, and other agencies that propose safety improvement at railroad crossings.	Fund awards projects between \$250 and \$20,000
Washington State FMSIB		Reviews, prioritizes and recommends freight mobility transportation projects that are of strategic importance to Washington. Projects include grade separations, pedestrian overpasses and Intelligent Transportation Systems (ITS) projects.	FMSIB is not a funding agency, but instead proposes policies, projects and funding priorities to the legislature.

Source: WSDOT, State Treasury, FMSIB and UTC web sites.

## **(WSDOT) Freight Rail Programs**

WSDOT has several funding programs in place that can support projects on the short-line and Class I rail system. The legislature authorized these programs in recognition that rail projects can result in significant public benefit. For example, the Freight Rail Assistance Program (FRAP) evaluates potential grantees on criteria, including the project's ability to reduce greenhouse gas (GHG) emissions (i.e., environmental improvements); the project's impact in transferring truck trips to rail (i.e., saving wear and tear on state or county-owned roads); and economic impact to the state as a whole.<sup>49</sup> Other programs supported by the state include the following:

- **Freight Rail Assistance Program (FRAP).** This is a grant program open to public- and private-sector applicants, including cities, county rail districts, counties, economic development councils, port districts and privately or publicly owned railroads. The aim of the program is to support larger projects that have been shown to be of strategic importance to the local community and to the state. This program has proven to be tremendously popular in recent years. In the last biennium (2011 to 2013), for example, the FRAP-cycle received over \$25 million in grant applications. Of these, 10 projects totaling almost \$4 million were funded by FRAP. According to WSDOT, the Washington State Legislature has allocated \$4.0 million for FRAP projects in the 2013 to 2015 biennium. WSDOT will prioritize the applications using criteria developed by the department, though projects must be shown to maintain or improve the freight rail system in the state and to benefit the state's interests. WSDOT forwards a prioritized list of projects to the Governor's office for determination about which projects to submit to the legislature. The legislature will consider the project recommendations and decide which projects to fund in the upcoming budget.
- **Freight Rail Investment Bank (FRIB).** This program provides loans with a repayment period of no more than 10 years and are available to the public sector. The Governor and legislature will allocate \$8.58 million for eligible projects in 2013 to 2015. The goal of FRIB is to assist with the funding of smaller capital rail projects, available for up to \$250,000. But applications are open to loans of any size within the maximum amount available for all projects as long as they are matched by at least 20 percent of funds from other sources. Project proposals may be submitted if they include one or more of the following benefits to the state:
  - Advance Washington state economic development goals.
  - Leverage state participation by allocating cost responsibilities among beneficiaries.

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<sup>49</sup> [www.wsdot.wa.gov/Freight/Rail/GrantandLoanPrograms.htm](http://www.wsdot.wa.gov/Freight/Rail/GrantandLoanPrograms.htm).

- Demonstrate that there is a low likelihood of obtaining public benefits without public involvement.
- **Grain Train Revolving Fund.** The Washington Grain Train began in 1994, and currently has over 120 cars in the fleet. The program is managed by WSDOT, in coordination with the Ports of Walla Walla, Moses Lake, and Whitman County. Revenues are generated by a car use fee, which is collected monthly by the port districts. The funds are generated based on a combination of miles traveled and number of days on the BNSF Railway.<sup>50</sup> This program supports Washington’s farmers, short-line railroads and rural economic development. The revenue generated is used to maintain grain cars, car tracking and car replacement.
- **Produce Rail Car Program.** Also created to assist the agricultural community, this program began service in 2003 and operated until March 2012. For most of this time, it provided service via 25 refrigerated rail cars to carry Washington state produce to eastern states. The program was funded with \$2 million in federal grants and \$200,000 in state transportation funds.<sup>51</sup> WSDOT used Rail Logistics, LC until March 2012 under contract to provide the refrigerated cars, including maintenance and other services. Though the program still exists, it is currently (2013) not in operation.
- **2005 Transportation Partnership Program (TPA).** This state legislature was passed to provide a 16-year expenditure plan to address some of the state’s most critical needs to fund 274 projects.<sup>52</sup> The revenue package totals about \$7 billion in investments that include the following:
  - 9.5 cents gas tax increase phased in over four years - \$5.5 billion.
  - Vehicle Weight Fee on passenger cars - \$908 million.
  - The light truck weight fee increase - \$436 million.
  - Annual motor home fee - \$75 million to \$130 million.

Freight mobility and economic projects are allocated \$542 million for 35 projects that include highways, local roadways and rail systems. Improving Amtrak Cascades passenger rail service, as part of the \$94.8 million multimodal improvements, is part of this program as well.

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<sup>50</sup> [www.wsdot.wa.gov/NR/rdonlyres/53CDF1A8-BF89-482B-B9E1-B186326BF7E4/0/GrainTrainFolioJune2011WEB.pdf](http://www.wsdot.wa.gov/NR/rdonlyres/53CDF1A8-BF89-482B-B9E1-B186326BF7E4/0/GrainTrainFolioJune2011WEB.pdf).

<sup>51</sup> [www.wsdot.wa.gov/projects/rail/producerailcars/](http://www.wsdot.wa.gov/projects/rail/producerailcars/).

<sup>52</sup> [www.wsdot.wa.gov/Projects/Funding/2005/](http://www.wsdot.wa.gov/Projects/Funding/2005/).

- **2003 Legislative Transportation Package.** Also referred as the “Nickel” funding package, this funds 158 projects amounting to \$3.9 billion investment over a 10-year period. This package includes:
  - 5 cents per gallon gas tax increase.
  - 15 percent increase in gross weight fees on heavy trucks.
  - 0.3 percent increase in the sales tax on motor vehicles.

When the projects are built, and the accompanying bonds are paid off, the five-cent-per-gallon gas tax increase will expire. An investment of \$12 million<sup>53</sup> was provided for freight mobility and economics to make improvements to assist freight transportation on rail systems and local roadways as well.

- **Multimodal Transportation Programs.**<sup>54</sup> This is headed by a 21-member committee for the purpose of establishing a regional mobility grant to select viable multimodal transportation programs and projects. It has been used to fund projects, such as inter-county service, rush hour transit service and capital projects that improve the connectivity and efficiency of the system.

### **State Treasury Rail Assistance Programs**

There are also programs that are managed by the state treasury to help maintain and improve rail services. These include:

- **Essential Rail Assistance Account.** This loan program is part of the state treasury that promotes rail service that can be distributed to port districts, cities, counties and freight carriers. Some of the purposes that the money can be used towards include improving, rehabilitating, rebuilding, purchasing equipment, acquiring and preserving rail service along with addressing right-of-way issues. The freight rail projects are prioritized based on eligibility requirements under the rail preservation program.<sup>55</sup> WSDOT is authorized to develop criteria for prioritizing freight rail projects, and to ensure that they meet the requirements for state assistance under RCW 47.76.240. Money may be granted for improvements to privately owned railroads, railroad property and other private entities, if they demonstrate that they will provide benefits to the public with a value equal or greater than the grant amount.<sup>56</sup>

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<sup>53</sup> [www.wsdot.wa.gov/Projects/Funding/Nickel/](http://www.wsdot.wa.gov/Projects/Funding/Nickel/).

<sup>54</sup> <http://apps.leg.wa.gov/rcw/default.aspx?cite=47.66&full=true#47.66.030>.

<sup>55</sup> <http://apps.leg.wa.gov/rcw/default.aspx?cite=47.76.250>.

<sup>56</sup> Ibid.

- **Transportation Infrastructure Account.** This program was designed to reuse the proceeds of bonds and other financial instruments issued against revenue loaned.<sup>57</sup> Also part of the state treasury, this revenue source can be used to support surface transportation projects for various modes of transportation. Loans, grants or other means of assistance can be provided in equal amounts or part of the cost to public or private agencies building surface transportation facilities. This program's top priority is to facilitate projects representing critical mobility or economic development needs and involving various transportation modes.
- **The Transportation Innovative Partnership Account.** This program was designed to reuse proceeds of interests and other financial instrument issued for any project that is related to a subaccount of the program. This includes projects that facilitate the safe transport of people or goods via any mode of travel. This program is established under the new RCW 47.25, which aims to provide and facilitate innovative project financing.

### **Freight Mobility Strategic Investment Board (FMSIB)**

FMSIB is an independent agency created in 1998 by the state legislature. Its purpose is to review, prioritize, and recommend freight mobility transportation projects that are of strategic importance to the state of Washington. The Washington State Governor accepts nominations for and appoints the FMSIB board, which comprises 12 members. Members come from the public, trucking, rail, maritime, port, counties and cities, in addition to the WSDOT Secretary and Governor's representative.

FMSIB evaluates and ranks eligible freight mobility and freight mitigation projects using a multi-criteria analysis and scoring method. In making its selections, FMSIB gives priority ranking to projects with the highest level of non-FMSIB funding, as well as those with private-sector participation. FMSIB determines final project selection, as well as the state's share of project costs.

FMSIB's position as an independent state agency with funding authority means it can implement freight projects without competing with other transportation priorities (although all projects must still be part of a state or regional transportation plan). According to the FMSIB 2012 Annual Report, FMSIB has assisted in bringing to completion 43 projects, along with a total of 30 active projects in 2012.<sup>58</sup> Projects include grade separations, pedestrian overpasses, turning lane improvements, freeway ramps and ITS projects.

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<sup>57</sup> <http://apps.leg.wa.gov/rcw/default.aspx?cite=82.44.190>.

<sup>58</sup> [www.fmsib.wa.gov/](http://www.fmsib.wa.gov/).

## Utilities and Transportation Commission (UTC)

The UTC is responsible for regulating railroad safety under Title 81 RCW (transportation) and protects consumers by ensuring that utility and transportation services are fairly priced, available, reliable and safe. Some of the key responsibilities and roles are discussed in Section 3.0. In addition, the UTC administers the Grade Crossing Protective Fund (GCPF) to provide grants to railroads, local governments, and other agencies that propose to make safety improvement at railroad crossings. The fund awards projects between \$250 and \$20,000 for improvements, including signage, trespass prevention, warning devices and other improvements to help improve safety.<sup>59</sup> These funds are much smaller than the federally distributed grade-crossing funds under Section 130.

## 4.2 REGIONAL PARTNERSHIPS AND LOCAL ENTITIES

Regional partnerships, such as the Freight Action Strategy for the Everett-Seattle-Tacoma Corridor (FAST Corridor) and the International Mobility and Trade Corridor Program (IMTC), help to coordinate multiple different partners to fund and finance projects, and are involved with the prioritization of rail improvement projects. Both of these regional partnerships also focus on specific geographic regions within the state (the FAST corridor focuses on the Puget Sound Region, while the IMTC is focused on the four border crossings that connect Whatcom County and the Lower Mainland of British Columbia (B.C.), Canada. Other agencies, including county and local governments and port agencies, also contribute to rail improvement projects. These agencies are the focus of this section and are summarized in Table 4.2.

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<sup>59</sup> [www.utc.wa.gov/publicSafety/railSafety/Pages/GCPFSafetyImprovementsatPassiveCrossings.aspx](http://www.utc.wa.gov/publicSafety/railSafety/Pages/GCPFSafetyImprovementsatPassiveCrossings.aspx).

**Table 4.2 Regional Partnerships and Local Entities Involved in Funding or Financing Rail Improvement Projects**

Agency	Projects Funded/Program Description	Funding
<b>Regional Partnerships</b>		
IMTC Program	Identifies and promotes improvements to mobility and security for the Washington/B.C. border. Creates annual priority project lists that represent regionally-significant projects that are seen as priority by multiple agencies.	Though the IMTC has no funding of its own, it has helped to assemble over \$38 million since 1997 to address shared priorities/projects. Funding has come from a variety of national, state and local funding sources in the U.S. and Canada.
FAST Corridor	The FAST Corridor is a partnership that promotes freight mobility in the Puget Sound. The projects include grade separations, rail yard access projects, and ITS deployments.	\$568 million of funding from public and private sources, which have been used to complete nine projects and begin four more.
Regional Freight Mobility Roundtable	The Regional Freight Mobility Roundtable is a public-private forum held on a monthly basis. Its goal is to define and recommend actions serving freight mobility needs in and throughout the central Puget Sound Region.	The Regional Freight Mobility Roundtable has no funding of its own, but instead is a forum for freight stakeholders to discuss, define and recommend actions and projects.
Inland Pacific Hub	A public-private partnership comprised of representatives from Idaho and Washington. The goal is to examine the feasibility of establishing the Inland Pacific region as a multimodal global gateway.	The Inland Pacific Hub currently has no funding source of its own, but is a regional forum to study and promote the Inland Pacific Hub concept.
<b>Local Entities</b>		
County or Local Money	In some cases, funding is contributed by the city, municipality or county government.	There are numerous examples, including the city of Seattle’s \$1.6 million investment in the East Marginal Way Grade Separation, King County’s \$.24 million contribution to the M Street SE Grade Separation, and a \$10,000 grant from the Clark County Rural Development Agency to construct the New Creston Livestock Feed Mill rail spur.
Port contributions	Ports often contribute to rail projects, in particular, when there are direct and measurable benefits that would accrue to the port, or when the projects would create safety, environmental, or mobility benefits to surrounding communities.	There are numerous examples, including \$173 million contributed by the Port of Vancouver for the Vancouver – Rail Bypass and West 39 <sup>th</sup> Street Bridge, and the Port of Seattle and Port of Tacoma \$18.8 million contribution to the East Marginal Way Grade Separation.

Source: WSDOT, IMTC, Port, and FAST web sites.

## Regional Partnerships

### *The Freight Action Strategy for the Everett-Seattle-Tacoma Corridor (FAST Corridor)*

The FAST Corridor is a partnership that promotes freight mobility in the Puget Sound region. The FAST partnership was formed in 1998 and has 26 members, including stakeholders from the federal, state and regional levels; ports; cities; counties and freight carriers. It is administered through the Puget Sound Regional Council (PSRC), the metropolitan planning organization (MPO) for the Puget Sound region. The FAST vision is to coordinate solutions to the region's freight mobility challenges by making targeted improvements to critical rail and truck corridors that connect Puget Sound ports to statewide, national and international markets. Since 1998, the FAST partnership has successfully assembled about \$568 million of funding from public and private sources, which have been used to complete nine projects and begin four more. The projects include grade separations, rail yard access projects and ITS deployments.<sup>60</sup>

### *The International Mobility and Trade Corridor Program (IMTC)*

The IMTC is a coalition of U.S. and Canadian government and business entities. Its goal is to identify and promote improvements to mobility and security for the four border crossings that connect Whatcom County in Washington, and the Lower Mainland of B.C. These crossings are together referred to as the Cascade Gateway.<sup>61</sup> The group identifies and pursues improvements to infrastructure, operational and information technology. One way it accomplishes this is through the creation of an annual priority project list that represents regionally significant projects that are seen as priority by multiple agencies.

Though the IMTC has no funding of its own, it has helped to assemble over \$38 million since 1997 to address shared priorities/projects. Funding has come from a variety of national, state and local funding sources in the U.S. and Canada, including the FHWA, Transport Canada, B.C. Province, Washington state, TransLink, Port of Bellingham, Western Washington University, Whatcom Council of Governments, the U.S. DOT Office of the Secretary, the Bill and Melinda Gates Foundation, The Cascadia Center, and a variety of municipalities.<sup>62</sup>

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<sup>60</sup> [www.psrc.org/transportation/freight/fast/](http://www.psrc.org/transportation/freight/fast/).

<sup>61</sup> <http://theimtc.com/about/>.

<sup>62</sup> Ibid.

## Local Funding/Financing Programs

### *County-Level Monies*

A number of rail projects throughout the state have been funded using local funding and financing programs. For example, in Clark County, a grade separation project at Jefferson Street and Grant Street is receiving \$10 million in local funding. According to the Clark County's 2011 Metropolitan Transportation Plan (MTP), local revenue comes from a number of sources, such as a property tax for road projects and sales tax for transit projects. Other revenues include street use permits, gas tax, utility permits, impact fees, frontage improvement agreements and what the state refers to as a "latecomer fee." A latecomer fee is charged to new developments and redevelopments for improvements that would have been required for their development, but have been constructed by the county.

The M Street SE Grade Separation has been awarded money from a number of local agencies, including \$0.24 million through the King County Sewer Design Agreement, and \$0.77 million each from the Ports of Seattle and Tacoma through the FAST partnership.<sup>63</sup>

Additional county funding identified includes a \$10,000 grant from Lincoln County through a Rural Development Grant to the Town of Creston for the New Creston Livestock Feed Mill, while Skagit-Island County identified needs are partially funded through local revenue streams, including property tax, special assessments and general fund contributions.

### *Port Contributions*

Ports often contribute to rail projects, in particular, when there are direct and measurable benefits that would accrue to the Port; or when the projects would create safety, environmental or mobility benefits in surrounding communities. For instance, the Port of Tacoma provided \$1.5 million for the Shaw Road Extension in Puyallup, in partnership with the city of Puyallup (who provided \$7.8 million in traffic/stormwater/environmental mitigation fees and bond funds).<sup>64</sup> Likewise, the Port of Vancouver has provided a significant amount (\$173.3 million) in funding towards the Vancouver – Rail Bypass and West 39<sup>th</sup> Street Bridge; the Ports of Seattle and Tacoma together contributed \$5 million towards the Willis Street (SR 516) Grade Separations; and the Port of Seattle contributed \$18.8 million towards the completion of the East Marginal Way Grade Separation project.

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<sup>63</sup> [www.psrc.org/assets/6712/M\\_ST\\_SE\\_Legislative\\_Briefing\\_Paper\\_TIB\\_5\\_24\\_11.pdf](http://www.psrc.org/assets/6712/M_ST_SE_Legislative_Briefing_Paper_TIB_5_24_11.pdf).

<sup>64</sup> [www.psrc.org/assets/1844/puyallup\\_Shaw\\_Road-0609.pdf](http://www.psrc.org/assets/1844/puyallup_Shaw_Road-0609.pdf).

## 5.0 Innovative Rail Funding and Financing Sources

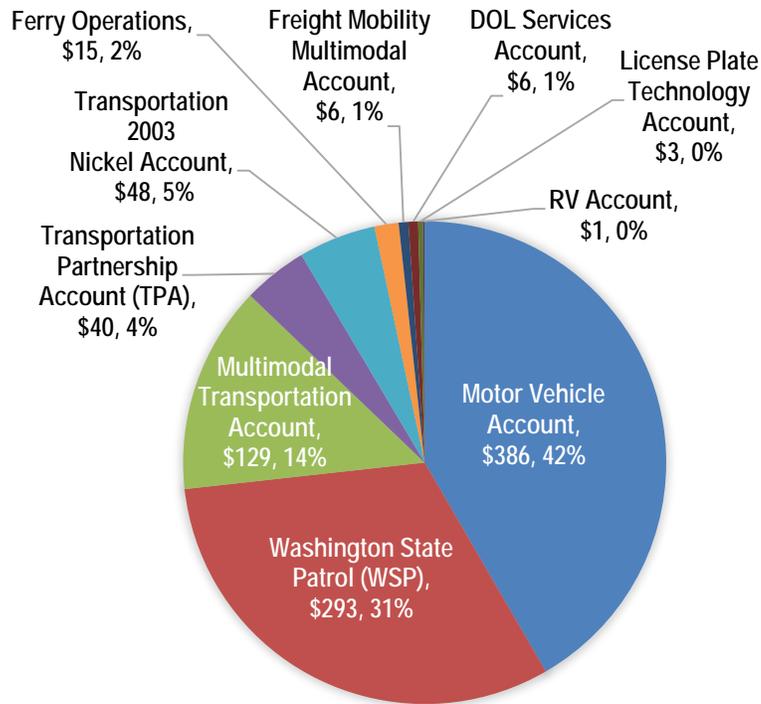
### 5.1 POTENTIAL FUTURE PUBLIC REVENUE SOURCES FOR WASHINGTON TO CONSIDER

It is important to distinguish funding sources and revenue sources. Revenue sources include taxes and fees (i.e., mechanisms where actual money is generated). Funding sources, on the other hand, are the means by which revenue sources are combined and applied to rail projects. The previous sections of this technical note dealt primarily with funding sources that Washington currently uses to help fund and finance rail projects. This section focuses on discussing potential new revenue sources that might be appropriate to help Washington fund its programs. It should also be noted that the discussion is restricted to revenue sources at the state or local level.

Currently, Washington's state revenue sources for rail are derived primarily from a combination of fees and taxes on drivers' licenses, light vehicle weight fees, a portion of the sales tax on automobiles and rental car taxes. While some of these mechanisms are used by many states, some fees are only levied by a few other peer states. For instance, rental car taxes are only used by four out of 22 peer states; the four states include Florida, Iowa, Maine and Virginia.

Figure 5.1 summarizes the total amount of money generated from licenses, permits and fees in the 2011 to 2013 biennium. Out of the \$927 million generated, about \$6 million (or 1 percent) go to the Freight Mobility Multimodal Account; about \$129 million (or 14 percent) go to the Multimodal Transportation Account; about \$40 million (or 4.3 percent) go to the Transportation Partnership Account; and about \$48 million (or 5.2 percent) go to the Nickel Account. From these accounts, a portion of the funds are used for rail projects.

Figure 5.1 Distribution of Licenses, Permits and Fees in Washington, 2011 to 2013  
Millions of Dollars



Source: <http://leap.leg.wa.gov/leap/budget/citizensguidetranspo2012.pdf>.

There are also several other revenue sources that may be appropriate for WSDOT to consider in the future. These revenue sources have been used with success in other states, but would require additional vetting and study to determine their feasibility and applicability for the Washington context. However, they may be worth considering for rail planning and project implementation in the future. Table 5.1 provides a summary of the potential revenue sources, their key benefits and drawbacks.

**Table 5.1 Potential Future Public Revenue Sources for Washington to Consider**

Name	Key Benefits	Key Drawbacks
Road usage charge (Vehicle Miles Traveled-based fee)	<ul style="list-style-type: none"> <li>Provides a long-term, sustainable, and substantial source of revenue that replaces an old and ineffective structure.</li> </ul>	<ul style="list-style-type: none"> <li>High administrative and legislative burden.</li> <li>Long timeframe for implementation (post-2017).</li> <li>May meet with public opposition.</li> </ul>
Sales tax on motor fuels	<ul style="list-style-type: none"> <li>Relatively stable source once established.</li> </ul>	<ul style="list-style-type: none"> <li>18<sup>th</sup> Amendment of Washington State Constitution dedicates motor fuel taxes for highway purposes. This would require a constitutional amendment and likely face significant implementation resistance.</li> <li>Revenue sources that can be generated is minor and diminishing.</li> <li>Has traditionally met with coordinated opposition in Washington.</li> <li>Tax revenue would be targeted by several other nonhighway transportation modes, and would likely be highly competitive.</li> </ul>
Lottery proceeds	<ul style="list-style-type: none"> <li>Proven allocation of funds for intermodal improvement (modeled after <i>ConnectOregon</i>).</li> <li>A significant source of rail project revenue that is dedicated.</li> </ul>	<ul style="list-style-type: none"> <li>Need legislative approval and can face significant barriers to compete with money for education and other current lottery beneficiaries.</li> </ul>
Special districts	<ul style="list-style-type: none"> <li>Potential for high revenue yield.</li> <li>Enforcement and collection mechanism relatively easy to establish</li> </ul>	<ul style="list-style-type: none"> <li>Politically challenging to create a large, new district that is multijurisdictional.</li> <li>High relative administrative burden.</li> </ul>
Railroad tax credit	<ul style="list-style-type: none"> <li>Incentivizes private investment from railroads, which can bring jobs and regional growth.</li> <li>Relatively easy to adopt.</li> </ul>	<ul style="list-style-type: none"> <li>Not a standalone rail revenue strategy. Still needs to be used in conjunction with other options above.</li> </ul>

Source: Cambridge Systematics, Inc.

### **Road Usage Charge (VMT-Based Fee)<sup>65</sup>**

Washington is currently studying the potential to implement a Road Usage Fee. The idea of a road usage charge, or a VMT-based charge, has increasingly been discussed in the literature as a way to replace gas tax, given the latter’s continual decline in light of the economic crisis and the increased fuel efficiency of vehicles. It is expected that motor fuel consumption will flatten out around 2015, while VMT continues to rise.

Responding to this, in 2012 the Washington Legislature and Governor directed the Transportation Commission “solely to determine the feasibility of

<sup>65</sup> [www.wstc.wa.gov/StudiesSurveys/RUC2012/default.htm](http://www.wstc.wa.gov/StudiesSurveys/RUC2012/default.htm).

transitioning from the gas tax to a road user assessment system of paying for transportation.”

### **Sales Tax on Motor Fuels**

Washington state gas tax, in accordance with the 18<sup>th</sup> amendment of the Washington State Constitution, is dedicated to “highway purposes,” including WSDOT highway programs, the Washington State Ferry System, and other roads that are not part of the state highway network.<sup>66</sup> Therefore, any efforts to use motor fuel tax for non-highway improvements would face significant regulatory and implementation hurdles.

However, Washington State Legislature is currently debating the potential of a transportation tax plan, which would potentially change the types of taxes that could be used for non-highway transportation.<sup>67</sup> This is a concept that other states have used to generate funds for transportation; for example, California assesses a sales tax on motor fuels, portions of which are deposited in the state’s Public Transportation Fund that can be used for passenger rail projects. Virginia also allows transportation districts to collect sales tax for purposes of supporting transportation projects, including commuter rail.

In Washington, current state fuel tax is 37.5 cents per gallon, and taxes for gasoline and diesel are equivalent with some exceptions. Currently, monies from the Transportation Nickel Account and Transportation Partnership Account can be used to fund rail projects. In order to allow more revenue to go towards rail projects, either the tax rate would need to be raised to generate additional revenue for rail projects, or the existing tax distribution would need to be changed, so that more monies can be deposited into accounts that can fund rail projects.

As stated previously, any changes to tax revenue allocation would be met with significant implementation hurdles, and would require a revision to the Washington State Constitution. Nevertheless, the potential for a transportation gas tax remains an ongoing source of discussion at the state level.

### **Lottery Proceeds**

This revenue source would reallocate a portion of the state’s annual lottery proceeds strictly for the purposes of funding rail needs. Currently in Washington, lottery proceeds do not fund any type of transportation projects. Historically, it would be possible for transportation projects to receive funding

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<sup>66</sup> [www.wsdot.wa.gov/Finance/fueltaxes.htm](http://www.wsdot.wa.gov/Finance/fueltaxes.htm).

<sup>67</sup> [www.theolympian.com/2013/06/12/2581480/leaders-agree-on-gas-tax-but-transportation.html](http://www.theolympian.com/2013/06/12/2581480/leaders-agree-on-gas-tax-but-transportation.html).

through the general fund. However, as of 2012, there are no longer any proceeds directed to the General Fund from the lottery proceeds.

Using lottery money to fund transportation would call for a reallocation of funds for transportation purposes. Perhaps the best example of a funding program that uses lottery proceeds is the *ConnectOregon* Program. In 2005, the Oregon Legislature created the Multimodal Transportation Fund to invest in air, marine, rail and public transit infrastructure improvements. The fund is part of what is known as the *ConnectOregon* program, providing grants and loans to non-highway transportation projects that promote economic development in Oregon. The legislature authorized issuance of \$100 million in lottery-backed revenue

The *ConnectOregon* program uses lottery-backed revenue bonds to provide grants and loans to non-highway transportation projects that promote economic development in Oregon. The legislature authorized issuance of \$100 million in lottery-backed revenue bonds to fund the program in each of the 2005 to 2007 and 2007 to 2009 biennia, as well as \$95 million in 2009 to 2011. In total, The *ConnectOregon* Program has provided \$148.8 million to fund 56 rail projects, which represent an award percentage of 44 percent over the course of the four funding cycles.

bonds to fund the program in each of the 2005 to 2007, 2007 to 2009 biennia, as well as \$95 million in 2009 to 2011. An additional \$40 million was authorized in 2011 for the 2011 to 2013 biennium. In total, the *ConnectOregon* program has provided \$148.8 million to fund 56 rail projects, which represents an award percentage of 44 percent over the course of the four funding cycles.<sup>68</sup>

In addition, in January 2013, Senate Bill 247 was introduced that called for the establishment of the *ConnectOregon Plus* program, aimed at establishing a permanent allocation of lottery proceeds to the Multimodal Fund. Under this program, 50 percent of annual allocation would be dedicated to freight capital projects, including rail (like *ConnectOregon* today); and another 50 percent would be dedicated to active or passenger modes, including rail, where the money would be further divided between capital and operations. If approved, this program can serve as a model for Washington, as it presents a significant source of dedicated revenue.<sup>69</sup>

### Special District

A special district with taxing authority could be formed to fund rail improvements and/or services. Revenues raised by regional railroad districts can provide financial support for rail projects.

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<sup>68</sup> Oregon Department of Transportation.

<sup>69</sup> Ibid.

In Washington currently, there are no special districts that are established for rail purposes. However, RCW Section 36.73 specifies the creation of transportation benefit districts, which provides legislative authority to counties and cities to establish such districts for the purpose of acquiring, constructing, improving, providing and funding a transportation improvement within the district that is consistent with existing transportation plans. It can include projects that improve freight mobility, accessibility and connectivity. It authorizes the district to levy ad valorem property tax, as well as to provide for the retirement of voter-approved general obligation bonds. However, the district cannot levy any taxes, fees, charges, tolls or rebate program without voter approval.<sup>70</sup>

It is, thus, theoretically possible to create passenger rail districts along a certain route, where additional taxes/fees can be levied and bonds can be issued. For instance, in Texas, commuter rail districts can be formed; and the Virginia transportation districts were created to enable transportation commissions to provide a more regional perspective. Special districts can also work for freight rail corridors, as well as extensions of existing port districts.<sup>71</sup>

### **Railroad Property Tax Reallocation**

In 2011, real property values for the BNSF Railway and the Union Pacific Railroad was 34 percent of the total property values of all public utility companies in Washington, which is nearly \$19 billion.<sup>72</sup> Property taxes, along with public utilities and other taxes, are levied on the railroads annually. An option would be to move this tax to a special dedicated rail improvement fund. Currently, in Washington, all property taxes are distributed to cities, towns, counties, schools and other sources.<sup>73</sup> There will be two potential ways to implement this revenue option:

1. **Shift all current and future railroad property tax to a rail fund.** This would mean high revenue yield, but also high political opposition especially from places where property taxes make up high percentages of total property tax receipts.
2. **Shift only future railroad property tax receipts to a rail fund.** This is more politically feasible, but the revenue generated from this mechanism will be much smaller as well. Under this scheme, only the property tax that is above the current level will be moved to the fund.

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<sup>70</sup> <http://apps.leg.wa.gov/rcw/default.aspx?cite=36.73>.

<sup>71</sup> Oregon Potential Rail Funding Sources Technical Analysis Report.

<sup>72</sup> Washington Department of Revenue.

<sup>73</sup> [www.leg.wa.gov/LIC/Documents/EducationAndInformation/Citizens\\_Guide\\_to\\_Property\\_Taxes.pdf](http://www.leg.wa.gov/LIC/Documents/EducationAndInformation/Citizens_Guide_to_Property_Taxes.pdf).

Regardless of the options, the process is a slow one and legislative approval is needed. The benefit of this option is that there is a direct nexus between the taxes and the infrastructure that the taxes would be applied to. Gradually reallocating this amount to a special railroad fund for freight and passenger purposes could help fund rail enhancements, including passenger rail staff and project development costs.

### **Railroad Tax Credit**

Similar to the *Railroad Track Maintenance Credit Program* at the federal level, a state-level tax credit program could also be enacted to help fund short-line infrastructure projects. This tax credit program would leverage private investment that would not be made without the tax credit program. It should be noted that a rail tax credit should not be used as the only funding option, but rather, it should be included as part of a project package along with more consistent revenue sources.

Currently, several other states have tax credit programs at the state level to encourage investment in rail structure. For example, Kentucky has several tax credits to assist short-line railroads, including the *Nonrefundable Tax Credit for Railroad Improvement*, the *Nonrefundable Tax Credit for Railroad Expansion or Upgrade to Accommodate Transportation of Fossil Energy Resources or Biomass Recourses*, and the *Economic Develop Tax Credit (For Railroad Spurs)*.

There are three possible approaches that could be considered in Washington:

1. A Major Projects Rail Tax Credit, in which the tax credits will be made available to a limited number of major projects to draw major rail investments.
2. A General Rail Tax Credit, in which the tax credits will be made available to all rail projects.
3. An Emissions/Environmental Tax Credit, in which the tax credit will be offered to projects that have a positive impact on the state's environment through greenhouse gases and criteria pollutant reductions.

## **5.2 PUBLIC PRIVATE PARTNERSHIPS (PPP)**

PPPs have received considerable attention in the literature and are frequently included in proposed strategies for infrastructure funding. PPPs appear to be a viable means of facilitating project-specific funding, thereby, reducing the pressure on other funding mechanisms. The major value of PPPs is not in providing capital that would otherwise be inaccessible, but in facilitating more rapid capital investment at a comparable or even lower financing cost. The sources of PPP funding can, for the most part, be accessed through revenue bonds or other instruments. The efficiency attributes of private-sector development and operation are, theoretically, accessible through outsourcing and design-build contracts without private financing. PPPs, however, may prove

to be a quicker and more flexible means of tapping those funding sources and efficiencies. In that respect, the true function of PPPs may be more institutional than economic. However, PPPs may also provide significant leverage for limited public investments.

Despite its attractiveness, PPPs have been used sparingly in the past. One reason is that PPPs allow for the use of public funds for projects that may also benefit the private sector. This type of use of public monies is tightly controlled. Specifically, in Washington, RCW 47.29.060 requires that “any debt issued to pay for the transportation project must be issued by the state treasurer,” effectively requiring legislative approval for private financing. This legislative restriction means that PPP project approvals can be complex, slow and costly, which can thwart smaller projects from becoming PPPs. In addition, the financing restrictions are restrictive, assuming state-backed debt is always the best method. This does not help provide mechanisms to conduct comparative analysis. However, given the current funding situations, perhaps more innovative PPP financing mechanisms can be thought out, especially given that rail projects usually already involve multiple partners with shared interests (both public and private).<sup>74</sup>

Washington can consider a number of rail-related PPP projects as examples to formulate potential future projects:

- **Third-party finance with usage-based revenues.** The Alameda Corridor project in Los Angeles County, California, was the precursor for the federal TIFIA program, and involved the creation of a special district supported by federal and state credit programs to construct a new, depressed section of high-capacity double track railroad from the Port of Los Angeles and Port of Long Beach to rail yards west of downtown Los Angeles. The public debt is being repaid by freight railroads using the facility. Similar third-party districts were created to finance and construct grade-separated flyovers in Kansas City, Missouri, for the Sheffield and Argentine flyovers.
- **Public financing with private contributions-regional.** Freight and passenger railroads in the Chicago area have cooperated with the city of Chicago and the state of Illinois in the CREATE program to reduce at-grade rail-rail and rail-highway crossings, and expand the capacity of a number of corridors to make train traffic in the nation’s busiest rail network more fluid. Freight railroads are making improvements on their own systems, and public funds are being invested in grade separations and passenger rail projects on freight properties, leveraged with state and federal funding. A new depressed rail section in downtown Reno, Nevada, the ReTRAC project leveraged freight

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<sup>74</sup> <http://apps.leg.wa.gov/CMD/showdoc.ashx?u=A2iGB9PMbwyP2X1C%2Bw7qdVoo636n00r%2FAh888keMqQ3P61PmDZnpkDCLeYLwGFijkq0rdGt4xRdLnsLGS6ZYBfkTKCzwSbHV&y=2011>.

railroad cost sharing with a TIFIA loan and local bonds backed by sales tax revenues.

- **Public financing with private contributions - multistate corridors.** The Heartland Corridor and National Gateway are two multistate, long-distance freight rail corridors, which involve track, bridge and tunnel improvements to allow double-stacked container trains; and also include new intermodal terminals with expanded truck-rail connections. Both these corridors attracted TIGER grant funding, have strong support from state and local governments, and also include substantial private-sector investments.
- **Private financing concessionaire.**<sup>75</sup> In 2004, Denver area voters passed FasTracks, a multi-project regional transportation investment plan designed to build a number of surface transportation improvements. To complete FasTracks, the Denver Regional Transit District created Eagle P3, forming a concessionaire—Denver Transit Partners—that is required to design, build, operate, maintain and finance parts of the aggressive plan. Currently, Denver Transit Partners has arranged for \$450 million of private financing.
- **Private financing through branding.**<sup>76</sup> Of particular interest to Washington is branding strategies, which can generate significant sums of private money through naming rights, advertisements, development rights and so on. For instance, the Tampa's TECO Streetcar receives private money from TECO Energy in exchange for naming the streetcars after its own company; and the Grand Central Terminal in New York partnered with Apple, Inc. to open a 23,000-square foot retail space in the terminal.

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<sup>75</sup> [http://web1.ctaa.org/webmodules/webarticles/articlefiles/RAIL\\_29\\_Tour.pdf](http://web1.ctaa.org/webmodules/webarticles/articlefiles/RAIL_29_Tour.pdf).

<sup>76</sup> Ibid.

