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December 21, 2011

Pat Egan, Chair Oregon Transportation Commission 1158 Chemeketa Street NE Salem, OR 97301

Dear Chair Egan:

Earlier this year ODOT Director Matthew Garrett asked 14 diverse representatives of Oregon industries, passenger rail advocates, local governments and community leaders to serve on a task force for one purpose: to identify a long-term sustainable funding source for passenger and freight rail in Oregon by the end of the year. We are pleased to meet this challenge with the submission of the *Oregon Rail Funding Task Force Final Recommendation* to the Oregon Transportation Commission.

Oregon's lack of dedicated, sustainable funding for rail investments is the number one challenge facing a viable rail system for both passenger and freight in Oregon. Without such funding, Oregon does not have revenue available for the required match for federal funds to improve passenger rail service, nor the substantial revenue to maintain or operate the infrastructure once built. Additionally, funds are needed to maintain and improve the freight rail systems that are vital to Oregon businesses and the economy, and to reduce congestion, greenhouse gas emissions and highway maintenance costs.

The funding recommendation described in this report includes five components: the creation of a special district, allocation of lottery proceeds to rail, reallocation of railroad property taxes to rail, a telephone access fee and a rail investment tax credit. These sources are estimated to generate \$75 - \$80 million annually for rail specifically and are intended to encourage further private investment by the freight railroads.

The Task Force unanimously supports this final recommendation and encourages the Commission to pursue its implementation.

Sincerely,

Bill Wyatt, Co-Chair Oregon Rail Funding Task Force Allyn Ford, Co-Chair Oregon Rail Funding Task Force

# **Oregon Rail Funding Task Force Final Recommendation**

The *Oregon Transportation Plan* (2006) describes Oregon's vision for a transportation system that supports people, places and the economy. Fulfilling this vision is dependent on a robust freight and passenger rail system. Rail service supports economic development for all regions of Oregon by providing a competitive transportation option for shippers and passengers while improving mobility, reducing roadway congestion and reducing greenhouse gas emissions. Freight demand is projected to grow by as much as 80 percent between the year 2000 and 2030. Without preservation and strategic growth of the rail system, our highway system will experience increased congestion, which the *Oregon Transportation Plan* identifies as a major issue facing Oregon's transportation system. A degenerative rail system will negatively impact Oregon industries and ports and cause them to be less competitive in an increasingly challenging global economy.

Current and future rail investment needs in Oregon are significant, yet sustainable and reliable funding sources to support these needs are nonexistent. Identification of sustainable funding sources for rail needs is necessary to ensure that Oregon citizens and industries have access to an effective passenger and freight rail system, especially when considering the increased demand for both passenger and freight transportation over the next 20 years.

The Oregon Rail Funding Task Force (ORFTF) was formed by the Oregon Department of Transportation (ODOT) to review and recommend rail funding options and strategies to support state rail needs. The ORFTF met four times between April and November 2011 and developed a revenue package consisting of five components, estimated to generate **\$75-\$80 million** annually. Details of the recommendation are presented in this report.

#### Table 1. Members of the Oregon Rail Funding Task Force

Bill Wyatt, Port of Portland (Co-Chair)	Dale Keller, City of Prineville Railway
Allyn Ford, Roseburg Forest Products (Co-Chair)	Bob Levy, Board of Agriculture
Randall Edwards, Former State Treasurer/State Representative	Neil McFarlane, TriMet
Terry Finn, BNSF Railway	Caddy McKeown, Port of Coos Bay
Dave Frohnmayer, University of Oregon	Scott Moore, Union Pacific
Rob Freres Jr., Freres Lumber	Susan Morgan, Douglas County
Tom Hughes, Metro	Dave Rosenfeld, OSPIRG

## **RAIL FUNDING NEEDS**

In 2010, ODOT released the *Oregon Rail Study*, which documents the existing condition and use of Oregon's freight and passenger rail system. The study identifies investments needed to maintain and grow rail service in Oregon which are summarize below. The next step will be to further define the specific needs and incorporate them into the next version of the *Oregon Rail Plan* which will begin in 2012. The research and recommendation developed by the *ORFTF* will also be incorporated into the *Oregon Rail Plan*.

It is important to note that while there are many needs, it is not the State's responsibility to fund them entirely. The vast majority of the rail system is privately owned and operated. The railroads, especially the larger ones, invest heavily in their networks. However, since moving goods by rail has positive impacts on quality of life issues, including reduced pollution, congestion, highway costs, fuel consumption, improved safety, and economic growth, there is a role for the State to play in leveraging the improvements to meet Oregon's transportation, livability, and economic goals.<sup>1</sup>

#### **Freight Rail Needs**

A variety of freight rail needs exist on the shortline railroads, as well as on the long-haul rail routes. These include maintaining/upgrading aging infrastructure (including bridges and tunnels), building new facilities, and increasing capacity.

#### Aging Infrastructure

Maintaining and upgrading deteriorating rail infrastructure is especially challenging for shortline railroads. The *Oregon Rail Study* identified 14 rail corridors at-risk of closing, in large part, due to aging infrastructure. Continued State investment in the shortlines, through programs like *Connect*Oregon, is key to preserving the shortline network. Estimates to improve shortline track, tunnels, and bridges to handle today's heavier and taller trains and increase speeds beyond 10 mph range from **\$324 million to \$2.1 billion**. The range is large primarily because of the different approaches to bridge and tunnel improvements. The costs increase significantly when opting to replace bridges so that they are in top shape and can handle higher speed trains and heavier rail cars. In addition, upgrading tunnels to handle taller, double-stack container cars also adds significant costs to this investment category.

<sup>&</sup>lt;sup>1</sup> Oregon Rail Study, p. 161.

#### New Facilities and Equipment

- 1. New Facilities. The *Oregon Rail Study* identified several opportunities to increase rail service in Oregon. One important component in the strategy to make that happen involves creating new facilities, where shipments can be consolidated and move between truck and rail. Such facilities could include, for example, grain aggregation facilities in eastern Oregon or hub facilities for the short-haul bulk and intermodal markets along the I-5 corridor. These facilities range greatly in price depending on size and location. For purposes of this report, three facilities are included, two smaller estimated at \$20 million each and one larger estimated at \$200 million, totaling **\$240 million**.
- 2. Equipment. In some cases, lack of rail cars limits shippers' access to rail service. Some states have purchased rail cars as a means for securing rail service that otherwise would not be available. For example, Washington State purchased rail cars to facilitate movement of barley and wheat from eastern Washington to export grain elevators on the Columbia River and Puget Sound. These rail cars are now used by the railroads. Oregon could opt to do the same to support industries that lack rail service due to rail car shortages. Such action could help increase mobility and reduce costs for key industries in the state that do not currently benefit from rail service. In addition to lack of rail cars, old locomotives can burden railroads. The shortlines, in particular, typically own and operate older, less fuel efficient Providing incentives and/or assistance to modernize locomotives. equipment with more fuel efficient and "greener" locomotives would reduce both operation costs and greenhouse gas emissions. A shortline in California recently paid \$1.5 million each to replace its locomotives with "ultra-green" locomotives.<sup>2</sup> **\$75 million to \$100 million** are assumed for equipment needs.

#### Capacity Enhancements

Expected future delays on Oregon's busy, long-haul railroad routes will make rail service less accessible to Oregon shippers.<sup>3</sup> Particularly heavy traffic areas include the Portland region, the east-west Union Pacific track to the east of Portland, as well as the stretch of shared Union Pacific/BNSF track between Chemult and the California border. To continue to support the growth of passenger and freight rail in the future, public-private partnerships to increase the capacity of long-haul rail routes may need to be considered. In addition, shortline railroads may also require capacity expansion on existing routes or additional new track to serve new markets.

<sup>&</sup>lt;sup>2</sup> "California Helps Shortline Railroad Go Green," Los Angeles Times, April 12, 2010.

<sup>&</sup>lt;sup>3</sup> "National Rail Freight Infrastructure Capacity and Investment Study," American Association of Railroads, 2007.

While the cost of added capacity to meet future freight rail demand was not calculated for this study, it is important to note that these costs may be significant, as average per mile costs for new capacity range from **\$1 million to \$5 million per mile**.

#### **Passenger Rail Needs**

Currently, the states of Oregon and Washington fund rail service between Eugene and Vancouver BC; this service is known as the Amtrak *Cascades*. Oregon's costs, about \$5 million per year, are primarily funded by custom vehicle license plate fees. Intercity passenger rail between Eugene and Portland is part of a broader initiative for higher-speed rail service in the Northwest. Washington and Oregon have planned, studied, and hosted state-sponsored passenger rail service on this federally designated Pacific Northwest Rail Corridor (PNWRC) since 1994. State planning efforts in 1992, 2001, and again in 2006 concluded that the Willamette Valley section of the PNWRC should continue to be developed for expanded intercity passenger rail service to meet expected population growth in the region. Higher-speed rail could also alleviate congestion on I-5, for which no capacity expansion is planned.

These passenger rail improvements require operating, maintenance, and capital funding well beyond the yield from custom license plates. Unmet costs for operating the Eugene to Portland service for the next five years at current service levels range between **\$10 million and \$20 million**. ODOT has identified \$2.3 billion in capital improvements necessary to improve passenger rail service reliability, frequency, and trip time between Eugene and Portland on existing freight rail lines. A 20- to 50-percent State match is required to leverage Federal funding, which is **\$460 million to \$1.15 billion**. Washington has already been awarded nearly \$800 million to improve its portion of the PNWRC. It is important to note that these improvements to passenger rail may also provide benefits to the freight railroads, as both currently operate on the same tracks between Portland and Eugene.

#### Summary of Rail Needs

Table 2 below summarizes the estimated annual rail funding needs discussed above, which equates to approximately **\$57 million to \$182 million**. To reiterate, the State is not entirely responsible for funding these needs. The degree to which the State contributes funding varies with each project.

Category	Annual Needs, Next 20 Years (Millions)
Freight Rail Capital Funding Needs	\$32 – \$120
Passenger Rail Capital Funding Needs	\$23 – \$58
Passenger Rail Operations Funding Needs	\$2 - \$4
Total	\$57 – \$182

 Table 2.
 Annual Oregon Rail Needs, Freight and Passenger

## **RECOMMENDED RAIL FUNDING PACKAGE**

#### Overview

Once the rail needs were determined, the next step was to select funding sources that would help the State meet these needs. The *ORFTF* started with a list of 20 potential funding options, which was narrowed down to five:

- 1. **Special District.** It is recommended that a special district be formed to fund passenger rail capital projects and operating costs. The district should include the counties of Multnomah, Clackamas, Washington, Marion, Linn, and Lane, which encompasses the region served by passenger rail between Eugene and Portland. It is recommended that the legislature create the district and set the election date for the special district to approve the taxing authority. Through an average increase in property taxes across the six counties of 1.38 percent, **\$45 million** could be raised annually.
- 2. Lottery Proceeds. It is recommended that the State allocate a portion of its lottery proceeds specifically for freight rail improvements. To meet expected freight rail needs, it is recommended that at least \$20 million annually be allocated specifically for freight rail needs. This amount is similar to the rail investments made through the *Connect*Oregon program to date, annualized over six years. These funds could be used in a "pay-as-you-go" approach, or used as debt service on a front-loaded bonded approach which could yield \$240 million up front with a 20 year repayment period, or a combination of both. Exactly how these funds are administered, for example as part of the *Connect*Oregon program or a new separate program, was not determined.
- 3. **Railroad Property Tax Reallocation.** It is recommended that current and future property taxes that freight railroads pay in Oregon be reallocated from the counties to the State for freight rail improvements. Currently, railroad property taxes are distributed to more than 1,200 local taxing districts throughout the state that include school districts, cities, counties, and others. To backfill diminished county revenues, a telephone access fee (discussed below) is recommended for implementation. At the outset, the reallocation of property taxes would result in **\$10 million to \$15 million** in annual revenues for freight rail improvements.

- 4. **Telephone Access Fee.** It is recommended that a monthly fee of between \$0.17 and \$0.26 be applied to telecommunications lines and devices, including land lines and cellular phones.<sup>4</sup> Estimated revenues of \$10 to \$15 million from this fee should be used to backfill county funding gaps as a result of the Railroad Property Tax Reallocation option recommended above. Oregon's state-local excise tax on wireless services ranks 48<sup>th</sup> among all states at 2.27 percent (for comparison, Washington State charges 16.04 percent).<sup>5</sup>
- 5. **Rail tax credit.** The major, long-haul railroads make infrastructure investment decisions based primarily on the return on investment (ROI) of a project. Maintaining and improving network fluidity at the national level is a key focus of the railroads, and factors into ROI. Given that Oregon is ranked 39<sup>th</sup> nationally in terms of total rail tonnage carried, rail infrastructure projects in other states may take precedence over Oregon projects when an investment decision is made. One way to increase the ROI of potential rail projects and encourage major private infrastructure investments by the freight railroads in Oregon is to offer investment incentives.

As a result, an Oregon rail investment tax credit focused on supporting major railroad projects is recommended. Projects could include major rail capacity enhancement projects or major rail facilities that would not have been built without the tax credit in Oregon. It is also suggested that projects under consideration for tax credits are included in the *Oregon Rail Plan*. Funding for the tax credit would come from general fund revenues, which should be capped.

The recommended rail funding sources are summarized in Table 3. If each of the revenue streams is realized, an estimated **\$75 million to \$80 million** will be available to meet rail needs. Table 4 summarizes how the revenue yields from each funding source would be used.

<sup>&</sup>lt;sup>4</sup> It is recommended that the same devices targeted by the 911 Emergency Communications Tax are taxed: http://www.oregon.gov/DOR/STATS/docs/ExpR11-13/tax-expenditure-chapter-8.pdf?ga=t.

<sup>&</sup>lt;sup>5</sup> http://www.forbes.com/static\_html/misc/wirelesstaxes.shtml.

Funding Source	Details	
Special District	<ul> <li>\$45 million annual contribution (expected increase over time).</li> <li>District boundaries include Multnomah, Clackamas, Washington, Marion, Linn, and Lane Counties.</li> <li>Subject to Measure 5 and 50 Limits.</li> <li>Estimated increase in total property taxes in the six counties is 1.38 percent, when compared to Fiscal Year (FY) 2010-2011 property taxes.</li> </ul>	
Lottery Proceeds	<ul> <li>Minimum of \$20 million annual contribution to be appropriated each legislative session.</li> <li>Will require lobbying efforts each biennium; no constitutional dedication of funds.</li> <li>May be used as "pay-as-you-go" or used to repay \$240 million in bonds over 20 years; or a combination of both approaches.</li> </ul>	
Railroad Property Tax Reallocation	<ul> <li>\$10 million-\$15 million annual contribution (expected increase over time).</li> <li>Includes reallocation of both current and future railroad property tax payments to rail improvements.</li> <li>Statewide.</li> <li>Revenue lost at the local level will be backfilled by revenues from a telephone access fee.</li> </ul>	
Telephone Access Fee	<ul> <li>\$10 million-\$15 million in revenue generated; intended as a funding source to backfill county revenues lost as a result of railroad property tax reallocation. As a result, revenues from this funding source are not counted towards the \$75 million-\$80 million revenues.</li> <li>Tax would be applied to the same telecommunications devices as the 911 tax; this includes landlines and cellular phone lines.</li> <li>Statewide.</li> </ul>	
Rail tax credit	<ul> <li>No annual contribution; funded by general fund.</li> <li>Targeted to large-scale additions or improvements to the rail system.</li> <li>Projects must be in <i>Oregon Rail Plan</i> to be eligible; must meet other thresholds that are to be determined, but which will include a clear demonstration of public benefit.</li> </ul>	

 Table 3.
 Funding Options Included in Recommended Rail Funding Package

Rail Funding Source	Estimated Annual Revenue Yield (in Millions)	Freight Rail Capital Cost Needs (\$32M to \$120M Annually for 20 years)	Passenger Rail Capital Cost Needs (\$23M to \$58M Annually for 20 years)	Passenger Rail Operating Cost Needs (\$2M to \$4M Annually for Next 5 Years)
Special district	\$45		~	$\checkmark$
Lottery Proceeds	\$20	$\checkmark$		
Railroad Property Tax Reallocation	\$10-\$15	$\checkmark$		
Telephone Access Fee <sup>a</sup>	\$10-\$15	Allocated to local governments		
Rail Tax Credit	NA	$\checkmark$		

Table 4. Allocation of Funding Sources by Need

Note: A check (✓) indicates that it is assumed the revenues from a specific rail funding source will be used to meet that specific need(s). For example, in the above table, it is suggested that tax revenues from the special district will be used for passenger capital and operating cost needs.

<sup>a</sup> Note that the telephone access fee proceeds will backfill the county funding gaps created by the Railroad Property Tax Reallocation option.

In order for these funding streams for rail improvements to become reality, legislative actions will be required. Key legislative actions include:

- 1. **Special District.** Although special districts can be created for transportation purposes per ORS Chapter 267, it is recommended that the legislature create the special district and set the election date for the special district to approve the taxing authority.
- 2. Lottery Proceeds. During each legislative session, it will be necessary to request funding from lottery proceeds for rail needs.
- 3. **Railroad Property Tax Reallocation.** A bill is required that will allow the State to redirect local revenues for statewide rail improvements.
- 4. **Telephone Access Fee.** A bill is required to assess a new usage tax on telecommunications users.
- 5. Rail Tax Credit. A bill is required to create the rail tax credit program.

Since none of the sources requires a constitutional change, it would be technically possible to have revenue streams in place by January 1, 2014. This would require approval of legislation above by the 2013 legislature. However, given political realities and the need to garner support for certain items such as the special district, this may be optimistic.

# PROCESS TO DEVELOP FUNDING RECOMMENDATION

This section describes the process that the *ORFTF* undertook in developing the funding package described above. *ORFTF* meetings were held on the following dates in 2011:

- April 22<sup>nd</sup>;
- June 29<sup>th</sup>,
- October 6<sup>th</sup>; and
- November 15<sup>th</sup>.

The first step was to understand Oregon's rail funding needs, as shown in Table 2. Next, based on research performed for the *Oregon Rail Study* and through additional research, a starter set of potential rail funding sources was developed for discussion with the *ORFTF* at the April 22<sup>nd</sup> meeting. These 20 funding options are described here briefly:

- **1. Motor home weight fees.** For this option, a flat fee would be added to the annual license fee of a motor home in Oregon.
- **2. Sales tax on motor fuels.** Unlike the gas tax, which is determined based on the volume of fuel purchased, this tax would be assessed on the *price* of the fuel purchased.
- **3.** Motor fuels tax. This is almost the same as Number 2 above; however, this would tax motor fuels based on the *volume* of fuel purchased.
- **4. Motor vehicle title.** Upon registration of vehicles with the DOT, this option would levy a tax. In addition, a fee would be assessed for transactions that require a copy of a title or title replacement.
- 5. Motor vehicle sales and use tax. This tax would apply to retail sales, leases, and transfers of motor vehicles.
- **6. Passenger vehicle weight fee.** This is a fee that would be charged annually in addition to licensing fees, and would vary based on the weight of the vehicle.
- 7. **Rental car taxes.** For this option, additional taxes or fees can be assessed on car rentals in the state.
- 8. **General sales tax.** A sales tax would be added to sales of goods or services throughout the state.
- 9. **Auto insurance fee.** This option would add a fee to auto insurance payments that would be used to fund rail needs.

- 10. **Industry harvest tax.** For this option, a tax would be levied on the value of harvested goods, such as timber, agricultural products, or others (or any combination).
- 11. Freight railroad fees (volume based). This option requires fees to be assessed on the volume of railroad cargo, usually by specific corridor or facility.
- 12. **Freight railroad fees (revenue based).** This option requires fees to be assessed on railroad revenue.
- 13. Lottery proceeds. Lottery proceeds would be dedicated to rail needs.
- 14. **Passenger rail charges.** This is an additional charge that current and future users of the passenger rail system would pay to support rail improvements.
- 15. **Fee on bulk cargo moving through Port of Portland.** This fee would be charged to bulk cargo shipments through the Port of Portland.
- 16. **Fee on container/automobile cargo moving through Port of Portland.** This option would require shippers to pay a fee on containers and automobiles that utilize the Port of Portland to pay for rail improvements.
- 17. **Railroad property tax reallocation.** For this option, all railroad property would be assessed and the property tax proceeds would be reallocated to a new State fund for railroad improvements.
- 18. **General funds.** These are nondedicated revenue sources combined for general governmental purposes.
- 19. **Telephone access fee.** This option would assess a monthly tax on land and/or cellular phone lines in the state to fund transportation or rail needs.
- 20. **Special district.** A special district, with taxing authority, could be formed to fund and operate passenger rail.

Based on input from members of the *ORFTF*, 10 options were recommended for further analysis as shown in Table 5. These remaining 10 options were then evaluated based on the following criteria:

- **Potential revenue yield.** This criterion differentiated funding options by providing an estimated annual revenue yield for each potential funding source.
- **Ease of collection**. This criterion evaluated the ease with which it is possible to collect the funds, taking into account existing collection mechanisms for existing receipts and the estimated complexity of collection for a particular funding option.
- **Ease of administration.** This criterion evaluated the degree of difficulty in administering a particular funding option. Factors that can impact the ease of administration include the effort and general cost associated with

management, labor, administrative reorganization, collection, enforcement, and other areas.

- **Enforcement capability.** This criterion was used to evaluate whether a funding option can be easily and universally enforced.
- **Support for competitiveness.** This criterion was used to evaluate how Oregon's economic competitiveness will be impacted by a potential funding option.
- **Overview of general legal/policy issues.** This criterion highlighted some of the key legal and political issues associated with each potential funding option.
- **Cost equity issues.** This criterion highlighted instances where a particular funding source may require an entity or region to pay a disproportionally high share of the cost to achieve these statewide benefits.
- **Applicability to rail needs**. This criterion highlighted the most appropriate use of revenues from this funding source, whether it is for freight rail capital needs, passenger rail capital needs, passenger rail operations needs, or a combination of the three.

At the October 6<sup>th</sup> meeting, the *ORFTF* developed a recommendation, which was finalized at the November 15<sup>th</sup> meeting. After analyzing over 20 potential funding options in this process, the *ORFTF* recommends a revenue package that consists of five funding sources that will result in annual proceeds of **\$75-\$80 million** to meet Oregon's rail needs.

Rail Funding Source	Key Benefits	Key Drawbacks
Special district	Potential for high revenue yield.	Politically challenging to create a large, new taxing district.
	Enforcement and collection mechanism already in place.	High relative administrative burden.
Railroad property tax reallocation	Railroad property taxes would be used only for railroad improvements.	• Concerns that some rural counties, which rely heavily on the property tax, will lose a disproportionate share of their property tax revenues as a result of this option.
		• Large, long-haul railroads may oppose utilization of their property taxes to support infrastructure improvements to shortline or competitor railroads.
Telephone access fee	Potential for high revenue yield.	No major drawbacks, except that it could be a tough political sell to link telephone fees with rail improvements.
Lottery proceeds	Proven allocation of funds for intermodal improvements through <i>Connect</i> Oregon.	• Many programs rely on funding from lottery proceeds, therefore will be a challenge to secure dedicated funding for rail improvements.
	• Specifically relates to the intended purpose of lottery funds, economic development.	
Passenger rail charges	• Users of the rail pay for improvements to the track that they are using.	Very limited revenue stream.
		• Potential negative impact on passenger rail ridership due to cost increase.
		Would require congressional action to allow fees on Amtrak tickets.
General funds	Large pot of money that is used to fund a variety of transportation- related items, including ODOT	Many groups and programs are lined up to fight for general fund appropriations.
	• Several other states rely on this funding source to help fund passenger rail.	• Difficult to secure a steady stream of funding. In addition, this funding source would be relatively vulnerable to changes in politics.
Rental car taxes	No statewide rental car tax currently in place.	High rental car taxes already exist in Multnomah County.
Freight railroad fees	Railroads would pay for improvements that may eventually benefit them	Large, long-haul railroads may subsidize competitors or shortlines.
	and the general public.	Relatively low revenue stream.
Sequestered RR Employee Income Tax	Income taxes collected from railroad employees would be used only for railroad improvements.	• Would reduce the tax dollars available for general purposes and would funnel railroad income tax to a specific rail use.
Rail tax credit	• Incentivizes private investment from the railroads in Oregon, which can bring in jobs and regional economic growth.	• Not a stand-alone rail revenue strategy. This should be used in conjunction with other options above.

### Table 5. Key Benefits and Drawbacks of Rail Funding Options