6.0 Public Rail Funding Programs

In the 1970s, rail planning became a requirement of states wishing to participate in Local Rail Service Assistance, a Federal rail financing program. In 1989, the Federal Railroad Administration (FRA) updated the program and renamed it the Local Railroad Financing Assistance (LRFA) program. Federal contributions of funds to the program stopped in 1995, and states continued to make grants and loans for rail-related projects under Federal oversight. Under these programs, between 1979 and 2008, Montana made a total of $11,112,682 in grants and loans for rail improvements.

In 2005, the Montana Essential Freight Rail Act established in state law guidelines for a rail loan program, the Montana Rail Freight Loan Program. The Act effectively restricted the use of LRFA funds to lending. Although the program enables bonding and includes statutory authority of up to $2 million annually, no state funds have been budgeted for the program to date.

The Federal Rail Safety Improvement Act of 2008 (§701) essentially revised USC 49 §22106 to end FRA's programmatic oversight. Remaining LRFA funds were turned over to the states, with the stipulation that the funds must continue to be used to grant or lend money to the owners of rail property, or rail carriers providing rail transportation, related to a project being assisted. At this time, MDT manages a fund of approximately $1.26 million, which is available for qualifying projects.

Various other Federal programs provide financial support for rail improvements. Federal support to states go to safety improvements for road-rail crossings through the Highway Safety Improvement Program (HSIP), which became a core Federal-aid funding program with the passage in 2005 of the Federal transportation reauthorization bill, SAFETEA-LU. Also, various Federal programs provide direct financing for rail improvements; among these, it appears that the Rail Rehabilitation and Improvement Financing program is the best potential match for Montana rail carriers and shippers.

6.1 Montana Rail Freight Loan Program

The Montana Rail Freight Loan Program (MRFL) is a revolving loan fund administered by the Montana Department of Transportation to encourage projects for construction, reconstruction, or rehabilitation of railroads and related facilities in the State. This program implements Montana Code Annotated §60-11-113 to 115. As of early 2009, the fund had a balance of about $1.26 million. Excepting interest on the account, no additions have been made to the fund since the $1,092,526 repayment of a LRFA loan by the Port of Montana in 2005.

Eligible applicants for loans under the program include railroads, cities, counties, companies, and regional rail authorities. Port authorities may also qualify, provided they have been included in the state transportation planning process. Projects must be integrally related to the railroad transportation system in the State and demonstrate that they will preserve and enhance cost-effective rail service to Montana communities and businesses. Loans are targeted to rehabilitation and improvement of railroads and their attendant facilities, including sidings, yards, buildings, and intermodal facilities. Rehabilitation and improvement assistance projects require a 30 percent loan-to-value match. Facility construction assistance projects require a 50 percent match. Inquiries may be made at any time to the MDT multimodal planning bureau chief.

Table 6.1 shows the projects that have been funded through the MRFL.

Table 6.1 Historic Montana Rail Freight Loan Awards

Recipient	Year	Location of Project	Federal Funds	Type
Burlington Northern (BN)	1985	Moore-Sipple	$238,095	Grant
	1979-1982	Conrad-Valier	$1,440,967	Loan (5.5% interest)
	1980-1982	Choteau-Fairfield-Power	$2,258,600	Loan (no interest)
Rarus Railway (RARW)	1988	Rarus Siding	$23,039	Grant
Port of Montana	1983-1984	Silver Bow Grain Terminal	$1,741,999	Loan (no interest)
Montana Rail Link (MRL)	1991	Polson-Dixon	$500,000	Grant (repaid loan funds)
Central Montana Rail (CMR)	1984, 1985	Spring Creek-Geraldine	$4,427,165	Grant (repaid loan funds)
	1986	Spring Creek-Moccasin		
	1988	Spring Creek Wye		
DMVW Railroad (Under Contract)	1999	Whitetail Line	$482,817	Grant (repaid loan funds)
Total Grants/Loans			$11,112,682	

Source: Montana Department of Transportation.

Note: Repaid Loan Funds are revolving funds from the Federal LRFA program.

6.2 2008 Federal Railroad Legislation

In October 2008, Congress enacted legislation, the Rail Safety Improvement Act of 2008 and the Passenger Rail Investment and Improvement Act of 2008. Section 4.0 of this Plan discusses the passenger rail-related provisions and funding programs in some detail. The Rail Safety Improvement Act reestablishes the legal authority for FRA safety programs, and outlines new requirements for safety regulations covering positive train control, hours of service, rail employee certification, tunnel and bridge safety record keeping, and highway rail grade crossing safety. The safety provisions do not authorize the scale of Federal investments included in PRIIA, but there are two grant programs authorized which may provide opportunities for Montana.

First, $50 million is authorized annually for a grant program to assist in the mandatory implementation of positive train control technologies. State governments are eligible grant recipients, and could cooperate with railroads in Montana to seek funding to advance the implementation of these new technologies on routes in Montana that support passenger rail service or hazardous materials transportation (poison by inhalation chemicals).

The legislation also creates a new grant program for highway rail grade crossing protection. $1.5 million is authorized annually for a new grant program to a maximum of three states per year for two purposes:

1. Grants to three states a year for targeted enforcement and education programs to decrease grade crossing accidents; and
2. Grants of up to $250,000 to states for crossing protection improvements.

Preference will be given grant applications for protection of crossings involving fatalities or multiple serious injuries.

The legislation did not create any other funding programs for freight railroad capacity expansion, as that issue continues to be affected by consideration of some of the competitive issues addressed in Section 7.0 of this report.

6.3 Highway Safety Improvement Program – Railway-Highway Crossings – SAFETEA-LU Section 1401

Section 1401 of the 2005 SAFETEA-LU (Public Law 109-59), established the Highway Safety Improvement Program (HSIP) as a core Federal-aid funding program. The purpose of the program is to achieve a significant reduction in traffic fatalities and serious injuries on all public roads. As part of the HSIP, SAFETEA-LU established an annual set aside of $220 million for improvements at public railway-highway crossings. Half of these funds are apportioned to the states by formula and the other half is apportioned to the states in the ratio that total public railway-highway crossings in each state bear to the total of such crossings in all states. Each state receives a minimum of one-half of 1 percent of the $220 million crossings fund.

The Montana Department of Transportation manages this program through the Traffic and Safety Bureau – Rail Highway Safety Program and projects are identified by staff through a priority index process and are included in the Montana State Transportation Improvement Plan (STIP) for implementation. Inquiries should be directed to that bureau.

6.4 Rail Rehabilitation and Improvement Financing – SAFETEA-LU Section 9003

The Rail Rehabilitation and Improvement Financing (RRIF) program implements SAFETEA-LU Section 9003 to provide loans and credit assistance to both public and private sponsors of rail and intermodal projects. Eligible projects include acquisition, development, improvement, or rehabilitation of intermodal or rail equipment and facilities. Direct loans can fund up to 100 percent of a railroad project with repayment terms of up to 25 years and interest rates equal to the cost of borrowing to the government. SAFETEA-LU authorizes $35 billion for this credit program, of which $7 billion is directed to short-line and regional railroads. SAFETEA-LU also eliminated conditions that hampered its effectiveness, including collateral requirements and lender of last resort provisions of the program. The funding may be used to:

- Acquire, improve, or rehabilitate intermodal or rail equipment or facilities, including track, components of track, bridges, yards, buildings, and shops;
- Refinance outstanding debt incurred for the purposes listed above; and
- Develop or establish new intermodal or railroad facilities.

Some states provide assistance to RRIF applicants, ranging from technical assistance in application preparation to financial assistance in sharing the cost of application fees (application review fees, credit risk premium payments).

Inquiries about the RRIF program should be directed to the Federal Railroad Administration.

6.5 Other Federal Financing Programs

Other programs targeting freight rail and intermodal improvements are administered by the Federal Railroad Administration but do not appear to be effectively targeted for rail or scaled for use in Montana. Among these programs:

Transportation Innovation and Finance (TIFIA) of the U.S. Department of Transportation makes credit assistance available via secured (direct) loans, loan guarantees, and standby lines of credit for surface transportation projects of national or regional significance. The TIFIA credit program's fundamental goal is to leverage Federal funds by attracting substantial private and other non-Federal investment in improvements critical to the nation's surface transportation system. Some freight rail projects may be eligible for the TIFIA program. Further information is available from the TIFIA program office in the Federal Highway Administration (FHWA). U.S. DOT has noted that states find TIFIA programs less useful if they do not have many large urban areas, significant congestion problems, or significant need to accelerate projects.

Federal Appropriation and Authorization Earmarks. Members of Congress have included language in annual appropriations bills and in program authorization legislation to direct particular funding to specific projects, a process sometimes referred to as earmarking. Although previous appropriation bills for the U.S. DOT contained earmarks, the Transportation and Related Agencies Appropriation Act for FFY 2002 (Public Law 107-87, December 18, 2001) was the first DOT appropriation to include funding for Section 330 projects. One hundred forty-four million dollars was appropriated, and the Conference Report accompanying the appropriation identified 55 multimodal projects. FRA administered six projects valued at $11.75 million. In FY 2003 $671 million was appropriated and the accompanying Conference Report identified 353 Section 330 Projects. As of October 2008, FRA was managing eight projects valued at $24 million.

New procedures for including project-specific directions in the next surface transportation authorization, known as High-Priority Projects (HPP), include:

- HPP projects must meet all eligibility requirements of Federal highway and transit laws;
- HPP requests must include information on the location, type, total cost, benefits of the project and the percentage of total project cost the HPP request would finance, and information on the requests would be posted on the web sites of individual members;
- HPP projects must have written demonstrations of support from the state department of transportation or affected local governments, and the state or local governments must further provide for public comment on the HPP requests; and
- Members of Congress must certify that neither the member or spouse have any financial interests in the projects.

Freight Financing Guidance. The U.S. DOT publication, *Financing Freight Improvements* (January 2007) provides a more detailed overview of Federal and state programs for railroad and other transportation financing.