



Feb. 19, 2024

Passenger Rail Service for Front Range Passenger Rail Phase I Along and Beyond the Northwest Rail Corridor

It's been 20 years since voters approved a sales and use tax increase within the Regional Transportation District's (RTD) service area for FasTracks in 2004 that was to provide, among other transit services, commuter rail service from Union Station to Boulder to Longmont by 2017 (Northwest Rail). Due to project cost increases and lower than expected sales tax collection, the corridor project and service has not been delivered. Currently, RTD is conducting a comprehensive feasibility study to move forward with starter service between Denver and Longmont that would operate a limited number of commuter trains in the morning and evening. RTD's planning efforts suggest that the service will not be available until the 2040s at the earliest under current revenue and cost assumptions. Contrary to popular belief, the money taxpayers have paid for train service to Longmont did not disappear; RTD has been putting aside funds to build the project, but given the cost to provide commuter rail service, RTD is projecting it might take another 25 years before the agency alone will have enough money to cover fixed costs and the ongoing expenses for operations and maintenance. Since the FasTracks vote, the Legislature passed SB 21-238 to expand rail service on the same line in the 2021 Act that created the Front Range Passenger Rail District (FRPR District).

The delay in Northwest Rail service casts a shadow on other passenger rail and transit funding and development initiatives. One of these initiatives is Front Range Passenger Rail, which is envisioned to eventually run between (and beyond) the New Mexico and Wyoming borders. In fact, as a result of the unresolved voter promise, the FRPR District enabling legislation gives direction to prioritize the initiation and completion of the unfinished FasTracks segment when delivering Front Range Passenger Rail service. (C.R.S. 32-22-103(3)). In addition to this segment being highlighted and its initiation prioritized in the enabling legislation, the technical review recommends this alignment as well.

Currently, there is an opportunity to combine the RTD Northwest Rail and Front Range Passenger Rail efforts to accelerate and deliver Front Range Passenger Rail first-phase intercity passenger service between Denver Union Station and Fort Collins using the existing BNSF Front Range Subdivision through Boulder, Longmont, and Loveland (FRPR Northwest Phase 1). Within the last couple of months, the Federal Railroad Administration (FRA) accepted

the preferred track alignment and the FRPR District officially selected its route to be the BNSF Front Range Subdivision from Union Station through Boulder to Longmont, along the same route called out for Northwest Rail in FasTracks. Also, the FRPR District's proposal was selected in the first round of grant recipients for the \$36 billion (currently \$3.8 billion remaining for competitive selection by FRA) Corridor Identification and Development Program created in the federal Infrastructure Investment and Jobs Act of 2021 (IIJA). While the Federal Railroad Administration selected 60 corridors to develop, Colorado's Front Range Passenger Rail proposal is one of only two corridors selected into Step 2 (of three steps) of the process making federal investments uniquely available to Colorado at this time.

In 2023, the RTD board commissioned the Northwest Rail Peak Service Feasibility Study; this study is expected to be completed by mid-2024. This study will provide a technical review of existing track conditions, estimated ridership, updated engineering analysis, and an up-to-date cost estimate, as well as conduct public engagement, for the Northwest Rail peak period starter service. This study will provide an additional layer of technical analysis, cost estimates, and public engagement to accelerate the process for initiating service along this segment, as it provides foundational knowledge for the Service Development Plan also currently underway for the full Front Range Passenger Rail. Due to the work of RTD's Northwest Rail Peak Service Feasibility Study, it is safe to assume a quicker timeline for NEPA to initiate service in the northwest corridor, as much of this work and deeper understanding of this segment along the Front Range Passenger Rail route is being achieved ahead of the Service Development Plan. Further, RTD is conducting this study with the host freight railroad, BNSF, ensuring mutual understanding of how freight and passenger rail service can co-exist on this segment.

This is just one of the many converging factors that make now the right time to deliver on the first phase of Front Range Passenger Rail service, while we continue to work on funding and delivering the entire corridor from Fort Collins to Pueblo; additionally: (1) this phase is further along in the technical review and cost estimates; (2) this segment has funding already approved by the voters for commuter train service; (3) depressed usage of the BNSF Front Range Subdivision for freight (currently 3-5 trains per day); and (4) a time-limited opportunity to use IIJA grant funds directed to for intercity passenger rail.¹

This White Paper explores the option of using some of the sales tax money already and still being collected by RTD for passenger rail service from Denver to Longmont, a partnership that uses joint powers provided to RTD, CDOT, and the FRPR District to unlock the federal investments available now to deliver rail service on a much quicker timeline than RTD can do alone. This will build off the FasTracks program and the Northwest Rail Peak Service Feasibility Study, along with ongoing FRPR District and CDOT planning efforts.

¹ IIJA contains fewer dedicated funds for commuter rail (*i.e.*, within a metropolitan area like Metro Denver with frequent stops) than intercity rail (*i.e.*, serving across metropolitan lines to Fort Collins or Colorado Springs and with fewer stops for faster times), so the current opportunity is focused on intercity service along the Front Range.

This outcome of near-term passenger rail service from Denver Union Station to Longmont can be accomplished by extending the service to Fort Collins to trigger the federal benefits available for intercity passenger rail, which are not available to commuter rail, and get a head start on the whole FRPR corridor. The effort can be governed through legislation that creates joint governance and implementation between CDOT, RTD and FRPR. This White Paper describes potential options to achieving this joint governance and implementation, including creation of a joint entity, and/or other arrangements through legislation or intergovernmental agreements. Local governments and other parties with funding or other support could also join.

The FRPR Northwest Phase 1 would be a foundation to build from for further Front Range Passenger Rail, as well as delivering passenger rail on the Northwest Rail corridor, and would enhance chances for a voter approved ongoing funding source that could expand service and increase frequency in 2024 or beyond. These near-term steps would be crafted to support, and not negatively impact, the efforts already in motion for passenger rail service from Pueblo to Fort Collins; they would, if anything, accelerate the timeline for full service and help build ridership for a full service. This initial step of a partnership between RTD, the State, and the FRPR District focused on the Denver to Fort Collins corridor would leverage strengths, funding, existing technical analyses, and the authorities of the parties in a way to overcome the historic challenges for providing a starter service for Northwest Rail.

Swift action could permit Colorado to maximize its chances of securing and using maximum discretionary grant funding from the IIJA to deliver on both Front Range Passenger Rail service and the FasTracks promise. All available IIJA rail grant opportunities are competitive and local matching and operations/maintenance revenue will be needed to successfully compete for funds. Loan assistance through the Railroad Rehabilitation and Improvement Financing Program (RRIF) is likely to be available into the future.

Why start with the FRPR Northwest Phase 1 to run train service from Union Station to Fort Collins?

- Voters are paying a portion of sales and use tax already for train service from Union Station to Longmont but will not get that service for another 25 years without a new partnership.
- RTD will need additional funding for both capital construction (e.g., rail cars, track improvements, stations) and to operate the service and maintain the investment, but needs another two decades at least to save enough money with existing sources.
- RTD is developing valuable information through the Peak Service Feasibility Study, but does not have the capital, operating and maintenance resources to start any service itself soon.
- The large IIJA funding opportunities exist for intercity passenger rail.
- BNSF owns the existing track from Union Station to Fort Collins and currently runs over 5 million train miles of intercity Amtrak passenger service on BNSF lines nationally.
- Intercity rail has substantial advantages over commuter rail, because Federal law gives Amtrak supremacy access rights over Class 1 freight companies like BNSF for the

purpose of intercity passenger rail and provides statutory cost structures. (e.g., 49 U.S.C. Sec. 24308, 24712). No similar right exists for commuter rail.

How to establish a joint power district or authority to provide train service?

- The Legislature could direct RTD, the FRPR District, and CDOT/CTIO to enter into a Joint Authority and IGA to share powers through the existing entities or create an entity under existing law. Such entities are typically created as non-profit corporations with powers and governance structures that are agreed between the founding entities to deliver specific projects. Notable examples of authorities of this kind include the Denver Union Station Project Authority and the National Western Center Authority
- RTD, the Front Range Passenger Rail District, and CDOT/CTIO could enter into an intergovernmental agreement without new legislative direction.
- The Legislature could establish a dedicated revenue source for debt repayment, operations and maintenance, and other costs for this service, subject to applicable law
- The Legislature could ensure that the initial Denver to Fort Collins service would roll up into a next phase for full service covering the entire Front Range, once the FRPR District secures additional funding through a successful ballot measure and the Service Development Plan is completed.
- The Legislature could also alter the FRPR District enabling legislation to allow/add a voting seat for RTD, or to form sub-boards for joint service with RTD representation, an implementation/operations-phase board, and/or allow the District to refer ballot initiatives by segments as well as the District as a whole.

Why Denver Union Station to Fort Collins?

- The corridor was identified as a priority in the legislation establishing the Front Range Passenger Rail District: “the preferred alignment for the northern segment of the main North-South passenger rail line is through the northwest rail corridor. The district shall prioritize the initiation of construction and completion of that corridor.” (C.R.S. 32-22-103(3)).
- The corridor contains the highest concentrations of transit-dense communities with universities and other centers best suited as first adopters of intercity passenger rail service in Colorado.
- Because FasTracks committed to providing rail service from Denver to Longmont and RTD has been collecting funds for it, there is a longstanding expectation of service and some funds available from the Regional Transportation District FasTracks Internal Savings Account (FISA) that could be leveraged with Federal and State funds to help start passenger rail service from Denver to Longmont.

- There is a window of opportunity to seek and secure Federal discretionary grant funding between now and 2026 for intercity passenger rail.² There is likely to be a longer ability to seek federal low-interest loans through RRIF that would be secured with dedicated State revenue and some of the ongoing FISA annual receipts. Service would need to extend past Denver to Longmont to count as intercity rail (intercity rail services connect cities over longer distances than commuter or regional trains). Maximizing federal investment using available state and local funds will buy down costs for the entire Front Range Passenger Rail corridor.

BNSF has an existing rail line from Denver to Fort Collins with capacity for passenger rail with some capital improvements, given recent declines in freight rail activity on the line. By comparison, the route south of Denver will involve coordination with two freight railroads (BNSF and Union Pacific) and a much higher level of freight activity, meaning that phased delivery starting with the north, and extending service south as planning and freight negotiations are completed, will serve to expedite delivery of rail to the whole Front Range Passenger Rail corridor.

- In December 2023, as part of the Service Development Planning process, the FRPR District Board of Directors formally designated the existing BNSF rail line from Denver to Fort Collins as the preferred track alignment for FRPR north of Denver, which has also been accepted by the FRA. This route would be considered intercity passenger rail service under federal law (as opposed to commuter rail), which has several important benefits of accessing IIJA funding and RRIF.
- Starting service north of Denver would utilize some of the existing voter-approved RTD funding for the Northwest Rail if coupled with state resources, funding otherwise sitting idle and growing in a savings account, missing the once-in-a-generation opportunity to match those dollars with federal money in IIJA and start basic service. Service would also take advantage of engineering and planning being conducted under the RTD Northwest Rail Peak Service Feasibility Study.³
- Starting service north of Denver allows expansion to Colorado Springs and Pueblo in the next phase as soon as resources are available to do so. FRPR and CDOT are pressing efforts to complete Service Development Planning, which will include planning to enable service to the entire corridor, including south of Denver.

² While the IIJA discretionary grant funds are likely to be awarded by 2026, actual expenditures and federal grant reimbursements can occur in the following years once a grant agreement is in place. However, local match revenues will need to be pledged in the next couple of years for grant applications to be competitive.

³ While there would be some differences between more frequent and bi-directional intercity service from Denver to Fort Collins and the directional commuter service in the Peak Service Feasibility Study, much of the analysis overlaps and would be helpful.

Existing Funds for FRPR Northwest Phase 1

RTD has set aside funds in and an ongoing stream of revenue for its FISA, which was created by the RTD Board using proceeds from the FasTracks sales and use tax, as well as other proceeds, in order to build funds for unfinished portions of the FasTracks system, of which the largest piece is Northwest Rail.⁴ In the 2023 Budget, RTD estimated a FISA balance of \$168 million for 2023, and \$236 million by 2028 in its Midterm Financial Plan, reflecting the addition of about \$13.4 million annually from 2024 to 2029. The 2023 budget also shows the FISA account rising to \$251 million in 2029-2030, with additions of about \$7.5 million per year. From 2031 to 2040, the 2023 budget shows the FISA account to increase to \$525 million, on average about \$27 million per year. According to RTD long-range projections, FasTracks funding, including the FISA account, will not be able to cover maintenance and operations of the current RTD FasTracks system once current debt is repaid. New funding will need to be identified to support current and any additional operating segments implemented in the future. Existing FISA funds are available, with the RTD Board's approval, to support initial capital and operating expenses for a starter service in the near-term, but will need to be bundled with dedicated state and other revenue.

Northwest Rail is not the only unfinished FasTracks project. However, a portion of this funding could be combined with other funds to enable the FRPR Northwest Phase 1, while growing funds for the other FasTracks projects if and when feasible.

In addition, \$50 million has been set aside by the State as potential match funds for IIJA grant applications for passenger rail. Federal grant program opportunities funded out of the IIJA are discussed below.

These RTD and IIJA-match sources of funding are still insufficient for RTD to begin Northwest Rail revenue service in the short- to medium-term, and exhausting existing FISA funding in the near-term will necessitate new revenues to be identified for RTD to maintain and operate the current system. However, when combined with possible new state funding for passenger rail expansion and other sources discussed below, it could allow implementation of passenger service as part of combined service in the short term. Implementation includes both building and funding operation and maintenance of the initial service.

Possible Immediate Funding and Financing for FRPR Northwest Phase 1

Colorado has the opportunity to bundle existing and new sources of funding to accelerate providing passenger rail service in a first phase from Denver north (and accelerating service to the entire Front Range). The best and most certain chance of connecting with the unprecedented federal grant opportunities under IIJA is in the next three years, when FRA has

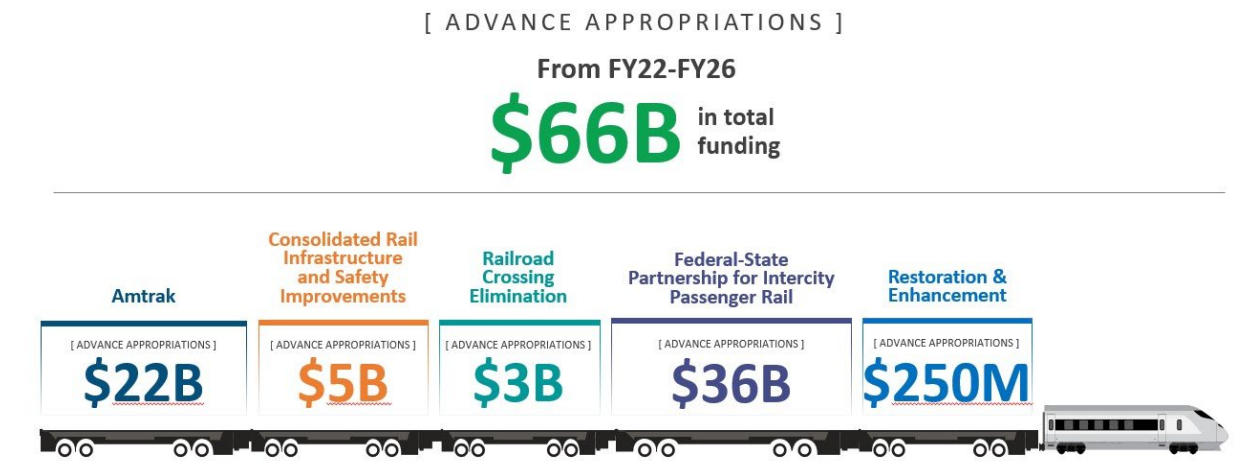
⁴ In addition to the Northwest Line, unfinished elements of FasTracks include: (1) the extension of the N Line to Northglenn; (2) the extension of the Southwest Line to Highlands Ranch; and (3) the extension of the Central Line from 30th and Downing to the A Line.

billions in advanced appropriations that will be awarded through competitive solicitations. Securing these grants will require local match money both for the specific capital projects for which the grant is sought, and also ongoing state or local funding to cover the operations and maintenance costs to put these capital investments to their intended use. When IIJA's authorizations expire in 2026, Congress will develop a new surface transportation reauthorization bill (possibly requiring one or more temporary extensions of IIJA) that hopefully will include further authorizations for passenger rail funding. But, there is less certainty about future grant funding than the certainty of IIJA advanced appropriations. There will likely be remaining available loan capacity under RRIF, although more of this capacity may be tapped with increased rail investment nationwide.

IIJA Funding

An historic and time-limited opportunity exists through IIJA, which reauthorized surface transportation programs and provided advanced appropriations for a number of programs that support intercity rail. The President signed IIJA on November 15, 2015, authorizing \$1.2 trillion overall. For rail, IIJA authorized \$102 billion for freight and intercity passenger rail programs, and provided advanced appropriations of \$66 billion of that amount (i.e., not subject to annual appropriations by Congress). This reflects a massive increase in funding for passenger rail development that will be advertised and awarded through 2026.

Four competitive grant programs funded out of IIJA are of particular importance to advancing passenger rail along the Front Range.



Caption: Federal-State Partnership for Intercity Passenger Rail (FSP) and the Corridor Identification Program. From Fiscal Year 22 to 26, \$66 billion in total funding is available as stated above.

The largest IIJA rail program is the \$36 billion Federal-State Partnership, which is subdivided between the Northeast Corridor and the rest of the country. IIJA specifies that at least \$12 billion of the FSP would go to grants outside of the Northeast Corridor (and FRA is expected to

provide \$12 billion).⁵ FSP is available to cover a wide range of passenger rail and planning expenses to start and expand intercity passenger rail.⁶ FRA can fund up to 80 percent of a capital or planning project, requiring at least a 20 percent match with state, local or other money.

IIJA also directed a new planning pipeline program for passenger rail, the Corridor Identification (Corridor ID) Program (CIDP), using a five percent set-aside of funds from the FSP. Corridor ID selects candidate corridors for planning and development grants, including development of a Service Development Plan (SDP). Colorado is a leader in FRA's implementation of corridor development, given that it is already underway with an SDP partially funded by a CRISI grant awarded in 2020. The FRA announced on December 8, 2023, that the Front Range Passenger Rail District has been accepted into Corridor ID Program and was awarded an initial grant to complete and advance SDP activities. FRPR was one of only two corridors brought in at Step 2 of a three-step process.

IIJA created statutory preferences for projects in FSP that, among other things: come out of the Corridor ID Program.

Consolidated Rail Infrastructure and Safety improvements (CRISI)

IIJA provided \$5 billion of advanced appropriations for the CRISI program, which supports a wide variety of safety, freight, and passenger rail projects. IIJA quadrupled the amount of funding available under the CRISI Program for projects that improve the safety, efficiency, and reliability of intercity passenger and freight rail. CRISI provides for a maximum 80 percent federal share, but provides statutory preferences for projects with a maximum of a 50 percent federal share and that maximize the benefit-cost ratio for projects.

FRA expects the next CRISI Notice of Funding Opportunity (NOFO) to issue in March 2024, with applications due in Second Quarter of 2024.

A critical opportunity exists for funding Positive Train Control (PTC) on the BNSF Subdivision from Denver Union Station of Fort Collins, which is a regulatory requirement for adding passenger service to existing lines. This PTC has independent value in enhancing safety for existing freight operations and for the previously approved RTD Northwest Rail operations.

⁵ FRA has already awarded \$8.2 billion of this Federal-State Partnership funding but has made clear that Colorado is well-positioned to be competitive for the remaining approximately \$3.8 billion. Dedicated local funding will be essential for being successful in that competition.

⁶ Intercity passenger rail is separate from commuter rail, which is conducted within urban or suburban areas like Metropolitan Denver. The RTD A Line to Denver International Airport or the RTD Northwest Rail Line to Boulder and Longmont are examples of commuter/regional rail and ineligible standing alone for Federal Railroad Administration grant programs. Intercity passenger rail crosses metropolitan area boundaries, e.g., from Boulder into Larimer counties. Thus, service from Denver to Loveland and Fort Collins would be eligible for these FRA funds, while Denver to Boulder or Longmont would not. Congress did provide advanced appropriations through the Federal Transit Administration that commuter rail projects could seek, but in much lower levels than for intercity rail and which are already heavily subscribed.

Thus, CDOT is working with stakeholders to examine submitting a joint CRISI application as soon as 2024 to support PTC. Because PTC could cost around \$200-350 million (exact amounts to be determined in discussions with BNSF), federal assistance would greatly help paying down costs for Northwest Rail and Front Range Passenger Rail.

Railroad Crossing Elimination

IIJA provided \$3 billion in advanced appropriations for the Railroad Crossing Elimination program, which pays for projects to eliminate or reduce safety risks at rail crossings. Some grade separation and other projects (like SH 66 in Longmont or Timberline in Fort Collins) can provide benefit to passenger rail service north of Denver by improving safety, reducing noise, and increasing speeds. FRPR District and CDOT will continue to work with stakeholders to identify and seek grants for appropriate projects along Front Range Subdivision and elsewhere. This program has a maximum federal share of 80 percent. The most recent FRA schedule anticipates the FY 2023-2024 Railroad Crossing Elimination NOFO will be issued in May 2024, with applications due in August.

Restoration and Enhancement Program

The Restoration and Enhancement Program funds operating assistance grants for initiating, restoring, or enhancing intercity passenger rail transportation, and includes \$250 million of advanced appropriations from FY 2021 to FY 2026. Examples of eligible expenses may include: staffing costs for train engineers, conductors, on-board service crew; diesel fuel or electricity costs associated with train propulsion power; station costs such as ticket sales, customer information and train dispatching services, station building utility and maintenance costs; lease payments on rolling stock; routine planned maintenance costs of equipment and train cleaning; host railroad costs; train yard operation costs; general and administrative costs; and management, marketing, sales, and reservations costs. This program is noteworthy as the only FRA program providing operational assistance for intercity passenger rail, as opposed to capital investment assistance.

Pursuant to statute, FRA may not have more than six grants open at a time and must apply a long list of statutory priorities, including projects for which planning, acquisition, access and other elements are complete or nearly complete; whether the route is a former Amtrak route; inclusion in the Corridor ID Program; and Amtrak as the operator.

FRA has not issued a NOFO for the Restoration and Enhancement Program since 2019 (before the IIJA), but has indicated an intent to issue a NOFO for FY 2023 and 2024 in March 2024.⁷

⁷ Other USDOT grant programs such as RAISE and MEGA that include, but are not limited to, rail could also contribute to funding for passenger rail in Colorado. CDOT and FRPR will assess possible uses for the RAISE grants.

Federal Financing – Railroad Rehabilitation and Improvement Financing (RRIF) Program

In addition to grant assistance, USDOT provides financing tools, including RRIF, to help accelerate rail-related projects. The Transportation Equity Act for the 21st Century (TEA-21) and amended by the Safe Accountable, Flexible and Efficient Transportation Equity Act: a Legacy for Users (SAFETEA-LU), the Rail Safety Improvement Act of 2008, and the Fixing America's Surface Transportation (FAST) Act all provided RRIF as a powerful tool to finance railroad-related projects. Under this program, USDOT is authorized to provide direct loans and loan guarantees up to a total of \$35.0 billion to finance development of railroad infrastructure (Colorado has used RRIF in the past for the Denver Union Station redevelopment).⁸ Unlike the IIJA competitive grants, which are expected to be advertised and awarded by the end of 2026, RRIF loans are awarded on a rolling basis as applications are received and availability is likely to continue past 2026.

RRIF allows for financing of 100 percent of rail project costs at a low interest rate, the cost of federal borrowing (usually based on 30-year Treasury Bond rates, which are currently around 4.3%, as compared to the Prime Rate of 8.5%).⁹ RRIF also does not require the payment of accrued interest until proceeds are drawn and provides flexible amortization provisions with up to a 35 year repayment period and the ability to defer repayment for up to five years after substantial project completion.

These RRIF provisions could allow for favorable bonding against future RTD, State, District, and other dedicated revenue streams to provide the required local matches under the IIJA grant programs and enable the capital development of FRPR Northwest Phase 1 or the entirety of Front Range Passenger Rail.

Possible State Funding

Unlike many states, Colorado does not currently have designated and consistent state-level funding to support passenger rail. With such dedicated funding, Colorado could successfully compete with other States in the next few years of IIJA discretionary grant availability for Phase I service, buying down the cost of the overall project. It would be an essential tool for providing matching funds for USDOT grants and basic operating funds. Tens of millions annually would provide a solid basis to start service from Denver to Fort Collins as a first phase, along with RTD's FISA funds, federal grants, local funding, and RRIF financing.

In addition, the following sources may provide at least one-time or time-limited grants that could buy down the capital costs of the project.

⁸ DOT has issued approximately \$7.3 billion in loans under the RRIF program, leaving more than \$27 billion in available loan capacity.

⁹ RRIF does require borrowers to pay for a credit risk premium, usually between zero and five percent, to cover the costs attributable to the risk taken by USDOT in making the loan. Further analysis will be needed to determine the exact risk premium, although the State's credit rating and track record in delivering projects are likely to reduce potential premium amounts. And, other forms of federal and non-federal project finance may be available and should be explored.

Some funding may be available through the Nonattainment Air Pollution Mitigation Enterprise (NAAPME) or Multimodal Option Fund that was established under S.B. 21-260. This enterprise was created within the Colorado Department of Transportation (CDOT) to support mitigation of the environmental and health impacts of increased air pollution from motor vehicle emissions in nonattainment areas that results from the rapid and continuing growth in retail deliveries made by motor vehicles and in prearranged rides provided by transportation network companies. NAAPME funding is for eligible projects that reduce traffic in the Nonattainment Area, which includes the entire length of the route between Denver and Fort Collins.

North Front Range Metropolitan Planning Organization (NFRMPO) also has a matching fund that could be used to help provide local matches for CRISI or other programs. Between \$400,000 and \$1.5 million are expected to be available for NFRMPO funding from 2024-2033.¹⁰

Possible Local Funding

Additional local funding is also possible from local governments or through the creation of Regional Transportation Authorities (RTA) under Colorado statute (and subject to vote approval). E.g., C.R.S. 43-4-601, et seq. RTA funding could be a dedicated stream of funding that may be especially helpful to support construction of PTC, line, stations, and operations north of Longmont for which there is no equivalent of the FISA into which RTD constituents have already been paying.

FRPR Northwest Phase 1

The FRPR Northwest Phase 1 project would be an intercity rail project to run from Denver Union Station to Fort Collins using the BNSF Front Range Subdivision tracks.¹¹ This project is similar in scope to other transformative projects that CDOT is delivering and has delivered in recent years, including North I-25 Express Lanes (\$1.6 billion); Floyd Hill I-70 improvements (\$700 million); Central 70 (\$1.2 billion); and US-36 (\$512 million in two phases).

¹⁰ NFRMPO also advertised for over \$22 million in FY26 and FY 27 projects in Summer 2023 under the Congestion Mitigation and Air Quality (CMAQ), Carbon Reduction Program (CRP), Surface Transportation Block Grant (STBG), and Transportation Alternatives (TA) programs. Funding may be available under these programs for FY 2028 forward.

¹¹ Both CDOT and the Front Range Passenger Rail District have conservative estimates of capital cost that are being refined based on levels of service, host railroad impacts, station choices, etc. They anticipate working together in the next couple of months on a refined total corridor and Phase I approach.

Summary Of Potential State and Local Revenue Sources to Support Capital, Financing and O&M Costs

Fund Source Potential:	Note:
State IIJA Match	\$150M has been appropriated over the last two budgets for the executive branch to compete for IIJA grants and IRA, \$50 million of which can be used for passenger rail
RTD FISA Savings	One time funding currently sitting idle in the FasTracks Internal Savings Account, \$168 million for 2023, and \$236 million by 2028 according to RTD's public financials
RTD Annual Sales Tax FISA Contributions	\$13.4 million feeding FISA in 2023, increasing more than \$25 million annually from 2031 and beyond; portions of future years' contributions could support debt repayment and O&M for portion from Denver to Longmont
Railroad Rehabilitation & Improvement Financing	DOT has \$27 billion in available loan capacity; dedicated revenue for repayment would need to come from FISA, State and/or other sources
State Sponsored Financing	The federal programs created under IIJA assume state matches; the State of Colorado or the Front Range Passenger Rail District could provide an ongoing revenue stream to unlock these programs and for ongoing operations and maintenance
Local Match	<p>A Regional Transportation Authority could be created to join in as a party to the joint power authority. (Voter approval would be required to impose a new RTA tax.)</p> <p>There is potential grant money in the Nonattainment Area Air Quality Mitigation Enterprise created in S.B. 21-260 and regional MPOs.</p>

Legal and Governance Arrangements to Jointly Exercise Powers

Currently, CDOT/CTIO, RTD and the Front Range Passenger Rail District have statutory authority to construct and implement passenger rail service on all or some of the FRPR Northwest Phase 1 alignment. E.g., 32-9-119(1)(l) (RTD); 32-22-106(c), (g) (FRPR); 43-1-117.5(3)(a) (CDOT Division of Transit and Rail (DTR)); 43-4-806(2)(c), (3)(d) (CTIO). Similarly, all have the power to enter into intergovernmental agreements or public-private partnerships to construct and/or operate passenger rail service.¹² See e.g., 32-9-119(1)(r) (RTD); 32-22-106(c), (g) (FRPR); 43-1-117.5(3)(a) (CDOT Division of Transit and Rail (DTR)); 43-4-806(6)(f), (g).

Through an IGA, these entities can contractually establish understandings regarding planning, design, financing, construction and operation of passenger rail service. The IGA can also determine how decisions will be made among the parties on financial contributions, grants and matching shares, procurement, contracting, operator selection, oversight, etc. for Northwest Rail Plus. IGAs can be flexible regarding the specific decision making, approval, or consultation responsibilities.

Of course, the Legislature could also provide specific direction on governance issues, including:

- (1) reforms to the FRPR District Board to include an RTD voting seat;
- (2) providing direction to the parties to enter into an IGA, with or without specific direction on substantive elements, to deliver FRPR within their existing legal authorizations; and/or
- (3) providing direction to the parties to enter into an IGA, with or without specific direction on substantive elements, to create an project-specific entity under existing law (such entities are typically created as non-profit corporations, like the Denver Union Station Project Authority and the National Western Center Authority, with powers and governance structures agreed in the governing documents; such an entity could have the ability to issue tax exempt debt.

How Would FRPR Northwest Phase 1 Fit into Front Range Passenger Rail Service?

As contemplated in the FRPR statute, intercity service on the FRPR Northwest Phase 1 segment would be a first and key segment of Front Range Passenger Rail, providing initial service based on the available funds from FISA, State fee revenue, federal grants and other sources. Simultaneously, FRPRD would continue to expand and extend into the full Front Range Passenger Rail corridor service when a successful ballot measure and/or other funding mechanism allows. Using the FISA funds for their intended purpose or building rail along the Northwest Rail route helps reduce the future ask to voters, and that is an important step in securing a successful ballot measure. Furthermore, fast action allows Colorado to secure IIJA funding to buy down overall total FRPR costs and maximize service. Beginning on a segment of the FRPR will reduce costs and risk for this and future phases of the FRPR project.

¹² There is a question regarding the ability of RTD to operate outside of the District, which could be addressed in legislation.

How Would the FRPR Northwest Phase 1 Fit into Possible Future RTD Peak or Full Service?

The FRPR Northwest Phase 1 service would put joint passenger rail on the Northwest Rail line and make use of the Peak Service Study and its analyses, albeit with a reduced number of stations. And, by making critical investments in PTC, stations, track, possible access understandings with BNSF, and other elements, the project would reduce the costs of providing more service on the Northwest Rail when RTD has funding to do so.

Starting with intercity development and service now makes sense because IIJA provided more advanced appropriations for intercity passenger rail development through FRA than new commuter rail development through the Capital Investment Grant (CIG) program at the Federal Transit Administration (FTA).¹³ Federal law distinguishes between commuter rail, which is within a metropolitan area, and intercity passenger rail, which connects different metropolitan areas or metropolitan areas and rural areas. And programs like the Federal-State Partnership are limited to intercity rail projects.¹⁴ Because Northwest Rail – like other FasTracks projects – has previously been characterized as commuter rail, extension of service north of the RTD service territory would be needed to unlock intercity funding.

With PTC, track improvements, primary market stations, and other elements in place, it will be easier and less expensive for RTD, FRPR District, and/or an entity in the NFRMPO to add stations for more “local” service. Additional investment in stations, track access, rolling stock, and operations/maintenance are likely to be necessary, but will work from a base of an operating passenger rail service. Consideration will need to be given for issues such as negotiations with BNSF for additional passenger train service, platform height issues, and trip times.

How Would State Passenger Rail Funding Affect Consideration of Other Transit Funding?

Providing a reliable ongoing source for State passenger rail funding would be in addition to potential additional funding for regional and local transit in Colorado. Both efforts would be synergistic, because an intercity passenger rail spine would better connect regional and local transit and support transit-oriented development, while improved local, regional, and statewide transit will increase the mobility, environmental and other benefits of passenger rail service.

¹³ FTA also has an extensive pipeline already for these CIG funds. The field is currently more open for FRA funding.

¹⁴ While FRA cannot fund a project that is entirely or primarily commuter rail, it can fund projects that will benefit commuter rail when the service is on a shared corridor. For example, the 2022 Federal-State Partnership explained: “For projects that are on a shared corridor with Commuter Railroad Passenger Transportation or freight transportation, applicants must clearly demonstrate how the proposed project directly benefits Intercity Passenger Rail Transportation and that funding the proposed project would be a reasonable investment in Intercity Passenger Rail Transportation, independent and separate from consideration of the proposed project's benefits to other transportation purposes.”

Further, providing a clear path to the implementation of passenger rail service for Northwest Rail as part of a first phase of Front Range Passenger Rail will address concerns about the historic inability to provide this service as promised to the voters of metropolitan Denver in FasTracks.