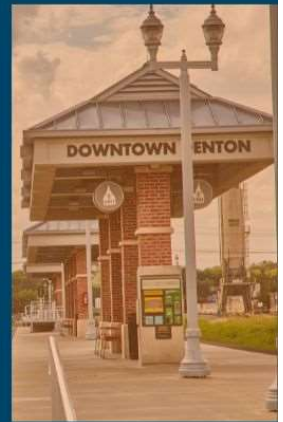


# Task 2 Report: Transit Legislative Program

REGIONAL  
TRANSIT 2.0



North Central Texas  
Council of Governments

September 5, 2024



## Executive Summary

The North Central Texas Council of Governments (NCTCOG) and the three transit authorities within its planning area boundary—Dallas Area Rapid Transit (DART), Trinity Metro, and Denton County Transportation Authority (DCTA)—face several challenges in their efforts to deliver and expand transit services, including bus, light rail, commuter rail, microtransit, and other innovative mobility services to the region, as well as regional, intercity, and high-speed passenger rail services.<sup>1</sup> Some of these same issues present barriers for the region and non-transit member jurisdictions to add or improve transit within their communities. Key issues include:

- Limitations on potential funding from State and local sources
- Reliance on local sales taxes as the main source of non-federal funding available to transit authority (TA) member jurisdictions for transit and rail
- A two-percent cap on local sales tax, which disincentivizes non-member jurisdictions from committing their limited sales tax revenue to join a transit authority
- Inter-jurisdictional competition for development between transit authority member and non-member jurisdictions because non-member jurisdictions can use local sales taxes for economic development, while member jurisdictions are constrained.
- Limited coordination of transportation and land use planning between local jurisdictions and transit authorities that can support effective and efficient provision of transit and rail services and facilitate transit-oriented development. This in turn supports regional sustainable development goals to reduce congestion and improve air quality.

Lack of support for transit from regional political leaders, the State Legislature, or the Governor further exacerbates these challenges. Many do not value the role of transit as a critical element of the transportation system to sustain and support strong continued economic growth.

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<sup>1</sup> Subsequent sections of this report use the term “transit and rail,” which is inclusive of the description provided here. These definitions follow Federal Transit Administration and Federal Railroad Administration definitions.



This report builds on these key challenges and redirects the response to them. It focuses on the limited range of State funding opportunities not statutorily constrained to potentially expand the range of funding sources for transit and rail, supplement and reduce the reliance on transit authority member jurisdiction local sales tax contributions, and incentivize other local jurisdictions to become transit authority members. The report provides a range of potential policy and legislative approaches, proposes criteria to evaluate these approaches, and assesses the potential timeline for action on these approaches in the short (1-3 years) and intermediate (4-6 years) terms. Based on this analysis, the report sorts and groups legislative concepts into three tiers, where Tier 1 legislative concepts are recommended to NCTCOG as priority for short term advancement. The approaches presented in this report will be considered by NCTCOG as they develop a legislative platform and path forward. The legislative concepts recommended for short term action are shown in the figure below.



## TIER 1 SHORT-TERM ACTION: 15 LEGISLATIVE CONCEPTS

**STATE STRATEGIC INTERMODAL SYSTEM (SIS):** Enact legislation to create a State Strategic Intermodal System (SIS) program modeled after Florida's SIS to advance and provide matching funds for strategic intermodal corridors.

**SPECIAL-PURPOSE TRANSPORTATION CORRIDOR ENTITIES TO ADVANCE PASSENGER AND FREIGHT RAIL TRANSPORTATION FUNDING AREAS (RAIL CORRIDOR TFA):** Building on the Transportation Funding Area (TFA) concept advanced by the RTC in 2008, enact legislation to enable creation of voter-approved county / multi-county TFAs to promote shared use of rail corridors for passenger and freight services, work with transit authorities and local jurisdictions to develop funding plans, and negotiate cost-sharing arrangements whereby member jurisdictions could levy voter-approved taxes or fees to fund transportation capital projects for transit and rail. Such a concept could have high applicability to advance passenger rail services in corridors currently owned by transit authorities such as DART and used by private freight rail operators. Such entities could also provide opportunities to combine funding sources currently limited to freight rail to advance passenger rail service in shared corridors.

**STATE HIGHWAY FUND:** Redirect a portion of the State Highway Fund to transit and rail by legislation or modification of Texas Transportation Commission policy.

**HOTEL OCCUPANCY TAX SURCHARGE:** Increase the Hotel Occupancy Tax on hotels and short-term rentals to fund transportation improvements, including transit and rail that benefit tourists and business travelers.

**AMEND 4A/4B:** Amend 4A/4B enabling legislation to allow transportation authority member jurisdictions to pass voter-approved measures exceeding the two-percent sales tax cap to fund economic development and/or for non-member jurisdictions to pass voter-approved measures exceeding the two-percent sales tax cap to fund new transit authority membership. For background, in 1989, the Texas Legislature amended the enabling legislation by adding Section 4A, which provided that a Section 4A development corporation could be funded by the imposition of a local sales and use tax dedicated to economic development. In 1991, the legislature authorized another new type of sales tax, a Section 4B sales tax. This legislation authorized a one-half-cent sales tax to be used by certain jurisdictions to promote a wide range of civic and commercial projects.



## TIER 1 SHORT-TERM ACTION: 15 LEGISLATIVE CONCEPTS

**SALES TAX CAP INCREASE (B):** Increase the two-percent tax on local sales tax without restricting it for transit and rail.

**TEXAS MOBILITY FUND (TMF):** Require expenditure of a portion of the Texas Mobility Fund for public transportation and extend allowable period for payment of debt service by legislation or modification of Texas Transportation Commission policy.

**DEVELOPMENT IMPACT FEE SURCHARGE:** Authorize a new county-level Development Impact Fee for Transportation (including transit and rail).

**DEDICATED TXDOT FUNDING APPROPRIATION:** Secure dedicated funding for public transportation and rail via TxDOT budget appropriations of state general revenue by legislation or modification of Texas Transportation Commission policy.

**PROPOSITION 7:** Direct a portion of Proposition 7 funding derived from rental car sales and use taxes to fund transit and rail.

**DART 1%:** Support DART in defending its voter-approved one-cent sales tax funding source until an alternative, dedicated, and equivalent or greater than equivalent revenue source can be identified.

**DART ENABLING STATUTE:** Oppose proposed statutory changes to DART's enabling statute with respect to level of sales tax contribution (Ch 452 TTC, Ch 322 Tax Code - Transit Sales and Use Tax).

**AUTHORIZE TOD PUBLIC-PRIVATE PARTNERSHIPS (P3s):** Advocate passage of legislation granting statutory authority to enter long-term partnerships that spur TOD. Support legislation such as SB 1984 Alvarado to streamline legislation that would make P3 possible.

**FAIR SHARE:** Propose legislation that requires authorities to work with member jurisdictions to define how to address equitable allocation of service relative to sales tax collected and local and interjurisdictional travel demand, rather than legislatively defining equitable allocation.

**PUBLIC-PRIVATE PARTNERSHIPS:** Advocate passage of legislation granting statutory authority to enter into public-private partnerships for transit and passenger rail, as well as TOD. Support legislation such as SB 1984 Alvarado to streamline legislation that would make



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## 1. Introduction

Since 1974, NCTCOG, in conjunction with the Regional Transportation Council (RTC), have served as the Metropolitan Planning Organization (MPO) for transportation in the Dallas-Fort Worth Metropolitan Area. The NCTCOG Executive Board serves as the MPO's fiduciary and fiscal agent, while the RTC serves as the MPO's policy body for federal transportation planning, programming, and policy decisions.

NCTCOG, RTC, and the three transit authorities (TAs) of Trinity Metro, Denton County Transportation Authority (DCTA), and Dallas Area Rapid Transit (DART), are challenged in their efforts to deliver and expand transportation and mobility services and to support development in the rapidly growing and dispersed 16-county NCTCOG region—a region that is projected to exceed 12 million people within 25 years<sup>2</sup>.

Since 2020, the NCTCOG region has grown by 650,000 new residents, with approximately 200,000 new residents in the past year alone. As shown in the figure below, the largest population increases were in Dallas and Fort Worth, followed by Celina, Frisco, and Princeton. While Dallas and Fort Worth are transit authority members, most growth is occurring outside of the service areas covered by the three transit authorities.

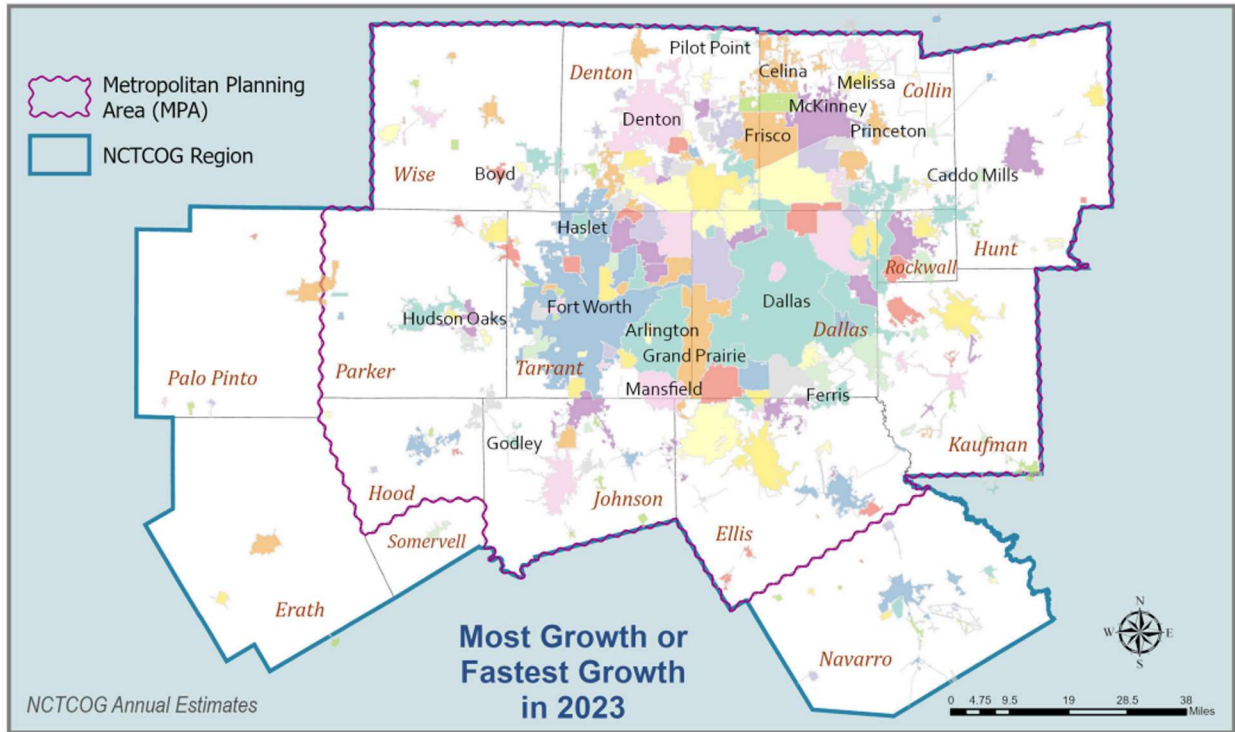
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<sup>2</sup> The estimated January 1, 2024, population for the NCTCOG region is 8,481,512. Source: 2024 NCTCOG Population Estimates Publication, Regional Data Center, North Central Texas Council of Governments





Figure 1. Highest Growth Cities in the Region



Source: 2024 NCTCOG Population Estimates Publication, Regional Data Center, North Central Texas Council of Governments

This report focuses on TAs which are eligible under State statute for potential member jurisdictions to seek voter approval for a local option general sales tax dedicated to funding transit (Texas Transportation Code § 451, 452, 453, 460). Local taxing jurisdictions (cities, counties, special purpose districts, and transit authorities) may impose local sales and use taxes up to two percent, including the local sales and use tax for transit. Local sales taxes are in addition to the Texas sales and use tax rate of 6.25 percent, for a total maximum combined rate of 8.25 percent.

## 2. Key Challenges to Increasing Transit and Rail in the NCTCOG Region

NCTCOG and the three TAs within its planning area boundary face several challenges in their efforts to deliver and expand transit services, including bus, light rail, commuter rail, microtransit, and other innovative mobility services to the region, as well as regional, intercity, and high-speed passenger rail services.<sup>3</sup> Some of these same issues present

<sup>3</sup> Subsequent sections of this report use the term “transit and rail,” which is inclusive of the description provided here. These definitions follow Federal Transit Administration and Federal Railroad Administration definitions.



barriers for the region and non-transit member jurisdictions to add or improve transit within their communities. Key issues include:

- Limitations on potential funding from State and local sources
- Reliance on local sales taxes as the main source of non-federal funding available to transit authority (TA) member jurisdictions for transit and rail
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- Inter-jurisdictional competition for development between transit authority member and non-member jurisdictions because non-member jurisdictions can use local sales taxes for economic development, while member jurisdictions are constrained.
- Limited coordination of transportation and land use planning between local jurisdictions and transit authorities that can support effective and efficient provision of transit and rail services and facilitate transit-oriented development. This in turn supports regional sustainable development goals to reduce congestion and improve air quality.

Further exacerbating these challenges is the lack of support for transit by regional political leaders, within the State Legislature, or from the Governor. Transit is only provided in a portion of the DFW region, and as a result, policymakers and the public may underestimate or be unaware of the benefits transit can provide.

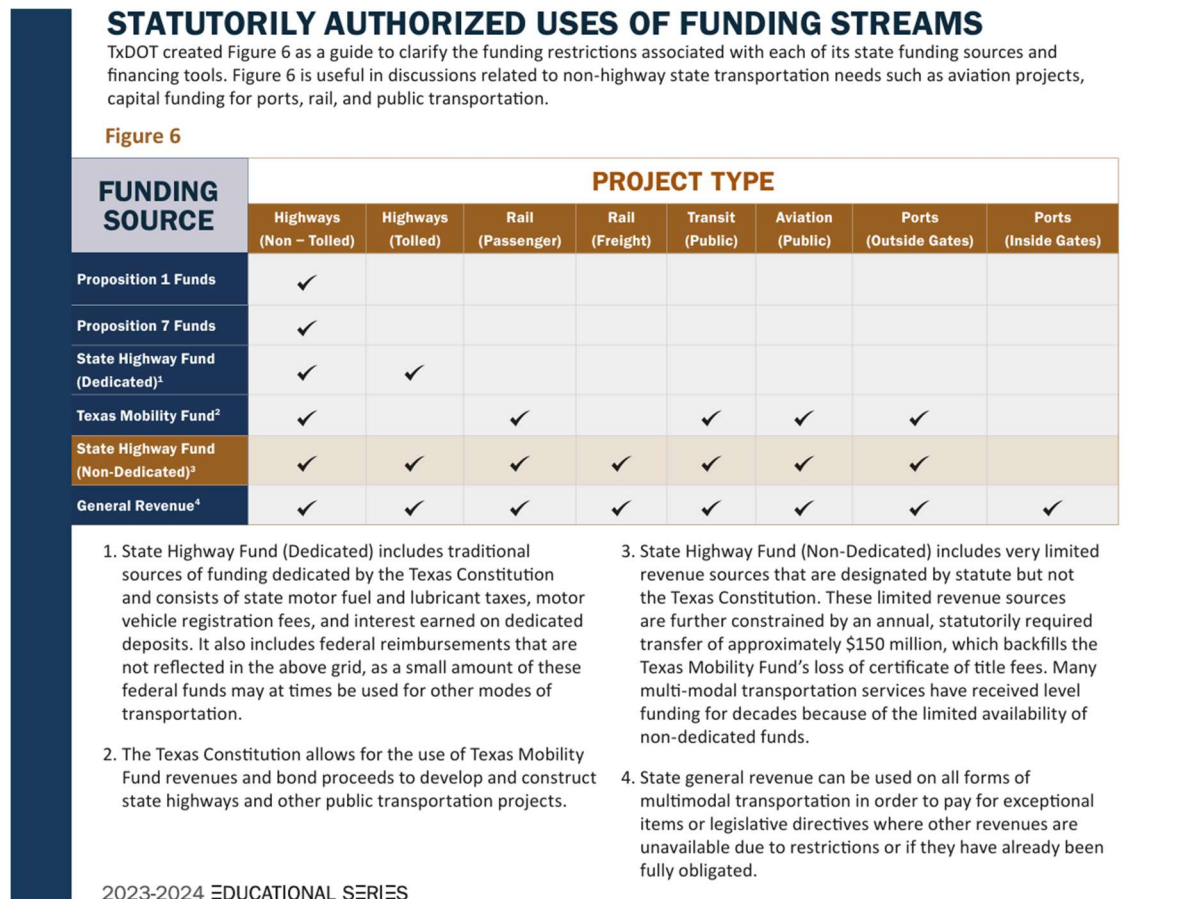
### Limitations on Potential Sources of State Transit Funding

Given the extraordinary population and employment growth expected in this region, billions of dollars are likely needed to fund new and previously identified projects in public transit, passenger rail, and roadway infrastructure improvements, including costs for expansion, operations, maintenance, and state-of-good-repair. While multi-modal infrastructure is needed to provide mobility to the region, most state transportation funding is restricted and statutorily protected for roadways. If this is going to change, a strong consensus needs to be established on the outcomes that leaders in the region—and the State—wish to see from greater transit investment.



As shown in Figure 2, few of these State sources are authorized for transit, passenger rail, or other non-highway uses. The few that are authorized for non-highway uses have comparatively minimal or no funding. Of the limited funding available for transit, none is authorized for allocation to the major metropolitan transit authorities, and what is available has been used for capital projects for smaller agencies. These restrictions require consideration of legislative approaches that can increase the level and range of potential funding sources for transit and rail, which are the focus of our legislative recommendations.

Figure 2. Statutorily Authorized Uses of Funding Streams in Texas



Source: Texas Department of Transportation 2023-2024 Educational Series: Funding

## Reliance on Local Sales Tax to Fund Transit

Most non-federal funding for transit in the NCTCOG region is derived from local sales tax measures authorized by voters in member jurisdictions of the three transit authorities. These range from the one-percent sales tax approved for DART to the one-half percent sales taxes approved for Trinity Metro and DCTA. Sales and use tax



collections in the transit authority member jurisdictions flow directly to the State Comptroller to the agency. The three transit authorities receive none of the State's very limited transit funding, which totaled \$41 million for the Rural Public Transit Program to fund Rural and Urban Transit Districts across the State in 2023.

While sales tax revenues have increased with inflation and population growth, these increases have been insufficient to fully fund the growth in costs for existing and new capital projects, service expansion, operations and maintenance, and system preservation. Sales tax revenue is likewise dependent on the economy and the sale of goods and services, which is concerning for transit authorities that must continue to deliver service during times of market fluctuations or downturns. Further, the transit authorities are challenged in their ability to provide transit service to outlying jurisdictions due to land use patterns, funding availability, demand requirements, and interjurisdictional constraints. As a result, some of DART's member jurisdictions have expressed varying degrees of dissatisfaction with the perceived level of transit services received relative to the perceived portion of the local sales tax authorized to DART. Expressions of dissatisfaction range from member jurisdictions passing city council resolutions proposing to reduce their voter-approved one-percent sales tax to having members of the Texas Legislature sponsor bills to require the transit authority to provide audited reports on revenue collected and costs expended by jurisdiction. Ultimately any changes in committed levels of sales tax funding would require approval by the DART Board of Directors, assuming there are no changes to DART's enabling legislation at the state level.

The net result of DART member jurisdictions reducing their local sales tax commitments would further impact DART's ability to provide transit services to its members and the region. This effect would be exacerbated by DART's inability to fully leverage its local dollars to match federal funding. With DART's sales tax revenues committed to repayment of outstanding debt, reducing sales tax levels could trigger a default.

### Two Percent Cap on Local Sales Tax

The total level of local sales tax authorized by the Legislature is capped at two percent. For transit authority member jurisdictions, their one- or one-half percent sales tax for transit subsumes up to half of their authorized maximum, making it more challenging for them to fund other city needs and/or to attract and retain major developments. At the same time, jurisdictions that are not members of a transit authority can use their sales tax to provide tax incentives that may attract developers away from transit agency member jurisdictions. As these communities grow, if they have allocated their sales tax to other uses, they are capped and do not have the ability to use sales tax for transit. To do so



would require them to give up initiatives or programs that are already funded using sales tax revenue.

The net effect of the two percent cap, coupled with competition among jurisdictions for economic development assisted by sales tax, is to reduce the incentive for new jurisdictions to join a transit authority.

### Added Pressure on Sales and Use Taxes

The passage of Senate Bill 2 (SB2), also known as the Texas Property Tax Reform and Transparency Act of 2019, reduced the rate at which cities and counties can raise property tax rates without voter approval from 8 to 3.5 percent. Under previous Texas law, if local leaders proposed a tax increase of greater than 8 percent, voters could petition for a “rollback election” that would “roll back” the proposed tax increase to the 8 percent ceiling. SB 2 lowered this threshold to 3.5 percent and created automatic elections for jurisdictions proposing to increase property taxes more than 3.5 percent, rather than doing so by petition. In effect, this reduces the political viability of property tax increases above 3.5 percent.

Apart from Austin, property taxes in Texas do not typically fund transit and rail but are used to fund municipal services such as parks, libraries, fire, police, and other local services. SB2 increased the barrier for voters to raise funds for these non-transit needs, putting more pressure on the limited funding available to jurisdictions, including sales and use taxes. This further limits funds that are or could be committed to transit authorities.

### Land Use and Transit Coordination

Transit and land use are integrally related. Higher levels of density, more compact development patterns, improved pedestrian connections, and transit-oriented development are critical for transit to function efficiently and effectively. At the same time, transit reduces vehicle miles traveled and emissions and improves air quality. Transit authorities and their member jurisdictions need to better coordinate and leverage land use and financial tools to encourage density and transit-oriented development, improve universal accessibility for pedestrians, and maximize potential benefits that transit can facilitate.

### Focus of This Task Report

Individually and in combination, the challenges described above limit the ability of NCTCOG to fund projects and the transit authorities to deliver and expand transit, passenger rail, and innovative mobility services to the region and reduce the incentive for local jurisdictions to become transit authority members. This report builds on this



summary of key challenges and redirects the regional response toward expanding the range of funding sources for transit and passenger rail, supplementing and reducing the reliance on transit authority member agencies' local sales tax contributions, and incentivizing other local jurisdictions to become transit authority members. The report provides a range of potential policy and legislative approaches, proposes evaluation criteria for these approaches, and assesses the potential timeline for implementation.

### 3. Legislative Context

This section describes the State legislative context and timeline for introducing State legislation, the transit authorities serving the region, and the past and current legislative priorities of NCTCOG and the authorities.

#### Enabling Legislation for Transit Agencies

Texas has three categories of transit systems:

- Transit authorities and municipal transit departments
- Urban transit districts
- Rural transit districts

As previously discussed, TAs are eligible under State statute to seek voter approval for a local option general sales tax dedicated to funding transit (Texas Transportation Code § 451, 452, 453, 460). Local taxing jurisdictions (cities, counties, special purpose districts, and transit authorities) may impose local sales and use taxes up to two percent, in addition to the Texas sales and use tax rate of 6.25 percent, for a total maximum combined rate of 8.25 percent.

Notably, TAs are not eligible to receive State public transportation funds, which are reserved for urban and rural transit districts.

Voters in three counties in the NCTCOG region—Fort Worth, Dallas, and Denton County—have approved a local option sales tax for transit authorities.

#### Alternative Local Funding Mechanisms for Transit

Member jurisdictions in Texas typically fund transit through voter-approved local option general sales tax dedicated to transit, however other voter-approved funding mechanisms can be leveraged:

- The Development Corporation Act of 1979 (Texas Revised Civil Statutes Article 5190.6) allows municipalities to create nonprofit development corporations that promote new and expanded industry and manufacturing activity within the jurisdiction and its vicinity. These corporations can leverage “Section 4A” or





“Section 4B” economic development sales taxes, which account for a portion of the local two percent sales and use tax limit. Section 4A sales taxes target manufacturing and industrial development, while Section 4B sales taxes primarily target infrastructure and quality of life improvements that promote economic development, including transportation facilities. If accepted by the local TA, jurisdictions can use Section 4B tax revenue to fund the provision of transit service.

- Tax increment financing, whereby sales and property taxes generated by new development surrounding stations is leveraged to fund transit, can be used to fund the provision of transit service if accepted by a local TA.

Transit authorities may also receive funding through NCTCOG and RTC (as the MPO for the Dallas-Fort Worth Metropolitan Area), who administer numerous federal funding programs for transportation. In the NCTCOG region, including transportation development credits (TDCs) that can be used to leverage federal funding without the contribution of non-federal cash match. These TDCs are non-cash credits that are earned by the MPO to account for toll road and tolled managed lanes that benefit the federal system.

## State Legislative Context

### The Texas Legislature

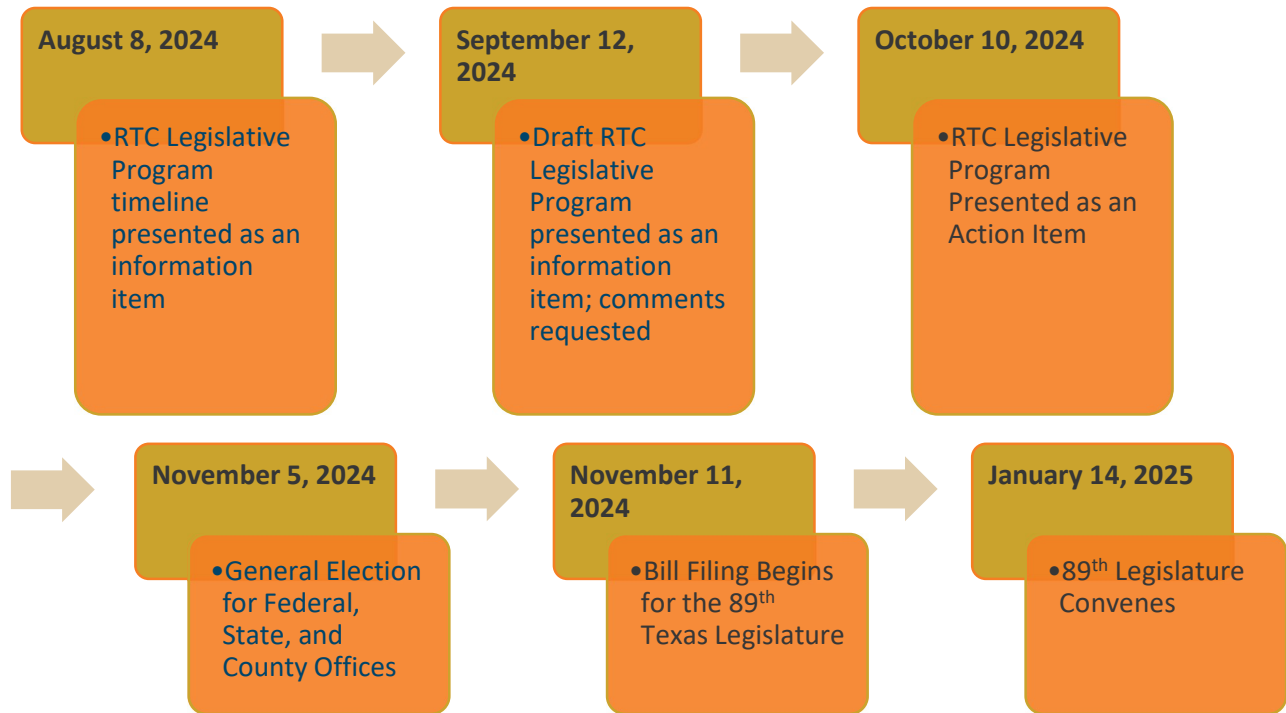
The Texas Legislature meets in Austin every two years beginning on the second Tuesday in January of each odd-numbered year. Sessions are limited to 140 calendar days. The 89<sup>th</sup> Session will convene on January 14, 2025.

### Preparing a Legislative Platform

Before each session, NCTCOG and the Regional Transportation Council (RTC) develop a legislative program that outlines the RTC’s position on legislative matters and serves as the foundation for the RTC to support or oppose various State legislation. The platform seeks to secure critical resources for, among other things, transit in North Central Texas and outlines policy Statements that allow NCTCOG staff to work with the RTC to more effectively respond to legislation at the State level. The RTC seeks action on the platform in October of the year preceding the session. A timeline of the 2025 RTC legislative program timeline is shown in Figure 3.



Figure 3. RTC Legislative Program Timeline, 2024-2025



### The Three Transit Authorities

As stated previously, the NCTCOG region has three transit authorities approved by successful referendums and funded with local sales taxes: Trinity Metro, DART, and DCTA. The three agencies differ in their enabling legislation and approaches to funding transit and expansion of services.

#### Trinity Metro

Trinity Metro is the regional transit authority for the greater Fort Worth region (Texas Transportation Code § 452). Also known as the Fort Worth Transportation Authority, Trinity Metro was created by voters in Fort Worth via a successful referendum on November 8, 1983, which committed a half-percent local sales tax from the City of Fort Worth.

Trinity Metro also allows municipalities to gain specific services through interlocal agreements at rates below the full half-percent membership. Two cities, Grapevine and North Richland Hills, maintain these agreements with Trinity Metro to pay for service on the TEXRail commuter rail line. Neither municipality receives other Trinity Metro services (fixed-route bus service, on-demand transit, or paratransit).





Grapevine funds its service via a half-cent economic development sales tax, of which 3/8ths of a cent is earmarked for Trinity Metro. The tax accounts for a portion of the local two-cent sales tax limit and is structured under Section 4B of the Development Corporation Act of 1979 (Texas Revised Civil Statutes Article 5190.6).

North Richland Hills funds its service via sales and property taxes generated by new development surrounding their two TEXRail stations.

For other services like on-demand, Trinity Metro enters into Interlocal Agreements that outline terms of service that are funded through each City's general fund and local grant opportunities provided through NCTCOG.

### Dallas Area Rapid Transit

DART is the regional transit authority for the greater Dallas region (Texas Transportation Code § 452). DART was created by voters in 15 cities via a successful referendum on August 13, 1983, which committed a one-percent local sales tax from each city. In 1988, two of the original cities (Flower Mound and Coppell) voted to leave the system. DART member jurisdictions are authorized to hold withdrawal elections every six years under Chapter 452. While other cities have held elections since 1988, none since Flower Mound and Coppell have been successful.

Today, DART's service area consists of 13 member jurisdictions: Addison, Carrollton, Cockrell Hill, Dallas, Farmers Branch, Garland, Glenn Heights, Highland Park, Irving, Plano, Richardson, Rowlett, and University Park. Of these, six member jurisdictions have passed City Council resolutions to reduce their one-cent local sales tax contributions to three-quarters of a cent. These jurisdictions are Plano, Irving, Rowlett, Carrollton, Farmers Branch, and Highland Park. These actions are symbolic because changes in funding must be approved by the DART Board of Directors.

Beyond the 13 member jurisdictions, any municipality that adjoins a DART member city is eligible to join upon affirmative approval of a referendum called and conducted by that city authorizing the collection of a one-percent local sales tax for transit services (TRANSP § 452, Subchapter O, DART Policy No. IV.13).

Municipalities outside of the DART service area may seek a service agreement with DART for transit service. These agreements must be approved by the DART Board of Directors for no more than 36 months, after which the municipality must provide a plan to become a full member city (DART Policy No. III.07). DART established a Local Government Corporation (LGC) in March 2012 under Subchapter D of Chapter 431, Texas Transportation Code, to aid and act on behalf of DART in performance of its



governmental purpose of providing a public transportation system by bus primarily outside the DART Service Area.

### Denton County Transportation Authority

In 2001, Texas House Bill 3323 created Chapter 460 of the Texas Transportation Code, which authorized the creation of Coordinated County Transportation Authorities (CCTAs) by county commissions, subject to a vote by the county population. DCTA is the first and only CCTA in the State (TRANSP § 460). DCTA was created by voters in Denton County via a successful referendum on November 5, 2002.

After the creation of DCTA, the jurisdictions of Denton, Highland Village, and Lewisville voted to join DCTA on September 13, 2003. The referendums committed a half-percent local sales tax from each city to finance the system.

DCTA provides service via other partnership agreements. Collin County Transit, a partnership between the City of McKinney, the McKinney Urban Transit District, and DCTA, provides service to the jurisdictions of McKinney, Princeton, Melissa, and Celina via a taxi voucher program. DCTA also maintains a contract with the City of Frisco to operate Frisco Demand Response, a curb-to-curb service for residents who are elderly, disabled, or traveling to medical care.

## 4. Review of RTC Legislative Recommendations 2017 – 2023

Figure 4 provides an overview of the RTC's adopted legislative programs from 2017 to 2023 for the 85<sup>th</sup>, 86<sup>th</sup>, 87<sup>th</sup>, and 88<sup>th</sup> Sessions of the Texas Legislature. As shown in the figure, key historical priorities have been to:

- Adequately Fund Transportation and Utilize Tools
- Expand Transportation Options
- Enhance Safety
- Improve Air Quality
- Pursue Innovation and Technology

The legislative approaches proposed for consideration by the RTC for the 89<sup>th</sup> Session are consistent with these priorities, with a greater focus on funding. Star symbols have been placed next to historical legislative approaches related to concepts included in this report. Absence of a star does not mean that that an historical legislative approach does not merit consideration by the RTC for the 89<sup>th</sup> Session, only that it does not overlap with an initiative evaluated herein.

It is important to note that RTC supported key legislative efforts over the preceding decade, including the Transportation Local Option Transportation Act (TLOTA), C.S.S.B



855 by Senator John Carona. TLOTA would have given jurisdictions a menu of transportation funding options that jurisdictions could bring to the voters for approval, including gasoline and diesel taxes, vehicle registration fees, parking management fees, vehicle emissions fees, driver license renewal fees, and new resident impact fees. TLOTA did not pass but advanced several important funding concepts that are revisited in this analysis.



Figure 4. Summary of NCTCOG/RTC Legislative Programs, 2017-2023

2023 Legislative Program		2021 Legislative Program	2019 Legislative Program	2017 Legislative Program	Concept Included in this report
<b>ADEQUATELY FUND TRANSPORTATION AND UTILIZE TOOLS</b>		✓	✓	✓	★
<b>ADDITIONAL TRANSPORTATION REVENUE</b>	Identify additional revenue for all modes of transportation, including fees on alternative fuel vehicles	✓	✓	✓	★
<b>INNOVATIVE FUNDING</b>	Support innovative funding methods to expand rail and transit options within the region				★
<b>TEXAS RAIL RELOCATION AND IMPROVEMENT FUND</b>	Allocate funds to the existing Texas Rail Relocation and Improvement Fund				
<b>AIR QUALITY USER FEES</b>	Return approximately \$80 million in air quality user fees to counties for Local Initiatives Projects				
<b>FAIR-SHARE ALLOCATION</b>	Ensure fair-share allocation of funds for roadway capacity improvements to metropolitan regions	✓			
<b>PROPOSITIONS 1 AND 7</b>	Support full appropriation of current funding initiatives previously approved by the Legislature, including Proposition 1 and Proposition 7	✓	✓	✓	★
<b>EXPAND TRANSPORTATION OPTIONS IN MEGA-METROPOLITAN REGIONS</b>		✓			★
<b>P3s AND MANAGED LANES</b>	Support use of Public-Private Partnerships; allow for the ability to create data corridors (i.e., digital twins) and tolled managed lanes for roadway and transit projects through an MPO/local decision-making process	✓	✓	✓	★
<b>COMPREHENSIVE DEVELOPMENT AGREEMENT</b>	Authorize the use of a Comprehensive Development Agreement for specific needed projects	✓			
<b>EMINENT DOMAIN FOR TRANSPORTATION CORRIDORS</b>	Retain eminent domain authority to allow planning and development of new and/or expanded transportation corridors, including high-speed rail, commuter rail, freight rail, roadways, and trails	✓	✓		
<b>BALANCED LIABILITY INSURANCE</b>	Support the use of a balanced liability insurance program that would allow North Texas transit agencies to operate on additional rail corridors as part of the regional transportation system	✓			
<b>LOCAL AND REGIONAL LAND USE CONTROL</b>	Provide counties and cities with expanded tools for land use control to preserve future transportation corridors	✓	✓	✓	★
<b>PROVIDE TOOLS TO FACILITATE TRANSIT ORIENTED DEVELOPMENT</b>					★
<b>IMPROVE TRANSPORTATION SAFETY FOR ALL</b>	Improve the safety of the statewide transportation system for all users, including controlling texting while driving, eliminating driving under the influence, lowering excessive speed limits, reducing aggressive driving, reducing the number of fraudulent temporary tags, and improving bicycle and pedestrian safety	✓	✓	✓	
<b>HANDS FREE CELL TECHNOLOGY</b>	Reduce distracted driving through measures such as the use of hands-free cell phone technology				
<b>FREIGHT WEIGHT LIMITS</b>	Oppose legislation to increase freight truck weight limits above 80,000 pounds				
<b>ROADSIDE ASSISTANCE</b>	Support legislation allowing sponsorships to support roadside assistance programs				
<b>DEFERRED ADJUDICATION</b>	Eliminate deferred adjudication for safety related traffic violations (e.g., traffic violations in construction zones are not eligible for deferred adjudication)				
<b>CRASH REPORTS BY NON-SWORN POLICE</b>	Allow non-sworn police officers to complete crash reports and clear minor, non-injury traffic crashes				



		2023 Legislative Program	2021 Legislative Program	2019 Legislative Program	2017 Legislative Program	Concept Included in this report
<b>IMPROVE AIR QUALITY</b>			✓	✓	✓	★
<b>LOCAL INITIATIVE PROJECTS</b>	Modernize and increase flexibility in the Local Initiative Projects (LIP) through a limited program focused on transportation and air quality improvements		✓	✓	✓	
<b>EMISSIONS ENFORCEMENT</b>	Strengthen emissions enforcement through temporary tag enforcement					
<b>PROTECT TERP</b>	Protect the TERP Trust fund and revenue balance to ensure funds are used for TERP purposes; modernize the program and ensure flexibility to accommodate innovative approaches to improving air quality and reducing emissions, including the purchase of heavy-duty zero emission vehicles such as hydrogen fuel cell and battery electric vehicles and associated infrastructure		✓	✓	✓	★
<b>RELIABILITY, CONGESTION, AND TRIP REDUCTION</b>	Support system reliability, congestion relief, and encourage trip reduction strategies		✓	✓		
<b>AIR QUALITY</b>	Support legislation that improves air quality		✓			★
<b>PURSUE INNOVATION AND TECHNOLOGY</b>			✓	✓	✓	★
<b>VEHICLE INNOVATION</b>	Utilize innovation in high-speed transportation, transit, autonomous vehicles, and freight		✓	✓		
<b>COLLABORATION FOR LAND USE</b>	Support the collaboration between local governments, the military, the State, and FAA to advance regulations for compatible land use and the safe operations of unmanned aircraft		✓	✓		★
<b>SHARED MOBILITY</b>	Plan for shared mobility solutions and technology-based transportation solutions; enable transportation data sharing and accessibility with appropriate privacy protection		✓	✓	✓	
<b>IMPROVE CYBERSECURITY</b>	Establish and support programs to improve cybersecurity					
<b>BROADBAND EXPANSION</b>	Support broadband expansion as a mode of transportation					



## 5. Comparative Review of Transit Authority Legislative Programs

Figure 5 provides a comparative review of the legislative programs of the three transit authorities and the RTC's adopted legislative programs discussed in the prior section.





Figure 5. Comparative Review of Transportation Authority Legislative Program

	RTC LEGISLATIVE PROGRAM FOR THE 88TH TEXAS LEGISLATURE	DART'S LEGISLATIVE PRIORITIES FOR THE 88th SESSION OF THE TEXAS LEGISLATURE	TRINITY METRO'S 88TH TEXAS LEGISLATIVE AGENDA	DENTON COUNTY TRANSPORTATION AUTHORITY 2023 LEGISLATIVE AGENDA	DALLAS REGIONAL MOBILITY COALITION (DRMC) 2023 STATE LEGISLATIVE AGENDA
<b>ADEQUATELY FUND TRANSPORTATION AND UTILIZE TOOLS</b>	Identify additional revenue for all modes, including fees on alternative fuel vehicles	Monitor motor vehicle registration fees, electric vehicles	Maintain MTA exemption from fees for alternatively fueled vehicles		Support passage and implementation of an Electric Vehicle fee to ensure electric vehicles pay their fair share of transportation costs
	Support innovative funding methods to expand rail and transit options within the region	Monitor legislation relating to construction and project delivery		Support innovative funding methods at state level to expand rail and transit options within Denton County	
	Allocate funds to the existing Texas Rail Relocation and Improvement Fund				
	Return approximately \$80M in air quality user fees to counties for Local Initiatives Projects		Support return of approx \$100M in air quality funding to counties to support Local Initiatives Projects		
	Ensure fair share allocation of funds to metro regions for capacity funding		Ensure fair share allocation to metro regions for capacity funding	Collaborate with TxDOT to expand their multi-modal approach to the transportation needs of Texas to include metropolitan public transportation in their footprint	Collaborate with TxDOT to expand their multi-modal approach to the transportation needs of Texas to include metropolitan public transportation in their footprint
	Support full appropriation of current funding initiatives previously approved by the Legislature, including Proposition 1 (2014) and Proposition 7 (2015) initiatives		Support continued state investment on projects that enhance existing and new infrastructure to meet the current and future needs of the state		Support efforts to eliminate the sunset date for Propositions 1 and 7 to ensure continued investment in transportation infrastructure
		Protect and defend DART's voter-approved one-cent sales tax funding source; approximately 75% of agency revenues	Oppose reduction or elimination of Transit Authority revenue streams from local option sales taxes		
			Oppose legislation that unnecessarily limits local decision-making authority to govern properly and fully fund services necessary to plan and provide for growth challenges.	Preserve current authority and agency resources to meet the transit needs of Denton County and oppose any legislation that would restrict current authority or agency resources	



	RTC LEGISLATIVE PROGRAM FOR THE 88TH TEXAS LEGISLATURE	DART'S LEGISLATIVE PRIORITIES FOR THE 88th SESSION OF THE TEXAS LEGISLATURE	TRINITY METRO'S 88TH TEXAS LEGISLATIVE AGENDA	DENTON COUNTY TRANSPORTATION AUTHORITY 2023 LEGISLATIVE AGENDA	DALLAS REGIONAL MOBILITY COALITION (DRMC) 2023 STATE LEGISLATIVE AGENDA
EXPAND TRANSPORTATION OPTIONS IN MEGA- METROPOLITAN REGIONS	Support use of Public-Private Partnerships; allow for the ability to create data corridors (ie-digital twins) and tolled managed lanes for roadway and transit projects through an MPO / local decision-making process		Support the use of public-private partnerships to meet increased demands while stimulating the economy and creating jobs through planning, design, and construction of multi-modal transportation systems of choice and transit-oriented development projects.		
	Authorize the use of a Comprehensive Development Agreement for specific needed projects				
	Retain eminent domain authority to allow planning and development of new and/or expanded transportation corridors, including high-speed rail, commuter rail, freight rail, roadways, and trails		Support maintaining existing law related to eminent domain authority to allow planning and development of new and/or existing infrastructure projects that are fundamental to public transit		
	Support the use of a balanced liability insurance program that would allow North Texas transit agencies to operate on additional rail corridors as part of the regional transportation system				
	Provide counties and cities with expanded tools for land use control to preserve future transportation corridors		Advocate passage of legislation granting Trinity Metro statutory authority to enter into long term partnerships to spur transit-oriented development adjacent to Trinity Metro bus stops and train stations		Provide counties and cities with expanded tools for land use control to preserve future transportation corridors
			Support a new Texas Local Option Transportation Act to expand transit within the north Texas region.		
ENHANCE SAFETY	Improve statewide transportation safety in areas of texting and driving, impaired driving, lowered speed limits, aggressive driving, fraudulent temp tags, bike and pedestrian safety				Support TxDOT and NCTCOG's efforts to improve the safety of the statewide transportation system and reduce overall traffic fatalities
	<del>Reduce distractive driving through hands free cell</del>				
	Oppose increase in freight truck weight limits above 80,000 lbs				
	Support sponsorships for roadside assistance programs				
	Eliminate deferred adjudication for safety traffic violations				
Allow non-sworn police to complete crash reports and clear minor crashes		Monitor legislation related to social justice and police reforms			





	RTC LEGISLATIVE PROGRAM FOR THE 88TH TEXAS LEGISLATURE	DART'S LEGISLATIVE PRIORITIES FOR THE 88th SESSION OF THE TEXAS LEGISLATURE	TRINITY METRO'S 88TH TEXAS LEGISLATIVE AGENDA	DENTON COUNTY TRANSPORTATION AUTHORITY 2023 LEGISLATIVE AGENDA	DALLAS REGIONAL MOBILITY COALITION (DRMC) 2023 STATE LEGISLATIVE AGENDA
IMPROVE AIR QUALITY	Modernize and increase flexibility in the Local Initiatives Projects through limited program focused on transportation and AQ improvements				
	Strengthen emissions enforcement through temporary tag enforcement				
	Protect the TERP Trust Fund and revenue balance to ensure funds are used for TERP purposes; Modernize the program and ensure flexibility to accommodate innovative approaches to improving air quality and reducing emissions, including the purchase of heavy-duty zero emission vehicles such as hydrogen fuel cell and battery electric vehicles and associated infrastructure				
	Support system reliability, congestion relief, encourage trip reduction strategies				
	Support legislation that improves air quality				
PURSUE INNOVATION AND TECHNOLOGY	Utilize innovation in high-speed transportation, transit, AVs, and freight				
	Support the collaboration between local governments, the military, the State, and FAA to advance regulations for compatible land use and the safe operations of unmanned aircraft				
	Plan for shared mobility solutions and technology-based transportation solutions; enable transportation data sharing and accessibility with appropriate privacy protection				
	Establish and support programs to improve cybersecurity				
	Support broadband expansion as a mode of transportation				
COMMERCIAL DRIVERS LICENSES AND COMMON CARRIERS		Monitor legislation relating to commercial driver's licensing	Support policies that remove unnecessary delays in the processing of Commercial Driver's License by the Department of Public Safety		
		Monitor legislating relating to common carriers			



	RTC LEGISLATIVE PROGRAM FOR THE 88TH TEXAS LEGISLATURE	DART'S LEGISLATIVE PRIORITIES FOR THE 88th SESSION OF THE TEXAS LEGISLATURE	TRINITY METRO'S 88TH TEXAS LEGISLATIVE AGENDA	DENTON COUNTY TRANSPORTATION AUTHORITY 2023 LEGISLATIVE AGENDA	DALLAS REGIONAL MOBILITY COALITION (DRMC) 2023 STATE LEGISLATIVE AGENDA
AGENCY AUTONOMY		Closely monitor and oppose/mitigate legislation than could detrimentally impact DART's mission, goals and business operations	Oppose any attempt to prohibit local units of government from the ability to engage government relations professionals or join associations to efficiently advocate on behalf of their community and communicate with members of the legislative branch and executive branch, including state agencies.	Oppose any restriction to the agency having representation before the Legislature.	
		Closely monitor proposed statutory changes to DART's enabling statute, Chapter 452, Texas Transportation Code, and Chapter 322, Tax Code - Transit Sales and Use Tax			
		Monitor legislation relating to "walking quorums"			
Source	Regional Transportation Council Legislative Program for the 88th Texas Legislature	DART Legislative Priorities for the 88th Session of the Texas Legislature	Planning, Operations & Marketing Committee Meeting - October 17, 2022 - Action Item 5. State Legislative Agenda Approval	DCTA 2023 Legislative Agenda	Dallas Regional Mobility Coalition 2023 State Legislative Agenda



## 6. Legislative and Policy Concepts for Consideration by NCTCOG

Building upon the RTC's past legislative initiatives and the comparative review of the transit authorities' legislative programs, this section outlines legislative and policy concepts for consideration by the RTC as it formulates its legislative recommendations for the next legislative session.

### State Legislative Proposals

The Transit 2.0 team has proposed 22 legislative concepts for NCTCOG's consideration to expand the range of funding sources for public transportation and passenger rail. These concepts have similar goals but take different approaches. However, none will succeed without strategies to mobilize constituencies and organizations to educate and advocate for approval by the Legislature. NCTCOG can play a central role in this process.

In the sections below, the legislative concepts are grouped into four categories:

- Expand the level and range of one or more of the proposed funding sources for transit and passenger rail, individually and in combination
- Protect existing transit authority sales tax funding
- Provide tools to facilitate transit-oriented development
- Additional legislative concepts

#### Expand the Level and Range of Funding Sources for Public Transportation and Rail, Individually or in Combination

The following 19 concepts are proposed to expand the level and range of funding sources for public transportation and rail, individually or in combination:

- **TEXAS MOBILITY FUND (TMF):** Require expenditure of a portion of the Texas Mobility Fund for public transportation and extend allowable period for payment of debt service, accomplished by legislation or by modification of Texas Transportation Commission policy.
- **TEXAS EMISSION REDUCTION PLAN (TERP):** Increase the share of TERP funding for the Governmental Alternative Fuel Fleet (GAFF) Program, for which the purchase of transit vehicles is an eligible cost.
- **DEDICATED TXDOT FUNDING APPROPRIATION:** Secure dedicated funding for public transportation and rail via TxDOT budget appropriations of state general revenue, accomplished by legislation or by modification of Texas Transportation Commission policy.



- **STATE HIGHWAY FUND:** Redirect a portion of the State Highway Fund to transit and rail, accomplished by legislation or by modification of Texas Transportation Commission policy.
- **STATE STRATEGIC INTERMODAL SYSTEM (SIS):** Enact legislation to create a State Strategic Intermodal System (SIS) program modeled after Florida's SIS to advance and provide matching funds for strategic intermodal corridors.
- **SPECIAL-PURPOSE TRANSPORTATION CORRIDOR ENTITIES TO ADVANCE PASSENGER AND FREIGHT RAIL TRANSPORTATION FUNDING AREAS (RAIL CORRIDOR TFA):** Building on the Transportation Funding Area (TFA) concept advanced by the RTC in 2008, enact legislation to enable creation of voter-approved county / multi-county TFAs to promote shared use of rail corridors for passenger and freight services, work with transit authorities and local jurisdictions to develop funding plans, and negotiate cost-sharing arrangements whereby member jurisdictions could levy voter-approved taxes or fees to fund transportation capital projects for transit and rail. Such a concept could have high applicability to advance passenger rail services in corridors currently owned by transit authorities such as DART and used by private freight rail operators. Such entities could also provide opportunities to combine funding sources currently limited to freight rail to advance passenger rail service in shared corridors.
- **PROPOSITION 7:** Direct a portion of Proposition 7 funding derived from rental car sales and use taxes to fund transit and rail.
- **LOCAL OPTION GAS TAX:** Revisit the concept of a voter-approved local option gas tax, as proposed in 2008 as part of the Transportation Local Option Transportation Act (TLOTA), C.S.S.B 855 by Carona.
- **LOCAL OPTION VEHICLE REGISTRATION FEE:** Revisit the concept of a voter-approved local vehicle registration fee, as proposed in 2008 as part of the Transportation Local Option Transportation Act (TLOTA), C.S.S.B 855 by Carona.
- **SALES TAX CAP INCREASE (A):** Increase the two-percent cap on local sales tax to fund transit and rail.



- **SALES TAX CAP INCREASE (B):** Increase the two-percent tax on local sales tax without restricting it for transit and rail.
- **RESTRICTIONS ON USE OF 4A/4B:** Disallow non-member jurisdictions to use 4A/4B revenue to provide tax incentives to companies relocating from a TA member jurisdiction.
- **AMEND 4A/4B:** Amend 4A/4B enabling legislation to allow transportation authority member jurisdictions to pass voter-approved measures exceeding the two-percent sales tax cap to fund economic development and/or for non-member jurisdictions to pass voter-approved measures exceeding the two-percent sales tax cap to fund new transit authority membership. For background, in 1989, the Texas Legislature amended the enabling legislation by adding Section 4A, which provided that a Section 4A development corporation could be funded by the imposition of a local sales and use tax dedicated to economic development. In 1991, the legislature authorized another new type of sales tax, a Section 4B sales tax. This legislation authorized a one-half-cent sales tax to be used by certain jurisdictions to promote a wide range of civic and commercial projects.
- **RETAIL DELIVERY FEE:** Enable a local retail delivery fee on packages, similar to programs in Minnesota and Colorado. Minnesota enacted a Retail Delivery Fee in 2023 that imposes a 50-cent charge on purchases of more than \$100, projected to generate \$59M in its first year. Colorado enacted a Retail Delivery Fee of 29 cents in 2022 to fund highways, bridges, tunnels, electric vehicle charging stations, and projects to reduce air pollution and to electrify vehicle fleets and transit systems, generating more than \$160M. This would support transportation (including transit and rail).
- **HOTEL OCCUPANCY TAX SURCHARGE:** Increase the Hotel Occupancy Tax on hotels and short-term rentals to fund transportation improvements, including transit and rail that benefit tourists and business travelers.
- **DEVELOPMENT IMPACT FEE SURCHARGE:** Authorize a new county-level Development Impact Fee for Transportation (including transit and rail).
- **LOCAL BUSINESS SURCHARGE:** Authorize a new local business surcharge for Transportation (including transit and rail).



- **LOCAL RENTAL CAR FEE SURCHARGE:** Authorize a new local rental car fee surcharge for Transportation (including transit and rail).
- **LOCAL RIDE-HAILING FEE:** Authorize a new local ride-hailing fee surcharge for transportation (including transit and rail).

### Protect Existing Transit Authority Sales Tax Funding

The following two concepts are proposed to protect DART's existing sales tax funding:

- **DART 1%:** Support DART in defending its voter-approved one-cent sales tax funding source until an alternative, dedicated, and equivalent or greater than equivalent revenue source can be identified.
- **DART ENABLING STATUTE:** Oppose proposed statutory changes to DART's enabling statute with respect to level of sales tax contribution (Ch 452 TTC, Ch 322 Tax Code - Transit Sales and Use Tax).

### Provide Tools to Facilitate Transit-Oriented Development

One legislative concept is proposed to provide tools to facilitate transit-oriented development:

- **AUTHORIZE TOD PUBLIC-PRIVATE PARTNERSHIPS (P3s):** Advocate passage of legislation granting statutory authority to enter long-term partnerships that spur TOD. Support legislation such as SB 1984 Alvarado to streamline legislation that would make P3 possible.

### Additional Legislative Concepts

Three additional legislative concepts proposed for consideration are:

- **FAIR SHARE:** Propose legislation that requires authorities to work with member jurisdictions to define how to address equitable allocation of service relative to sales tax collected and local and interjurisdictional travel demand, rather than legislatively defining equitable allocation.
- **PUBLIC-PRIVATE PARTNERSHIPS:** Advocate passage of legislation granting statutory authority to enter into public-private partnerships for transit and passenger rail, as well as TOD. Support legislation such as SB 1984 Alvarado to streamline legislation that would make P3 possible.





- **TRANSIT AUTHORITY ADDITION:** Create one or more additional transit authorities to provide transit service to jurisdictions unable to commit the required portion of sales tax to obtain service from existing authorities. This new authority could be focused on developing and providing commuter rail service outside of existing transit authority service area boundaries. Alternatively, enact legislation to enable creation of voter-approved county / multi-county TFAs to promote shared use of rail corridors for passenger and freight services.

## Regional and Local Policy Proposals

While most proposals to enhance revenue for transit and rail require legislative action, there are regional and local policy modifications that could be considered to expand and/or preserve funding for transit and rail. These policy proposals are discussed below.

### NCTCOG/RTC Policies and Procedures

- **REVIEW NCTCOG/RTC POLICIES AND PROCEDURES:** NCTCOG is responsible for prioritizing and allocating funding for transportation projects in the region under various funding programs, including Metropolitan Corridor funds, Congestion Mitigation and Air Quality (CMAQ) funds, Federal Highway Administration (FHWA) Surface Transportation Block Grant (STBG) flexible funds, Carbon Reduction Program funds, and Transportation Development Credits. With such significant funding allocated at its discretion, NCTCOG could incorporate into the long-range metropolitan transportation plan, Mobility 2050 a comprehensive review of policies and procedures used to prioritize projects and allocate transportation funding under its purview. Such an assessment could ensure that RTC decisions:
  - Maximize opportunities to coordinate mobility options and land use
  - Expand multimodal opportunities, and
  - Expand financial opportunities and incentives for local jurisdictions

Example policies could include:

- Prioritizing funding for projects that will expand regional transit and rail services
- Prioritizing expansion of regional multimodal connectivity options to provide access to major transit and rail service
- Prioritizing funding for jurisdictions that contribute local funding (through voter approved sales tax or other means) for transit



- Requiring jurisdictions of a certain size to join a TA within 10 years (or another specified time frame) to qualify for future funding, considering current municipal requirements on timing for voter approved funding
- **INCREASE THE LEVEL OF FEDERAL FUNDING FLEXED FROM HIGHWAYS TO TRANSIT AND RAIL:** NCTCOG can assess and potentially redirect FHWA flexible funding from highways to transit and rail. Higher levels of flexing could make more federal funding available to the transit authorities and their member jurisdictions to supplement existing sources of transit and rail funding, especially local sales tax revenues. Consideration should be provided for the required local match to access the available federal funding source.
- **ENSURE INFORMATION IS SHARED WITH THE TRANSIT AUTHORITIES AND THEIR MEMBER JURISDICTIONS ABOUT OPPORTUNITIES TO PURSUE FEDERAL AND STATE FUNDING FOR TRANSIT, RAIL, AND TRANSIT-ORIENTED DEVELOPMENT:** NCTCOG has launched an online “quick search database” that agencies can use to secure information about funding opportunities for a variety of transportation programs and projects. Information on funding opportunities is also presented to the Surface Transportation Technical Committee and at RTC meetings. Access to such information is a valuable resource, and its use could be promoted across the region. This can include regular collaboration with transit authorities on grant strategies that seek to maximize funding for projects, programs and economic development/TOD within transit authority boundaries. To gauge information needs, NCTCOG is considering a survey of members to see if more or different information regarding funding opportunities is needed.
- **PROVIDE TOD FINANCIAL SUPPORT:** NCTCOG has historically provided thought leadership on TOD, for example through the Coordinated Land Use and Transportation Planning Task Force, as well as land banking efforts through the 2006 Sustainable Development Call for Projects. NCTCOG can build on these efforts by facilitating efforts between jurisdictions and transit authorities to re-zone transit-proximate parcels, particularly those owned by transit authorities. NCTCOG can also incentivize transit-proximate living through incentives like free or discounted transit passes for residents of transit-proximate developments.
- **ENSURE AVAILABILITY OF PRIVATE ACTIVITY BONDS:** Ensure State Private Activity Bonds (PABs) can be used for transit and rail.





- **PROVIDE DEVELOPER FINANCIAL INCENTIVES:** Provide financial incentives (e.g. grants for adjacent transportation improvements, fare subsidies) for developers in TA member jurisdictions.
- **PROVIDE TECHNICAL SUPPORT TO JURISDICTIONS:** Assist jurisdictions in developing and implementing expanded tools such as overlay districts to allow planning and development of new and expanded transportation corridors.

### Transit Authority Policies and Procedures

While policy items do not require immediate action, they are presented in this report for informational purposes and will be reviewed again in later Transit 2.0 tasks. The transit authorities emphasize communication and coordination among senior leadership, their Boards of Directors, and their member jurisdictions. Despite such efforts, member jurisdictions have opted to advance issues to the State Legislature for resolution. To better resolve issues without legislative assistance, the transit authorities and member jurisdictions could consider the following:

- **PROCEDURES TO ADDRESS MEMBER CONCERNS:** Assess opportunities for outside facilitators to resolve challenges locally.
- **RECONSIDER TIME LIMIT ON CONTRACTING FOR TRANSIT SERVICE:** Expand options and/or reconsider terms and conditions for non-member jurisdictions to contract with transit authorities for various public transportation services. Such approaches could include additional local government corporation (LGC) formation, use of 4A/4B funding, and expansion of the range and term for contract services. The three transit authorities differ in the types of opportunities and approaches they allow, and this likely would also require outside facilitation and negotiation.
- **INCREASE TRANSIT CONTRACTING OPPORTUNITIES:** Consider alternative approaches for non-member jurisdictions to contract with TAs for transit services (e.g. LGC Formation, 4A/4B, expanded range and term for contract services)

## 7. Concept Evaluation Criteria

The conceptual legislative and policy proposals were evaluated based on three criteria:

- Revenue potential



- Ability to incentivize jurisdictional support for transit
- Nexus with other benefits, such as safety, economic development, and air quality

Alignment with each of these evaluation criteria was rated on a scale of low, medium, and high alignment, depicted graphically as:

- Low alignment: ○
- Medium alignment: ◐
- High alignment: ●

All legislative concepts advanced in this report were screened based on the beneficiary pays principle to ensure that concepts that generate new funding sources align the use of the source with the origin of the funds. For example, a hotel occupancy tax surcharge or local rental car fee surcharge would require people who benefit directly from staying in hotels or renting cars—most likely, out of state or region visitors—to contribute to the costs associated with maintaining the transportation infrastructure that makes their stay productive and/or enjoyable.

Legislative concepts advanced in this report are also framed to maximize potential for political support. Transit as a stand-alone item is not a strong candidate for support in the current Texas legislature. Therefore, proposed legislative concepts are framed to link transit to transportation more broadly in ways that legislators may be able to more fully embrace.

Legislative concepts were sorted into three tiers based on their alignment with the three evaluation criteria:

- **Tier 1:** Legislative concepts that have high revenue potential, medium to high incentive for jurisdictional support, and a medium to high nexus with other benefits.
- **Tier 2:** Legislative concepts that have mid to high revenue potential, medium to high incentive for jurisdictional support, and a low to high nexus with other benefits.
- **Tier 3:** Legislative concepts with low to high potential in all three categories of revenue potential, jurisdictional support, and other benefits.



An assessment was then made as to whether action should be taken on the individual concepts in the:

- Short Term: 1-3 years
- Intermediate Term: 4-6 years

Tier 1 legislative concepts are recommended to NCTCOG as priority for short term advancement.

All policy concepts presented in this report are considered actionable in the short term.



Figure 6. Legislative Concepts for Consideration

		Evaluation Criteria			Implementation Timeframe		
		Revenue Potential	Incentivize Jurisdictional Support for Transit	Nexus with Other Benefits (e.g. safety, economic development, air quality)	Short Term Action Needed (1-3 YEARS)	Intermediate Term Action (4-6 YEARS)	
<b>EXPAND THE LEVEL AND RANGE OF FUNDING SOURCES FOR PUBLIC TRANSPORTATION AND RAIL, INDIVIDUALLY OR IN COMBINATION</b>							
STRATEGIC INTERMODAL SYSTEM	Create a State Strategic Intermodal System (SIS) with funding sources defined	●	●	●	✓		Tier 1
TRANSPORTATION FUNDING AREA	Enable creation of a voter-approved county / multi-county Transportation Funding Area (TFA) to levy taxes or fees for transportation including transit, rail, and roadway improvements	●	●	●	✓		
STATE HIGHWAY FUND	Redirect a portion of the State Highway Fund to transit and rail by legislation or modification of Texas Transportation Commission policy	●	●	◐	✓		
HOTEL OCCUPANCY TAX SURCHARGE	Increase Hotel Occupancy Tax on hotels and short term rentals to fund transportation improvements (including transit and rail) that benefit tourists and business travelers.	●	●	◐	✓		
AMEND 4A / 4B	Amend 4A/4B Enabling Legislation to allow TA member cities to pass voter-approved measures for economic development exceeding the 2-cent sales tax cap to obtain or maintain TA membership	●	●	◐	✓		
SALES TAX CAP INCREASE (B)	Increase sale tax cap - blanket	●	◐	●	✓		
TEXAS MOBILITY FUND	Require expenditure of a portion of the Texas Mobility Fund for public transportation and extend allowable period for payment of debt service by legislation or modification of Texas Transportation Commission policy.	●	◐	●	✓		
DEVELOPMENT IMPACT FEE SURCHARGE	Authorize a new county-level Development Impact Fee for Transportation (including transit and rail)	●	●	◐	✓		
DEDICATED TXDOT FUNDING APPROPRIATION	Secure dedicated funding for public transportation and rail via TxDOT appropriations and general revenue by legislation or modification of Texas Transportation Commission policy	●	●	◐	✓		
PROP 7	Redirect portion of Proposition 7 funding from rental car sales and use taxes to transit and rail	●	●	◐	✓		
SALES TAX CAP INCREASE (A)	Increase sale tax cap - for transit	●	●	○		✓	Tier 2
LOCAL BUSINESS SURCHARGE	Revisit TLOTA local business surcharge proposal for transportation	◐	●	◐		✓	
LOCAL RENTAL CAR FEE SURCHARGE	Authorize Local Rental Car fee for transportation (including transit and rail)	◐	●	◐		✓	
LOCAL RIDEHAILING FEE	Authorize Local ridehailing fee for transportation (including transit and rail)	◐	●	◐		✓	
TEXAS EMISSION REDUCTION PLAN PROGRAM	Increase funding from the Texas Emission Reduction Plan (TERP) for the Governmental Alternative Fuel Fleet (GAFF) Program	◐	◐	●		✓	Tier 3
LOCAL OPTION GAS TAX	Revisit TLOTA voter-approved gas tax proposal for transportation	●	◐	○		✓	
RESTRICTIONS ON USE OF 4A / 4B	Disallow non-TA member jurisdictions to use 4A/4B revenue to provide tax incentives to companies relocating from a TA member jurisdiction	◐	●	○		✓	
RETAIL DELIVERY FEE	Authorize a retail delivery fee on packages for transportation (including transit and rail)	○	◐	◐		✓	
LOCAL OPTION VEHICLE REGISTRATION FEE	Revisit TLOTA voter-approved registration fee proposal	◐	◐	○		✓	



		Evaluation Criteria			Implementation Timeframe		
		Revenue Potential	Incentivize Jurisdictional Support for Transit	Nexus with Other Benefits (e.g. safety, economic development, air quality)	Short Term Action Needed (1-3 YEARS)	Intermediate Term Action (4-6 YEARS)	
<b>PROTECT EXISTING TRANSPORTATION AUTHORITY SALES TAX FUNDING</b>							
<b>DART 1%</b>	Support protection of DART's 1 cent sales tax funding source				✓		Tier 1
<b>DART ENABLING STATUTE</b>	Oppose proposed statutory changes to DART's enabling statute				✓		
<b>PROVIDE TOOLS TO FACILITATE TRANSIT ORIENTED DEVELOPMENT</b>							
<b>AUTHORIZE TOD P3 PARTNERSHIPS</b>	Advocate passage of legislation granting statutory authority to enter into TOD partnerships. Support legislation such as SB 1984 Alvarado to streamline legislation that would make P3 possible	●	●	●	✓		Tier 1
<b>ADDITIONAL LEGISLATIVE CONCEPTS</b>							
<b>FAIR SHARE</b>	Require authorities to work with member jurisdictions to define how to address equitable allocation of service relative to sales tax collected and local and interjurisdictional travel demand, rather than legislatively defining equitable allocation				✓		Tier 1
<b>P3</b>	Advocate for passage of legislation granting statutory authority to enter P3 partnerships for transit and rail, as well as TOD Support legislation such as SB 1984 Alvarado to streamline legislation that would make P3 possible	●	●	●	✓		
<b>TA ADDITION</b>	Create a 4th TA					✓	Tier 3



Figure 7. Policy Concepts for Consideration

		Evaluation Criteria		
		Revenue Potential	Incentivize Jurisdictional Support for Transit	Nexus with Other Benefits (e.g. safety, economic development, air quality)
<b>NCTCOG/RTC</b>				
<b>REVIEW NCTCOG/RTC POLICIES AND PROCEDURES</b>	Review and reassess policies and procedures used to prioritize projects and allocate transportation funding sources. Example policies could include: <i>Prioritize funding for projects that will lead to expansion of regional transit and rail services</i> <i>Prioritize expansion of regional multimodal connectivity options</i> <i>Prioritize funding for jurisdictions that contribute local funding to transit</i> <i>Require jurisdictions of a certain size to join a TA within a specified time frame to qualify for future funding</i>	●	●	●
<b>INCREASE FLEXING OF FUNDS TO TRANSIT AND RAIL</b>	Increase level of federal funding flexed from highways and transit to rail	●	●	●
<b>ENSURE TRANSIT AGENCY AWARENESS OF ALL GRANT AND FUNDING OPPORTUNITIES</b>	Educate and increase transit agency awareness of all available grant and funding opportunities			
<b>PROVIDE TOD FINANCIAL SUPPORT</b>	Increase level of COG funding to support TOD	●	●	●
<b>ENSURE AVAILABILITY OF PRIVATE ACTIVITY BONDS</b>	Ensure State Private Activity Bonds (PABs) can be used for transit and rail	N/A	●	○
<b>PROVIDE DEVELOPER FINANCIAL INCENTIVES</b>	Provide financial incentives (e.g. grants for adjacent transportation improvements, fare subsidies) for developers in TA member jurisdictions	●	●	●
<b>PROVIDE TECHNICAL SUPPORT TO JURISDICTIONS</b>	Assist jurisdictions in developing and implementing expanded tools such as overlay districts to allow planning and development of new and expanded transportation corridors	●	●	●
<b>TRANSIT AUTHORITY POLICIES AND PROCEDURES</b>				
<b>PROCEDURES TO ADDRESS MEMBER CONCERNS</b>	Assess opportunities for TA boards to modify policies and procedures to address member concerns to minimize the desire for members to go to the legislature	N/A	●	●
<b>RECONSIDER TIME LIMIT ON CONTRACTING FOR TRANSIT SERVICE</b>	Reconsider any time limits on service contracting	○	●	●
<b>INCREASE TRANSIT CONTRACTING OPPORTUNITIES</b>	Consider alternative approaches for non-member jurisdictions to contract with TAs for transit services (e.g. LGC Formation, 4A/4B, expanded range and term for contract services)	●	●	●





## 8. Recommendations for Advancement by NCTCOG

Based on the preliminary evaluation of the conceptual legislative proposals, the following approaches are recommended for advancement by NCTCOG in the short term (1-3 years) and intermediate term (4-6 years):

### Tier 1 Action: 15 Legislative Concepts

There are fifteen Tier 1 concepts recommended for advancement by NCTCOG in the short term (1-3 years):

- **STATE STRATEGIC INTERMODAL SYSTEM (SIS):** Enact legislation to create a State Strategic Intermodal System (SIS) program modeled after Florida's SIS to advance and provide matching funds for strategic intermodal corridors.
- **SPECIAL-PURPOSE TRANSPORTATION CORRIDOR ENTITIES TO ADVANCE PASSENGER AND FREIGHT RAIL TRANSPORTATION FUNDING AREAS (RAIL CORRIDOR TFA):** Building on the Transportation Funding Area (TFA) concept advanced by the RTC in 2008, enact legislation to enable creation of voter-approved county / multi-county TFAs to promote shared use of rail corridors for passenger and freight services, work with transit authorities and local jurisdictions to develop funding plans, and negotiate cost-sharing arrangements whereby member jurisdictions could levy voter-approved taxes or fees to fund transportation capital projects for transit and rail. Such a concept could have high applicability to advance passenger rail services in corridors currently owned by transit authorities such as DART and used by private freight rail operators. Such entities could also provide opportunities to combine funding sources currently limited to freight rail to advance passenger rail service in shared corridors.
- **STATE HIGHWAY FUND:** Redirect a portion of the State Highway Fund to transit and rail by legislation or modification of Texas Transportation Commission policy.
- **HOTEL OCCUPANCY TAX SURCHARGE:** Increase the Hotel Occupancy Tax on hotels and short-term rentals to fund transportation improvements, including transit and rail that benefit tourists and business travelers.
- **AMEND 4A/4B:** Amend 4A/4B enabling legislation to allow transportation authority member jurisdictions to pass voter-approved measures exceeding the two-percent sales tax cap to fund economic development and/or for non-member jurisdictions to pass voter-approved measures exceeding the two-percent sales



tax cap to fund new transit authority membership. For background, in 1989, the Texas Legislature amended the enabling legislation by adding Section 4A, which provided that a Section 4A development corporation could be funded by the imposition of a local sales and use tax dedicated to economic development. In 1991, the legislature authorized another new type of sales tax, a Section 4B sales tax. This legislation authorized a one-half-cent sales tax to be used by certain jurisdictions to promote a wide range of civic and commercial projects.

- **SALES TAX CAP INCREASE (B):** Increase the two-percent tax on local sales tax without restricting it for transit and rail.
- **TEXAS MOBILITY FUND (TMF):** Require expenditure of a portion of the Texas Mobility Fund for public transportation and extend allowable period for payment of debt service by legislation or modification of Texas Transportation Commission policy.
- **DEVELOPMENT IMPACT FEE SURCHARGE:** Authorize a new county-level Development Impact Fee for Transportation (including transit and rail).
- **DEDICATED TXDOT FUNDING APPROPRIATION:** Secure dedicated funding for public transportation and rail via TxDOT budget appropriations of state general revenue by legislation or modification of Texas Transportation Commission policy.
- **PROPOSITION 7:** Direct a portion of Proposition 7 funding derived from rental car sales and use taxes to fund transit and rail.
- **DART 1%:** Support DART in defending its voter-approved one-cent sales tax funding source until an alternative, dedicated, and equivalent or greater than equivalent revenue source can be identified.
- **DART ENABLING STATUTE:** Oppose proposed statutory changes to DART's enabling statute with respect to level of sales tax contribution (Ch 452 TTC, Ch 322 Tax Code - Transit Sales and Use Tax).
- **AUTHORIZE TOD PUBLIC-PRIVATE PARTNERSHIPS (P3s):** Advocate passage of legislation granting statutory authority to enter long-term partnerships that spur TOD. Support legislation such as SB 1984 Alvarado to streamline legislation that





would make P3 possible.

- **FAIR SHARE:** Propose legislation that requires authorities to work with member jurisdictions to define how to address equitable allocation of service relative to sales tax collected and local and interjurisdictional travel demand, rather than legislatively defining equitable allocation.
- **PUBLIC-PRIVATE PARTNERSHIPS:** Advocate passage of legislation granting statutory authority to enter into public-private partnerships for transit and passenger rail, as well as TOD. Support legislation such as SB 1984 Alvarado to streamline legislation that would make P3 possible.

## Tier 2 Action: 5 Legislative Concepts

There are five Tier 2 concepts are recommended for advancement by NCTCOG in the intermediate term (4-6 years):

- **SALES TAX CAP INCREASE (A):** Increase the two-percent cap on local sales tax to fund transit and rail.
- **LOCAL BUSINESS SURCHARGE:** Authorize a new local business surcharge for Transportation (including transit and rail).
- **LOCAL RENTAL CAR FEE SURCHARGE:** Authorize a new local rental car fee surcharge for Transportation (including transit and rail).
- **LOCAL RIDE-HAILING FEE:** Authorize a new local ride-hailing fee surcharge for transportation (including transit and rail).
- **TEXAS EMISSION REDUCTION PLAN (TERP):** Increase the share of TERP funding for the Governmental Alternative Fuel Fleet (GAFF) Program, for which the purchase of transit vehicles is an eligible cost.

## Tier 3 Action: 5 Legislative Concepts

There are five Tier 3 concepts are recommended for advancement by NCTCOG in the intermediate term (4-6 years). Note that “advancement” does not necessarily mean implementation; for example, in the case of TA Addition, NCTCOG should determine in the intermediate term if pursuing the creation of an additional TA is desirable.



- **LOCAL OPTION GAS TAX:** Revisit the concept of a voter-approved local option gas tax, as proposed in 2008 as part of the Transportation Local Option Transportation Act (TLOTA), C.S.S.B 855 by Carona.
- **RESTRICTIONS ON USE OF 4A/4B:** Disallow non-member jurisdictions to use 4A/4B revenue to provide tax incentives to companies relocating from a TA member jurisdiction.
- **RETAIL DELIVERY FEE:** Enable a local retail delivery fee on packages, similar to programs in Minnesota and Colorado. Minnesota enacted a Retail Delivery Fee in 2023 that imposes a 50-cent charge on purchases of more than \$100, projected to generate \$59M in its first year. Colorado enacted a Retail Delivery Fee of 29 cents in 2022 to fund highways, bridges, tunnels, electric vehicle charging stations, and projects to reduce air pollution and to electrify vehicle fleets and transit systems, generating more than \$160M. This would support transportation (including transit and rail).
- **LOCAL OPTION VEHICLE REGISTRATION FEE:** Revisit the concept of a voter-approved local vehicle registration fee, as proposed in 2008 as part of the Transportation Local Option Transportation Act (TLOTA), C.S.S.B 855 by Carona.
- **TRANSIT AUTHORITY ADDITION:** Create one or more additional transit authorities to provide transit service to jurisdictions unable to commit the required portion of sales tax to obtain service from existing authorities. This new authority could be focused on developing and providing commuter rail service outside of existing transit authority service area boundaries. Alternatively, enact legislation to enable creation of voter-approved county / multi-county TFAs to promote shared use of rail corridors for passenger and freight services.

## Short Term Action: All Policy Proposals

All ten conceptual policy proposals for NCTCOG/RTC and the transit authorities are recommended for short term consideration.

NCTCOG/RTC Policies and Procedures:

- **REVIEW NCTCOG/RTC POLICIES AND PROCEDURES:** NCTCOG is responsible for prioritizing and allocating funding for transportation projects in the region under various funding programs, including Metropolitan Corridor funds, Congestion Mitigation and Air Quality (CMAQ) funds, Federal Highway



Administration (FHWA) Surface Transportation Block Grant (STBG) flexible funds, Carbon Reduction Program funds, and Transportation Development Credits. With such significant funding allocated at its discretion, NCTCOG could incorporate into the long-range metropolitan transportation plan, Mobility 2050 a comprehensive review of policies and procedures used to prioritize projects and allocate transportation funding under its purview.

- **INCREASE THE LEVEL OF FEDERAL FUNDING FLEXED FROM HIGHWAYS TO TRANSIT AND RAIL:** NCTCOG can assess and potentially redirect FHWA flexible funding from highways to transit and rail. Higher levels of flexing could make more federal funding available to the transit authorities and their member jurisdictions to supplement existing sources of transit and rail funding, especially local sales tax revenues. Consideration should be provided for the required local match to access the available federal funding source.
- **ENSURE INFORMATION IS SHARED WITH THE TRANSIT AUTHORITIES AND THEIR MEMBER JURISDICTIONS ABOUT OPPORTUNITIES TO PURSUE FEDERAL AND STATE FUNDING FOR TRANSIT, RAIL, AND TRANSIT-ORIENTED DEVELOPMENT:** NCTCOG has launched an online “quick search database” that agencies can use to secure information about funding opportunities for a variety of transportation programs and projects. Information on funding opportunities is also presented to the Surface Transportation Technical Committee and at RTC meetings. Access to such information is a valuable resource, and its use could be promoted across the region. This can include regular collaboration with transit authorities on grant strategies that seek to maximize funding for projects, programs and economic development/TOD within transit authority boundaries. To gauge information needs, NCTCOG is considering a survey of members to see if more or different information regarding funding opportunities is needed.
- **PROVIDE TOD FINANCIAL SUPPORT:** NCTCOG has historically provided thought leadership on TOD, for example through the Coordinated Land Use and Transportation Planning Task Force, as well as land banking efforts through the 2006 Sustainable Development Call for Projects. NCTCOG can build on these efforts by facilitating efforts between jurisdictions and transit authorities to re-zone transit-proximate parcels, particularly those owned by transit authorities. NCTCOG can also incentivize transit-proximate living through incentives like free or discounted transit passes for residents of transit-proximate developments.



- **ENSURE AVAILABILITY OF PRIVATE ACTIVITY BONDS:** Ensure State Private Activity Bonds (PABs) can be used for transit and rail.
- **PROVIDE DEVELOPER FINANCIAL INCENTIVES:** Provide financial incentives (e.g. grants for adjacent transportation improvements, fare subsidies) for developers in TA member jurisdictions.
- **PROVIDE TECHNICAL SUPPORT TO JURISDICTIONS:** Assist jurisdictions in developing and implementing expanded tools such as overlay districts to allow planning and development of new and expanded transportation corridors.

Transit Authority Policies and Procedures:

- **PROCEDURES TO ADDRESS MEMBER CONCERNS:** Assess opportunities for outside facilitators to resolve challenges locally.
- **RECONSIDER TIME LIMIT ON CONTRACTING FOR TRANSIT SERVICE:** Expand options and/or reconsider terms and conditions for non-member jurisdictions to contract with transit authorities for various public transportation services. Such approaches could include additional local government corporation (LGC) formation, use of 4A/4B funding, and expansion of the range and term for contract services. The three transit authorities differ in the types of opportunities and approaches they allow, and this likely would also require outside facilitation and negotiation.
- **INCREASE TRANSIT CONTRACTING OPPORTUNITIES:** Consider alternative approaches for non-member jurisdictions to contract with TAs for transit services (e.g. LGC Formation, 4A/4B, expanded range and term for contract services).