

January 8, 2020

To: California Transit Association – Public Transit System Members
Other Public Transit Systems
California Transit Association – Transit Support Group Members
Other Regional Transportation Planning Agencies

From: Rick Ramacier, State Legislative Committee Chair, California Transit Association (General Manager, County Connection)
Joshua W. Shaw, Executive Director, California Transit Association

**RE: *Transportation Development Act Reform – A Draft Framework*
Your Feedback Requested; Please Participate in January 23 Webinar**

California's Transportation Development Act (TDA) of 1971 provides the lifeblood of public transportation funding in California. The TDA is an important source of funding for the state's public transit agencies, representing approximately 18 percent of their total revenue between the TDA's two revenue streams – Local Transportation Funds (LTF) and the State Transit Assistance (STA) Program.

This memo transmits to you the initial draft results of a year-long effort by a task force of public transit operators and regional transportation planning agencies to examine TDA's performance measures, at the request of legislative leaders, and, to put forward a concept framework for possible legislative revisions to those aspects of TDA.

Please see **Attachment 1** for the draft concept document.

California Transit Association staff and representatives of the task force will conduct a webinar to unveil the draft proposal, and, to answer your questions and take your feedback, as follows:

TDA Reform Webinar
Thursday, January 23, 2020
10:00am to Noon

To register for the webinar, please use this [LINK](#).

On the following pages, please find additional background on the TDA and the reform task force process.

Background

The Transportation Development Act (TDA) originated as an effort to modernize and expand public transit in California with dedicated revenue sources, while also holding individual transit agencies accountable for their public expenditures by setting specific performance requirements.

The most notable of these was the farebox recovery requirement, which was established in 1978. However, the Legislature has periodically added exemptions to the TDA's requirements and allows certain non-fare revenue to be counted in the farebox calculation, creating an uneven playing field for operators that lack such revenue.

While the TDA has evolved over the nearly 50 years since its adoption, many observers of the state's 21st century transportation landscape have raised the question of whether the law is due for an overhaul. That prospect entered the conversation more formally for the public transit industry when the chairs of California's state legislative transportation committees, Senator Jim Beall (D-San Jose) and Assembly Member Jim Frazier (D-Antioch), requested the California Transit Association to spearhead a policy task force to examine the TDA.

In a letter to the Association (see **Attachment 2**), the transportation chairs specifically requested that the task force fully examine TDA's performance measures applicable to the state's public transportation systems, and produce a legislative recommendation for any reforms or changes to the current programs the task force chooses to recommend.

Accordingly, the Association's Executive Committee authorized a subset of the members of the Association's State Legislative Committee to comprise the task force, as supplemented by representatives from selected agencies or regions that had sponsored legislation in 2018 to amend TDA statutes. A cross-section of public transit operators and regional transportation planning agencies, the organizations represented on the TDA Reform task force are:

County Connection	SANDAG
Golden Empire Transit District	San Diego MTS
LA Metro	SamTrans
Long Beach Transit	Santa Clara VTA
MTC	Santa Cruz METRO
Monterey-Salinas Transit	Santa Monica's Big Blue Bus
OCTA	Stanislaus COG
Riverside Transit Agency	Victor Valley Transit Authority
Sacramento RT	

County Connection General Manager Rick Ramacier – Chair of the Association's State Legislative Committee – chairs the task force, and Association staff have provided support.

Task Force Process

Originally aiming to complete its report by fall of 2019, for possible legislative consideration in 2020, the task force conducted numerous meetings throughout the year – including various subcommittee and stakeholder outreach meetings.

At its kickoff meeting, the group adopted principles to guide its work. Among them is the intent to use this conversation about TDA and public transit to focus not only on how to improve the current TDA performance measures – farebox recovery ratio for LTF; and operating cost per hour operator eligibility

criteria for STA Program funds – but also to educate and engage state policymakers on the question of how the state, transit agencies and other stakeholders could collaborate to understand and begin to work towards breaking down the barriers to greater public transportation use in California.

The task force also identified a “critical path question” that must be addressed through this process: should the existing performance measures simply be amended, or replaced entirely?

At its March meeting, the task force invited a transit planning consultancy to present an overview of the various trade-offs facing transit governing boards, policymakers and communities – any one of which makes it difficult to pre-determine one performance metric that could be used to measure an agency’s progress towards its community’s (often disparate) goals.

For instance, when determining how best to allocate its limited resources, a transit agency’s leadership and community stakeholders are often faced with the question of whether to fund services that aspire to maximize ridership, versus services that provide lifeline or minimal service to everyone in the community (often referred to as the “ridership” vs. “coverage” dichotomy). While one performance metric may tell the community a lot about whether the agency is achieving its ridership goals, that same metric may ignore or mask the agency’s efforts to (and the cost of service to) maintain coverage. These decisions may also have disparate impacts on farebox recovery, the chief accountability metric in TDA.

Subsequent meetings included input from a variety of state-level stakeholders – including associations representing cities, counties, rural planning agencies, and councils of governments; the California State Transportation Agency; Caltrans’ Division of Mass Transportation; and, legislative transportation committee consultants staffing Chair Beall and Chair Frazier. The task force also heard detailed presentations from agencies in two regions where local transit operators are facing particularly acute challenges complying with TDA’s performance measures.

To support the task force’s work, the group also reviewed the request of legislative leaders who’d asked the UCLA Institute of Transportation Studies to gather and analyze data that could be useful to the effort and to policymakers eventually considering our recommendations. The task force provided input at the front end, and, subsequently analyzed the results of two distinct research projects by UCLA ITS:

- A survey of public transit agencies, with input from regional transportation planning agencies, to determine which agencies face challenges in complying with either or both of TDA’s performance measures, and some qualitative assessment of the nature of the challenges and possible solutions.
- A survey of transit funding performance measurement systems utilized by other states, accompanied by a qualitative assessment of any system’s possible fit with California’s transit environment and different State policy goals.

Of the several key findings in the report delivered by UCLA ITS (which may be found at this [LINK](#)), we note particularly these conclusions:

- The state’s goals for transit have changed and broadened considerably since 1971 when the TDA became law and 1978 when the farebox recovery requirement was added; and,
- A survey of California transit and regional agency professionals reveals the current TDA requirements appear to influence agency management decisions in ways that do not align with the state’s current goals for transit.

Based on this data and other input, the task force conducted its own analysis, including a “nuts & bolts” examination of how TDA’s performance metrics currently work, and how different statutory iterations of the same basic measures apply differently to agencies in different circumstances (e.g. rural vs. urban; rail vs. bus; older agencies vs. newer agencies; etc.).

The task force also developed and considered various alternative concepts for possibly replacing the current TDA performance metrics altogether.

After noting that most transit agencies currently meet the state’s farebox recovery requirements and are comfortable with the TDA’s current statutory and regulatory structure and requirements, the task force acknowledged that many smaller transit operators, usually those serving rural and/or suburban communities, regularly struggle to meet the required farebox recovery requirement. Many of these agencies are in counties without a voter-approved tax measure producing local transit revenue that could otherwise be included in the agency’s farebox ratio calculation.

Draft Framework

Thus, the task force put forward a draft framework for TDA reform which:

1. Retains TDA’s current farebox recovery requirements as an important data set for policymakers at all levels. The ratios would be targets that all transit agencies should strive to hit.
2. Removes financial penalties associated with missing farebox recovery requirements for all agencies.
3. Requires that agencies that miss their required farebox recovery for three years in a row be given the option in year four to either: 1) develop and submit an action plan to its regional transportation planning agency (RTPA) that details the steps it will take to meet its farebox recovery requirement; or, 2) develop new targets, in collaboration with its RTPA, that monitor the transit agency’s contribution to local, community, regional or statewide goals.
4. Adjusts some aspects of the farebox recovery ratio definitions for the numerator and denominator, and, lower the basic targets, to better reflect current goals and objectives for public transit, and, to more realistically accommodate today’s most pressing transit challenges and unfunded mandates.

Please see **Attachment 1** for the detailed draft framework concept document.

Next Steps

During the January 23 webinar, we will take questions from any and all participants; and, Association staff will attempt to address all questions.

We will also take suggestions and feedback on the draft concept framework.

We may also subsequently schedule several listening sessions around the state, to provide you a face-to-face opportunity to hear and respond to the details of the proposal.

When this phase of the stakeholder outreach process has concluded, the task force will convene again to process all the feedback. This could lead to revisions to the draft framework.

In any case, the California Transit Association's Executive Committee must then approve a final framework, which we would package into a report and deliver to the legislature, for consideration and possible legislative action in 2020.

In the meantime, please let us know if you have any feedback or questions. You may contact California Transit Association Executive Director Joshua W. Shaw via josh@caltransit.org.

TDA Reform Task Force**21st Century Framework for Transportation Development Act Policy Change****Revised 1/3/20****Background**

California's Transportation Development Act (TDA) of 1971 provides the lifeblood of public transportation funding in California. The TDA is an important source of funding for the state's public transit agencies, representing approximately 18 percent of their total revenue between the TDA's two revenue streams – Local Transportation Funds (LTF) and the State Transit Assistance (STA) Program. The TDA originated as an effort to modernize and expand public transit in California with dedicated revenue sources, while also holding individual transit agencies accountable for their public expenditures by setting specific performance requirements. The most notable of these was the farebox recovery requirement, which was established in 1978. However, the Legislature has periodically added exemptions to the TDA's requirements and allows certain non-fare revenue to be counted in the farebox calculation, creating an uneven playing field for operators that lack such revenue. These changes have led some to ask whether the time has come to overhaul the TDA performance measure system.

This paper recommends reforms to the TDA performance measurement system that keep the farebox requirements as benchmarks that work well for most operators, while removing the financial penalty associated with noncompliance. This would be replaced with stronger oversight at the regional level and new reporting requirements for transit operators that repeatedly fall short of farebox requirements; these agencies would be required to show how their systems perform relative to other important local, regional, and statewide goals.

Problem Statement

A recent UCLA ITS study reached several key findings, including:

- The state's goals for transit have changed and broadened considerably since 1971 when the TDA became law and 1978 when the farebox recovery requirement was added; and,
- A survey of California transit and regional agency professionals reveals the current TDA requirements appear to influence agency management decisions in ways that do not align with the state's current goals for transit.

Some aspects of TDA law have outlived their usefulness in today's public transit environment:

- While still a useful measure of transit performance, the imposition of arbitrary farebox recovery requirements on transit agencies – wherein receipt of LTF or STA funds is contingent on compliance with an agency's assigned ratio – is incompatible with the state's public transit-related goals, including reducing greenhouse gas emissions and traffic congestion by reducing reliance on auto travel, improving public health, and providing lifeline mobility options to low-income transit riders who rely on transit.

- The linkage between cost-containment thresholds and eligibility for TDA and STA funds at best serves as a disincentive for transit agencies to attract new riders (or make transit more affordable to existing low-income riders) by offering discounted or free fares, and, at worst, results in cuts to agencies that can least afford it, causing a “transit funding death spiral” that repels riders as service is cut, further diminishing revenue, making it harder to comply with the farebox requirement, and so on.

Now What?

While most agencies currently meet the state’s farebox recovery requirements and are comfortable with the TDA’s current statutory and regulatory structure and requirements, many smaller transit operators, usually those serving rural and/or suburban communities, regularly struggle to meet the required farebox recovery requirement. Many of these agencies are in counties without a voter-approved tax measure producing local transit revenue that could otherwise be included in the agency’s farebox ratio calculation.

In the last year, at least seven transit operators have fallen out of compliance with their farebox recovery requirements. Under current law, their respective regional transportation planning agencies had no choice but to deny them millions of dollars in vital TDA funds.

A New Results-Oriented Accountability Framework

It’s time for California to update TDA’s farebox recovery requirements in a manner that provides *all* transit agencies operating funds they can count on, while creating a more rational *results-oriented accountability framework* for agencies that miss their farebox recovery target.

Under this proposed framework, an agency that misses its farebox recovery requirement for three years in a row would be given the option to either: 1) develop and submit an **action plan** to its regional transportation planning agency (RTPA) that details the steps it will take to meet its farebox recovery requirement; or, 2) develop **new performance targets**, in collaboration with its RTPA, that reflect the transit agency’s contribution to local, community, regional or statewide goals.

This two-track approach will help transit agencies that seek to meet their farebox target create and stay on a path to do so, rather than face funding cuts which will simply drive transit riders away. Or an operator can choose to focus on a broader set of performance targets that are more relevant to goals set by local, regional and state policymakers, to understand how their transit services contribute to 21st century goals for public transportation.

Under either of these paths, if a transit agency does not make meaningful progress towards its farebox recovery or falls short of the new targets it has established in partnership with its RTPA, it could be required by its RTPA to take certain steps to demonstrate a good faith effort as a condition of receiving more TDA funds.

Specifics Changes Needed for a New TDA Transit Accountability Framework

The proposed framework addresses our goal of eliminating the financial penalty for transit agencies not in compliance with their farebox recovery requirements, without requiring an entirely new system for all operators – given the vast majority *are* meeting the state’s minimum requirements.

Under this approach, the farebox standards would remain in statute as a benchmark, but the financial penalty for non-compliance would be eliminated.

In lieu of a financial penalty, but to retain accountability to the state, a transit agency that misses its required farebox recovery for three years in a row would be required to follow one of two paths, beginning in year four:

Option A: The transit agency must identify strategies to help meet its farebox recovery requirement, and then develop and submit to its RTPA an action plan to accomplish that goal.

If the target is still not met after three additional years, but the RTPA determines the transit agency is taking all appropriate steps outlined in the action plan – but just can’t meet its required farebox recovery – the transit agency is moved to Option B, described below, and instead reports alternative targets going forward.

If, on the other hand, the RTPA determines that the transit agency is not complying with the action plan submitted to the RTPA, then the RTPA is authorized to require the agency to take certain steps to demonstrate good faith effort as a condition of continued receipt of its TDA funds. The authorizing bill could limit or enumerate the types of steps the RTPA might require.

In any case, once a transit agency hits its farebox recovery ratio again, the framework returns to *status quo ante*.

Option B: The transit agency, in collaboration with its RTPA, must develop new performance targets and begin measuring and reporting to the RTPA and the state its progress towards meeting these targets, which must include both of the following:

1. At least one measure from each of the traditional three types of transit performance measures of an agency’s cost efficiency, cost effectiveness and service effectiveness. The authorizing bill would include parameters and examples.
2. Alternative measures that reflect progress towards local, regional, or state goals, such as greenhouse gas reduction, overall ridership, service to seniors, service to medical centers, students served, etc. The authorizing bill would include parameters and examples.

If the RTPA determines after three additional years that the transit agency's performance is falling too short of any of the selected goals, then the RTPA is authorized to require the agency to take certain steps to demonstrate good faith effort as a condition of continued receipt of its TDA funds. The authorizing bill could limit or enumerate the types of steps the RTPA might require.

On the other hand, if the RTPA determines that a transit agency is hitting its new performance measures, the framework returns to *status quo ante*.

Changes to Farebox Recovery Requirements Also Needed

In addition to eliminating the transit funding death spiral by doing away with the financial penalties associated with current farebox recovery requirements, the Legislature should also update the rules related to the farebox calculation. The following changes to the current statutes are called for:

- Expand the allowable funding sources that can be included in the farebox revenue calculation (e.g. federal funds, LCTOP)
 - California policymakers generally appreciate locals using their own or other monies to “match” state grants; while voter-approved taxes are currently allowed, federal funds and state cap-and-trade funds are not.
 - This change would be especially helpful for transit agencies in non-sales tax counties where federal funds may represent an important source of the operating budget.
- Lower the required ratios [e.g. from 20% in urban areas to 15%; from alternative “not less than 15%” in PUC 99268.12 areas to not less than 10% (and raise population threshold below which this alternative ratio is allowed, to 750,000 or to 1,000,000); and, from 10% in non-urban areas to 7.5%]
 - Transit operating costs have far outpaced available revenue over the last 30 years. The minimum farebox recovery requirements should be reduced to reflect this and avoid putting pressure on agencies to raise fares on the backs of their riders, many of whom are low-income.
- Exclude compliance costs for the Air Resources Board's new Innovative Clean Transit regulation
 - California now requires every single transit agency to adopt and operate expensive and unproven zero-emission technology, greatly increasing the cost of operations for traditional bus service (e.g. re-training of the vehicle maintenance workforce).
- Exclude all elderly & disabled and ADA paratransit costs from the calculation of operating cost
 - Transit agencies with otherwise high-performing fixed-route service see their farebox ratios weighed down by having to include the high-cost E&D or ADA services; differentiating between the two kinds of services helps policymakers and local communities understand the differences.

- Exclude from the calculation of operating costs those Pension and Other Postemployment Benefit (OPEB) costs that exceed the annual Actuarially Determined Contribution (ADC)
 - The ADC would be the cost included in the farebox recovery calculation. For funding purposes, the transit agency's actuary calculates the ADC and determines the amount of funding that should be placed into the Pension or OPEB trust.
 - Implementation of Governmental Accounting Standards Board (GASB) Statement No. 68, *Accounting and Financial Reporting for Pensions*, and GASB Statement No. 75, *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions*, changed the calculation of the annual expense included in the Statement of Changes (Income Statement/P&L) for both Pension and OPEB. The ADC replaced the Annually Required Contribution (ARC) that used to represent the annual cost for both Pension and OPEB.
 - GASB 68 and GASB 75 now require the annual expense be based on the change in the associated liability. This means that the expense can swing significantly from year to year based on factors out of the transit agency's control.
 - Examples of external factors influencing the liabilities include: investment market volatility; changes to mortality tables; changes in Actuarial Standards of Practice (ASOP); demographic changes; changes in insurance costs; and, etc.

POSSIBLE OPTIONAL TECHNICAL ASSISTANCE FUNDING FOR STRUGGLING AGENCIES

Additional Technical Assistance May Be Needed for Agencies Struggling to Meet Their Required Farebox Recovery

While no consensus was reached by the TDA Reform Task Force on the idea of providing additional state funding for technical assistance, the group was comfortable with further exploration of several options for providing more technical resources to transit agencies struggling to meet their required performance measures. New resources could include funding to engage expert consultants to help design the action plan steps required in our proposed new framework.

Options might include:

Path 1: This path would set a goal of funding an ongoing pot of technical assistance funds, capped at \$4 million.

To reach that goal, the statute would allocate some amount of dollars “off the top” from the LTF, each year until the goal was met. In the first years of the proposal, the statute would specify that no more than, say, \$1 million per year flows into the pot. In other words, in this example, the pot would be fully funded in the first four years.

Then, as transit agencies access the funds, at the point at which the available pot of funds drops below \$2 million, the statute would automatically require replenishment and appropriations would begin again and proceed until the \$4 million cap was reached.

Path 2: On this path, the legislature would annually allocate \$1 million from the non-STA Program “side” of the Public Transportation Account (PTA) to a fund that would be capped at \$4 million. As transit agencies access the funds, at the point at which the available pot of funds drops below \$2 million, appropriations would begin again and proceed until the cap was reached. The statute would automatically require replenishment, but at a rate no faster or more than the per-year cap referenced above.

Path 3: RTPAs could choose to make available to struggling transit agencies some portion of the STA Program funds they receive on the population basis, the expenditures for which are largely discretionary to the RTPA.

Path 4: The law could clarify that any struggling transit agency could choose to spend any of its existing funds to support the technical assistance needed to comply with the new measurement framework.

Importantly, on any of these or other paths that might be chosen, there would be no requirement for transit agencies to apply for or spend this funding; rather, it would be a resource available to help operators improve their service.

In the first three options, agencies who have missed their required farebox recovery would get priority for funding, but other agencies that are seeking additional resources to help with service planning, especially those at risk of missing their farebox recovery requirement, could also be eligible.

Funds could be used as follows:

- To fund the costs of assembling and bringing onsite a peer-to-peer study group, which would then analyze all the factors affecting the transit agency's performance relative to its farebox recovery requirement (and/ or, the new measures developed under Option B), and, make a set of recommendations to address any identified challenges in meeting the target going forward.
- To fund a consultant pre-qualified by the RTPA, which would then analyze all the factors affecting the transit agency's performance relative to its farebox recovery requirement (and/ or, the new measures developed under Option B), and make a set of recommendations to address any identified challenges in meeting the target going forward.

Summary of the Proposed New TDA Framework

At its essence, this proposal would:

1. Retain TDA's current farebox recovery requirements as an important data set for policymakers at all levels. The ratios would be targets that all transit agencies should strive to hit.
2. Remove financial penalties associated with missing farebox recovery requirements for all agencies.
3. Require that agencies that miss their required farebox recovery for three years in a row be given the option in year four to either: 1) develop and submit an action plan to its regional transportation planning agency (RTPA) that details the steps it will take to meet its farebox recovery requirement; or, 2) develop new targets, in collaboration with its RTPA, that monitor the transit agency's contribution to local, community, regional or statewide goals.
4. Adjust some aspects of the farebox recovery ratio definitions for the numerator and denominator, and, lower the basic targets, to better reflect current goals and objectives for public transit, and, to more realistically accommodate today's most pressing transit challenges and unfunded mandates.

California Legislature

August 8, 2018

Mr. Joshua W. Shaw, Executive Director
California Transit Association
1415 L Street, Suite 1000
Sacramento, CA 95814

Re: Request for Review of the Transportation Development Act

Dear Mr. Shaw:

On behalf of the transportation policy committees of the California State Legislature, we are writing to request the California Transit Association (CTA) spearhead a Transportation Development Act Policy Task Force to fully examine performance measures for our state's public transportation system and produce a legislative recommendation for any reforms or changes to the current programs.

As you are aware, the Transportation Development Act (TDA) was crafted in the 1970s to provide a funding scheme for the state's public transportation system. TDA governs the expenditure of billions of dollars of funding for a wide variety of transit services in California. Specifically, TDA is funded by a ¼ cent statewide sales tax known as the Local Transportation Fund (LTF), and the sales tax on diesel fuel known as State Transit Assistance (STA). These funding streams are distributed to transit operators and regional transportation planning agencies (RTPAs) through long held statutory formulas. Additionally, there are different performance requirements attached to the two programs and the programs are linked, so performance outcomes in one can affect the other.

It has come to our attention in recent years that the performance measures developed in TDA law, including farebox recovery ratio, may not be adequate to meet the needs and overall transportation goals of our state. Additionally, it is our understanding that other states, and even our own California State Transportation Agency (CalSTA), have revised measurements and moved to newer standards.

As the state and regions continue to work toward the goal of reducing greenhouse gas emissions, as well as cutting other forms of air pollution, increasing the mode shift from single occupant car trips to public transportation is critical for success. Additionally, providing alternative modes of transportation helps relieve congestion on our highways, increasing the quality of life for commuters and assisting with the movement of goods throughout our state. The state remains committed to providing funding for public transit. In fact, with the recent passage of SB 1 (Beall), Chapter 5, Statutes of 2017, STA funding increased by roughly 130 percent.

Mr. Joshua Shaw
August 8, 2018
Page 2

As funding partners in these systems, the state must be able to measure performance outcomes to help guide future state policies. If the current system is not adequate, then the Legislature must consider alternatives.

To that end, we are requesting that CTA convene a Task Force of stakeholders, including but not limited to, transit operators from both urban and rural areas; RTPAs from both urban and rural areas; the Administration; and relevant academics to thoroughly examine the current TDA performance measures for both LTF and STA and propose new, updated standards for the Legislature to consider. The Task Force should consider, but not be limited to, the following:

- Issues of overall service of transit agencies, e.g. providing reliable service to commuting populations while also providing service for the elderly and disabled;
- Issues of population and population density differences, such urban versus rural service areas;
- Issues of funding, including federal, state, and local sources;
- Issues of capital and operations, e.g how do we measure performance of both capital assets and the operation of the systems;
- Issues of state oversight, e.g. which state department or agency should be responsible for transit system oversight and reporting; and,
- General issues of TDA law that should be examined, e.g. whether LTF funds should be spent on local streets and roads.

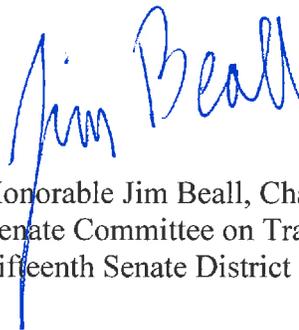
We would request that the Task Force complete their work by the Fall of 2019, so that any legislative recommendations could have full consideration during the 2020 legislative year.

We thank you in advance for taking on this monumental task and partnering with the Legislature to update TDA. Please contact Melissa White, with Assembly Transportation Committee, at melissa.white@asm.ca.gov, or Manny Leon, with Senate Transportation and Housing Committee, at manny.leon@sen.ca.gov, with any questions.

Sincerely,



Honorable Jim Frazier, Chair
Assembly Committee on Transportation
Eleventh Assembly District



Honorable Jim Beall, Chair
Senate Committee on Transportation and Housing
Fifteenth Senate District