

FARGO-MOORHEAD METROPOLITAN COUNCIL OF GOVERNMENTS
MATBUS Transit Authority Study



SRF
June 2020

MATBUS Transit Authority Study

Final Report

September 30, 2020



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Introduction

The Fargo-Moorhead Metropolitan Council of Governments (Metro COG) is the region's metropolitan planning organization (MPO); it is charged with transportation policymaking and coordination for the region and made up of representatives from local government and transportation authorities.

Metropolitan Area Transit (MATBUS) is comprised of two entities, the City of Fargo, ND and the City of Moorhead, MN, who jointly provide transit service within the region. Moreover, the Metro Area Transit (MAT) Coordinating Board (a committee of Metro COG) is a recommendatory body that facilitates and oversees a coordinated decision-making process between the City of Fargo and the City of Moorhead regarding delivery of public transit and ensures that decisions are developed in consultation with other local units of government, public institutions, stakeholders, and the general public.

The Fargo-Moorhead urbanized area (UZA) is growing. Following the 2020 Census, its population is expected to surpass 200,000, a critical threshold in many federal transportation programs. Under Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) rules, Fargo-Moorhead will then be designated as a Transportation Management Area (TMA). Among other changes, this designation will impact the Fargo-Moorhead UZA's formula and discretionary revenue streams. Specifically, the Fargo-Moorhead UZA will be subject to new Section 5307 Urban Area Formula Program formulas and rules, significantly impacting how MATBUS operations and capital projects are funded.

Metro COG and its partners studied the reorganization of the structure of MATBUS as the metropolitan area transitions to address this transition to a TMA to meet current and future needs for coordinating and providing transit service, and to improve decision-making processes for the MATBUS agency. The formation of an authority could solve some of the organizational challenges of the current structure, while also providing an avenue for expanded local transit funding for additional bus service. This transit reorganization study built on the previous transit authority study of 1999, the 2016 Transit Development Plan, and the 2018 Transit Facility Analysis and Development Strategy to recommend a preferred alternative for both its organizational structure and financial structure. These plans informed the strategic direction and the preferred growth scenarios for which operational funds are necessary.

Planning Process

The planning process, shown in Figure 1, involved a financial track to study the historic, current, and future operating budgets for MATBUS, as well as an authority assessment track to identify challenges with the current organizational structure and recommend a preferred governance alternative.

The financial track provided a detailed analysis of the current operational funding environment of MATBUS by looking at all federal, state, and local funding sources and their breakdown between Fargo and Moorhead. It then provided an informed estimate of the operational funding gap as the Fargo-Moorhead area moved to become a TMA following the 2020 census. Alternative funding sources were researched and presented to fill the funding gap and to their potential to expand local funding for expanded service identified in the medium growth transit service scenario is described in the 2018 MATBUS facilities study.

The authority assessment track studied the current organizational environment of MATBUS through a strengths, weaknesses, opportunities and threats (SWOT) analysis. It also showed case studies of other bistate transit agencies to present four governance alternatives. The alternatives were analyzed based on their ease of implementation, local political support, and ability to address the issues identified in the SWOT and financial track.

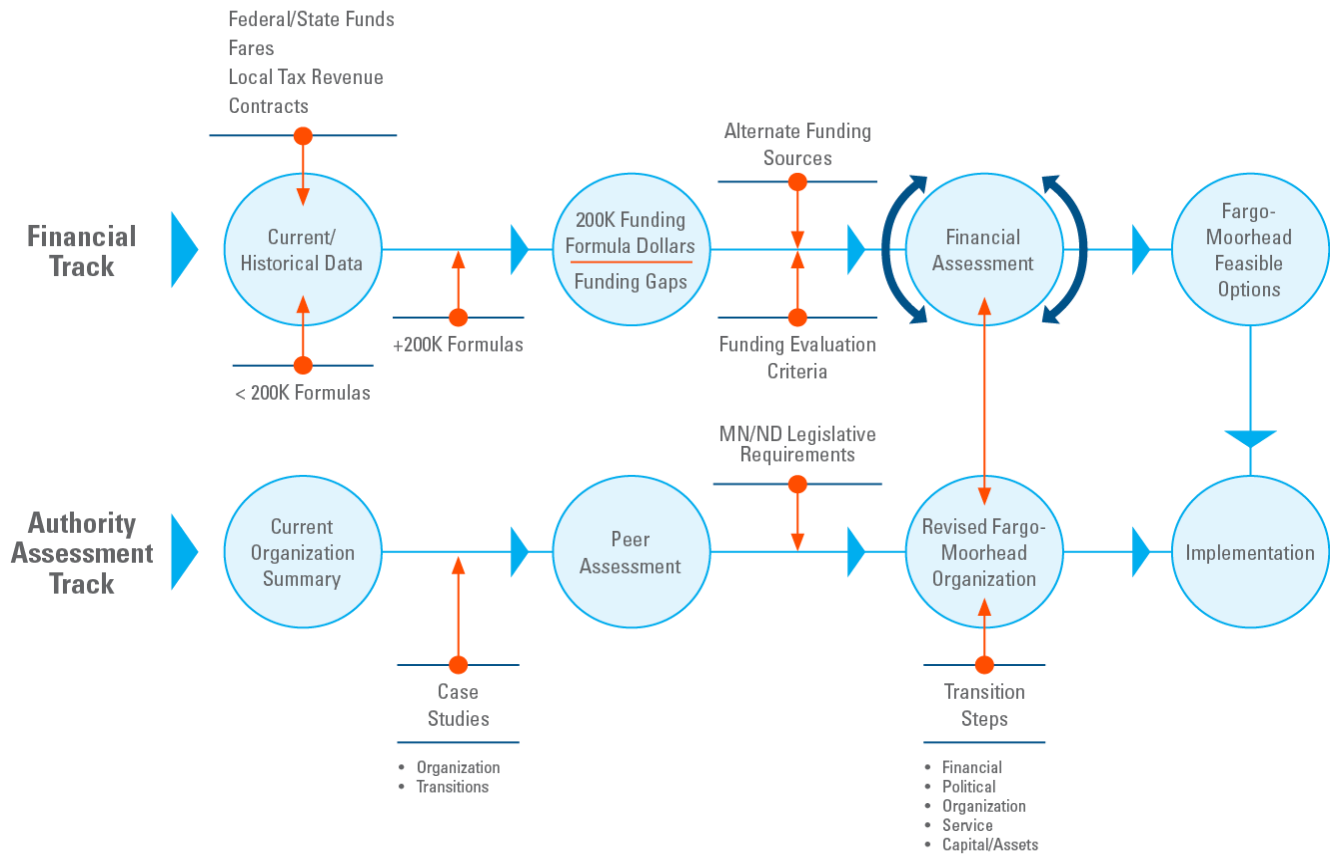
The planning process involved stakeholders from MATBUS, Metro COG, and the cities of Fargo, Moorhead, West Fargo, and Dilworth. Technical experts representing partner cities (e.g., transit, finance) served on the Technical Advisory Committee (TAC), while senior leadership positions within the partner agencies/organizations, including

elected officials, were represented on the Policy Advisory Committee (PAC). Members of both advisory committees are listed in Table 1. TAC members informed the study on technical and local details, while the PAC advised on the feasibility of financial and organizational proposals. Based on feedback from the TAC and PAC, preferred alternatives were established for both tracks of the study.

Table 1. Technical and Policy Advisory Committee Members

Technical Advisory Committee		Policy Advisory Committee	
Anna Pierce	Metro COG	Anna Pierce	Metro COG
Cindy Gray	Metro COG	Cindy Gray	Metro COG
Michael Maddox	Metro COG	Michael Maddox	Metro COG
Julie Bommelman	MATBUS - City of Fargo	Julie Bommelman	MATBUS - City of Fargo
Matt Peterson	MATBUS - City of Fargo	Matt Peterson	MATBUS - City of Fargo
Jordan Smith	MATBUS – City of Fargo	Jordan Smith	MATBUS – City of Fargo
Lori Van Beek	MATBUS - City of Moorhead	Lori Van Beek	MATBUS - City of Moorhead
Michael Redlinger	City of Fargo	Michael Redlinger	City of Fargo
Kent Costin	City of Fargo	Kent Costin	City of Fargo
Lisa Bode	City of Moorhead	Lisa Bode	City of Moorhead
Karla McCall	City of Moorhead	Karla McCall	City of Moorhead
Tim Solberg	City of West Fargo	Peyton Mastera	City of Dilworth
Jim Larson	City of West Fargo	John Strand	City of Fargo
Ranae Tunison	FTA	Chris Volkers/Dan Mahli	City of Moorhead
Darrell Washington	MnDOT	Deb White	City of Moorhead
Voni Vegar	MnDOT	Brad Olsen	City of West Fargo
Becky Hanson	NDDOT	Tina Fisk	City of West Fargo
Michael E. Johnson	NDDOT	Kevin Hanson	MAT Coordinating Board

Figure 1. Planning Process



Stakeholder Engagement

Five TAC meetings and four PAC meetings were held from May 2019 through August 2020. A brownbag Zoom webinar with local elected officials and interested denizens was held in September 2020. In addition, the project consultant team conducted interviews with stakeholders throughout the process to narrow finance and governance alternatives and to conduct an organizational SWOT analysis. Meeting summaries are included in the appendix.

Kick-Off and Financial Analysis: March – July 2019

The internal staff kick-off in March 2019 highlighted the need to communicate the project strategies and needs with elected officials, city leaders, and those who make funding decisions. Membership of the TAC and PAC was developed collaboratively by Metro COG and MATBUS staff (collectively “staff”). It was determined that the planning process must consider future increased and/or alternative revenue scenarios for expanded service.

The first TAC meeting in May 2019 introduced the need for the financial and organizational analysis of the agency to policy makers. Given the anticipated shortfall, funding will need to be found locally on the North Dakota side of the transit system, as the North Dakota Department of Transportation (NDDOT) is unlikely to adjust its funding formula. While a regional transit authority (RTA) structure has been identified as a preferred option in past studies, this current study will review many different alternatives using defined evaluation criteria; the goal is to develop a preferred governance alternative at the end of this study.

Anticipated federal funding program changes were introduced to Metro COG and MATBUS staff in July 2019; these would be analyzed and presented in the following TAC and PAC meetings. Staff and the consultant team also discussed potential peer national transit agencies to include as case studies, ranging from those with interagency agreements to those run as a fully integrated bistate transit authority.

SWOT Analysis: August – December 2019

After briefing members of the TAC and the PAC in August 2019 on the financial impact of the transition to a TMA, the project consultant team held a Strengths, Weaknesses, Opportunities, and Threats (SWOT) workshop with MATBUS stakeholders in August 2019. This was followed by additional individual SWOT interviews in October and November 2019 to prioritize the issues. Specifically, the interviews identified issues related to MATBUS’ organizational structure, governance, funding, and service to the public.

The results from the workshop and interviews were presented to the TAC and PAC in January 2020. Discussion on the results from the SWOT at these meetings are incorporated into this SWOT analysis. Changes to MATBUS funding and governance should address many of the areas of improvement identified in the weaknesses and external threats sections.

Table 2. Overall SWOT Results

Strengths	Weaknesses
<ul style="list-style-type: none"> • Branding and regional identity – Single identity for customer • Product that allows for cross-border, regional travel • Local partnerships (intergovernmental, NDSU, etc.) • Embracing new technologies • Positive aspects of MATBUS service • Technology • Cooperative purchasing 	<ul style="list-style-type: none"> • Most are on the same page that there are issues with the current organizational structure • Lack of coordination in budgeting and financial planning • Oversight processes from multiple boards, councils, etc., leads to indecision • Funding disparities • Communication • The operating environment/land use pattern makes providing effective service challenging
Opportunities	Threats
<ul style="list-style-type: none"> • Developing a new, equitable funding formula • New demographics and technologies • Engagement of community leaders • Strength of economy, investment in transit supportive areas 	<ul style="list-style-type: none"> • State imposed mill-levy cap (Fargo) • Low income populations living far from job opportunities. • Decrease in funding resources, competition for funding at all levels • Inability to invest in new forms of transportation • Duplicative and/or siloed services

Alternatives Refinement: January – April 2020

The January 2020 TAC and PAC meetings confirmed the findings from the SWOT and established the key issues to address through an organizational restructuring. These included: communication, financial equity, decision making equity, a streamlined decision-making process, dedicated funding, and an option to close the funding gap due to the TMA change. High-level governance alternatives were also presented.

At the April 2020 staff meeting, alternative governance structures were presented by the consultant team to address the key issues identified in the SWOT. Staff indicated a preference to get a recommended preferred alternative from the consultant team to present to the PAC. In the near term, an interim phase was identified as a promising option. The interim phase largely involves the positioning of a single MATBUS transit director housed at Metro COG. The rationale for this location is that transportation planning and coordination falls within the purview or Metro COG’s regional role.

Metro COG would also lead the transition to a permanent change in governance structure towards a transit authority on the North Dakota side of the system, with Moorhead purchasing service from the newly-formed authority. Upon designation as a TMA, the City of Fargo will likely be the FTA designee for all federal transit funding in the region, unless a new recipient is established. Staff would like to bring any necessary legislation to the North Dakota state legislature as soon as possible to approve preferred governance and financial alternatives, as the legislature only meets once every two years.

Several funding alternatives were presented to staff at this meeting as well. MnDOT has verbally committed to cover the funding gap for Moorhead. Staff introduced the idea of exploring the option of transit services in Fargo becoming a local utility, shifting away from the city’s general fund and its appropriation process. Increased funding would also be necessary to support the preferred medium growth alternative presented in the *2018 MATBUS Facilities Report* and the potential introduction of Sunday service.

Preferred Alternatives Selection: May – August 2020

Preferred alternatives for the organizational track were presented at the July TAC meeting and August combined PAC and TAC meeting. For the governance preferred alternative, this would include a short term, interim phase with a single MATBUS transit director housed under the Metro COG umbrella. Metro COG would also lead the transition

to a permanent change in governance structure towards a transit authority on the North Dakota side of the system, with Moorhead purchasing service from the newly-formed authority. This alternative will also allow for the Minnesota side of the system to join as a bi-state authority in the future, which would create an even more integrated system and streamlined decision making process. The steps to implementing the new governance structure were presented as well.

A range of financial alternatives were presented with information on ease of implementation and the ability to cover the funding gap and future service expansion. While a sales tax, property tax, and utility fee appear to be the most promising sources of funding in the future, the ability to raise revenue will be up to political leadership in the local communities and whether taxation powers are included in enabling legislation for a transit authority in the North Dakota legislature.

Roadmap to Implementation: September 2020

The project documents were distributed to the local partners for review and draft recommendations presented to elected officials at a virtual brownbag in September 2020. It will be imperative that local leadership agrees on a course of action and lobbies on behalf of the recommendations at the local and state levels.

Financial Analysis

The *Financial Current Conditions and Gap Analysis* report is one component of the larger MATBUS Transit Authority Study and provides additional details to the information presented in this chapter.

A funding gap analysis was conducted to understand the broad financial impact of the transition to a TMA, expected to impact federal transit funding beginning in fiscal year (FY) 2023. This takes into account current financial conditions and future funding estimates within the expected regulatory frameworks. The following are among the most significant findings of the funding gap analysis, discussed in the following sections of this chapter.

- After the 2020 Census figures are incorporated, the **Fargo-Moorhead UZA will become less competitive for Section 5307 Program funds**, relative to others in its funding pool. The region will now compete with UZAs that have much larger transit systems, including New Orleans, LA, Hartford, CT, and Buffalo, NY.
- The **FY 2023 Section 5307 Program apportionment** to the Fargo-Moorhead UZA is estimated to be nearly \$794,000 less than it was in FY 2019, a **22 percent decrease** (Table 8).
- **Small Transit Intensive Cities (STIC) funds will no longer be available** to the Fargo-Moorhead UZA due to its population size (over 200,000); on average, the region has been apportioned nearly \$335,000 in STIC funds annually since 2015.
- Beginning in FY 2023, only **75 percent of the region's Section 5307 Program apportionment may be spent on operating assistance for MATBUS**. Today, about 88 percent of the regional total apportionment is spent on operations, with the Cities of Fargo and Moorhead spending 100 percent and 50 percent of their allocations on operations, respectively.
- Under the existing organizational and regulatory structure, the **City of Moorhead is not projected to experience significant change in the combined federal and state funds allocated for operating expenses as a result of the transition to a TMA**; this is due to the Minnesota Department of Transportation's (MnDOT's) funding formula structure, in which MnDOT agrees to fill the gap. Future increases or decreases in the Minnesota state transportation budget may change the state funding formula allocations.
- Best estimates indicate that the City of Fargo, and the Fargo-Moorhead UZA as a whole, will experience an **annual operations funding gap of \$1,206,000 from the loss of Section 5307 Program funds in FY 2023, compared to FY 2019 (Table 10)**.
- Best estimates indicate that the Fargo-Moorhead UZA will **experience in FY 2023 an annual increase of \$535,000 in federal funds eligible for capital project, compared to average annual spending reported from 2014 through 2018 (Table 12)**. The increase is a result of: (1) new requirements that only 75 percent of Section 5307 Program funds be spent on operations, leaving the remaining for capital; (2) the direct allocation of federal Section 5339 Bus and Bus Facilities Program funds that the Fargo-Moorhead UZA will receive for the first time in FY 2023; and (3) the loss of MnDOT-distributed Section 5339 competitive funds.

Current Funding Structures

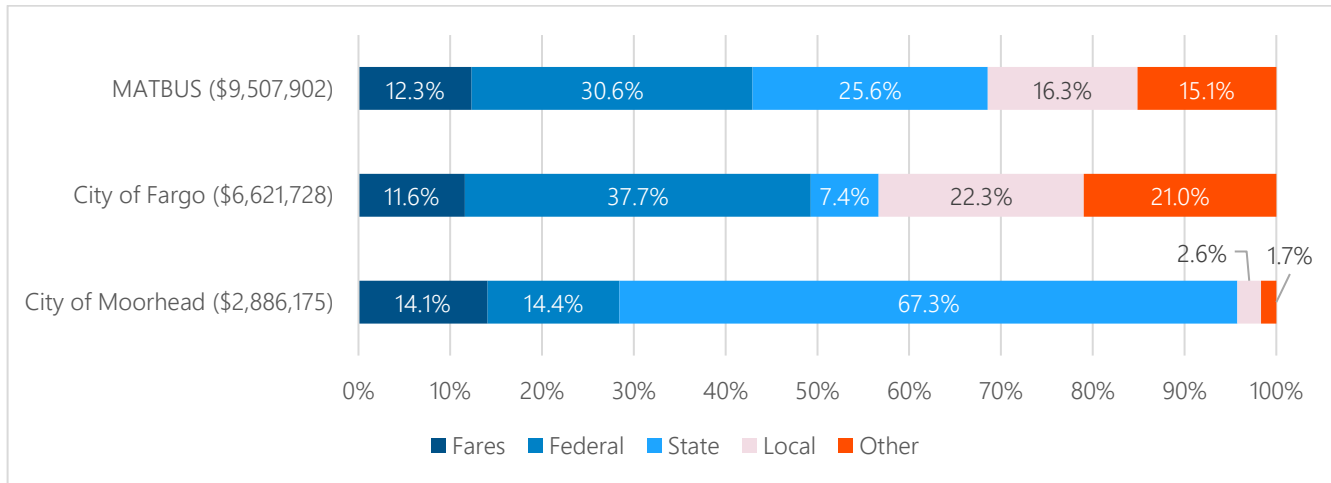
Funding to operate MATBUS fixed route and demand response services comes from a variety of sources, which fall into one of five major categories:

- **Passenger revenues (Fares):** Funds collected through the farebox and bus pass sales
- **Federal:** Formula grants from FTA
- **State:** Aid from the North Dakota Department of Transportation (NDDOT) and Minnesota Department of Transportation (MnDOT)
- **Local:** Revenues from the general funds of the Cities of Fargo and Moorhead
- **Other:** Revenues collected through partnerships with institutions and other municipalities, or through other means (e.g., advertising)

The funding sources spent on operations in 2018 – for MATBUS and the Cities of Fargo and Moorhead – are summarized in Figure 2, with additional detail provided in Table 3. At 31 percent, federal funding sources made up the largest portion of the net MATBUS 2018 operating budget (Figure 2).¹ State aid was the second largest funding source category, comprising 26 percent of the net MATBUS operating budget.

Figure 2. Funding Sources Spent on Operations, 2018: MATBUS and Cities of Fargo and Moorhead

Total operating expenses for 2018 shown in parentheses; MATBUS expenses are the sum of the cities' values. Other sources could include revenue from advertising, negotiated purchased transportation agreements and fare agreements.



Source: City of Fargo, 2018 actual values; City of Moorhead, 2018 actual values.

Note: Excludes contra expenses; the City of Moorhead reimbursed the City of Fargo \$1,278,998 in fiscal year 2018, in accordance with the master operating agreement.

¹ Excludes contra expenses; the City of Moorhead reimbursed the City of Fargo \$1,278,998 in fiscal year 2018, in accordance with the master operating agreement.

Table 3. MATBUS Operational Revenues and Expenses by City, 2018

The following are actual amounts spent on operations in 2018; revenues and expenses related to capital are excluded. MATBUS expenses are the sum of the Cities' values.

		Fargo	Moorhead*	MATBUS
External Revenue Sources				
Federal	Section 5307	\$2,454,435	\$415,000	\$2,869,435
Federal	DOT TMO Funding	\$41,049	--	\$41,049
State	State Aid	\$490,498	\$1,943,262	\$2,433,760
Fares	Farebox Revenue	\$767,194	\$312,037	\$1,079,231
Fares	MSUM	--	\$50,840	\$50,840
Fares	Concordia College	--	\$19,540	\$19,540
Fares	M State	--	\$23,501	\$23,501
Other	Other Direct Revenue	\$388,144	\$31,586	\$419,730
Other	NDSU	\$645,684	--	\$645,684
Other	City of Dilworth		\$16,808	\$16,808
Other	City of West Fargo	\$356,088	--	\$356,088
Total External Revenue		\$5,143,091	\$2,812,574	\$7,955,665
Operating Expenses				
Fixed Route		\$3,256,436	\$2,435,874	\$5,692,309
Demand Response		\$1,036,692	\$450,301	\$1,486,993
	Metro Senior Ride (Available in Moorhead and Dilworth)	--	\$136,684	\$136,684
	Other	\$1,036,692	\$313,617	\$1,350,308
Ground Transportation Center (GTC)		\$499,865	--	\$499,865
Transit Planning		\$72,296	--	\$72,296
Transit Maintenance Org. (TMO)		\$96,814	--	\$96,814
Transit Maintenance Facility (MTG)		\$2,938,624	--	\$2,938,624
Total Expenses		\$7,900,726	\$2,886,175	\$10,786,900
Paid by Moorhead to Fargo per Cost Allocation Plan**		(\$1,278,998)	--	--
Total Expenses: by City		\$6,621,728	\$2,886,175	\$9,507,902
Expenditures in Excess of External Revenues				
City General Fund Contributions		\$1,478,637	\$73,601	\$1,552,238

Source: City of Fargo, 2018 actual values; City of Moorhead, 2018 actual values.

Note: The Cities of Fargo and Moorhead maintain separate accounting records and individually report finances to FTA; in some instances, the Cities' revenue and expense categories are not completely compatible; these differences required aggregation in the table

*Includes revenue and operating expenses associated with MnDOT New Service Expansion (NSE) projects.

**The City of Moorhead pays the City of Fargo for its share of services that are operated and/or maintained by the City of Fargo, including paratransit, LinkFM (which contributes to the amount of Small Transit Intensive Cities [STIC] funds apportioned to the Fargo-Moorhead UZA), GTC, and MTG, as outlined in cost allocation plans documented in the master operating agreement.

In addition to operations, the City of Fargo and City of Moorhead maintain separate but coordinated processes for capital purchases – such as buses (replacements or new additions) and passenger facility amenities – for MATBUS fixed route and demand response services. Like funding of MATBUS operations, several funding sources are used toward capital purchases, which fall into one of five major categories:

- **Passenger revenues (Fares):** Funds collected through the farebox and bus pass sales
- **Federal:** Formula grants from FTA
- **State:** Aid from MnDOT (note: NDDOT funds have not been used for capital purchases, historically)
- **Local:** Revenues from the general funds of the Cities of Fargo and Moorhead
- **Other:** Revenues collected through other means

The funding sources spent on capital can differ widely from year to year, as capital funding budgets are developed based on specific needs for that budgeted year. Additionally, despite apportionments occurring annually, it could be several years before funds are actually spent. This is illustrated in Error! Reference source not found., which presents the capital expenditures for the City of Fargo, City of Moorhead, and combined MATBUS by funding source category for years 2014-2018, with the average and total for the five-year period.

In total, from 2014 through 2018, 63 percent of funds spent on capital came from federal sources (Table 5). In this same time period, on average, about \$1.5 million of federal funds were spent on MATBUS capital purchases annually (Table 4). The City of Fargo does not use state funds toward capital; all state funds it receives are applied to operations expenses.

Table 4. MATBUS Capital Expenses by Funding Source by City, 2014-2018

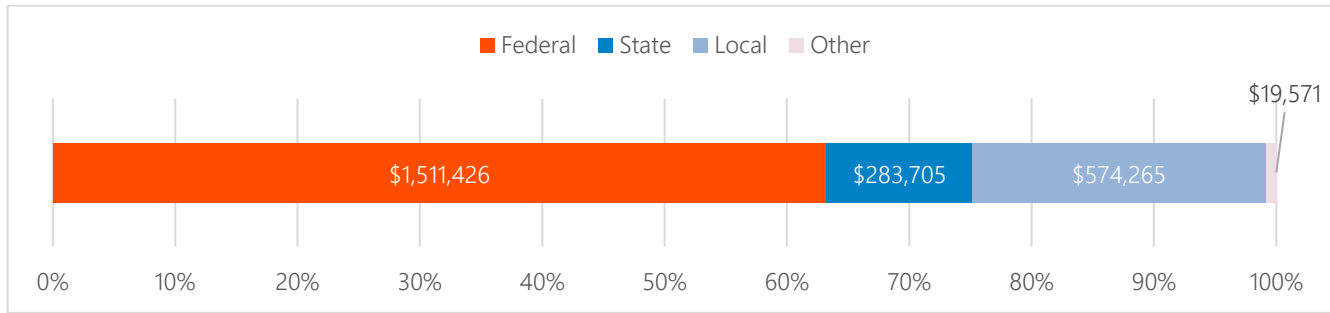
The following are actual amounts spent on capital in years 2014 through 2018; MATBUS expenses are the sum of the Cities' values.

Recipient	Funding Category	Year Spent					Average (2014-2018)	Total (2014-2018)
		2014	2015	2016	2017	2018		
City of Fargo	Federal	\$145,577	\$1,414,076	\$812,814	\$349,905	\$2,434,550	\$1,031,384	\$5,156,922
City of Fargo	State	\$0	\$0	\$0	\$0	\$0	\$0	\$0
City of Fargo	Local	\$65,094	\$337,113	\$324,469	\$179,195	\$1,177,101	\$416,594	\$2,082,972
City of Fargo	Other	\$3,051	\$23,854	\$45,222	\$4,613	\$5,280	\$16,404	\$82,020
City of Fargo	<i>Total</i>	<i>\$213,722</i>	<i>\$1,775,043</i>	<i>\$1,182,505</i>	<i>\$533,713</i>	<i>\$3,616,931</i>	<i>\$1,464,383</i>	<i>\$7,321,914</i>
City of Moorhead	Federal	\$75,705	\$61,150	\$1,440,180	\$741,670	\$81,505	\$480,042	\$2,400,210
City of Moorhead	State	\$154,433	\$366,883	\$0	\$13,055	\$884,152	\$283,705	\$1,418,523
City of Moorhead	Local	\$53,221	\$107,002	\$333,000	\$187,106	\$108,023	\$157,670	\$788,352
City of Moorhead	Other	\$0	\$0	\$0	\$3,681	\$12,152	\$3,167	\$15,833
City of Moorhead	<i>Total</i>	<i>\$283,359</i>	<i>\$535,035</i>	<i>\$1,773,180</i>	<i>\$945,512</i>	<i>\$1,085,832</i>	<i>\$924,584</i>	<i>\$4,622,918</i>
MATBUS	Federal	\$221,282	\$1,475,226	\$2,252,994	\$1,091,575	\$2,516,055	\$1,511,426	\$7,557,132
MATBUS	State	\$154,433	\$366,883	\$0	\$13,055	\$884,152	\$283,705	\$1,418,523
MATBUS	Local	\$118,315	\$444,115	\$657,469	\$366,301	\$1,285,124	\$574,265	\$2,871,324
MATBUS	Other	\$3,051	\$23,854	\$45,222	\$8,294	\$17,432	\$19,571	\$97,853
MATBUS	Total	\$497,081	\$2,310,078	\$2,955,685	\$1,479,225	\$4,702,763	\$2,388,966	\$11,944,832

Source: National Transit Database, 2018

Table 5. MATBUS Capital Expenses by Funding Source – Annual Average, 2014-2018

The following are the averages of actual amounts spent on capital in years 2014 through 2018



Federal Funding

Federal funding for FTA and other surface transportation programs is established by Congress. The current federal transportation funding bill, the Fixing America’s Surface Transportation (FAST) Act, was signed into law on December 4, 2015 and reauthorized surface transportation programs through Fiscal Year 2020. The FAST Act defines the levels of funding available and subsequent formulas for distributing funds. **NOTE:** The FAST Act is set to expire September 30, 2020, and it is not yet known how its replacement may differ.

The FAST Act addresses over a dozen FTA funding programs, including the **FTA Section 5307 Urban Area Formula Program – the primary source of federal funds used by the Cities of Fargo and Moorhead for MATBUS operations and capital.** Section 5307 program funds are apportioned for UZAs, based on UZA-level statistics, to states and designated recipients to apply toward eligible FTA projects (e.g., operating and capital assistance). Funds apportioned to UZAs are ultimately distributed to grant recipients (e.g., City of Fargo, City of Moorhead). Subsequent sections of this report discuss details of the Section 5307 Urban Area Formula Program.

Section 5307 Urban Area Formula Program is comprised of three separate funding formulas, listed below.

- Section 5307 Urbanized Area Formula (“regular” Section 5307)
- Small Transit Intensive Cities (STIC) Formula
- Section 5340 Growing States and High-Density States Formula

In the transit industry, the three components are commonly described and reported in as a single program value, simply referred to as “Section 5307”. As a Small UZA, the Fargo-Moorhead UZA is currently eligible for **STIC formula** funds. The purpose of the STIC formula component is to reward over-performing UZAs – that is, Small UZAs (population under 200,000) which perform better than the average of UZAs with a population of at least 200,000 but less than 1,000,000, in six performance factors.

The third and final component formula of the Section 5307 Urbanized Area Formula Program is the **Section 5340 Growing States and High-Density States formula.** Unlike the other two component formulas, Section 5340 funds are apportioned for UZAs based on statewide data. Neither North Dakota nor Minnesota are considered High-Density states (defined as those with population densities in excess of 370 persons per square mile). However, for the Growing States portion of the formula, the Fargo-Moorhead UZA in 2019 received approximately \$183,000.

In addition to operations, FTA administers funding that can be used on capital projects, such as purchasing new vehicles or passenger amenities. Sources of federal funding for capital projects in the UZA include:

- Section 5307 Urban Area Formula Program
- Section 5339 Bus and Bus Facilities Formula Grants

Section 5307 Urbanized Area Formula funds can be used on operations and capital projects. Historically, the City of Fargo use the entirety of its Section 5307 allocation on operations. However, the City of Moorhead in response to MnDOT guidance splits its Section 5307 allocation on operations and capital, with 50 percent put toward each category.

The Section 5339 Bus and Bus Facilities program makes resources available to replace, rehabilitate, and purchase buses and related equipment, and to construct bus-related facilities. The program includes both formula allocations and competitive grants, with funds flowing through the states and Large UZAs.

Section 5339 Bus and Bus Facilities grants for Small UZAs (population of 50,000 to 200,000), like the Fargo-Moorhead UZA, flow through the states. Thus, currently, the Cities of Fargo and Moorhead receive Section 5339 funds through NDDOT and MnDOT, respectively.

State and Local Funding

The States of Minnesota and North Dakota maintain very different public transit state aid programs. However, both NDDOT and MnDOT public transit state aid program funds are distributed (at least in part) based on established formulas. Key differences between the two programs are summarized in Table 6. The public transit state aid programs for North Dakota and Minnesota are described in greater detail in the *Financial Current Conditions and Gap Analysis* report.

Table 6. Public Transit State Aid Program Basic Elements: NDDOT and MnDOT

Program Element	State of North Dakota (NDDOT)	State of Minnesota (MnDOT)
Statewide program funds apportioned*	Approximately \$3.9 million annually*	Approximately \$64 million annually**
Recipients	Counties with public transit service	Applicants who administer public transit service
Funding formula basis	Primarily population-based, according to county population	Project-based, capping the maximum local share of project expenses

* North Dakota Department of Transportation. NDDOT Transportation Funding Past, Present and Future. March 14, 2018. Page 9. Available at: <https://www.dot.nd.gov/public/docs/fundingsymposium/NDDOT%20Transportation%20Funding%20-%20Past,%20Pre-sent,%20Future%20Presentation.pdf>.

** In 2017, the State of Minnesota's share of total Greater Minnesota operating and capital expenditures amounted to \$64,150,222 (Table A-1 and Table B-1 from the MnDOT 2018 Transit Report, available at: <https://www.dot.state.mn.us/govrel/reports/2019/2018-annual-transit-report.pdf>).

The differences between the two states' programs become even more evident when comparing the funding provided by NDDOT and MnDOT to the City of Fargo and City of Moorhead, respectively. The difference is stark both in terms of award amounts and proportion relative to total operating budgets (Table 3, Figure 2). In 2018, the City of Moorhead was awarded more than \$1.9 million in state aid from MnDOT – nearly 4 times that provided to the City of Fargo from NDDOT (Table 3).

Moreover, because of the amount of MnDOT funding it receives – plus the agreements it has established with local partners ("other" sources) – just 2.6 percent of the City of Moorhead's transit operating budget came from "local" sources (i.e., the City of Moorhead general fund). Comparatively, the City of Fargo's "local" contribution in 2018 was 22.3 percent, close to the national average of 24 percent.² After adding up all external revenue sources (fares, federal and state grants, and other revenue), the Cities of Fargo and Moorhead in 2018 spent \$1,478,637 and \$73,601, respectively, on operations for MATBUS (Table 3).

² Local sources comprised 24 percent of all funds spent on operations among nationwide UZAs with population less than 200,000 (National Transit Database, 2017).

Federal Funding Changes Resulting from TMA

Under the current federal transportation funding bill, the FAST Act, federal formula funds for transit are apportioned to UZAs based on their population size. Program participants fall into one of two major categories: Large UZA and Small UZA. Large UZAs have population greater than 200,000, while Small UZAs have a population of less than 200,000 but more than 50,000. Large and Small UZAs are distributed funds differently and are subject to specific funding formula and rules. With its population set to surpass 200,000 with the 2020 Census, the Fargo-Moorhead UZA will transition from a Small UZA to a Large UZA.

The FAST Act is set to expire September 30, 2020. Congress has not yet indicated what it will do upon the expiration of the FAST Act. Moreover, it remains unclear how, if at all, the replacement to the FAST Act will change how, and at what levels, transit will be funded by the federal government nationally in FY 2021 and beyond. This report, including the following sections, assume a continuation of existing funding formulas and rules, and an extrapolation of recent funding trends.

Formulas

As a Large UZA, Fargo-Moorhead will be eligible for “regular” Section 5307 and Section 5340 Growing States and High-Density States formula funds. The formula for Section 5340 is the same for all UZAs. However, the formula for “regular” Section 5307 are different for Small and Large UZAs – both in terms of factors used and the amount of funds available.

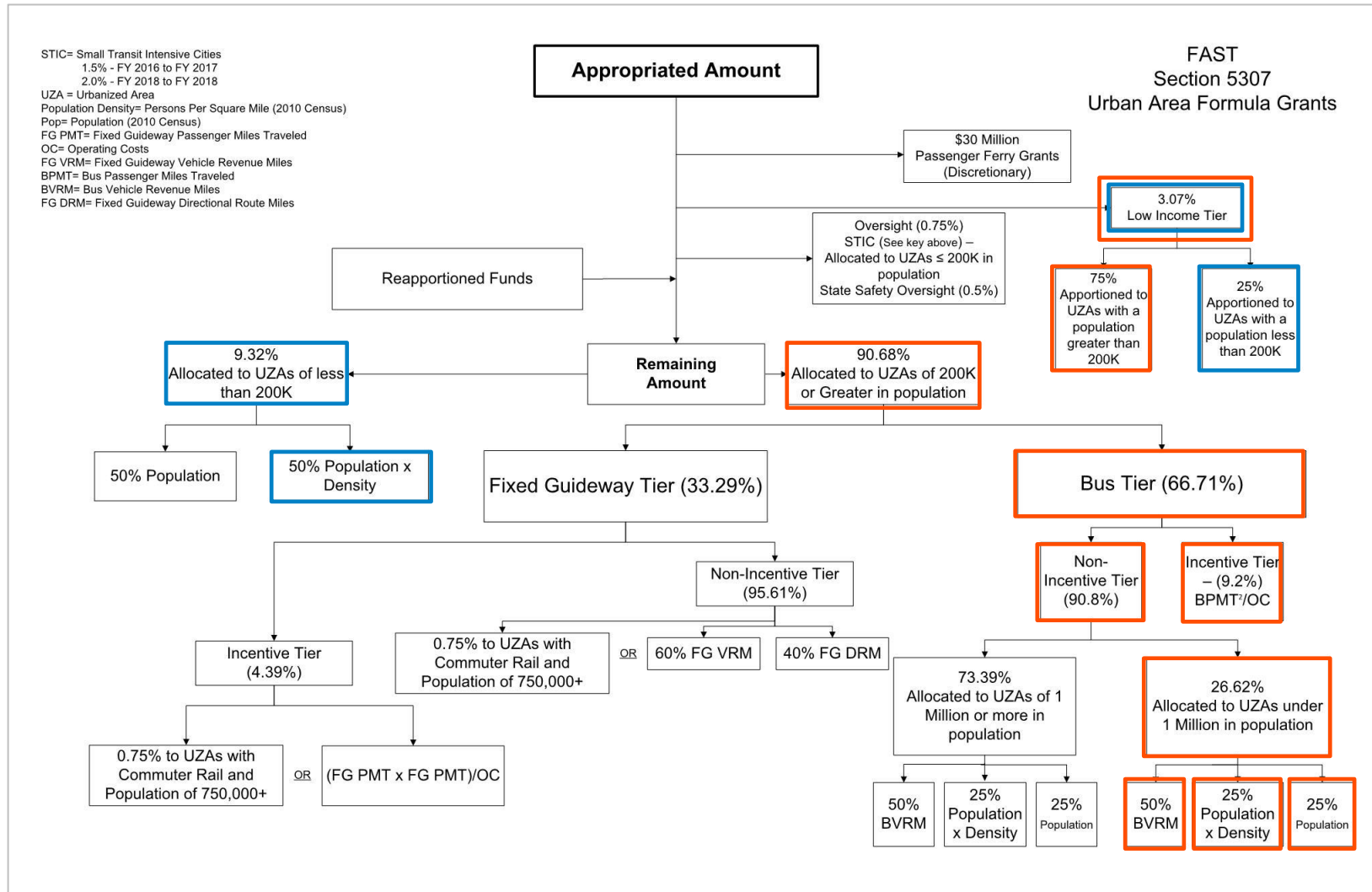
Figure 3 is the formula flowchart for Section 5307 Urban Area Formula Program; the funding pools and factors relevant to the Fargo-Moorhead UZA today (as a Small UZAs) are shown with a **blue border**, while those relevant to it post-2020 Census (as a Large UZA with a population between 200,000 and 1,000,000) are shown with an **orange border**.

When it moves from the Small to Large UZA funding pool, Fargo-Moorhead will be eligible for more funds, which are distributed among fewer UZAs, but, importantly, in a more competitive environment. Post-2020 Census, Fargo-Moorhead will compete with UZAs with much larger transit systems, including New Orleans, LA, Hartford, CT, and Buffalo, NY.

Unlike for Small UZAs, funding for Large UZAs is responsive to the amount transit service provided and its effectiveness, as measured by bus vehicle revenue miles (VRM) and bus passenger miles traveled (PMT) squared per operating cost, respectively (Figure 3).

Figure 3. Section 5307 Urban Area Formula Program Flowchart (FAST Act, expires September 30, 2020)

Currently applies to Fargo-Moorhead UZA Expected to apply to Fargo-Moorhead UZA after the 2020 Census.



Source: Federal Transit Administration FAST Act Formula Flowcharts. Available at: <https://www.transit.dot.gov/funding/apportionments/fast-act-formula-flowcharts>.

Recipient and Rules

When the Fargo-Moorhead UZA becomes a Large UZA and a TMA, there will be changes in who receives and distributes federal dollars, and the rules attached to how those funds can be spent. These changes are summarized in Table 7 and described in greater detail below.

Recipient Allocation Process

UZAs with a population over 200,000 are designated by the Secretary of Transportation as a TMA. Being designated a TMA has many implications for a UZA and its planning agencies and partners spanning the various federal transportation funding programs, including those administered by FTA for transit. Generally speaking, the States of Minnesota and North Dakota will have a diminished role in the distribution of federal transit funds for the Fargo-Moorhead UZA starting in FY 2023.

Today, federal transit dollars for the Fargo-Moorhead UZA – from Section 5307, STIC, and Section 5340, among others – are apportioned to the States of North Dakota and Minnesota. States act as the designated recipients of apportioned funds for non-TMAs (i.e., Small UZAs). However, the North Dakota Governor has designated the City of Fargo as a direct recipient, and the Minnesota Governor has done the same for the City of Moorhead, allowing each City of request and receive funds directly.

Conversely, for UZAs that are TMAs (i.e., Large UZA), the States are not involved except for the purposes of notifying FTA of the chosen designated recipient. So, once the Fargo-Moorhead UZA becomes a TMA, a new designated recipient(s) and/or direct recipient(s) will be selected. The MPO in some cases may also serve as the designated recipient. Urbanized Area Formula Program guidance notes:

Recipient Designation Process

*FTA encourages the designation of a **single designated recipient** for each UZA 200,000 or more in population, **including such UZAs that span more than one state**, in order to streamline the administration of the program and foster coordination. The designated recipient must be a governmental authority and have the legal authority to receive and dispense federal funds in the UZA.³*

Once the Fargo-Moorhead UZA becomes a TMA, the States of North Dakota and Minnesota, Cities of Fargo and Moorhead, Metro COG, and other MATBUS stakeholders will need to determine which entities will act as the designated recipient(s) and/or direct recipient(s) of FTA funds. **The follow are likely designated recipient roles once the Fargo-Moorhead UZA becomes a TMA:**

- Likely in near-term: City of Fargo and City of Moorhead would likely each be a designated recipient
- Likely in long-term (under an authority model): Metro COG would act as the sole designated recipient, or the City of Fargo and City of Moorhead would each be a designated recipient

Today, the Section 5307 Program funds (“regular” Section 5307, STIC, and Section 5340) apportioned to the Fargo-Moorhead UZA are allocated to the States of Minnesota and North Dakota based on proportion of the UZA population each state, according to the 2010 Census. As such, the State of North Dakota is apportioned about 76 percent of the total UZA apportionment, with the State of Minnesota receiving about 24 percent. In the future, the designated recipient(s) for the Fargo-Moorhead UZA (or its direct recipient[s]) will be allowed to define its own sub-allocation process, as necessary. As listed in Urbanized Area Formula Program guidance:

³ Federal Transit Administration. Circular 9030.1E: Urbanized Area Formula Program Guidance and Application Instructions. January 14, 2014. Page II-4. Available at: <https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/final-circulars>.

Sub-Area Allocation

*In UZAs with more than one designated recipient or other recipients, FTA expects local officials, operating through the MPO, and designated recipients to determine the allocation of Section 5307 funds together. The designated recipient(s) and the MPO(s) should **determine the sub-area allocation fairly and rationally through a process based on local needs and agreeable to the designated recipients**. A sub-allocation that is based on predetermined fixed percentages, for example, may not adequately represent the needs of transit systems in the UZA.⁴*

As necessary, the designated recipient(s) and the MPO (Metro COG) will need to develop a sub-allocation process when the Fargo-Moorhead UZA becomes a TMA. The result may have an impact on the level of federal and state aid funds available for MATBUS service. **The follow are likely direct recipient roles once the Fargo-Moorhead UZA becomes a TMA:**

- Likely in near-term: City of Fargo and City of Moorhead will each be direct recipients, each applying for Sections 5307, 5310, and 5339 funds
- Likely in long-term (under an authority model): City of Fargo and City of Moorhead will each be direct recipients, each applying for Sections 5307 and 5339 funds; Metro COG applying for Section 5310 funds

The sub-allocation process would be submitted to FTA annually shortly after the beginning of the federal FY (October). Ideally, funds are sub-allocated based on identified service needs for each direct recipient, rather than by predetermined fixed percentages (e.g., population).

Eligible Project Rules

For UZAs with population of at least 200,000, FTA requires recipients to spend less of their Section 5307 allocation on operating assistance projects (i.e., operating cap). The operating cap differs based on system size, as measured by the number of buses in fixed route service during peak hour service.

Eligible Projects: Operating Assistance for Recipients in Large UZAs

Systems that operate 75 or fewer buses in fixed route service during peak hour service may receive operating assistance in an amount not to exceed 75 percent of the share of the apportionment that is attributable to such systems within the UZA as measured by vehicle revenue hours.

The amount available (operating cap) is calculated by dividing the UZA's apportionment by the total number of vehicle revenue hours reported in the UZA from all public operators and multiplying this quotient by the number of total vehicle revenue hours operated in the UZA by the eligible system, and then by ... 75 percent as indicated above.⁵

Today, the Cities of Moorhead and Fargo, combined, operate less than 35 fixed route buses for MATBUS in the peak hour. As a Small UZA, the City of Fargo currently uses 100 percent of its annual Section 5307 Program allocation on operating projects; the City of Moorhead uses 50 percent (in response to MnDOT guidance). However, **after the 2020 Census has been integrated into the program, a maximum of 75 percent of each recipient's share of the Fargo-Moorhead UZA allocation can be spent toward MATBUS operating expenses.**

⁴ Federal Transit Administration. Circular 9030.1E: Urbanized Area Formula Program Guidance and Application Instructions. January 14, 2014. Page V-3. Available at: <https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/final-circulars>.

⁵ Ibid.

Table 7. FTA Funding Allocation Process and Eligible Project Rules: Current and Future

FTA Funding Roles and Considerations	Current: Small UZA Population < 200,000	Future: Large UZA (TMA) Population > 200,000
Geography that the apportionment is based on	Fargo-Moorhead UZA	Fargo-Moorhead UZA
Designated Recipient (responsible for receiving and apportioning funds)	Governors of the States of North Dakota and Minnesota; both Governors have designated the two Cities as direct recipients	<p>Approved by the State Governors; must be a governmental authority and have the legal authority to receive and dispense federal funds in the UZA; the MPO in some cases may also serve as the designated recipient</p> <p>FTA guidance encourages the designation of a single designated recipient for each UZA 200,000 or more in population, but defers to local preferences</p> <p>Likely in near-term: City of Fargo and City of Moorhead would likely each be a designated recipient</p> <p>Likely in long-term (under an authority model): Metro COG would act as the sole designated recipient, or the City of Fargo and City of Moorhead would each be a designated recipient</p>
Direct Recipients	City of Fargo and City of Moorhead	<p>May or may not be the same as the designated recipient.</p> <p>Likely in near-term: City of Fargo and City of Moorhead separately, each applying for Sections 5307, 5310, and 5339 funds</p> <p>Likely in long-term (under an authority model): City of Fargo and City of Moorhead separately, each applying for Sections 5307 and 5339 funds; Metro COG applying for Section 5310 funds</p>
Sub-area allocation	Split between the states based on the percentage of population in each state based on the 2010 Census	<p>A formal agreement to sub-allocate federal funds from designated recipient(s) to direct recipients; developed by local officials, operating through the MPO, and designated recipient(s)</p> <p>Sub-allocation plan submitted to FTA annually shortly after the beginning of the federal FY (October)</p> <p>Ideally, funds are allocated based on identified service needs for each direct recipient, rather than by predetermined fixed percentages (e.g., population)</p>
Eligible projects	Capital, operating, planning, training	Capital, operating, planning, training
Operating cap	NA	75%*

*For systems that operate 75 or fewer buses in fixed route service during peak hour service

Funding Gap Analysis

Beginning in FY 2023, the Fargo-Moorhead UZA's Section 5307 Program apportionment, and how it is used, will change in many ways; the most significant impacts are listed below.

- STIC funds will no longer be available to the Fargo-Moorhead UZA due to its population size
- Fargo-Moorhead UZA will become less competitive for funds, relative to others in its funding pool
- Only 75 percent of the apportionment may be spent on operating assistance

In addition, to funding uncertainty resulting from the transition to a Large UZA and TMA, there is not yet firm understanding of how, and at what levels, transit will be funded by the federal government nationally after the year 2020. The current federal transportation funding bill, the FAST Act, is set to expire September 30, 2020.

The following are descriptions of the methods and assumptions, and findings related to FY 2023 Section 5307 Program allocation estimates for the Fargo-Moorhead UZA.

Methods and Assumptions

An apportionment model was developed based on actual FY 2019 federal apportionments and reliable input data to create a reasonable estimate for what the Fargo-Moorhead UZA might be apportioned in FY 2023. The apportionment model was designed to replicate the "regular" Section 5307 formula established in the FAST Act (Figure 3). The process for developing FY 2023 estimates, including details about methods and assumptions, is described in the complete *Financial Current Conditions and Gap Analysis* report. All values presented in the following analysis are shown in year 2019 dollars; they have not been inflated.

While the results of this estimation process are believed to be the best achievable given readily-available data, several assumptions remain in play. Critically, it remains unknown whether the Section 5307 Program total nationwide appropriation will increase or decrease significantly, or if noticeably different Program formulas or rules will be instituted in conjunction with whatever federal transportation legislation replaces the FAST Act, which is set to expire September 30, 2020.

Estimates

Table 8 shows the difference between the current (FY 2019) and estimated future (FY 2023) Section 5307 Program apportionment once Fargo-Moorhead moves into the Large UZA category. All values in Table 8 are shown in year 2019 dollars (i.e., not inflated to 2023). Section 5340 apportionments to the States of North Dakota and Minnesota for the Fargo-Moorhead UZA are assumed to remain constant.⁶

Table 8. Current and Future Federal Allocations to the Fargo-Moorhead Urbanized Area (2019 Dollars)

Based on actual FY 2019 appropriations. Future apportionment estimates shown in year 2019 dollars. Assumes Section 5340 apportionments to the States of North Dakota and Minnesota remain constant.

Funding Program	Current (2019)	Future (2023)	Difference (\$)	Difference (%)
Section 5307	\$2,887,390	\$2,617,455	-\$269,935	-9.3%
STIC	\$523,822	\$0	-\$523,822	-100%
Section 5340	\$183,279	\$183,279	\$0	0%
Total	\$3,594,491	\$2,800,734	-\$793,757	-22.1%

⁶ Estimating future Section 5340 apportionments would require 2035 state population projections, which are not available.

The projected shortfall of about \$794,000 in the Fargo-Moorhead UZA's apportionment represents over seven percent of the total 2018 MATBUS operating budget (Table 8, Table 3). However, as described in preceding sections, the move from a Small UZA to a Large UZA has further implication on how Section 5307 funds may be spent. Thus, the projected shortfall of \$794,000 is not representative of the true impact to MATBUS stakeholders.

Table 9 shows the difference between the amount of federal funds available to spend on operations under the current (FY 2019) and future (FY 2023) scenarios, with all current and anticipated federal and state rules and guidance applied.

As a Large UZA in FY 2023, the Fargo-Moorhead UZA will be allowed to use up to 75 percent of its Section 5307 allocation for operating expenses. In FY 2023, it is estimated that the Fargo-Moorhead UZA will be allowed to use about \$1,842,000 in Section 5307 funds toward operating expenses – a decrease of over \$1,322,000 (42 percent) from FY 2019 (Table 9).

Table 9. Federal Allocations Compared to Funds Eligible for Operating Assistance: Current and Future

Funding Program	Current (2019)	Future (2023)	Difference (n)	Difference (%)
Section 5307 Apportionment (5307+STIC+5340) to				
City of Fargo	\$2,733,015	\$2,171,430	-\$561,585	-20.5%
City of Moorhead	\$861,476	\$629,303	-\$232,173	-27.0%
<i>Total</i>	<i>\$3,594,491</i>	<i>\$2,800,734</i>	<i>-\$793,757</i>	<i>-22.1%</i>
Eligible for Operating Assistance Projects to				
City of Fargo	\$2,733,015	\$1,526,932	-\$1,206,083	-44.1%
As Percent of Apportionment	100%	75%		
City of Moorhead	\$430,738	\$314,652	-\$116,086	-27.0%
As Percent of Apportionment	50%	50%		
<i>Total</i>	<i>\$3,163,753</i>	<i>\$1,841,583</i>	<i>-\$1,322,170</i>	<i>-41.8%</i>
<i>As Percent of Apportionment</i>	<i>88.0%</i>	<i>65.8%</i>		

While this arrangement may change, the FY 2023 estimates shown in Table 9 assume the Cities of Fargo and Moorhead continue to apply for federal funds as separate direct recipients, rather than a single regional entity representing MATBUS.

Impact to Funding from the State of Minnesota

The State of Minnesota's state aid program for public transit is the Public Transit Assistance Program (PTAP), as established in Minnesota Statutes, section 174.24. PTAP funds come from transit general fund and the Greater Minnesota Transit Account (GMTA). The PTAP program is administered by MnDOT's Office of Transit and Active Transportation (OTAT).

The City of Moorhead receives a large amount of PTAP funds from MnDOT every year.⁷ Per Minnesota Statutes, section 174.24, the State of Minnesota is committed to distributing state aid funds such that transit providers like the City of Moorhead pay no more than 20 percent of the total operating cost of fixed route bus service, and 15 percent of the total operating cost of service for the elderly and those with disabilities. After federal grants are accounted for, the State commits to fill the funding gaps.

⁷ Over \$1.9 million in 2018 (Table 3).

Under existing MnDOT PTAP program rules, as the City of Moorhead's federal funding decreases, the State's contribution increases. Thus, the funding gap resulting from decreased Section 5307 Program funds to the City of Moorhead is erased by the increase in State of Minnesota funds it is allotted. Importantly, this assumption is contingent on the solvency of GMTA and continuation of existing PTAP program rules. Regardless, the implications of decreased Section 5307 Program funding to the City of Fargo and the Fargo-Moorhead UZA as a whole for MATBUS operating assistance are expected to be significant.

Cumulative Impact on the MATBUS Operating Budget

Table 10 summarizes the estimated cumulative impact on the MATBUS operating budget resulting from the Fargo-Moorhead UZA's transition to a Large UZA after the 2020 Census. The following accounts for operating cap rules and guidelines from FTA and MnDOT, plus the anticipated MnDOT contribution increase.

Given the assumptions outlined in this report, the Fargo-Moorhead UZA could experience a \$1,206,000 (23 percent) operating funding gap starting in FY 2023 (Table 10).

Table 10. Federal and State Allocations Eligible for Operating Assistance: Current and Future

Funding Program	Current (FY 2019)	Future (FY 2023)	Difference (n)	Difference (%)
Section 5307 Allocation to				
City of Fargo*	\$2,733,015	\$1,526,932	-\$1,206,083	-44.1%
City of Moorhead*	\$430,738	\$314,652	-\$116,086	-27.0%
<i>Total</i>	<i>\$3,163,753</i>	<i>\$1,841,583</i>	<i>-\$1,322,170</i>	<i>-41.8%</i>
State Aid to				
City of Fargo (State of North Dakota)**	\$400,000	\$400,000	\$0	0%
City of Moorhead (State of Minnesota)***	\$1,806,880	\$1,922,966	\$116,086	6.4%
<i>Total</i>	<i>\$2,206,880</i>	<i>\$2,322,966</i>	<i>\$116,086</i>	<i>5.3%</i>
Federal + State Allocations Eligible for Operating Assistance to				
City of Fargo	\$3,133,015	\$1,926,932	-\$1,206,083	-38.5%
City of Moorhead	\$2,237,618	\$2,237,618	\$0	0.0%
<i>Total</i>	<i>\$5,370,633</i>	<i>\$4,164,550</i>	<i>-\$1,206,083</i>	<i>-22.5%</i>

*Assumes the total appropriation to the Fargo-Moorhead UZA is sub-allocated based on proportion of the UZA population in each state; FY 2023 estimate assumes 77.5 percent of UZA population in North Dakota, based on recent trends.

**Assumed NDDOT state aid allocated to the City of Fargo, based on recent trends and best estimates from the City of Fargo.

***Both FY 2019 and FY 2023 values exclude expenses and revenues related to MnDOT's New Service Expansion (NSE) grant programs. FY 2019 value calculated using FY 2019 budgeted operating expenses, and 50 percent of actual FY 2019 Federal appropriation (\$861,476*.50=\$430,738). FY 2023 value calculated using FY 2019 budgeted operating expenses, and 50 percent of FY 2023 estimated Federal appropriation (\$628,296*.50=\$314,148).

Cumulative Impact on the MATBUS Capital Budget

Fargo-Moorhead UZA's transition to a Large UZA after the 2020 Census will have additional impacts on the availability of federal funds that can be spent on capital purchases. In total, from 2014 through 2018, 63 percent of funds spent on MATBUS capital came from federal sources (Table 5). An additional funding gap analysis was conducted to attempt to estimate the cumulative impact on future MATBUS annual capital budgets.

Currently, as a Small UZA, the Fargo-Moorhead UZA can spend its allocated Section 5307 funds on capital. The City of Fargo currently uses 100 percent of its annual Section 5307 Program allocation on operating projects. However,

after the 2020 Census has been integrated into the program, a maximum of 75 percent of each recipient's share of the Fargo-Moorhead UZA allocation can be spent toward MATBUS operating expenses. This leaves the remaining funds to be spent on capital projects. Additionally, the City of Moorhead uses only 50 percent of its annual Section 5307 allocation on operations (in response to MnDOT guidance), leaving the remaining for capital purchases.

Table 11 summarizes the Section 5307 funds eligible for capital assistance under current and future scenarios, taking into account changes resulting from the transition from Small to Large UZA. Beginning in FY 2023, it is estimated that the amount of Section 5307 funds available to the Fargo-Moorhead UZA for capital projects will increase by over \$528,000 (123 percent) compared to FY 2019 (Table 11).

Table 11. Federal Allocations Compared to Funds Eligible for Capital Assistance: Current and Future

Funding Program	Current (2019)	Future (2023)	Difference (n)	Difference (%)
Section 5307 Apportionment (5307+STIC+5340) to				
City of Fargo	\$2,733,015	\$2,171,430	-\$561,585	-20.5%
City of Moorhead	\$861,476	\$629,303	-\$232,173	-27.0%
<i>Total</i>	<i>\$3,594,491</i>	<i>\$2,800,734</i>	<i>-\$793,757</i>	<i>-22.1%</i>
Section 5307 Spent on Capital Assistance Projects				
City of Fargo	\$0	\$644,498	\$644,498	100.00%
City of Moorhead	\$430,738	\$314,652	(\$116,086)	-27.0%
<i>Total</i>	<i>\$430,738</i>	<i>\$959,150</i>	<i>\$528,412</i>	<i>122.7%</i>

Again, while the results of this estimation process are believed to be the best achievable given readily-available data, several assumptions remain in play. Critically, it remains unknown whether the Section 5307 Program total nationwide appropriation will increase or decrease significantly, or if noticeably different Program formulas or rules will be instituted in conjunction with whatever federal transportation legislation replaces the FAST Act, which is set to expire September 30, 2020.

In addition to the annual \$528,000 increase in Section 5307 funds eligible for capital projects, the Fargo-Moorhead UZA will directly receive federal Section 5339 program funds. Currently, as a Small UZA, the Fargo-Moorhead UZA receives Section 5339 Bus and Bus Facilities funds through the state DOTs as competitive grants and wrapped into their broader state assistance programs. Thus, the Cities of Fargo and Moorhead currently receive Section 5339 funds through NDDOT and MnDOT, respectively. Alternatively, the Fargo-Moorhead UZA will receive Section 5339 funds for capital projects as a direct recipient through a formula allocation, rather than through the state DOTs, upon transitioning to a Large UZA after the 2020 Census.

Table 12 summarizes the estimated annual cumulative impact on the MATBUS capital budget starting in FY 2023 – accounting for Section 5307 and Section 5339 programs – compared to the annual average values under the current scenario, using data from 2014 through 2018.

In total, accounting for changes in state and federal funding eligible for capital projects, it is estimated that the Fargo-Moorhead UZA will have about \$1.25 million per year for capital projects starting in FY 2023 (Table 12). This represents an increase of nearly \$535,000 (75 percent) annually compared to the average annual amount spent between 2014 and 2018. This estimate assumes the City of Moorhead would no longer be eligible for competitive Section 5339 funds through MnDOT, though this remains uncertain.

Table 12. Federal and State 5307 and 5339 Allocations Eligible for Operating Assistance: Current and Future

Program	Formula Recipient	Current Scenario: Representative Estimate (Annual Average, 2014-2018)	Future Scenario (2023)	Difference (\$)	Difference (%)
FTA Section 5307	Fargo-Moorhead UZA	\$430,738	\$959,150	\$528,412	122.7%
FTA Section 5339	Fargo-Moorhead UZA	\$0	\$289,987	\$289,987	100.0%
FTA Section 5339	City of Moorhead via MnDOT	\$283,705*	\$0	-\$283,705	-100.0%
FTA Section 5339	City of Fargo via NDDOT	NA**	NA**	--	--
		\$714,443	\$1,249,137	\$534,694	74.8%

*Average annual funds from MnDOT spent on capital, 201-2018 (Table 4); from 2014 through 2018, this number was as high as \$884,152 and as low as \$0. The City of Moorhead may continue to be eligible for competitive Section 5339 grants through MnDOT, in addition to the allocation provided directly to the Fargo-Moorhead UZA.

**The City of Fargo did not use state (NDDOT) funds toward capital purchases from 2014 through 2018 (Table 4); in fact, the City has used state funds for capital purchases in just two years (2009 and 2010) since 1990, according to the latest National Transit Database release.

Governance Structure

The existing governance structure of MATBUS consists of a myriad of agreements between governments and local partners, and leads to indecision and miscommunication. With the change in funding structure and resulting operating budget shortfall, this was a prime opportunity to explore changes to the current governance structure to address some longstanding organizational issues as the agency looks to grow and expand service in the future.

Existing Governance Structure

MATBUS was established by a joint powers agreement⁸ between the cities of Fargo and Moorhead and is currently operated cooperatively through the two cities who both contract with First Transit as the service provider. From the rider perspective, MATBUS operates as a unified entity making use of a single branding approach; however, transit service is ultimately governed and funded by the individual city governments of Fargo and Moorhead. The City of Fargo's transit operation is headed by the Fargo Transit Director, whereas Moorhead has a Transit Manager. The Transit Director and Manager are responsible for managing the day-to-day administration of MATBUS as well as long term planning and visioning. A Metro Area Transit (MAT) Coordinating Board was created in order to make technical recommendations to both the Fargo City Commission and the Moorhead City Council, where decisions are ultimately made. Transit assets are used by MATBUS only and are not shared with other city departments.

MAT Board

The Metro Area Transit Coordinating (MAT) Coordinating Board was created to make technical recommendations for the Fargo City Commission and Moorhead City Council where decisions are ultimately made. The MAT Board therefore has the following four primary goals:

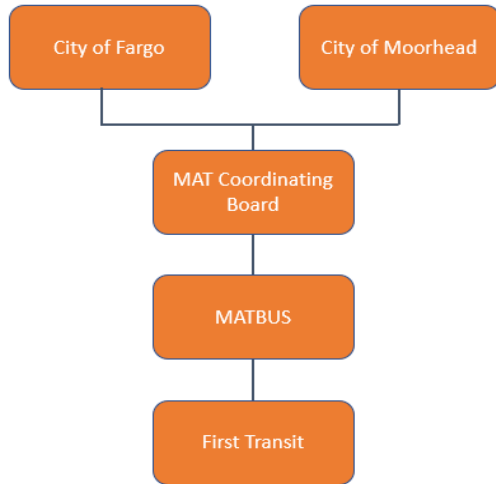
- Facilitate and oversee a coordinated decision-making process for transit service in the metro area between Fargo and Moorhead;
- Review and provide recommendations on interrelated actions between the cities to ensure outcomes that support a coordinated transit system within the metropolitan area;
- Ensure that transit service decisions considered by Fargo and Moorhead are developed in consultation with other local government units, public institutions, stakeholders and the general public;
- Identify, analyze and champion support for implementation of technically and politically feasible opportunities to continue to enhance and streamline the coordination between the cities of Fargo, Moorhead, West Fargo, and Dilworth regarding the delivery of public transit within the metropolitan area.

The MAT Board also provides oversight by reviewing and recommending annual decisions including budgets, fares, U-Pass, driver service contracts, general contracts and agreements over \$50,000, marketing and outreach, capital planning and facility development, system operations and service planning, and mobility management.

Figure 4 shows the reporting structure between the MAT Board, the cities of Fargo and Moorhead, and MATBUS.

⁸ Pursuant to Chapter 54-40.3, N.D.C.C. and Minnesota Statutes §471.59 (joint exercise of powers)

Figure 4. MAT Coordinating Board Reporting Structure



The MAT Board membership is prescribed in the enabling joint powers agreement but may be increased as needed to account for increases in service areas and coverage of the transit system. Membership for the MAT board consists of key representatives who are recognized as having a financial stake in the operation of MATBUS. Members are appointed as follows:

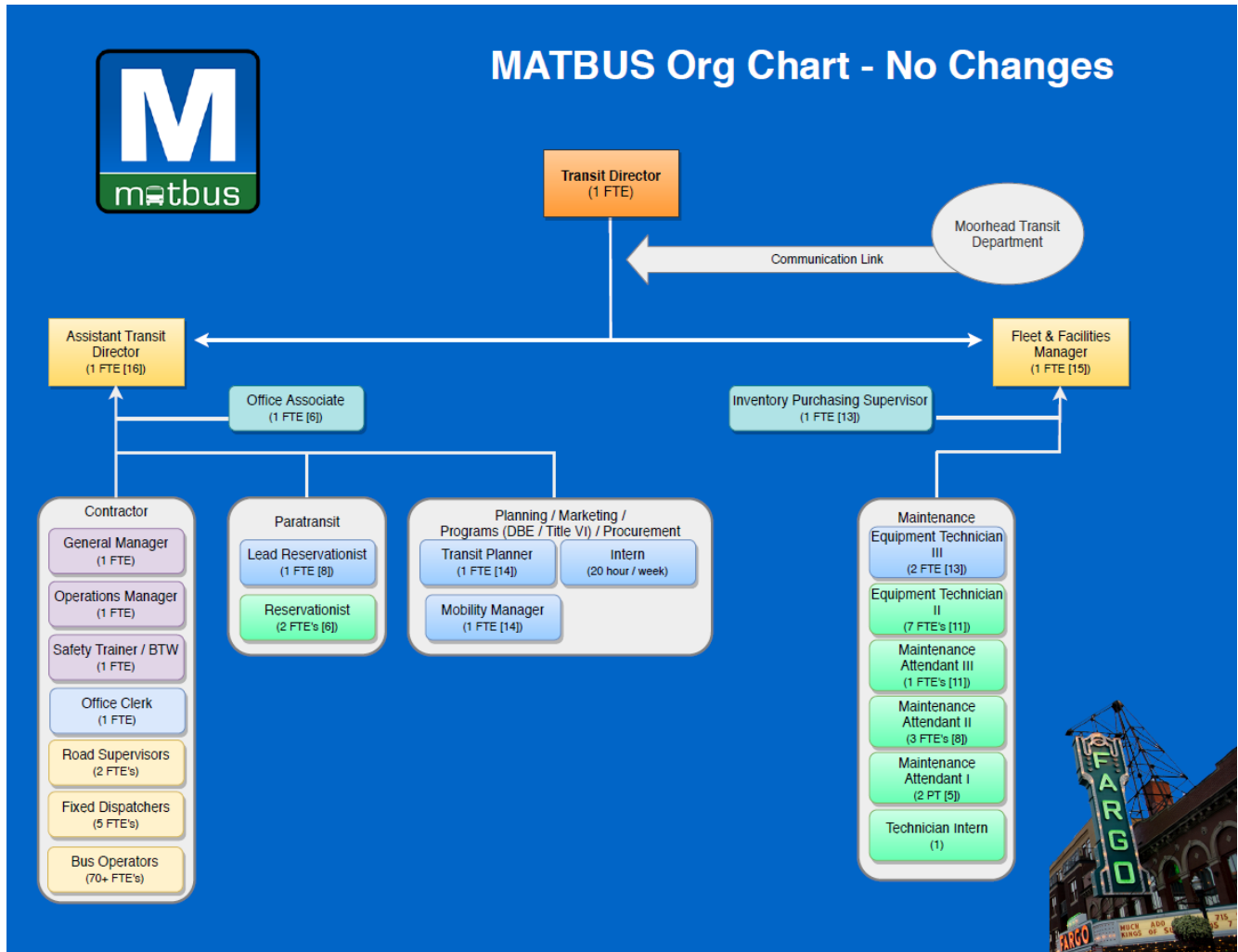
- Fargo - two members of the Fargo City Commission
- Moorhead - two members of the Moorhead City Council
- West Fargo - one member of the West Fargo City Commission
- Dilworth - one member of the Dilworth City Council
- North Dakota State University - one staff/administrator
- Moorhead Area Colleges – one staff/administrator each from Minnesota State University Moorhead, Minnesota State Community and Technical College, and Concordia
- Valley Senior Services – one staff/administrator (Senior Ride Program)
- Chairperson - one jointly appointed by the cities of Fargo and Moorhead (to serve a two-year term, no term limit)

MATBUS Staff

MATBUS operations between the two cities are managed separately with staff nested under each city’s organization structure. Thus, Fargo and Moorhead each retain its own staff to run transit operations.

Figure 5 shows how transit is situated within the two city governments.

Figure 5. MATBUS Organizational Chart



SWOT Analysis of Existing Structure

The project consultant team held a Strengths, Weaknesses, Opportunities, and Threats (SWOT) workshop with MATBUS stakeholders in August 2019. This was followed by additional individual SWOT interviews in October and November 2019 to prioritize the issues. Specifically, the interviews identified issues related to MATBUS’ organizational structure, governance, funding, and service to the public. Changes to MATBUS funding and governance should address many of the areas of improvement identified in the weaknesses and external threats sections.

Table 13. Overall SWOT Results

Strengths	Weaknesses
<ul style="list-style-type: none"> Branding and regional identity – Single identity for customer Product that allows for cross-border, regional travel Local partnerships (intergovernmental, NDSU, etc.) Embracing new technologies Positive aspects of MATBUS service Technology Cooperative purchasing 	<ul style="list-style-type: none"> Most are on the same page that there are issues with the current organizational structure Lack of coordination in budgeting and financial planning Oversight processes from multiple boards, councils, etc., leads to indecision Funding disparities Communication The operating environment/land use pattern makes providing effective service challenging

Opportunities	Threats
<ul style="list-style-type: none"> • Developing a new, equitable funding formula • New demographics and technologies • Engagement of community leaders • Strength of economy, investment in transit supportive areas 	<ul style="list-style-type: none"> • State imposed mill-levy cap (Fargo) • Low income populations living far from job opportunities. • Decrease in funding resources, competition for funding at all levels • Inability to invest in new forms of transportation • Duplicative and/or siloed services

Municipality and MATBUS Staff Meetings

Individual staff meetings with representatives from the City of Moorhead, City of Fargo and key administration and operations staff from MATBUS in the fall of 2019, provided comments to augment the SWOT priority matrix. Listed below are key takeaways from the comments:

- There are several administrative processes and communication processes/policies that need to be addressed prior to developing a consensus decision on the MATBUS organizational path forward.
- Being functionally managed by two different municipalities with, at times, different goals can impede the ability to have a cohesive vision for transit service.
- Internal to MATBUS administration: process revisions should focus on updating decision-making steps, timing of decisions, and identifying communication protocols.
- A conflict resolution process supported by the cities and MATBUS administrative staff is needed to provide staff with the tools to facilitate establishing equitable and durable decisions supporting efficient service provision.

At the base level, most of the current conflicts restricting developing a consensus decision for MATBUS operations, are the product of poor communication protocols between the jurisdictions; this also affects MATBUS staff’s ability to be on the same page with each other. Moreover, a lack of dialog in capital planning and decision processes contributes to funding partners occasionally having conflicting goals and offer numerous opportunities for miscommunications among agency officials. An example of how the lack of a communication protocol results in conflicts affecting MATBUS service is outlined below:

- Fargo budgeting is completed in April of each year.
- Before each April, MATBUS administrators representing Fargo and Moorhead discuss a budget needed for the level of service being proposed for the next fiscal year. The budget discussion covers operations and capital expenditures. Fargo decision-makers meeting in April to review budget requests across all departments.
- Fargo City Commission addresses the staff budget relative to other city department requests. The two most logical products of the budget review are:
 - Reduction in the budget request.
 - Support of the budget request.
- If the full operating cost request is not being fully supported by the Fargo City Commission, the decision (and subsequent need to modify the request for the Moorhead budgeting process) may require planned shared expenditures to be delayed. The inconsistency between the cities’ budget cycles are a cause of uncertainty and may cause large expenditures for shared service, capital projects and facilities to be delayed.

Governance Alternatives

Governance alternatives were developed based on the SWOT input received from stakeholders and case studies of similar bi-state transit operating environs across the country. The initial four high-level alternatives include the current structure (referred to as the status quo), the status quo with adjusted financial splits, a transit authority on the North Dakota side of the border with Moorhead purchasing service, and a fully integrated bi-state transit authority. The range of alternatives varies from having a minimal impact to the organizational structure to a complete overhaul of the organizational and financial structure of MATBUS. The four high-level alternatives were presented to the TAC and PAC in January 2020.

For each of the alternatives, stakeholders helped to evaluate whether changing the organizational structure is desired and whether the change could address the funding challenge and the needs identified in the SWOT exercise. A new governance structure would need to lead to more effective service to the customer by streamlining administrative hurdles between the current entities operating under the MATBUS brand. The preferred alternative must address communication issues, financial equity, decision making equity, streamlining the decision-making process, options for dedicated funding, and options to close the TMA funding gap. Currently the organization works in silos; MATBUS only operates as a single entity for the customer, which is a strength, but internally is comprised of multiple organizations.

Based on the feedback from staff and the PAC and TAC during the January outreach meetings, the four high-level alternatives were developed more extensively into comprehensive governance alternatives. The results from this study can be found in the *MATBUS Transit Authority Study: Analysis of Governance Alternatives* technical memorandum of June 2020.

High Level Governance Alternatives

The high-level alternatives were presented to the PAC and TAC in January 2020 and were assessed on their ability to meet the key issues identified in the SWOT. These included: communication, financial equity, decision making equity, a streamlined decision-making process, dedicated funding, and an option to close the funding gap due to the TMA change. Below follow brief descriptions of the four high level alternatives and an overview in Table 14 of their applicability to address the key issues. This table was used for an initial assessment in January 2020 of whether the alternatives address the key issues identified in the SWOT.

Status Quo

Under the status quo scenario, there will be no change to current arrangement for governing MATBUS. The agency may continue to experience communication challenges and will need to increase funding in North Dakota to retain the current level of service in Fargo, given the anticipated reduction in federal funding. Difficulties in capital purchasing, unified service planning and agency strategic planning may persist. Due to the different funding cycles between the cities, it is not always clear how partial FTEs working for both cities will get assigned tasks. Difficulty in who assigns tasks to shared positions and how they get executed will persist. Transit employees often perceive themselves as city employees, not MATBUS employees, and will prioritize tasks for the city providing their paycheck, as one would expect. With the change to TMA status, there would be more federal reporting and planning requirements to fulfill.

Status Quo – Adjust Financial Splits

This scenario assumes no change in governing structure but allows for renegotiation of policies and local funding formulas. Contributions will be adjusted for Fargo, Moorhead, and the partners such as West Fargo, Dilworth, North Dakota State University (NDSU), Minnesota State University Moorhead (MSUM), Concordia College, and M | State.

As the gap in contributions is most profound in North Dakota, North Dakota based partners would need to continue covering the same amount of shared costs with Moorhead, even if a lower of service is being provided. Though no new government entity would be formed under this scenario, there may be opportunities for enhanced coordinating committees and/or other organizations. The continued growth of population and potential transit need in West Fargo would also need to be assessed.

Single City Authority/ Purchase of Service by Others

As the state with the greater share of the region's population and MATBUS service, North Dakota would be the most likely side of the transit system to operate a transit authority with its own taxing powers. North Dakota is also the part of the system that will experience the largest decline in federal funds that can be spent on operations, and thus will need to find enhanced or new revenue sources locally or with the state to fill the funding gap. In this scenario, municipalities not included in the authority's geography may contract with that authority for provision of transportation. This would include the Minnesota based partners. From an organizational standpoint, all staff would work for a single transit system.

Joint/Bi-State Authority

A bi-state authority would fully consolidate operations and governance into a single entity with its own taxing powers. The authority area would include the Fargo, Moorhead and (areas of) additional local municipalities. Funding from the states of North Dakota and Minnesota would be allocated to the authority. An authority would not bind staff to either city's priorities, but to the transit agency.

Table 14. Overview of High-Level Governance Alternatives

Issue/Objective	Status Quo	Status Quo/Adjust Financial Splits	Single City Authority/ Purchase of Service by Others	Joint/Bi-State Authority
Addresses Communication Issues				
Internal to MATBUS	Does not provide a clear path to addressing communication issues beyond what is available today	Does not provide a clear path to addressing communication issues beyond what is available today	Partial improvement. Would remove duplication of positions and associated communication issues. Would allow staff to focus on planning and federal requirements.	Centralizes communication and internal structure. Eliminates conflict.
Between Cities	Does not provide a clear path to addressing communication issues beyond what is available today	Addresses communication issues related to capital budgeting and funding. Need to develop a revised operating cost allocation model.	Simplifies funding and communication protocols/limits to two parties.	Centralizes communication and internal structure.
Provides Financial Equity	Possible. Master agreement currently allows for annual review of funding splits	Yes – Would likely require periodic re-negotiation.	Yes – As long as service purchasing community has ability to negotiate cost rate.	Yes
Provides Decision Equity				
Day-to-day administration	No – Conflict resolution process is not present.	No – Conflict resolution process is not present.	Yes - Centralizes day-to-day administration to one entity.	Yes - Centralizes day-to-day administration to one entity.
Procurement	No – Some perceive the current decision control is not equitable and there is not a conflict resolution process.	Partial – Assumes level of decision input is consistent with level of funding provided. Less decision control – Less financial responsibility.	Yes – May centralize to one entity and participant communities have representation. Capital procurement still completed in each state using discrete funding sources.	Yes - Centralizes to one entity and participant communities have representation.
Long Range Capital Planning	No – Current perception is decision control is not equitable and there is not a conflict resolution process.	Partial – Assumes level of decision input is consistent with level of funding provided. Less decision control – Less financial responsibility.	Long-range capital planning is determined and negotiated at time of contracting.	Long-range capital planning is centralized to one authority, with representation from each participant community at a single board.
Streamlines Decisions Process	No	Partially	Moderately	Significantly

Issue/Objective	Status Quo	Status Quo/Adjust Financial Splits	Single City Authority/ Purchase of Service by Others	Joint/Bi-State Authority
Provides Dedicated Funding	No mechanism for dedicated funding	No mechanism for dedicated funding	Yes	Yes
Provides Option to Close TMA Funding Gap	Would rely on mill increase in North Dakota and increased State support in Minnesota.	Would rely on mill increase in North Dakota and increased State support in Minnesota.	Gain ability for dedicated local funding source in addition to other local general fund support. Can leverage additional funding from state/federal sources, need to investigate State of North Dakota’s involvement for incremental change as authority bylaws are established.	Gain ability for dedicated local funding source in addition to other local general fund support. Can leverage additional funding from state/federal sources, need to investigate each state’s involvement for incremental change as authority bylaws are established.

Peer Case Studies

Fargo-Moorhead is not the only bi-state metropolitan area with the challenge of running transit service across state lines. The extent of partnerships elsewhere in the nation range from the purchase of transit services to bi-state transit authorities. In both North Dakota and Minnesota, other transit agencies with partnerships across state lines include Grand Forks, ND and East Grand Forks, MN; and Duluth, MN and Superior, WI, respectively. Nationally, examples in larger metros include Kansas City and Cincinnati. The peer case studies helped inform the formation of the four comprehensive governance alternatives.

As part of the study to investigate potential governance options, some jurisdictions with similar experiences or circumstances as MATBUS were reviewed. Case studies were conducted using a two-step approach: document reviews and phone interviews. Phone interviews were conducted for all case study agencies except for SORTA and Metro Bus. This section describes in detail the governance structures, funding mechanisms, and interagency coordination with other government entities of the following systems:

- Duluth Transit Authority (DTA); Duluth, MN
- Kansas City Area Transportation Authority (KCATA); Kansas City, KS/MO
- Transit Authority of Northern Kentucky (TANK)/ Southwest Regional Transit Authority (SORTA); Fort Wright, KY/Cincinnati, OH
- Mountain Metro; Colorado Springs, CO
- Valley Transit; Appleton, WI
- St. Cloud Transit Commission (Metro Bus); St. Cloud, MN

The transit agencies selected provide a variety of modes to their residents. Table 15 shows an overview of the relative size and services provided by the case study agencies. Data for MATBUS is also provided to provide context.

Table 15. Overview of Case Study Agencies showing Vehicles operated for Various Modes

Transit Agency	Organization Type	Service Area (sq. mi)	Population	Fixed Route Bus - DO	Fixed Route Bus - PT	Demand Response-DO	Demand Response -PT	Demand Response Taxi -PT	Commuter Bus	Bus Rapid Transit-DO	Vanpool	Streetcar-PT
KCATA	Authority	456	788,748	160		9		47		11	27	
DTA	Authority	69	102,334	60			8					
TANK/ SORTA	Authority	267/ 289	278,653/ 744,901	97/ 299		26	0/46					0/3
Mountain Metro	City Gov.	257	527,294		49		87	11			26	
Valley Transit	City Gov.	117	216,154	21	10		43					
Metro Bus	Authority	29	103,018	27		23			4			
MATBUS - Fargo	City Gov.	45	155,620		24		13					
MATBUS - Moorhead	City Gov.	26	47,947		8							

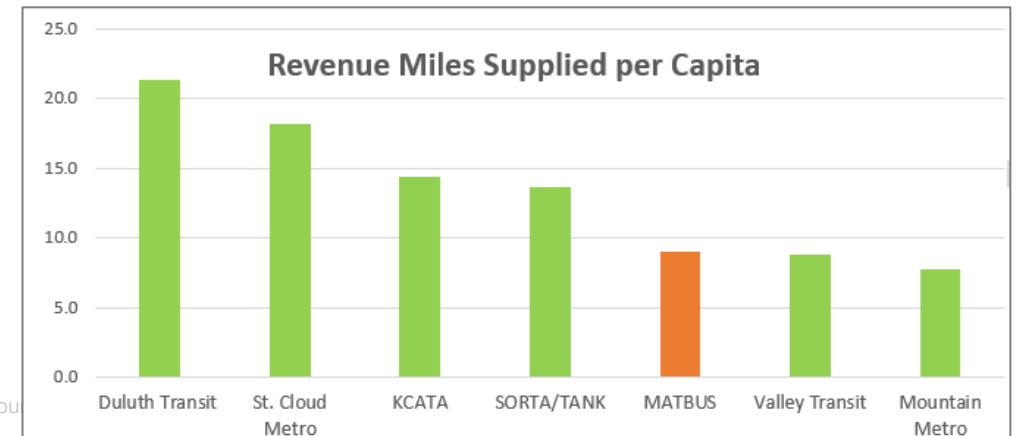
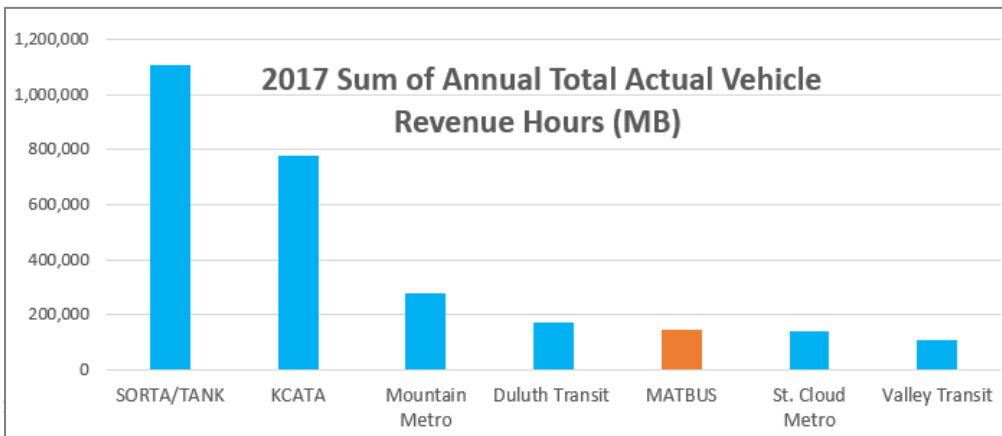
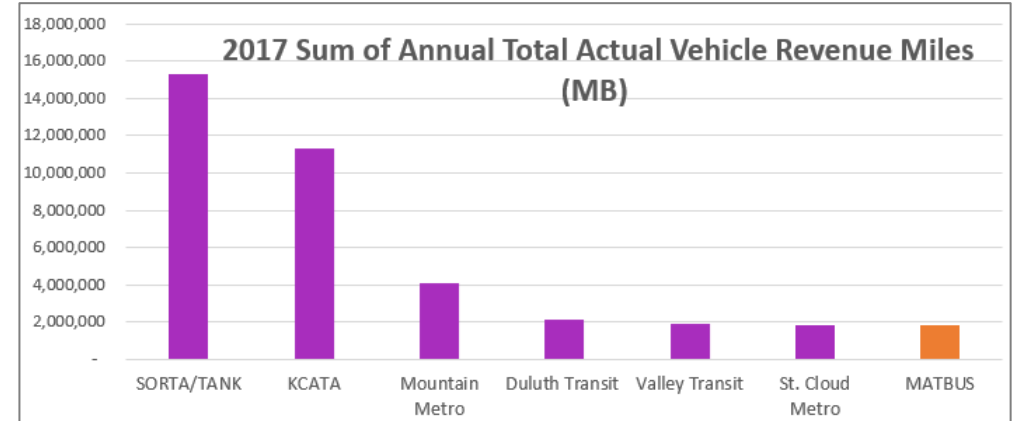
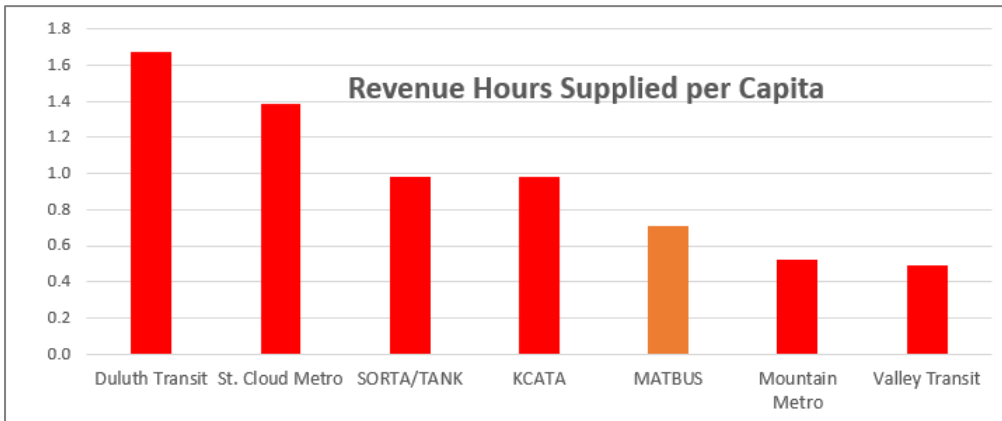
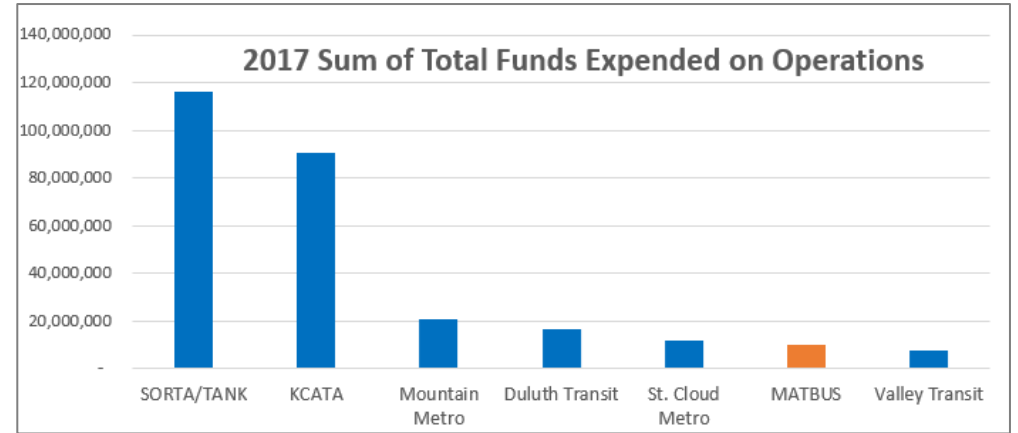
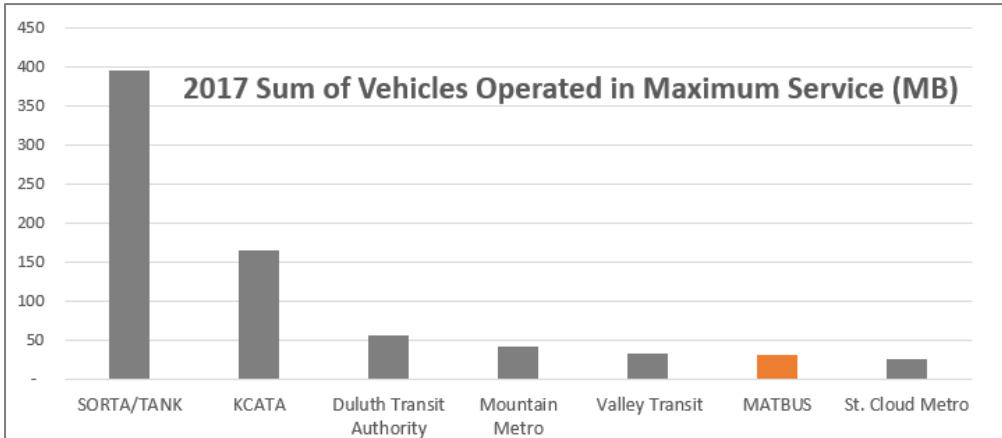
Source: National Transit Database, 2018
 *DO = Directly Operated; PT = Purchased Transportation

Table 16. Annual Operating Funds by Source for Case Study Agencies

Transit Agency	Organization Type	Fares	Other Directly Generated	Local	State	Federal	Total
KCATA	Authority	10.3%	0.7%	76.9%	0.1%	12.1%	100.0%
DTA	Authority	15.1%	10.2%	1.9%	71.8%	1.1%	100.0%
TANK	Authority	18.2%	2.5%	71.9%	0.6%	6.7%	100.0%
SORTA	City Gov.	28.5%	6.1%	49.0%	0.8%	15.6%	100.0%
Mountain Metro	City Gov.	16.1%	3.7%	61.5%	0.1%	18.6%	100.0%
Valley Transit	Authority	18.1%	2.0%	20.7%	30.3%	28.8%	100.0%
Metro Bus	City Gov.	12.6%	2.4%	11.4%	73.6%	0.0%	100.0%
MATBUS -Fargo	City Gov.	9.7%	8.7%	42.7%	6.0%	32.9%	100.0%
MATBUS - Moorhead	City Gov.	13.8%	1.0%	3.4%	66.2%	15.5%	100.0%

Source: National Transit Database, 2017

The series of charts on the following page provide the operating statistics of the selected case studies to MATBUS. The charts were developed using 2017 data from the NTD



Duluth Transit Authority (DTA)

Governance and Board Composition

Duluth Transit Authority was the first transit authority to become publicly owned in the State of Minnesota. It provides service to the City of Duluth, City of Proctor and the City of Superior, Wisconsin. The agency was established in 1969 through an act of legislation which provided an option for the City of Superior, WI to join. The agency's governance structure was set up to maintain some level of city control. For example, the enabling legislation calls for involvement of the Duluth city attorney and treasurer. The agency's finances also move through the city, but DTA manages use of the funds and makes payments. With this arrangement, DTA generally receives about 70 percent of investment revenue with the remainder going to the city for their costs involved. Lastly, the DTA budget is approved annually by the city council.

As an independent intra-state authority, DTA is governed by a Board of Directors made up of nine directors appointed by the council districts and confirmed by the city council in Duluth. The board comprises the following:

- 5 – represent the five city council districts
- 1 – represents the City of Superior (appointed by the Mayor of Superior)
- 3 – represent the City of Duluth at large

Each Board Director may serve two consecutive three-year terms on the Board.

Transportation Funding Authority

Funding for DTA is provided from various sources including federal, state and local sources. As a transit authority, DTA levies a millage of 0.08 percent. Since the levy's inception, it has been increased twice, first in the late 1980s and then in the mid-1990s. Both increases were passed through referendum. The levy generates approximately \$1.4 million per year and accounts for about seven percent of their budget.

System revenues account for about 27 percent of DTA revenue. This includes service contracts with Superior and the universities. For the University of Wisconsin, Superior, however, the money generated stays within its boundaries. Below is a breakout of DTA's service contracts:

- City of Superior Service: approximately \$1.3M (less than 10 percent of DTA revenue)
- U-Pass with universities: University of Minnesota, Central Lakes College, Lake Superior College
- Private high school (approximately \$500,000)

DTA is also a designated recipient of federal funds and receives 5307 funding. This source makes up less than eight percent of its total funds. The State of Minnesota provides about 60 percent of DTA's operating funds.

Interagency Coordination and Service Delivery

The DTA coordinates with Superior in providing contracted services to the city. The agencies abide by a contract that indicates the cost sharing approach with clearly stated language for payments. There was no federal involvement in this process except for contract review and standard triennial reviews. The agencies initially started with a cost per mile arrangement but later switched to a cost per hour scheme for funding the cross-border service. DTA collects fares, trip by trip, and nets the costs accrued from providing service to the City of Superior. The City of Superior is also a designated recipient of federal funding.

The DTA also provides service to the City of Proctor which does not currently pay into the system; however, ridership has declined over the last decade.

The DTA board hired a First Transit as a management company to operate its services. Employees of DTA are all employees of a Duluth holding company except for the General Manager who is a full-time employee of First Transit. The contract is reviewed and sent out to bid every five years since the 1960s.

According to DTA, the existing service delivery mechanism works well for the agency and keeps service provision from being political. It allows the agency to be frugal and consistent.

Kansas City Area Transportation Authority (KCATA)

Governance and Board Composition

The Kansas City Area Transportation Authority was formed in 1969 as a bistate authority created by interstate compact between the state of Missouri and Kansas. The compact was approved by the United States (US) congress in 1965 and began operations in 1969. The KCATA's jurisdiction covers seven counties, namely, Cass, Clay, Jackson, Platte counties in Missouri and Johnson, Leavenworth, and Wyandotte counties in Kansas.⁹

The KCATA is governed by a 10-member Board of Commissioners comprising five members each from Missouri and Kansas.

Missouri Commissioner Appointment Process:

- 3 - appointed by the Mayor of Kansas City. One of the three appointees must be a Kansas City, MO resident. The County Commissioners for Clay and Platte counties each submit three names for consideration by the Mayor.
- 1- appointed by Jackson County Executive. The individual must be a Commissioner from the community other than Kansas City
- 1- appointed by the governor and confirmed by the state. The Governor receives a nomination from the county's commission of a Cass County resident

Kansas Commissioner Appointment Process:

- 3 – appointed by the Mayor of Kansas City, KS (now the Unified Government of Wyandotte County/Kansas City, Kansas. These must be approved by the City Commissioners.
- 1 – appointed by the Johnson County Commissioner
- 1- appointed by the Leavenworth County Commissioner

Commissioners are limited to two consecutive four-year terms. As an authority, the board is responsible for managing as well as controlling and operating the agency

Transportation Funding Authority

A combination of local, state and federal funds is provided to support the KCATA service. Sales tax revenues serve as the primary funding source for the agency. This source consists of two separate taxes¹⁰, namely, the Public Mass Transportation Sales Tax (half cent tax that generated approximately \$43 million in 2019) and a 3/8-cents transportation sales tax (generated about \$30 million in total). The half cent tax is divided by KCATA and the streetcar, but KCATA receives majority of the funds. The 3/8 cent tax is received through the KCMO contract. In addition to these local sources, the agency also generates funds through operating subsidies through several community contracts.

⁹ KCATA serves Cass and Clay counties in Missouri, not to be confused with Cass county ND and Clay county MN, respectively, portions of which are served by MATBUS

¹⁰ 2020 Budget

The states also support with about \$300,000 and \$600,000 from Kansas and Missouri, respectively. The federal funding received include Job Access Funds, 5310 funds, CMAQ¹¹ and others federal grants. Some federal funds also support preventative maintenance and capital projects.

Interagency Coordination and Service Delivery

The KCATA provides all fixed-route services with in-house staff. Its paratransit, on-demand ride services and vanpool services are provided through third-party operator contracts. Contracts are based on the costs to run the service, salaries, maintenance costs, fuel and other similar costs.

Transit Authority of Northern Kentucky (TANK)

Governance and Board Composition

The Transit Authority of Northern Kentucky is a regional governmental agency that has over 40 years of operations. Created in 1973, TANK serves the northern Kentucky suburbs of Cincinnati, Ohio, by providing service to Boone, Campbell and Kenton counties and parts of Cincinnati, Ohio.

It is governed by a nine-member board with three members from each of the service counties. Each board member serves a four-year term and share the same voting rights. The Board is selected by county presiding officer and county commission. Full county commission approval is required for appointment. The TANK board has full control, autonomy and fiscal responsibility for the agency. The board also sets all policies for the agency. represent the citizens and elected officials in the county that appointed them.

The main operator in Cincinnati, Ohio, is the Southwest Regional Transit Authority (SORTA) which was also founded in 1973. SORTA is governed by a 13-member volunteer citizens' board of trustees. Seven trustees are appointed by the City of Cincinnati and six are appointed by Hamilton County. Hamilton County appoints three of its own trustees plus one each representing Butler, Clermont and Warren counties. The funding relationship between SORTA and the City is established by the City/SORTA Agreement of 1973.

Transportation Funding Authority

TANK does not currently have a dedicated revenue stream or regional tax for transit purposes. The agency's operations are funded with a combination of local, state and federal funds. Local operating funds is provided by the county governments. Each county appropriates funds every year and serves as the only source of control for the county. Contributions are sourced from an earning tax with covers 30 different jurisdictions. Due to the local funding mechanism, TANK presents a baseline budget each year and goes through an iterative process with the counties. Thus, the TANK budget is very lean and operates on a year-by-year basis. This local funding source accounts for about 70 percent of the operating budget (approximately \$25 million per year).

TANK requests state funding annually to match federal capital funds. This amounts to about \$500,000 per year of an approximate \$2 million available statewide per year for transit funding. The region's MPO, Ohio-Kentucky-Indiana Regional Council of Governments, sub allocates federal funds to the UZA. The agency is also a direct recipient for federal funds and receives 5307 funding to the amount of about \$4 to \$6 million per year.

Interagency Coordination and Service Delivery

The two agencies, SORTA and TANK, provide about 95% of the transit service in the region with TANK's share being about 20%. Service coordination between SORTA and TANK is codified in an inter-local agreement between the two agencies.

¹¹ Congestion Mitigation and Air Quality Funding

SORT and TANK coordinate their respective fare programs. For example, TANK pays the whole cost of any services that go downtown Cincinnati. The two systems each have a transfer fee within the respective systems but accept cross-agency transfers for half fares on the routes.

The two agencies coordinate schedules and offer mobile ticketing for the benefit of their customers. A cost allocation agreement is in place for the agencies and is based on the following three factors:

- Hours of service
- Miles of service
- Population within fixed routes.

The two agencies currently operate as two separate systems with different branding, different governance models, different fare structures and different call centers. There have been discussions regarding the creation of a bi-state entity, however, this work has not progressed such that legislation is being crafted. This is a result of various challenges and perceptions that need to be overcome. For example, the agencies are significantly different in size and therefore have different cost structures. This leads many to believe that the smaller agency, TANK is more efficient. There is also a fear of the possible loss of control by the smaller partner. The current perception is that creating a new model would be more difficult than living with the existing structure.

Despite this, TANK has thought through potential solutions for their existing issues including the possible separation of costs if the agencies do merge in some other fashion. A unified brand with one call center, unified maps, schedules and other customer information would also support the move toward a bi-state entity. Finally, the two fare structures would also have to be streamlined.

Mountain Metropolitan Transit (Mountain Metro)

Governance and Board Composition

Mountain Metro is a municipal department that provides service to Colorado Springs, Manitou Springs and the unincorporated part of El Paso County. The agency has been governed by the city government since 1972 and has since transitioned from a city council/city manager to city council/strong mayor.

Citizens' Transportation Advisory Board provides advice to the City Council on multi-modal transportation issues. It is made up of 11 members that serve three-year terms with a two-term limit. There is also a Transit Passenger Advisory Committee (TPAC) which provides feedback and information to Mountain Metro.

Transportation Funding Authority

As a branch of city government, Mountain Metro relies on traditional sources of revenue. This is a combination of farebox, advertising, and general city funds. State funding is available but not for operating revenue. The agency also receives federal 5309 and 5310 funds. Part of Mountain Metro's local funding comes from the Pikes Peak Rural Transportation Authority (PPRTA).

The PPRTA was formed by the cities of Colorado Springs and Manitou Springs, El Paso County, and the towns of Green Mountain Falls and Ramah. These Pikes Peak area governments worked with the area businesses and community organizations to make a case for the need for a regional transportation authority. After two years of concerted efforts, a voter-approved ballot authorized a one percent sales tax to support the authority's goals in 2004. The sales tax provides 10 percent of its collections to transit. The other 90 percent goes to capital projects (55 percent) and road maintenance projects (35 percent). The capital funding portion of the tax is subject to sunset provisions and was recently extended from 2015 through 2024.

An Intergovernmental Agreement (IGA) was established between the five member governments to clearly outline their roles. This includes details on the following:

- Purpose and activities

- Allocation of revenues
- Board of Directors membership, terms, and officers
- Powers of the Authority and the Board
- Boundaries
- Addition or removal of parties or territory

Interagency Coordination and Service Delivery

Mountain Metro provides fixed route buses and complimentary ADA service through contract services for about 91% of those services. Since 2005, the transit system has relied on a contracted operations and management. The current Mountain Metro contractor manages more than 200 contract employees comprising drivers, maintenance staff and administrative staff. Mountain Metro has 33 employees who mainly focus on meeting federal requirements.

Mountain Metro provides cross-boundary service but does not use any cost allocation agreements due to its funding from the PPRTA.

Valley Transit

Governance and Board Composition

Valley Transit is a municipal transit agency in Appleton, Wisconsin, that serves the Fox Cities. Service is provided to several jurisdictions including Buchanan, Grand Chute, Kaukauna, Kimberly, Little Chute, City of Menasha, Fox Crossing, and Neenah.

The governing entity for Valley Transit is the Fox Cities Transit Commission (FCTC). The FCTC in turn reports to the Appleton Common Council which is a component of the City of Appleton's organizational structure. Although a municipal transit system, Valley Transit operates with as much independence as it can. The FCTC controls all purchasing and operating decisions. It supervises all the operations and maintenance of the system. The commission comprises members from the City of Appleton as well as representatives from the municipalities and counties that provide local funding for Valley Transit. They are as follows:

- 4 – City of Appleton (2 citizen members and 2 aldermanic members)
- 2 – Town of Grand Chute
- 1- Village of Kimberly
- 1 – Village of Fox Crossing
- 2- Neenah
- 1 – Kaukauna
- 1 – City of Menasha
- 1 – Town of Buchanan

The partner municipalities and counties appoint members who are typically either staff members or citizen members. The partnership has worked well with Valley Transit boasting a very positive relationship with the partner communities.

However, Valley Transit has struggled to some extent with the existing system – including navigating service and funding contracts with several municipalities – and has considered a different governance or funding structure in the past for more stable, regionalized funding. Some challenges have been opposition at the state level with passing enabling legislation. There is also legislation that places levy limits on local municipalities

Transportation Funding Authority

Valley Transit also faced a similar transition to MATBUS as the agency moved to TMA status. The revenue loss was substantially made up by state funds, based on existing state funding policies.

Interagency Coordination and Service Delivery

Valley Transit provides services to eight other municipalities and three counties through standing contracts that continue year to year and requires a three-year notification for exit. Contract services are provided by the mile (cost per mile basis). Furthermore, overhead costs, salaries and other fixed costs are allocated to the fixed routes. All other costs are placed under contract.

Generally, the municipalities determine their fix route budgets and pay for service on a monthly basis. Valley Transit in turn reimburses municipalities once federal and state funds are received.

For ADA services costs, counties pay for the direct costs calculated by the number of rides. Any ancillary services are paid for by the jurisdictions that request them.

All fixed-route services are directly operated by City of Appleton/Valley Transit employees. The ADA paratransit service is contracted.

St. Cloud Metropolitan Transit Commission (Metro Bus)

Governance and Board Composition

The St. Cloud Metropolitan Transit Commission was established in 1969 by the Minnesota Legislature (Chapter 458A.01-458A.15 St. Cloud Metropolitan Transit Commission Act of 1969). As a transit authority, the agency provides both fixed route and demand-response services to the cities of Cities of St. Cloud, Sartell, Sauk Rapids and Waite Park.

Metro Bus is governed by a five-member Board of Commissioners made up of either the elected city mayor or city council member. The Board has the following representation:

- City of St. Cloud – 2 members
- City of Sartell – 1 member
- City of Sauk Rapids – 1 member
- City of Waite Park – 1 member

Board members serve a three-year term.

Transportation Funding Authority

As a transit authority, Metro Bus levies a 0.12 percent property tax to fund its services. In 2018, the property tax generated approximately \$2.47 million and budgeted about \$3.1 million in revenues for both 2019 and 2020.

Metro Bus also receives funds services through fares, concessions, advertising, and state and federal grants. Majority of its funding is from state sources with about \$12 million budgeted for the Metro Bus 2020 budget. Federal grants make provide about \$2 million in capital and operating funds.

Key Issues of Existing Governance Structure

While from the rider perspective MATBUS operates as a unified entity, transit service is governed, operated and funded by the individual city governments of Fargo and Moorhead. A Metro Area Transit (MAT) Coordinating Board was created in order to make technical recommendations to both the Fargo City Commission and the Moorhead City Council, where decisions are ultimately made.

Communication

Although MATBUS has a single unified branding approach and appears as a single system to users, the transit service is run as two separate entities out of the cities of Fargo and Moorhead. As a result, the agency experiences (1)

internal communication issues within MATBUS and within the individual city governments, and (2) external communication issues between Fargo and Moorhead as well as between MATBUS staff and city administrators. The ineffective communication often results in stagnation for MATBUS in several areas.

Firstly, the absence of a clear strategic direction for MATBUS makes long-term visioning or planning difficult. This usually results in decisions that are more short-term and tactical strategic. Each city makes decisions based on a set of priorities, which are not necessarily coordinated across city boundaries and may sometimes even be conflicting. Capital and service planning decisions are made to benefit individual city priorities, rather than regional priorities. For example, the current operating agreement does not address capital renewal investment except if renewal investment is included in the maintenance plan. The implication is that the parties would need to agree on capital renewal investments unless they are in the mutually approved maintenance plan.

Secondly, limited communication across departments within the same city government impacts transit negatively. As a branch of city government, transit competes with other essential services for resources and may not always be viewed as essential when compared with other city services. In the existing governance structure, MATBUS staff represent staff of two independent cities instead of a unified MATBUS entity. Thus, what could be seamless internal communication within MATBUS occurs as inconsistent communication across jurisdictions.

Decision-Making Process and Equity

The MAT Coordinating Board was created to advise on regional decisions for the MATBUS system and ensure consistency in development of service. Despite this, MATBUS decision-making still requires a significant amount of consensus building, both internally and externally, as well as approval from multiple boards. Irrespective of the origin, new proposals require consensus and approval from MATBUS, the MAT Coordinating Board, the Fargo City Commission and the Moorhead City Council. Moreover, local contracting decisions are also made at partner government City Councils, and higher education funding bodies. Thus, prioritizing actions and proposing changes for MATBUS involves a significant amount of coordination which often proves difficult. Having a single board or single MATBUS employee to represent the interests of the agency would improve the speed with which decisions are made and new ideas implemented.

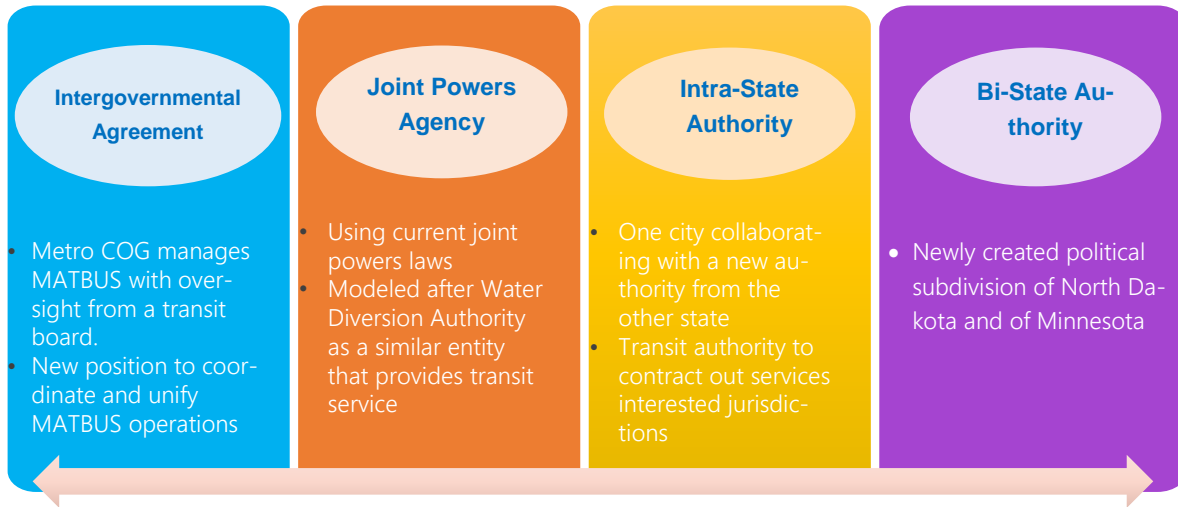
Additionally, although the MAT Coordinating Board constitutes representatives from the various MATBUS service areas, some members feel that the decision-making process is not as equitable as it could be with regard to route alignment and other service issues; these members would like this addressed in a future governance structure.

Another point on decision-making contention is the difference between Minnesota and North Dakota based universities and colleges. North Dakota State University contributes significant funding for dedicated transit service to and on campus, and for the U-PASS transit program for students. Minnesota based MSUM, Concordia College, and M | State pay a much smaller amount, but just provide the U-PASS program to their students. These institutes of higher learning are served by regular Moorhead transit service.

Comprehensive Governance Alternatives

The four comprehensive governance alternatives studied are shown in Figure 6. Please see the Analysis of Governance Alternatives Section in the *MATBUS Transit Authority Study: Analysis of Governance Alternatives* technical memorandum of June 2020 for detailed descriptions of the four alternatives. The memo provides an overview of the four comprehensive governance alternatives considered, their board and governance structures, decision making equity and conflict resolution, facility ownership, funding, and the benefits and challenges of each alternative. These details are summarized below and in Table 17.

Figure 6. Comprehensive Governance Alternatives Overview



1. Metro COG Ownership and Operation by Intergovernmental Agreement
 - Ownership and operation of MATBUS placed under Metro COG umbrella
 - Discussion of asset transfer to MATBUS entity
 - Capital and operating shortfall allocation agreement
 - New Transit Director position to head MATBUS operations
 - Unified MATBUS visioning, long-term planning and decision-making
 - No new legislation required
2. Intra-State Transit Authority
 - New transit authority in North Dakota
 - New legislation required in North Dakota
 - Contract to provide services to Moorhead and other jurisdictions
 - Moorhead representation on new authority board
 - Negotiated capital asset ownership and funding
 - Independence, transparency and unity in decision-making
 - Some external coordination required
 - Potential to close funding gap with mil levy
3. Joint Powers Authority
 - Using existing joint powers laws in both states to form agency
4. Bi-State Transit Authority
 - One new transit authority to represent region
 - New legislation in required in both North Dakota and Minnesota
 - Streamlined communication and decision-making
 - Potential to close funding gap with mil levy

Metro COG Ownership and Operation by Intergovernmental Agreement

In this alternative, MATBUS is placed under the umbrella of Metro COG and governed by a transit board that is limited only by the COG Policy Board. The purpose of placing MATBUS under the COG’s structure is to provide independence for the transit agency and align the communication and decision-making under a single governance structure accountable to the two cities. The idea of Metro COG owning and operating MATBUS would not be entirely new. In the 1970s, Metro COG housed and operated Fargo transit service. Thus, getting buy-in from the existing COG boards may be possible due to the precedence.

As the region's designated MPO, Metro COG is responsible for coordinating transportation planning and investments in the region in a way that is consistent with regional needs and priorities. As bi-state entity in itself with a planning area that extends across two counties, 14 cities, and 30 townships, Metro COG is well positioned to play a greater role in regional transit planning. By taking on the new role, transit governance can be placed within the MPO's existing structure. It will need to hire transit-specific staff and planners.

Metro COG is governed by the Policy Board. The Executive Committee and the Transportation Technical Committee (TTC) are two senior committees with specialized roles. The Policy Board makes decisions and serves as the executive body of Metro COG. It consists of 16 voting members from the across the metropolitan planning area. The TTC on the other hand, provides technical advice on transportation-related issues in the region to the Policy Board. The committee comprises planners and engineers from local jurisdictions, transit agencies, and representative from MATBUS, MnDOT and NDDOT.

This alternative also proposes the creation of a new position, the Transit Director, as the chief executive officer (CEO) for transit to oversee and coordinate decisions for MATBUS operations. The discussion of creating such a position to streamline MATBUS decisions is not entirely new as it has been discussed at different levels in the past. The Transit Director would consolidate the existing two positions of Transit Manager and Transit Administrator. The proposed transit director would be an employee of Metro COG and report to a transit board which could either be the (1) existing MAT Board with amended powers, so that its contribution goes beyond advisory, or (2) a new board. Funding for the position is presumed to be sourced from a combination of state and federal grants for operating assistance, as well as local share of aid from Metro COG's funding partners.

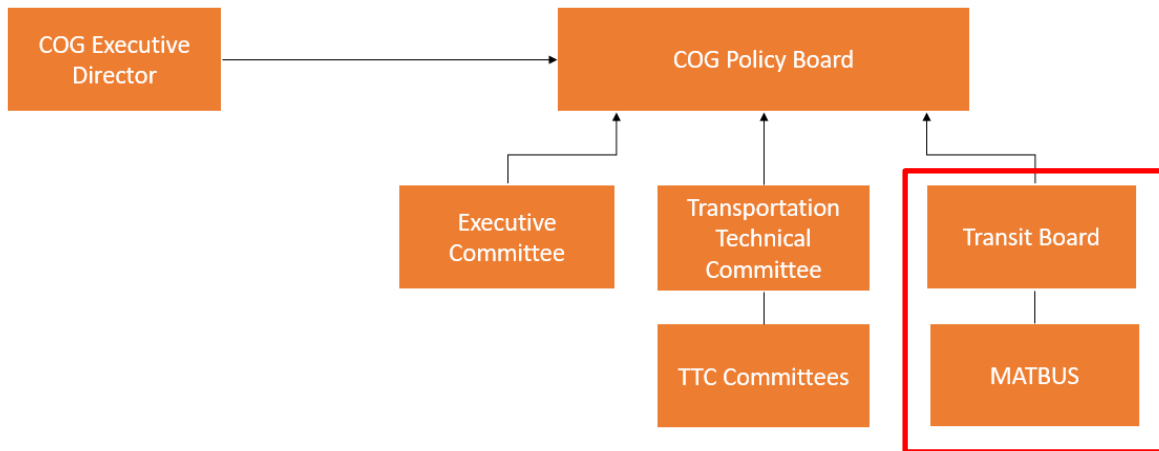
As an employee of the Metro COG, the Transit Director would have the following responsibilities:

- Long-term visioning and planning for MATBUS through consensus with appropriate stakeholders
- Serve as a single point of contact for approvals and proposals
- Lead a unified approach to capital and service planning
- Facilitate internal agreement by coordinating with both MATBUS city operations
- Coordinate decisions between the Transit Director and Transit Manager
- Make hiring decisions for MATBUS staff
- Make first recommendations on career and compensation decisions for MATBUS staff

Board Representation

The composition of the board is a question that arises from the beginning of considering a new form of transit governance. But the question is seldom (if ever) answered before the rest of the issues are agreed. There are an infinite number of variations, and the composition must reflect the final balancing of interests that the new governance structure will serve. Key principles can be agreed early on, but final composition and voting will evolve. Ideally, the transit board membership would include appointments by the municipalities providing an avenue for input on key MATBUS decisions. Additionally, consideration should be given to including representation for Metro COG and one or more universities in the area. In the case of Metro COG, the Policy Board or the TTC could appoint one member, while the area universities collectively appoint one member as well. The new governing board for MATBUS should be incorporated into the Metro COG's board and committee structure. This may be done in various ways, but the key action would be to reflect such incorporation into the COG's bylaws. Figure 7 below shows a potential structure for absorbing MATBUS into the COG's existing structure. The transit director would report to the transit board.

Figure 7. Metro COG Ownership and Operation of MATBUS



Decision Equity and Conflict Resolution

If Metro COG governs MATBUS, conflicts would be managed internally through the existing COG channels using the transit board. Equity as to Fargo or Moorhead would be the responsibility of the governing board and would be assured through the appointment process.

Within MATBUS, the Transit Director would be the single point of contact for MATBUS and would present a unified view of the agency’s decisions. The role would limit internal conflict as decisions would be made for the agency as a whole and not from what would most benefit the City of Fargo or City of Moorhead. Secondly, representation on the transit board should be designed to promote equity among the jurisdictions.

Furthermore, external conflicts between City of Fargo and City of Moorhead could be minimized by resolving issues through their representatives on the transit board. Conflicts between MATBUS and city administrators would also either be eliminated or non-existent as the agency would no longer operate under city government.

Facility Ownership

There are many options for facility ownership in this scenario. The facilities could stay with the cities and leased by Metro COG, or the facility ownership could be transferred to Metro COG. This may be done through the intergovernmental agreement. In either option, the facilities would be maintained for transit use.

Funding

Many systems provide service funded by more than one local jurisdiction and do so with negotiated allocation formulas. The most common formulas allocate each category of operating cost or fare revenue according to the percentage of an allocation statistic occurring in each jurisdiction. The most common statistical bases for allocation are vehicle hours in each jurisdiction and vehicle miles in each jurisdiction, or boardings in each jurisdiction in the case of fare revenue. Other bases are used (such as peak bus requirements in each jurisdiction), and the local share of capital renewal cost is often included in the formula. Thus, this alternative would maintain current funding sources with no immediate changes to revenue generation sources and cost sharing between Fargo and Moorhead. Although no new funding source would immediately be specified, the intergovernmental agreement could specify a more consistent contribution from the municipalities.

In addition, the unified approach to capital and operations planning with the Transit Director would promote efficiency in use of funds by strategically investing in areas that support an overall MATBUS vision.

Benefits and Challenges

The SWOT identified a lack of communication and decision-making equity in the current governance structure. Placing MATBUS under the Metro COG umbrella would have the following benefits and challenges:

- Potential to develop a unified vision and long-term plan for MATBUS
- Integration into the COG would promote the MATBUS as true regional agency through unified planning and programming
- Internal MATBUS communication would be streamlined presenting a unified face for MATBUS
- Internal MATBUS decisions would be streamlined
- External conflict and communication issues between MATBUS and municipalities would be eliminated
- Finances still tied to individual cities

Intra-State Transit Authority

Formation of a transit authority constitutes the creation of a government agency to provide public transportation within a specific region. The intra-state transit authority option involves forming a transit authority in either North Dakota or Minnesota, and then, contracting transit service with other interested jurisdictions. For example, forming an authority in Fargo, ND, would make MATBUS-Fargo the primary service provider. Cities and jurisdictions such as Moorhead, West Fargo and Dilworth would then pay for contract services.

There are many benefits to forming a transit authority, however, these benefits must be balanced with feasibility within the current environment and its ability to address the existing key issues. The distinguishing advantage of forming a new authority is the potential to develop a reliable independent source of funding, specifically of local funding. Such sustained funding is essential for the planning, development and operation of such complex systems as multi-modal transportation services and resources. A new authority provides taxing and revenue authority through a millage authorized by referendum. If authorized for a specific time period (e.g., 20 years), the millage will be subject to another referendum for renewal after the authorized period. The authority may also be formed without authorizing a millage but may require start-up funding to enable it to function. This strong advantage may also be unattractive to some city residents who may be averse to additional taxes that have potential for future growth (if approved by citizens of the authority area).

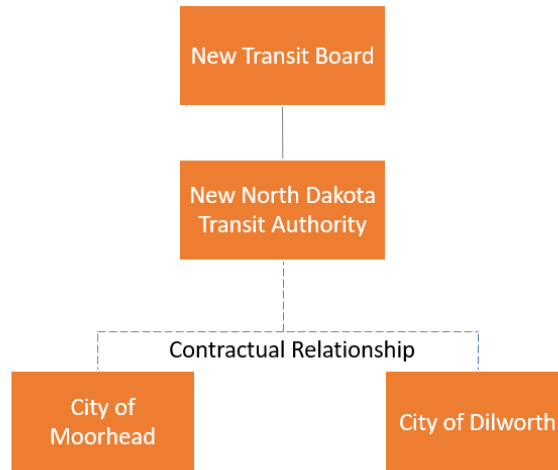
Forming an authority in Minnesota could be successful based on the precedent set in other jurisdictions in the state. Although majority of Minnesota's public transportation providers are operated as part of a city, county or local government, there are two established transit authorities in the state: Duluth Transit Authority and St. Cloud Metropolitan Transit Commission. These were both formed with new legislation.

North Dakota Transit Authority

An authority may be formed in North Dakota, spearheaded by the cities of Fargo and West Fargo, and, potentially, other unincorporated areas in the state may elect to join. The authority would then contract services with the City of Moorhead and possibly, Dilworth. A North Dakota authority is considered a viable alternative because of the funding potential an authority presents. The additional revenue from a potential transit levy would provide an opportunity to improve the amount of transit service provided, new routes and improved frequencies. Furthermore, discussions with the City of Moorhead revealed that the potential to purchase contracted service from a potential North Dakota authority would relieve the city of the associated administrative burden.

Forming an authority in Fargo would require new legislation. The two main open-door transit agencies in North Dakota, MATBUS and Cities Area Transit (CAT), operate as part of their respective city governments. Although North Dakota does not have any transit authorities formed yet, adequate local support could still make this option viable.

Figure 8. Contractual Relationship between a ND Authority and other Jurisdictions

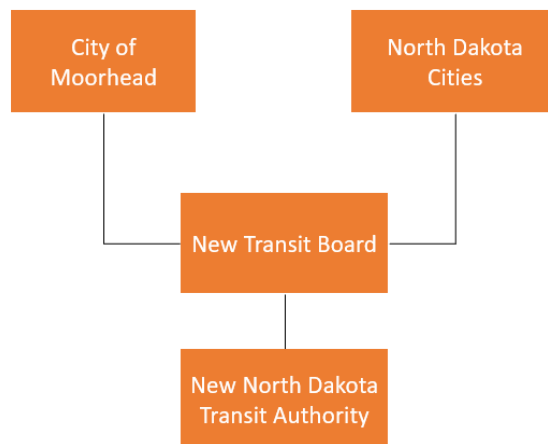


Board Representation

A new North Dakota Authority would require the formation of a governing board. Most transit governing boards are appointed by the units of general-purpose government (e.g., city council) or sometimes, officers of the government (e.g., mayor or governor). Appointees of such boards are often citizens, but sometimes are elected officials. Additionally, certain qualifications (CPA, transit rider, and others) are sometimes also considered. Board members may also be directly elected but this rarely happens in practice.

In general, governance works more smoothly when the composition of the board reflects and is accountable for the sources of local funding. For issues of equity and continuity, the City of Moorhead may also have representation on the governing transit board with final approval provided in the ND state legislation. The number of board seats for each North Dakota city could be determined by the percentage of population within the authority’s boundaries. In Minnesota, board seats could be based on the percentage population within the areas served.

Figure 9. Potential Board Representation Entities for a ND Transit Authority



Decision Equity and Conflict Resolution

A major benefit of forming an authority is the independence it provides an agency. A new ND authority would therefore eliminate many of the existing conflicts or issues for MATBUS. For example, as an independent entity with a governing board, internal conflicts would be managed and resolved solely by its board. Also, as an authority, the agency’s vision, goals and tactical decisions would be designed to further the purpose of its board. Thus, internal

conflict can be resolved much easier with one goal in mind, than with the status quo where divergent goals exist among the municipalities.

External conflicts between the agency and municipalities would also be minimized. Currently, issues with decision-making involve approvals from multiple boards. In this alternative, all decision-making would take place at the transit board whose equity would be determined in its creation.

Again, the resolution of conflicts with Moorhead and equity as to Moorhead would be a contractual matter which would be periodically negotiated. The City of Moorhead's recourse would be to withdraw from the contract and establish its own system if it wanted. A Moorhead appointment to the transit board could also provide representation which should avoid such issues. Any lesser conflicts and equity issues with the City of Fargo or with the City of West Fargo would be the responsibility of the governing board.

Facility Ownership

A North Dakota authority could replace the City of Fargo in the existing MATBUS arrangements, that is, owning Fargo's share of the facilities. Alternatively, the authority could purchase Moorhead's share of ownership, and charge back the capital cost as an element of the service contract charges.

Funding

Forming a transit authority provides the option of authorizing a mil levy which could serve as a reliable and independent funding source for MATBUS. An authority may be formed without authorizing a millage at the outset but will require start-up funding which may be contributed by the parties involved.

In the case of ND authority being formed, a mil levy or sales tax could be authorized across all jurisdictions which seek to participate in forming the authority. Therefore, both the cities of Fargo and West Fargo could contribute. Alternatively, a county-wide sales tax could also be introduced to fund the authority's operations.

Benefits and Challenges

Compared to the status quo, forming an authority would provide the following powers which may be viewed as benefits:

- Option to start with one political subdivision and have new members join over time
- Ability to levy millage providing potential to develop reliable and independent funding source
- Ability to create an Authority Board of Directors for representation of multiple communities
- Ability to construct, operate and maintain transit
- Ability to acquire or condemn property independently
- Ability to accept gifts, grants, loans or other property
- May provide service outside of transit area by contractual agreement
- Authority to issue negotiable revenue bonds independently
- Ability to independently borrow money

A challenge of this option is that it requires new legislation for implementation making it a medium to long-term option. Additionally, if other jurisdictions decide to join the authority, withdrawal may also only be by legislation.

Joint Powers Authority

A joint powers authority is a form of joint powers agreement (JPA), a formal, legal agreement between two or more public agencies that are a common power and want to jointly implement programs, build facilities or deliver services. In both states, JPAs can typically involve any city, county, town, school district, service cooperative, or other political subdivisions within the state or *another state*, another state, and a federally recognized Indian Tribes.

Both Minnesota and North Dakota have existing laws for forming JPAs (Chapter 54-40.3 N.D.C.C.¹² and Minnesota Statutes 471.59). In Minnesota, SouthWest Transit and Minnesota Valley Transit Authority are two agencies that were both formed under current JPA legislation. SouthWest Transit was formed in 1986 between Chaska, Chanhassen and Eden Prairie to provide transit services to the three cities and contracting to provide transit and planning services as well¹³.

In the case of MATBUS, the MAT Board was also formed through the use a JPA between the cities of Fargo and Moorhead to govern the transit system. However, as a new joint powers authority, MATBUS would have some independence from the municipalities, increase unity and improve transparency of the agency.

Another alternative under this joint powers authority option would also be to amend the powers of the Metro Flood Diversion Authority to include transit. The Flood Diversion Authority was established as a joint powers agreement between the cities of Fargo, ND, and Moorhead, MN, Clay and Cass counties in Minnesota and North Dakota respectively, and the Cass County Joint Water Resource District for the purpose of comprehensive flood protection and is funded by member contributions. As with the Metro COG alternative, it would be advisable to form a transit governing board within the Joint Powers Authority that was independent from the Joint Powers Board. Including MATBUS under the Flood Diversion Authority would also provide independence and transparency for MATBUS. Lastly, this option also provides MATBUS the potential for a funding commitment to support operations.

Funding

Funding for a JPA would come from member contributions. Although stable funding is not guaranteed, the entity's independence would lead to more reliable contributions for the municipalities involved. Municipal contributions may be funded through tax and revenue sharing.

Benefits and Challenges

Forming a joint powers authority would have the following benefits and challenges:

- Offers flexibility for interim or exploratory entity if constituents of Fargo and Moorhead may not yet be ready to authorize an entity with dedicated funding authority
- Offers independence, unity, and transparency
- Potential for more reliable municipal contributions because of its independence
- Offers less membership reliability than an authority
- Instability in funding may persist as no new funding source introduced

Bi-State Authority

Forming a bi-state transit authority would entail the creation of a new political subdivision of North Dakota and Minnesota through legislation. Legislation involving two states could also require approval of the United States Congress if formed as an interstate compact. For example, the Kansas City Area Transportation Authority (KCATA) was formed as an interstate compact between the states of Kansas and Missouri and was authorized by legislation passed in both states in 1965. As an authority, the compact gives KCATA the responsibility to plan, construct, own and operate passenger transportation systems and facilities within the seven-county metropolitan area.

Similarly, the Washington Metropolitan Area Transit Authority (WMATA) was also created by an interstate compact in 1967. As typically associated with transit authorities, WMATA has the responsibility to plan, develop, build, finance and operate public transportation in the Maryland, Virginia and Washington D.C. metropolitan area.

Creating a bi-state authority provides a way to handle equity issues between the two cities. The ability to create an authority board also offers an opportunity for appropriate representation of the communities for which service will

¹² North Dakota Century Code

¹³ Minnesota Statutes 471.59, 473.384 and 473.388

be provided. For example, the KCATA is governed by a 10-member Board of Commissioners with five from Kansas and five from Missouri. In addition to appointing the President/Chief Executive Officer (CEO) of the agency, the board is responsible the management, control and operation of the authority. In the same way, WMATA's Board of Directors determines the agency policy and serves as an oversight by for funding, operation, and expansion of transit within the service jurisdiction.

Should MATBUS become a bi-state compact, a new authority board may be formed to represent the two cities more appropriately and those with vested interests in the agency. Selection of board members on either side may be done by the governors, city mayors or city councils. Members could also either be elected officials or citizens with public transportation interests and/ or expertise.

Funding

As a transit authority, the same funding mechanisms exist for this alternative as previously discussed in Section 2.3. For instance, as a bi-state authority, the primary funding source for KCATA is a sales tax making up approximately 58.9 percent of its 2019 budget¹⁴.

Benefits and Challenges

Forming an authority would provide the following powers which may be viewed as benefits:

- Ability to levy millage providing potential to develop reliable and independent funding source
- Ability to create an Authority Board of Directors for representation of multiple communities
- Ability to construct, operate and maintain transit
- Ability to acquire or condemn property
- Ability to accept gifts, grants, loans or other property
- May provide service outside of transit area by contractual agreement
- Authority to issue negotiable revenue bonds
- Exemption from taxation for assets, revenue and other income
- Ability to borrow money
- Flexibility in defining boundaries and expanding by adding new members to the authority

The main challenge with creating a bi-state entity is that a concerted effort is needed to get buy-in from stakeholders and the public to pass new legislation for the authority's creation.

¹⁴ KCATA 2019 Proposed Operating and Capital Budgets

Table 17. Summary of Comprehensive Governance Alternatives

Criterion	Status Quo	Metro COG Ownership	Intra-State Authority	Bi-State Authority	Joint Powers Authority
Enabling Legislation	n/a	Existing JPA legislation	New legislation required in implementing state	New matching legislation required in both states	Existing JPA legislation
Communication	Inadequate Potential for conflict	Improved coordination and communication	Improved communication Requires more external coordination than bi-state authority	Streamlined internal communication	Improved communication
Decision-Making	No change Potential for conflict	Unified and strategic approach possible Potential for lack of city coordination	Potential for independent vision and decision-making in the two cities More coordination needed to support a unified regional approach	Singular vision and priorities Independence and unity Transparency in decision-making	Independence and unity Transparency in decisions Potential for lack of city coordination
Funding	Funding constraint	No new funding potential	Authority to issue levy provides potential for new stable funding source if passed	Authority to issue levy provides potential for new stable funding source if passed	Potential for more stable funding through member contributions
Implementation Timeline	n/a	Short to medium term	New legislation will require major effort Long term	Agreement from two states required which may take longer than a single authority New legislation will require major effort Long term	Requires some effort Short to medium term

Funding Alternatives

The *Financial Current Conditions and Gap Analysis Memo* estimated the anticipated funding gap resulting from the reduction of federal funding as the Fargo-Moorhead metro area transition to a TMA. This chapter will outline the effects of this funding gap on the operations, administration, and capital spending of MATBUS, as well as outline revenue generating alternatives for MATBUS. New or enhanced sources of operating revenue will need political support, and some may have implementation hurdles depending on local ordinances and state statutes. Potential new or enhanced revenue sources will need to fill the gap created due to lower federal operating support and must be suitable to reliably fund potential further expansion of service in the future.

Each enhanced or new revenue source listed in this section includes the revenue potential, ease of implementation, and whether there is the need for legislative action. Revenue sources will need to be reliable, including during economic downturns when the need for transit service may grow. An equitable burden between jurisdictions will also need to be a consideration.

Another important consideration is whether enhanced or new revenue sources can raise the amount of additional revenue necessary to support the preferred medium growth alternative (Table 18). This medium growth transit service scenario is described in the *2018 MATBUS Facilities Report*, which includes an anticipated 21 percent increase in service by 2027 and a 43 percent increase in service by 2037, both compared to 2017 service levels (Table 19).¹⁵ A corresponding growth in operational funding would require an additional \$2.3 million to \$4.6 million annually, based on the 2018 MATBUS operating budget of \$10.8 million (Fargo and Moorhead combined).

Table 18. Fixed Route Revenue Miles and Vehicles by Year, Medium Growth Preferred Alternative

	2017 (Base)	2022	2027	2032	2037
Revenue Miles	1,468,699	1,624,961	1,781,224	1,937,486	2,093,749
Vehicles	42	47	53	58	63
Staffing Level	127	139	160	-	185

Source: MATBUS Transit Facility Study, 2018, Chapter 2, page 3 and page 10: http://www.fmmetrocog.org/application/files/5515/4774/9112/MATBUS_facilities_Report_1-19Landscape_r_1.pdf

Table 19. Operating Budget Implications – Medium Growth Preferred Alternative

	2018	2027	2037
Operating Budget	\$10,786,900	\$13,082,248	\$15,377,597
Percent Change from 2018		21%	43%

Funding Gap Effects

As estimated in the *Financial Current Conditions and Gap Analysis* report, the Fargo-Moorhead metro area is anticipated to lose about \$794,000 in FTA Section 5307 funding starting in FY 2023 (Table 8). Due to additional requirements regarding the share allowed to be used for operating assistance decreasing from 100 percent to 75 percent, combined federal and state funds eligible to be spend on operations are estimated to decrease by \$1.206 million in FY 2023 (Table 10).

¹⁵ MATBUS Transit Facility Study, 2018, Chapter 2, page 3: http://www.fmmetrocog.org/application/files/5515/4774/9112/MATBUS_facilities_Report_1-19Landscape_r_1.pdf

Operations

The loss of \$1.206 million in FTA Section 5307 Program funding eligible for operations will be profound on the North Dakota side of the MATBUS system (Table 10). Under existing MnDOT PTAP program rules, as the City of Moorhead’s federal funding decreases, the State’s contribution increases. Thus, the funding gap resulting from decreased Section 5307 Program funds to the City of Moorhead is erased by the increase in State of Minnesota funds it is allotted (Table 10). However, the City of Moorhead will continue to be responsible for producing the local matching funds required to receive state and federal funds.

The \$1.206 million decrease in operating funding represents approximately 15 percent of Fargo’s \$7.9 million 2018 operating budget (Table 3, Table 20). If no additional revenue can be identified, Fargo may need to reduce fixed route and demand response service. Fargo’s local partnerships with NDSU and West Fargo may need to be reexamined as well. In 2018, NDSU funded 8.2 percent of Fargo’s total operating expenses for service to campus and for unlimited rides on the entire MATBUS system for its students (Table 20). West Fargo contributions represented 4.5 percent of the 2018 operating costs to partially cover routes 20 and 24 and complementary paratransit. If the operating shortfall is allocated equitably to both partners, NDSU would need to provide almost \$100,000 more in annual operating funds, while West Fargo would need to provide an additional \$54,000 annually.

The state of North Dakota provided over \$490,000 in operating assistance to the City of Fargo in 2018, amounting to 6.2 percent of Fargo’s operating expenses. If the state of North Dakota were to cover this same share toward the loss in federal operating assistance, it would need to increase annual contributions by almost \$75,000 (Table 20).

If these three partners to Fargo’s transit service were to fund their share of the loss in federal operating assistance equal to their current share of operating assistance, it would cover over \$225,000 of the \$1.206 million operating budget shortfall. Additional funding from these partners is also necessary to fund the increase in service envisioned in the preferred medium growth alternative included in the *2018 MATBUS Facilities Report*. Population growth areas in West Fargo and Horace may also require these communities to fund a larger portion of the envisioned service expansion.

Table 20. Fargo Operational Funding Gap and Current Partnerships

	Funding	Share
Fargo Operating Expenses, 2018	\$7,900,726	
<i>NDSU Partnership</i>	\$645,684	8.2%
<i>West Fargo Service</i>	\$356,088	4.5%
<i>State of North Dakota Operating Assistance</i>	\$490,498	6.2%
Anticipated Loss of Federal Operating Assistance (2023)	-\$1,206,083	-15.3%
<i>NDSU Funding Gap Share</i>	\$98,567	8.2%
<i>West Fargo Funding Gap Share</i>	\$54,358	4.5%
<i>State of North Dakota Funding Gap Share</i>	\$74,877	6.2%

In 2018, Fargo provided 105,760 service hours for fixed route and demand response combined. A 15 percent reduction in service would lead to cuts in service span, frequency, or potential route consolidation or elimination. A reduction in service will almost certainly lead to a reduction in fare revenue and ridership. This is in stark contrast to the medium growth preferred alternative of service in the *2018 MATBUS Transit Facility Study*, which anticipated a robust growth in service over the next two decades. In addition, MnDOT and Moorhead have indicated a desire to provide service on Sundays but are unable to do so if Fargo cannot afford to operate the facility on Sundays.

Administration

Currently, both cities maintain separate budgeting and accounting systems (with different structures) and apply and administer state and federal funds separately. Both Fargo and Moorhead hire their own staff, purchase their own

vehicles, and independently negotiate and administer service and funding agreements with other local partners. A large funding cut on the Fargo side of the system may cause Moorhead to support a larger proportion of shared expenses.

Capital Expenditures

Table 21 summarizes the estimated annual cumulative impact on the MATBUS capital budget starting in FY 2023 – accounting for changes from Section 5307 and Section 5339 programs – compared to the annual average values under the current scenario, using data from 2014 through 2018.

In total, accounting for changes in state and federal funding eligible for capital projects, it is estimates that the Fargo-Moorhead UZA will have about \$1.25 million per year for capital projects starting in FY 2023 (Table 12). This represents an increase of nearly \$535,000 (75 percent) annually compared to the average annual amount spent between 2014 and 2018. This estimate assumes the City of Moorhead would no longer be eligible for competitive Section 5339 funds through MnDOT, though this remains uncertain. More complete descriptions of the current and future capital funding scenarios are included in the *Cumulative Impact on the MATBUS Capital Budget* section of this report (page 19).

Table 21. Federal and State 5307 and 5339 Allocations Eligible for Operating Assistance: Current and Future

Program	Formula Recipient	Current Scenario: Representative Estimate (Annual Average, 2014-2018)	Future Scenario (2023)	Difference (\$)	Difference (%)
FTA Section 5307	Fargo-Moorhead UZA	\$430,738	\$959,150	\$528,412	122.7%
FTA Section 5339	Fargo-Moorhead UZA	\$0	\$289,987	\$289,987	100.0%
FTA Section 5339	City of Moorhead via MnDOT	\$283,705*	\$0	-\$283,705	-100.0%
FTA Section 5339	City of Fargo via NDDOT	NA**	NA**	--	--
		\$714,443	\$1,249,137	\$534,694	74.8%

*Average annual funds from MnDOT spent on capital, 201-2018 (Table 4); from 2014 through 2018, this number was as high as \$884,152 and as low as \$0. The City of Moorhead may continue to be eligible for competitive Section 5339 grants through MnDOT, in addition to the allocation provided directly to the Fargo-Moorhead UZA.

**The City of Fargo did not used state (NDDOT) funds toward capital purchases from 2014 through 2018 (Table 4); in fact, the City has used state funds for capital purchases in just two years (2009 and 2010) since 1990, according to the latest National Transit Database release.

The net increase of \$535,000 in annual federal formula funds may not be suitable to achieve the preferred medium growth transit service scenario is described in the *2018 MATBUS Facilities Report*. Under this growth scenario, the MATBUS system may need approximately 20 additional vehicles by year 2037, on top of necessary replacements of existing vehicles. Additionally, MATBUS has and will have other facility needs, including upgrades to its passenger facilities and other bus-related facilities and technology.

Importantly, federal grants require recipients to contribute 20 percent of a total capital project's cost, accompanying the 80 percent provided by the federal government. For example, \$535,000 in federal funds could result in a total project cost of \$668,750 but requiring \$133,750 in local matching funds. Today, one heavy duty large diesel bus costs approximately \$530,000.

Enhanced or Alternative Local Funding Sources

This section lists potential enhanced and alternative funding sources for transit in Fargo. Since Moorhead's funding gap will be covered through MnDOT, these potential revenue sources were not examined for Moorhead. The local partners on the North Dakota side, West Fargo and NDSU, may need to contribute additional funding to continue receiving the service they have today. An overview of local funding alternatives is shown in Table 22.

While the initial focus of the enhanced and new funding sources will be on closing the funding gap, they must also be suitable to expand service by an additional \$2.3 million to \$4.6 million annually according to the medium growth preferred alternative of service in the 2018 MATBUS Transit Facility Study. It may require a mix of two or more funding strategies to close the funding gap and expand service to the preferred growth scenario. At the state and local level, there are opportunities to expand operational funding, but MATBUS will need to work with its community partners and transit advocates. As MATBUS rolls out service improvements, it can point to increased productivity and ridership and use customer testimonial stories to build a case for better transit in the Fargo-Moorhead metro area.

Table 22. Overview of Fargo Funding Enhancements or Alternatives

	Annual Revenue Potential	Covers Funding Gap? Additional Service?	Ease of Implementation	Need for Local or State Legislative Action?	Jurisdictional Equity	Economic Risk
Fares	\$148,000 to \$296,000	No No	Within MATBUS control	Local Action	Would raise fares in both MN and ND	Loss of customers due to higher fare for similar product
Property Tax	Up to \$7.7 million (13 mills) in Fargo tax capacity, a fraction could be used for transit	Yes Yes	Fargo City Commission – looks to decrease property tax burden, however.	No need to change ordinances	Would close funding gap. If expanding service, would need additional funding from MN and ND local partners too	Stable source of revenue in economically challenging times
Transit Assessment District	Depends on district size	No No	Fargo City Commission	Special assessment benefit district	Would need to provide a clear benefit to the transit district	Stable source of revenue in economically challenging times
Local Sales Tax	Up to \$27 million (1% sales tax) in Fargo, a fraction could be used for transit.	Yes Yes	Citywide vote	Would fund transportation operations instead of capital project	Would close funding gap. If expanding service, would need additional funding from MN and ND local partners too	Revenues can rise and drop rapidly with economic changes. Regressive.
App-Based TNC Fee	\$25,000 to \$125,000	No No	Fargo City Commission. Additional sales tax collection mechanism.	Yes – new fee	Would generate a small increase in funds. Could be implemented in jurisdictions separately.	TNC ridership is relatively stable
Community and Business Partnerships	Limited	No No	Within MATBUS control	No	N/A	Varies
Utility Fee	Flat monthly fee for all 53,850 Fargo households	Yes No	Fargo City Commission – must make case for transit as a utility	Addition to utility bill. Establish enterprise fund.	Would generate a small increase in funds. Could be implemented in jurisdictions separately.	Stable source of revenue in economically challenging times. Regressive.
County Income Tax	Unknown	Likely	Difficult	Would require state enabling legislation	Could be done at county level, upon state approval	Revenues can rise and drop rapidly with economic changes

Fares

In 2018, MATBUS collected over \$1 million in passenger fares, with \$767,194 collected in Fargo (Table 23) Raising fares from the current \$1.50 per ride would increase revenue slightly, but may also cause some riders to forgo using transit altogether. A fare increase would need to be applied equally to both Fargo and Moorhead to keep a consistent customer experience in the system. MATBUS could increase the prices of pass programs and renegotiate contracts with local colleges. However, raising fares and reducing service at the same time would increase the price for a lower quality product.

Raising fares by \$0.25 or \$0.50 per trip and raising corresponding pass programs could increase fixed route fare revenues by \$100,000 to \$200,000 in Fargo and \$48,000 to \$96,000 in Moorhead, based on the 2018 ridership of almost 1.5 million passengers. However, ridership will likely see a decline from 2018 levels once fares are raised.

Implementing fare increases is within the control of MATBUS and thus the simplest implementation of all revenue enhancement scenarios. However, the additional revenue is far from enough to cover the decline in federal operational funding, and it will not improve ridership. It is also far from a sufficient source to raise the operational revenue necessary to operate 21 to 43 percent more service, as proposed in the medium growth preferred alternative of service in the 2018 MATBUS Transit Facility Study.

Table 23. MATBUS Fare Revenue, 2018

Fare Type	Fare Revenue
Fargo Fixed Route	\$609,385
Fargo Paratransit	\$157,809
Moorhead Fixed Route	\$288,240
Moorhead Paratransit	\$58,839

Property Tax

The City of Fargo contributed \$1,478,637 of general funds for MATBUS operations in 2018, out of a city general fund of just over \$96 million.¹⁶ Property taxes provide approximately 25 percent of Fargo’s general fund revenue, with the 2018 budget mill levy of 51 mills collecting over \$30.53 million. The city’s home rule charter contains a tax mill cap of 64 mills. This leaves an unused tax capacity of thirteen mills, or approximately \$7.7 million in 2018. Tax collections are estimated based upon the final property tax rolls and are collected by Cass County and remitted to the City when they become due in February. The mill levy has been lowered in recent years due to rising property values.¹⁷

As home values continue to rise, their assessments rise as well, bringing in more funding into the city’s coffers. New (re-)development also expands the tax base, thus increases the city’s budget without raising the mill levy. However, there has been political pressure to reduce the mill levy in recent years, as homeowners face increased property taxes as their home values continue to rise.

The remaining tax capacity of the City of Fargo is a large potential source of revenue, sufficient to fund both the decline in federal operational funding and providing the funds necessary to operate 21 to 43 percent more service, as proposed in the medium growth preferred alternative of service in the 2018 MATBUS Transit Facility Study. The ability to raise the funds lies within the control of the Fargo Commission and there would be no need for state legislative action. Property taxes are a relatively stable source of revenue, even during economically challenging times. MATBUS would need to work with transit advocates to garner the political support for higher funding levels through property taxes.

MATBUS could alternatively look for Clay County to contribute to transit operations through its general funds. This could also lead to a larger discussion regarding transit funding on the North Dakota side of the MATBUS system,

¹⁶ City of Fargo City Budget, 2018, page 14. https://download.fargond.gov/1/2018_approved_budget_-_electronic_version.pdf

¹⁷ Ibid, page 24.

involving West Fargo and Horace. A separate transit authority in North Dakota could raise its own property or sales tax revenue, which would free MATBUS from the need to compete with other city and county services for general fund dollars. However, this would require state enabling legislation.

Transit Assessment District

Establishing a transit assessment district along a street with high frequency transit could generate additional operating revenue for the system as a whole. By re-aligning some routes, it could be possible to achieve 5-minute frequencies along a segment in or near downtown Fargo. Additional enhancements to bus stops and traffic signal priority could be considered in such a district as well.

Currently, the city of Fargo uses special assessments to fund capital infrastructure projects. Special assessment benefit districts are established during the project planning phase and final project costs are allocated to property parcels after the projects are completed based upon the benefits they receive.¹⁸ A similar tax mechanism could fund transit operations. A benefit of such a mechanism is the creating a nexus between land use, development, and better transit service.

For example, the Kansas City Streetcar uses a transit assessment district stretching one-half mile in either direction from its route, charging additional property and sales taxes. There is also a \$100 annual fee per surface parking spot in the district, which encourages the land along the streetcar line to be developed to a more productive use. This will then generate more property taxes for both the transit assessment district and the city. This transit assessment district collects enough revenue to fund operations and provide free fares for the streetcar. A separate surface parking spot fee could also be considered, if allowed under North Dakota state law.

Sales Tax

Sales taxes in Fargo are voter approved and are managed in accordance with the city's home rule charter. All sales taxes collected are dedicated by charter for infrastructure projects and financing. Section 3(T) and (U) are dedicated for exclusive use on flood risk mitigation projects while section 3(S) has a broader definition of infrastructure. The combined sales tax rate levied by the City of Fargo is two percent. The State of North Dakota currently levies five percent sales and use tax and Cass County collects another 0.5 percent for flood risk mitigation. All sales tax resources are dedicated for infrastructure funding. Of the total 2018 sales tax revenue of \$54.5 million, \$13.6 million is budgeted in the debt service funds and the remaining amount of \$40.9 million is allocated to the capital project fund¹⁹

As a home rule charter community, Fargo has the ability to levy additional local sales taxes. There are cities in North Dakota with sales taxes as high as three percent.²⁰ An additional one percent sales tax could raise as much as \$27 million annually, based on the 2018 city budget. This revenue is sufficient to fund both the decline in federal operational funding and providing the funds necessary to operate 21 to 43 percent more service, as proposed in the medium growth preferred alternative of service in the 2018 MATBUS Transit Facility Study.

A local sales tax increase in the city of Fargo for transportation could raise significant funding for transit and other transportation projects in the community. Such an increase would need to be approved in a local election. Showing improvements in the system and having a clear vision for future expansion of transit helps build a case for additional funding to voters. Pairing a ballot initiative with other transportation improvements in the city would increase the chances of success. Atlanta successfully passed a transit ballot measure through its "Some Use It, We All Need It" campaign.

¹⁸ Ibid, page 23.

¹⁹ Ibid, page 20.

²⁰ Guideline - Local Taxes by Location, North Dakota Office of State Tax Commissioner, April 2020. <https://www.nd.gov/tax/data/uploads/media/local-option-taxes.pdf?20200422143715>

Sales taxes can fluctuate significantly during the year and depending on the state of the economy. During an economic downturn, sales tax receipts may slow down, which may reduce the amount of service MATBUS would be able to provide. MATBUS historically has an increased need for service during an economic slowdown. Denver rapidly expanded its transit network in the past decade through sales tax revenue, but recently cut service and increased fares due to an operational budget deficit.

TNC Fee

A few large metro areas in the nation started adding taxes or fees on trips taken by Transportation Network Companies (TNCs) such as Uber, Lyft, and VIA. Chicago implemented a 67-cent fee per rideshare trip, with 52 cents being allocated to the city's general fund and 15 cents to transit. The 15-cent fee is expected to generate \$16 million, all dedicated to the Chicago Transit Authority. In addition, TNCs in Chicago are required to pay a \$10,000 fee to provide unlimited rides in the city.²¹ Washington, DC has a one percent ride-hailing fee, generating approximately \$4.5 million in 2017. As TNCs charge based on distance and demand, it is unknown how many trips these number represents.²² A separate TNC fee for airport trips could also be considered. Phoenix, AZ, started charging a \$4.00 fee for every pick-up or drop-off at the airport in the spring of 2020.²³

There is currently no data available on the number of trips provided through TNCs in Fargo or Moorhead. North Dakota Century Code currently requires TNCs to report where they operate, the number of crashes that occur, and number of traffic violations reported.²⁴ In Omaha, Nebraska, a metro four times the size of Fargo-Moorhead with similar land use characteristics, 1.4 million trips are provided through TNCs annually, as of May 2017 according to the Nebraska Public Service Commission.²⁵ If there are conservatively 250,000 TNC trips annually in Fargo-Moorhead, a \$0.10 to \$0.50 fee per trip could generate \$25,000 to \$125,000 annually.

Utility Fee

Some cities raise operational funding through charging a fee on utility bills. Corvallis, Oregon is a college town with a \$2.75/month fee on utility bills, which allows the city to offer free public transit. For MATBUS to pursue this funding stream, it would need to collaborate with the City of Fargo and create a clear connection between utilities and the need for transit. Currently, Fargo provides municipal utilities including water, wastewater, solid waste, storm sewer, street lighting, vector control and forestry services and funds these through fees. All fees are established by resolution of the City Commission and are set at levels to sustain the utility services. These fees collected \$59.3 million in 2018.²⁶ A flat \$2.00 monthly fee for every one of Fargo's 53,850 households would generate \$1,292,400 annually. This would be enough to cover the funding gap but would be a regressive fee proposal. The fee would need to be raised an additional \$2.00 to \$4.00 a month to cover expanded service. If transit is to become a utility in Fargo, it would also need to replace the current MATBUS allocation from the city's general fund. This would be an additional \$2.32 per month to cover the annual \$1.5 million local funding in Fargo. Springfield, Missouri is an example of a city with a transit system as a utility.

²¹ "How Should Chicago Spend Its Uber Tax?" Citylab, 11/27/2017. <https://www.citylab.com/transportation/2017/11/how-should-chicago-spend-its-uber-tax/546233/>

²² "As ride hailing booms in D.C., it's not just eating into the taxi market — it's increasing vehicle trips" Washington post, 04/23/2018. https://www.washingtonpost.com/local/trafficandcommuting/as-ride-hailing-booms-in-dc-its-not-just-eating-into-the-taxi-market-its-increasing-vehicle-trips/2018/04/23/d1990fde-4707-11e8-827e-190efaf1fee_story.html?utm_term=.825ee38c897e

²³ "Arizona Supreme Court upholds Sky Harbor Airport rideshare fee" ABC15 Arizona, 04/02/2020. <https://www.abc15.com/news/region-phoenix-metro/central-phoenix/arizona-supreme-court-upholds-sky-harbor-rideshare-airport-fee>

²⁴ 2045 Fargo-Moorhead Metropolitan Transportation Plan, Page 62 http://www.fmmetrocog.org/application/files/8415/7264/4951/MetroCOG_MTP_LowRes_201901101.pdf

²⁵ ANNUAL REPORT TO THE LEGISLATURE ON THE STATUS OF THE IMPLEMENTATION OF LB 629 [2015] https://nebraskalegislature.gov/FloorDocs/105/PDF/Agencies/Public_Service_Commission/556_20171229-121706.pdf

²⁶ Fargo City Budget, 2018, page 18.

Community and Business Partnerships

By encouraging pass programs for employers and community organizations, MATBUS can secure a stable revenue source and patronage. Downtown institutions and large employers should be encouraged to provide pass programs, providing an alternative to parking contracts. Large employers on the urban fringe should be contributing to operating funding if their location does not require service according to MATBUS service standards.

County Income Tax

In 2016, Indianapolis voters approved a countywide 0.25 percent income tax to fund transit. The tax allowed the local transit agency IndyGo to expand their frequent transit network to cover 65 percent of all residents and expand revenue hours by 70 percent. More revenue allowed for more service, which led to higher ridership. This would require state enabling legislation.

Other Fees and Taxes

Additional fees and revenues to consider:

- Advertising – Fargo received \$259,673 in bus advertising in 2018, but it was as high as \$421,722 in 2017. It also received \$2,710 in bus bench advertising in 2018. Bus shelter advertising should be considered.
- Concessions and Vending – Fargo received \$7,326 in vending machine revenue in 2018
- North Dakota Fuel Tax Exemption for MATBUS operations
- Vehicle Registration Fees²⁷
- Development Impact Fees – would create a nexus between land use, development, and transit. Establish importance of transit service in the development phase of new projects.
- County Wheel Tax – would require state enabling legislation
- Local Gas Tax – would require state enabling legislation
- On-street Parking Fees – currently not allowed under North Dakota state law. If this changes in the future, MATBUS should attempt to receive a portion of the revenues.

Moorhead

Additional opportunities for operating funds from the City of Moorhead come from property and sales tax. The property tax capacity for Moorhead was \$32,484,815 in 2018 out of a referendum market value of \$2,982,305,500. This equals a mill of 10.89.²⁸ The city collected \$13,693,015 of this, equal to a mill of 4.59.²⁹

There is a 0.5 percent local sales tax levied in Clay County, which includes Moorhead.³⁰ Moorhead does have the ability to raise a local sales tax but must ask permission from the Minnesota State Legislature and Moorhead residents to approve a local sales tax in an election. Moorhead is currently in the process to ask the Minnesota legislature to put a 0.5 percent local sales tax question up for a public vote in 2022. The sales tax is estimated to generate \$75.5 million over 25 years, dedicated to a set of capital projects.³¹ Minnesota also allows counties to levy a sales tax dedicated for transit.

²⁷ North Dakota Department of Transportation, Credit and Fee Schedules. <https://www.dot.nd.gov/divisions/mv/vehicle.htm#credit-fee-schedule>

²⁸ Clay County, Tax Capacity Value and Rate, 2018. <https://claycountymn.gov/164/Tax-Capacity-Value-Rate> and <https://claycountymn.gov/ArchiveCenter/ViewFile/Item/1578>

²⁹ City of Moorhead, 2018 Capital and Operating Budget, Page 12. <http://www.cityofmoorhead.com/home/showdocument?id=3957>

³⁰ Local Sales Tax Information, Minnesota Department of Revenue. <https://www.revenue.state.mn.us/local-sales-tax-information>

³¹ "Moorhead aims to put half-cent sales tax for city projects to public vote" Inforum, 01/27/2020 <https://www.inforum.com/news/government-and-politics/4884031-Moorhead-aims-to-put-half-cent-sales-tax-for-city-projects-to-public-vote>

West Fargo

In the 2018, West Fargo property taxes collected a total of \$11,395,605, this equaled 73.08 mills.³² Of this amount, \$8,343,028 was for the general fund. In the 2020 budget, West Fargo property taxes are anticipated to collect \$9,014,017 for the general fund and \$4,017,186 in special revenue, for a total of \$13,031,203.³³ This equals a mill of 77.95.

West Fargo currently charges a two percent sales tax, which is anticipated to generate \$10,287,400 for fiscal year 2020.³⁴ They city has the ability to raise the local option sales tax by an additional one percent.³⁵ This additional one percent could raise \$5.1 million annually.

State Funding

The state of North Dakota contributes significantly less funding towards transit compared to Minnesota, which increases the reliance on local funding in North Dakota. MATBUS currently receives approximately \$1.9 million in Minnesota state transit funding and \$490,000 in North Dakota transit funding. Stakeholders indicated a willingness to be pro-active locally to push for modifying and increasing the state allocation but are aware it will likely not make up for the gap created after the transition to a TMA.

Table 24. Federal and State Funding by State, 2012

State	2012 Population (in Millions)	Federal Funding (in Thousands of \$)	State Funding (in Thousands of \$)	State Funding per Capita
Minnesota	5.376	195,772	309,427	\$57.56
North Dakota	0.701	13,729	3,152	\$4.50
Iowa	3.074	38,947	12,899	\$4.20
Montana	1.004	15,313	319	\$0.32
South Dakota	0.833	14,562	770	\$0.92
Wisconsin	5.720	69,540	117,852	\$20.60

Source: American Association of State Highway and Transportation Officials, Survey of State Funding for Public Transportation 2014, as of July 2015. Retrieved from Bureau of Transportation Statistics, <https://www.bts.gov/content/federal-and-state-funding-public-transit>

³² City of West Fargo, FY 2019 Budget, Page 14. <https://www.westfargond.gov/DocumentCenter/View/1752/2019-City-of-West-Fargo-Final-Budget-Report>

³³ City of West Fargo, FY 2020 Budget, Page 7. <https://www.westfargond.gov/DocumentCenter/View/3190/2020-City-of-West-Fargo-Final-Budget-Report?bidId=>

³⁴ Ibid.

³⁵ Guideline - Local Taxes by Location, North Dakota Office of State Tax Commissioner, April 2020. <https://www.nd.gov/tax/data/uploads/media/local-option-taxes.pdf?20200422143715>

Preferred Governance and Funding Alternative

Following the presentation to staff on the detailed governance and financial alternatives in April 2020, staff indicated a desire to pursue a refined preferred alternative for both tracks of the planning process. The factors of considerations for the preferred alternative include the needs of the SWOT analysis, covering the funding gap, and ease of implementation. The preferred governance and funding alternatives were presented to the TAC and PAC in August 2020.

The alternatives were selected based on qualitative measures from staff, TAC, and PAC feedback. Most importantly, stakeholders prioritized ease of implementation for a long term, sustainable governance structure and financial structure.

Preferred Governance Alternative

The preferred governance alternative would lead to streamlined decision making from a dedicated transit board and single transit director, which would eliminate the need to inform the city councils of both Fargo and Moorhead. Operations would stay contracted, but management and administration would be a single entity. The preferred governance alternative addresses the needs regarding communication, financial equity, decision making equity, a streamlined decision-making process, dedicated funding, and an option to close the funding gap due to the TMA change.

Based on discussions with stakeholders, an interim step and a final alternative were identified as preferred. This would include a short term, interim phase with a single MATBUS transit director housed at Metro COG. Metro COG would also lead the transition to a permanent change in organizational structure towards a transit authority to be established in North Dakota, with Moorhead purchasing service from the newly-formed authority. This alternative will leave the option for the Minnesota side of the system to join as a bi-state authority in the future after the North Dakota based authority is in full operation.

Interim Recommendation

Metro COG would lead the transition from the current structure to a North Dakota based transit authority. This would start by appointing a single Transit Director for the system in charge of leading the process to transition to a transit authority. This position, whatever title, would serve as a government relations specialist and support existing transit managers at the Cities of Fargo and Moorhead with long range planning and implementation of Transit Authority elements, and advocate for necessary changes. The new director would work at the MATBUS facilities on a day-to-day basis. The purpose of placing MATBUS under the COG's structure is to provide independence for the transit agency and advocate for pro-active regional transit planning. Metro COG housed and operated the Fargo transit services in the 1970s and has a regional transportation focused mandate, and thus has a clear relationship with the transit and mobility services provided by MATBUS. Metro COG transit management provides an opportunity for MATBUS to have some independence from the governing cities, streamline its communication and decision-making process, and limit conflicts.

This option also places MATBUS directly under the Metro COG organizational structure, reporting to the policy board. Formation of a new transit board with representation from the municipalities, Metro COG, and possibly, the area universities would address decision equity issues and concerns. The key objective in proceeding with this option is for the municipalities to enter into an agreement modifying the Metro COG Articles of Association in accordance with the resolution of the essential issues; this could be accomplished entirely within the Articles of Association or in a separate, coordinated agreement.

The Transit Director would work in coordination with the existing Moorhead Transit Manager and Fargo Transit Director. The proposed Transit Director would be an employee of Metro COG and report to either the Metro COG

Policy Board or a new Transit Board with amended powers, so that its contribution goes beyond advisory. As an employee of the Metro COG, the Transit Director would have the following responsibilities:

- Lead and advocate the process to establish a transit authority in North Dakota
- Pro-actively establish transit needs and planning priorities
- Serve as a single point of contact for approvals and proposals
- Lead and develop a cohesive vision for MATBUS, advocating for a unified approach to capital and service planning
- Facilitate internal agreement by coordinating with both cities on MATBUS operations
- Be involved in local hiring decisions related to MATBUS

The Transit Director would be the single point of contact for MATBUS and would present a unified view of the agency's decisions. The role would limit internal conflict as decisions would be made for the agency as a whole and not from what would most benefit the City of Fargo or City of Moorhead.

The Transit Director would lead the implementation steps towards a transit authority and additional funding, the long-term preferred alternative of stakeholders. Metro COG staff would have the responsibility for long-term visioning and planning for MATBUS through consensus with appropriate stakeholders as it transitions into an authority. However, political leadership for the authority implementation steps will have to come from local stakeholders.

This interim step offers the benefit of addressing the communication issue at the agency and streamlines the decision-making process without the need for state enabling legislation. However, it does not address the funding shortfall and MATBUS is still dependent on local allocations from the cities of Fargo and Moorhead. There could be an opportunity for the intergovernmental agreement to specify a more consistent contribution from the municipalities. Current staff would still be employed separately by the cities of Fargo and Moorhead, just as transit assets would still be owned separately by the cities. Metro COG would lead the administration and planning.

Long Term Recommendation

Through the engagement process, most expressed a desire for a single transit authority in North Dakota. Formation of a transit authority constitutes the creation of a government agency or a public-benefit corporation to provide public transportation within a specific region. This recommended long-term intra-state transit authority option involves forming a transit authority in North Dakota, and contracting transit service with other interested jurisdictions, mainly in Minnesota. It does require new legislation and a likely public vote to levy a potential tax, the North Dakota cities would have to initiate the long-term effort of gaining adequate support toward implementation.

The distinguishing advantage of forming a new authority is the potential to develop a reliable independent source of funding, specifically of local funding. Such sustained funding is essential for the planning, development, and operation of such complex systems as multi-modal transportation services and resources. Forming an authority in Fargo and West Fargo would require new North Dakota enabling legislation, both for its governance and its taxation powers. The final taxation mechanism will ultimately be decided by enabling legislation in the North Dakota legislature.

This recommendation will also allow for the Minnesota side of the system to join as a bi-state authority in the future, which would create an even more integrated system and streamlined decision making process. This process could be started once the North Dakota-based authority is in full operation, and would require additional legislative action in Minnesota and potentially North Dakota.

Preferred Financial Alternative

The preferred financial alternative must fill the gap created due to lower federal operating support and must be suitable to reliably fund potential further expansion of service in the future. MnDOT is committed under Minnesota statute to fill the funding gap created by the transition to a TMA for the Moorhead side of the system to fund the

current service provision. Expansion of service in Moorhead would need to be approved through a competitive process for Minnesota DOT transit funds.

In reviewing the various funding mechanisms outlined in the previous section, there are several evaluation criteria that must be considered for each method. These include, but are not limited to:

- Estimated annual revenues (FY 2023-2027) for the preferred alternative
- Ability to replace or supplement existing mechanisms
- Ability to support expanded transit service identified in regionally adopted planning documents
- TAC Input
- Outcomes of 20-year funding horizon
- Ability to “braid” or match other funding sources and leverage funding through preferred governance model

The city of Fargo will transfer its local transit funding from the general fund to a utility, creating an enterprise fund for transit. Moorhead is currently funding transit through an enterprise fund.

The final taxation mechanism of a transit authority will ultimately be decided by enabling legislation in the North Dakota legislature. The most likely funding mechanism tied to a transit authority are a transit assessment district, a regional property tax, or a sales tax. If a transit authority becomes infeasible, the following options could be implemented at the local level: fare increases, local property tax increases, a local TNC fee, or a transit utility fee.

Expanded Service

The preferred medium growth alternative of the *2018 MATBUS Facilities Report* anticipated a 21 percent increase in service by 2027 and a 43 percent increase in service by 2037, both compared to 2017 service. A corresponding growth in operational funding would require an additional \$2.3 million to \$4.6 million annually, based on the 2018 MATBUS operating budget of \$10.8 million (Fargo and Moorhead combined). This will require local matching funds from both the North Dakota and Minnesota sides of the system.

Implementation Roadmap

Upon establishing the preferred governance and financial alternatives, the alternatives must be implemented through adoption of this plan and subsequent steps by the city councils of Fargo and Moorhead, as well through state enabling legislation for the transit authority and its taxing powers by the state of North Dakota. Staff at Metro COG will be guiding this process. The interim phase of appointing a transit director under Metro COG will start in the fall/winter of 2020.

Steps towards the implementation of the interim governance phase are as follows:

1. Metro COG approves preferred alternatives for MATBUS governance and funding (Fall 2020)
2. Adoption of the transit authority study by the city councils of Fargo and Moorhead (Fall 2020)
3. Metro COG adds a transit mission to its operations and incorporates the new manager position in its organizational structure (Fall/Winter 2020)
4. Metro COG approval of Transit Director position, to be funded through the same federal, state, and local contributions currently funding the transit director and manager in Fargo and Moorhead. This process will also redefine the roles of the three management positions at MATBUS. Followed by the hiring process and appointment of single MATBUS transit director. (Spring 2021)

The Metro COG transit director will lead the process of the transit authority implementation, following the direction of the Metro COG Policy Board

Transit Authority Formation

A new North Dakota Transit Authority would require much effort from the municipalities involved and concerted public engagement and support. The primary benefit of setting up a new authority in North Dakota lies in the potential for new funding. The authority would also provide independence, transparency and unity in decision-making. Finally, Moorhead would potentially benefit more from the opportunity to purchase contracted transit service and the associated reduction in administrative burden. New staff will participate in a new benefits program, while it should be goal to extend existing salary and benefit packages to existing staff.

The North Dakota cities under the MATBUS umbrella would proceed with the effort of passing resolutions to enable the authority's formation. General experience is that this requires an individual champion of the legislation who enjoys enough public trust or influence to facilitate the momentum necessary; often, citizen committees or exploratory committees are also formed to build acceptance. Once finalized, discussions of contract service provision or board representation would then follow. Some considerations before starting the transit authority process include:

- **Board Representation and Decision Equity:** Ultimately, board representation would be determined by the state legislature albeit with input from the general-purpose government units. Also, because board representation could be a point of conflict or disagreement among stakeholders, experience cautions against pre-mature discussions that could hinder the progress of passing state legislation. Ideally, the composition of board should be held off until enough support is garnered for the effort. As previously stated, the final transit board should be formed to provide equity by reflecting the sources of local funding. Consider a seat for Moorhead on the board.
- **Transfer of Assets and Facility Ownership:** The City of Fargo could transfer the assets to the new authority. Both MATBUS operations in Fargo and Moorhead would have to transfer their assets to the new authority. This includes vehicles, equipment and the facility. Details of the transfer would be agreed upon by the respective city councils and stated in the intergovernmental agreement. The new authority could also purchase Moorhead's share of asset ownership and charge back the capital cost as an element of the service contract charges or continue an undivided joint ownership arrangement. Federal interests can be transferred to another or new grantee.
- **Funding:** With its own taxation powers, the authority would be provided with an opportunity to secure stable source of long-term funding. A levy could be placed on either property or sales tax, or a utility fee. The authority may also be formed without authorizing a millage at the outset but will require start-up funding which may be contributed by the parties involved.

The Metro COG Transit Director will need to provide the documentation and support for policy makers to implement a transit authority. This will require leading the policy development and engagement towards transit authority implementation. These policy development steps include the following local actions, to be completed in the fall and winter of 2020:

- 1) Drafting a transit authority strategic plan that will help identify objective, consensus issues to be implemented during the interim phase and during the establishment of the transit authority. It must also revisit funding splits for shared capital purchases and state of good repair investments relative to decision responsibility and benefits.
- 2) Drafting an operating agreement between Moorhead, Dilworth, and the transit authority
 - a. Drafting a new operating contract between the authority and transit operations contractors for fixed route and paratransit services
 - b. May need to draft operating agreements with West Fargo and Horace too if these communities are not included within the transit authority jurisdiction.
- 3) Drafting asset transfer agreements from cities to the authority, including clauses on insurance and liability.
- 4) Confirming the authority purchase Moorhead's local share of ownership, and charge back the capital cost as an element of the new operating agreement.
- 5) Drafting an organizational structure and board composition.

- a. Must decide on criteria for representation and qualifications, by jurisdiction, at-large, or funding share, and whether the positions are appointed or elected. Ultimately will be up to the legislature.
 - b. Draft human resource, employment, compensation and benefits policies of transit authority staff. Provide grandfathered provisions for current staff to retain existing benefits.
- 6) Finalize preferred financial alternative implementation plan for revenue collection.
 - 7) Draft backup policies in the event the North Dakota legislature is unwilling to pass enabling legislation; Metro COG will need to consider becoming the permanent owner and operator of MATBUS through an intergovernmental agreement.

Once these local decisions are finalized, the Metro COG staff will need to work with local stakeholders to draft enabling legislation for the North Dakota legislature. One of the local partner cities may lead the lobbying effort at the state capitol, as Metro COG is prohibited from doing so. A legislator willing to sponsor the legislation will need to be identified as well, preferably one from the Fargo-West Fargo area in a leadership position of one of the two legislative chambers. Introduction of the legislation would be preferred during the 2021 legislative assembly. The legislation will need to address the governance structure and the (taxation) powers of the transit authority through the following items:

- Option to start with one political subdivision and have new members join over time
- Ability to collect taxes to provide a reliable and independent funding source
 - An authority would need to fill the funding gap, have the potential to expand revenue for expanded service and must replace the Fargo and West Fargo general fund contributions to transit.
- Ability to create an authority Board of Directors for representation of multiple communities
- Ability to construct, operate and maintain transit and transit assets
- Ability to acquire or condemn property independently
- Ability to accept gifts, grants, loans or other property
- Ability to provide service outside of transit area by contractual agreement
- Authority to issue negotiable revenue bonds independently
- Ability to independently borrow money

An example of recent transit authority legislation is [Nebraska Legislative Bill 492 \(PDF version\)](#), passed in 2019. This bill allows metro areas of a certain size to establish a regional metropolitan transit authority with its own property taxation powers and have elected boards. Cities within eligible metro areas can opt into (or also leave) the authority with a 2/3 vote of their city council. The bill also allows cities that opt not to join the authority to contract transit services directly with the authority. The bill would keep the current board structure in place until new board members are elected.

Once the North Dakota legislature passes the enabling legislation in 2021 or 2023, Metro COG will lead the implementation of the draft policies and transfer management to the new transit authority. These steps include:

- 1) Organizing the authority and finalize board composition, preferably with Moorhead representation (summer of 2021 or 2023)
- 2) Appoint/elect the transit authority board of directors
- 3) Adoption of the authority strategic plan, operating agreement, and transit asset transfer agreement
- 4) Assign the transit authority as FTA recipient for the Fargo-Moorhead metro area
- 5) Board appoints a transit director (most likely the transit director housed at Metro COG, but subject to the new board's approval)
- 6) Start collecting authorized taxation (property tax levy/sales tax/utility fee)
- 7) Select transit operating contractor
- 8) Transfer assets from cities to the transit authority
- 9) Transfer transit staff from Fargo and Moorhead to new authority
- 10) Start operations under a new operating contract between the authority and the selected transit operations contractor

The steps outlined in this authority implementation roadmap are subject to change and may need to be revisited as the process moves forward. Political leadership will be needed in the community and Metro COG will need to provide policy development assistance to bring the process to the desired outcome.

Legal Guidance

At the conclusion of the Transit Authority Study, there were several questions brought forth by key stakeholders about the recommendations that would benefit from legal guidance. The consultant team partnered with a local municipal lawyer with experience in both Minnesota and North Dakota policy environments to provide this guidance. The following section paraphrases responses to the questions brought forward by the study advisory committees.

Can Fargo-Moorhead Council of Governments (Metro COG) manage and operate a public transit system?

The Metro COG was established through Articles of Association pursuant to North Dakota Century Code Chapter 54-40 and Minnesota Statute 471.59. (See Section 1.01 and 1.02). The purpose of the Association is to "conduct and coordinate technical assistance activities, planning studies and special projects to address transportation and non-transportation problems and issues which are of metropolitan significance ... ". (Section 1.03). The Council is expressly directed to perform "area-wide transportation planning". (Section 1.04). The Council is to perform its functions within the areas of Cass County, North Dakota and Clay County, Minnesota. (Section 1.06). The Council is to prepare and adopt plans and policies for the development of the metropolitan area based upon existing conditions and probable future growth. Its activities are to promote the health, safety and general welfare of the members inhabitants. (Section 4.01).

The Council is generally intended to act as an area wide planning agency. (Section 4.03). The Council is to complete and maintain a comprehensive metropolitan plan. (Section 7.01). The Council is also to establish a Transportation Technical Committee (TTC) to discuss and coordinate technical transportation matters. (Section 7.06). The Council's other powers and duties are enumerated in Section 7.08. However, none of the provisions of the Articles of Association expressly authorize the Metro COG to manage, oversee or operate a MATBUS transit system. Consequently, if the Metro COG seeks to manage, oversee and operate a MATBUS transit system, it is my recommendation that the Articles of Association be amended to expressly and specifically include such activities within their authorized scope of functions and powers.

Can Metro COG hire employees for the management and operation of a transit system?

Section 7 .08, "Other Powers and Duties", provides an itemized list of powers including the authority to "recruit, hire and maintain staff personnel to assist the Council and official bodies of the Council. " (7.08(f)). Section 7.08(n) provides further authorization to hire, supervise and dismiss an executive director. Section 8.01 gives express authority for the Council to hire an executive director. If the Metro COG is seeking to hire employees, other than those identified in Section 7.08 or Section 8.01, for purposes of managing, overseeing or operating a MATBUS transit system, it is my recommendation that the Articles of Association be amended to specifically provide for the recruitment, hiring, and management of staff for transit purposes.

Does the Metro COG have the authority to levy real estate taxes?

Section 7 .11 of the Articles of Association specifically precludes the Metro COG from any authority to levy taxes for the support of Metro COG operations or to levy taxes for the implementation of programs or projects as may be recommended by Metro COG. Any interest in obtaining authority to levy real estate taxes would require an amendment to the Articles of Association.

Furthermore, there are no provisions in either North Dakota or Minnesota law which would expressly grant the authority to levy real estate taxes by the Metro COG. In that regard, statutory authorization would be required for the Metro COG to levy real estate taxes.

The ability to levy real estate taxes would fall on municipal governments or an authority with the statutory authority to perform this action.

Does the Metro COG have the authority to levy a sales tax?

Section 7.11 of the Articles of Association specifically precludes the Metro COG from any authority to levy taxes for the support of Metro COG operations or to levy taxes for the implementation of programs or projects as may be recommended by Metro COG. Any interest in obtaining authority to levy real estate taxes would require an amendment to the Articles of Association.

Furthermore, there are no provisions in either North Dakota or Minnesota law which would expressly grant the authority to levy sales tax by the Metro COG. In that regard, statutory authorization would be required for the Metro COG to levy a sales tax or use tax.

The ability to levy sales taxes would fall on municipal governments or an authority with the statutory authority to perform this action.

Is legislative action necessary to provide the Metro COG with the appropriate authority to own, manage and operate a transit system?

Neither North Dakota nor Minnesota law expressly provides for the creation of a transit authority.⁴ However, communities in both states may be able to exercise authority through joint powers agreements or similar agreements through the provisions of North Dakota Century Code Chapter 54-40 and/or Minnesota Statute 471.59 to establish a body to act in such a fashion. The authority to own, operate and manage a transit system would need to be based upon the participating political subdivision's authority under state law. Participants in a joint powers agreement may only exercise such authority as has been expressly granted to the participating political subdivision by state law. No additional authority is granted to the participants by virtue of a joint powers agreement.

09/21/2020 Meeting Record

On September 21, 2020 the consultant team provided an overview of the Transit Authority Study recommendations to the retained law firm staff. In addition to the aforementioned memorandum notes, the following guidance was provided in response to the study recommendations:

- In reviewing the Metro COG Articles of Association the organization is set up for the purposes of planning but does not have the explicit ability to carry out or implement transportation projects. Therefore the Articles of Association would need to be amended to include this ability and carry out the Interim Recommendation of the study preferred alternative. This is accomplished through approval of each local and county government represented by the Metro COG Policy Board.
- The State of North Dakota does not offer statutory authority to form a transit authority. That being said an interim organization could be formed using the authorities enabled by the Joint Powers Act to form an interagency board that would oversee transit operations. This entity would require specific legislation to incorporate a dedicated funding source for transit investments.
- The most analogous entity in North Dakota to a Transit Authority is an Airport Authority. Legislation could be modeled after this type of organization to develop a regional transit authority in North Dakota

Legal Coordination Moving Forward

Legislative efforts and the specific construction of a transit authority will be led by the legal staff of the Cities of Fargo and West Fargo and private legal counsel will be retained at a future date if necessary. Both communities

have the technical capacity and dedicated lobbying efforts to construct draft legislation to form a Transit Authority or Joint Powers Authority that accomplishes the goals of this study.

Appendix

SWOT Prioritization

Below is the summary of input received through interviews with staff from Moorhead, Fargo, and MATBUS in the fall of 2019 regarding prioritization of SWOT input received through the August 2019 workshop. Each participant was asked to identify whether the information in the statements was of critical, moderate or secondary/tertiary importance to selecting a future organizational structure for MATBUS and the provision of transit service. Priority discussions were completed with individuals or small groups of staff from Moorhead city administration, Fargo city administration, Fargo MATBUS and Moorhead MATBUS staff.

The following color codes represent each priority category:

- Priority
- Moderate
- Secondary/Tertiary

Table 25. Strengths

Interview Groups						Statement
Number 1	Number 2	Number 3	Number 4	Number 5	Number 6	
						Current connections across the state border are useful and important; keep the system connected.
						Customers do not see separate transit systems – similar to highways that cross state lines.
						Regional identity; strong brand
						Focus on customer needs – MATBUS enables travel across the metro area
						Cooperative purchases (facility leases, vehicle procurement)
						More technologically advanced than peer agencies
						Partnerships with colleges
						Good relationship and network with human service agencies; travel training programs
						Minnesota funding is great, MnDOT is a good partner: <ul style="list-style-type: none"> Twin Cities got MN to see benefit of transit, distribute funds to Greater MN to create parity MN legislature considers itself urban and acknowledges urban infrastructure and transportation needs
						Connections to major job centers in region
						Friendly perception – safe, secure
						Mutual aid -- flooding, emergency – flexible organization and equipment is able to help the community in time of need

Table 26. Weaknesses

Interview Groups						Statement
Number 1	Number 2	Number 3	Number 4	Number 5	Number 6	
						Acknowledged flaws with the current organizational structure
						Two governments make management decisions together, yet also remain independent structurally
						Double the work to have multiple DOTs involved in purchasing/ reporting
						Each city has a different budget cycle
						Multiple boards to deal with – disagreements due to not having a single decision-making body
						Competition for general fund money with other departments, no direct dedicated funding source
						City wide priorities – are they in alignment? <ul style="list-style-type: none"> Why grow transit while crime is going up? Public safety investments needed more?
						Staff shortage – in technology and planning for federal reporting
						No geographic boundaries to urban growth/land use is not transit supportive: <ul style="list-style-type: none"> Service area gets extended with new development or annexation Some new developments are higher density, but must travel past 1970s-90s low density to connect to core of system/city
						There are multiple cores beyond downtown
						East-west connections are difficult
						No new hubs in west and south
						Few go to downtown for work – lack of city grid
						Not enough frequency on routes
						Disparity in funding between MN and ND
						Lack of service hours (frequency) and span
						Decision making and conflict resolution due to multiple boards
						Unequal partners – Fargo is bigger
						Affordability – look into free rides, improving access?
						Transit now has a reputation for people who cannot afford a car
						Facilities reaching capacity

Table 27. Opportunities

Interview Groups						Statement
Number 1	Number 2	Number 3	Number 4	Number 5	Number 6	
						Develop new funding formula based on revenue miles or hours to determine contribution

						North Dakota economy is strong – however a threat lies here in the competition for workforce.
						Increasingly younger demographic up to change/willing to try new things if system is functional
						Point-to-point transport – southwest Fargo
						New infill development in downtowns
						Transit is a criterion for MN housing authority to develop new housing
						New types of service – senior, cab, mobility options
						Workforce development – offer maintenance class at high school or M State?
						Academic cohort – student and college population – more urban focused
						Emerging technologies – app-based transportation services

Table 28. Threats

Interview Groups						Statement
Number 1	Number 2	Number 3	Number 4	Number 5	Number 6	
						Fargo has a state-imposed mill levy cap: <ul style="list-style-type: none"> • May limit the city’s ability to keep up with its growth/ maintenance liabilities in the future
						No low-income housing near traditional hub and spoke system: <ul style="list-style-type: none"> • Downtown area gentrification? At least getting wealthier while low income folks increasingly on outskirts of city
						Decrease in federal resources – affects level of service or the local tax base
						Competition for local funding more intense over time
						Potential lack of equity in funding formula – <ul style="list-style-type: none"> • Minnesota state share needs to stay in MN, Moorhead residents pay higher state taxes, so additional local taxes should not have to cover for the gap created by North Dakota’s budget gap.
						First Transit – contractor overhead/nature of hiring a for-profit entity
						Duplication of services
						How to adapt to changes in transportation? <ul style="list-style-type: none"> • Zip car, uber – are large capital investments still the best choice?
						Transit system suffers if funding is cut
						Lack of staff for added service
						Political reality of new tax structures – need to have equitable contributions in each jurisdiction.