

Denver Regional Council of Governments Policy Statement on State Legislative Issues for 2006

Introduction

This paper outlines the key state policy issues of interest and significance to the Denver Regional Council of Governments (DRCOG) and its local government members. It identifies policy positions intended to inform the General Assembly, state executive branch officials and others as they develop and implement state policy on these issues. This policy statement will guide positions and actions taken by DRCOG as an agency, as well as by DRCOG staff and members during the coming year on state legislative issues.

DRCOG is a membership organization of more than 50 cities, towns and counties in the nine-county metropolitan region. Under federal law, the regional council serves as the Metropolitan Planning Organization (MPO) for regional transportation planning, which includes a requirement to coordinate transportation planning with air quality goals, the water quality planning and management agency for the region, and the Area Agency on Aging for eight counties. Under state statutes, DRCOG, as the regional planning commission, prepares and adopts a regional plan for the metro area and has a responsibility for oversight of regional transit projects and state-sponsored toll road projects in the region.

DRCOG also serves as a forum for addressing regional issues and coordinating local activities. It acts as an advocate for regionalism and has adopted a Legislative Principle Statement that states, in part, “the organization assumes the responsibility for identifying and promoting regional interests in its various fields of planning and management to state and federal legislative and administrative bodies.” It is within this context that the following policy positions are adopted and advocated.

Regional Planning and Development

Regional Planning. Regional growth and development has been an issue of significant concern for metro area citizens and community leaders for many years. In response, DRCOG developed *Metro Vision* as the region’s long-range plan for growth and development, transportation and environmental quality. The plan describes a vision for the future of the region and policies to guide local growth decisions over that period. Consistent with the plan, **DRCOG supports the following goals for regional planning and may support or oppose legislative proposals based on consistency with these goals.**

- Ensure that the extent of urban development occurs within a 750 square mile urban growth boundary/area to promote a more orderly, compact and efficient future development pattern.
- Provide safe, environmentally sensitive and efficient mobility choices for people and goods, integrated with land use.

- Encourage the development of higher density, mixed-use pedestrian and transit-oriented urban centers throughout the region.
- Maintain Boulder, Brighton, Castle Rock and Longmont as distinct and self-sufficient freestanding communities, and more clearly define and support the regional role of rural town centers..
- Minimize the extent of low density, large lot (semi-urban) development occurring on the periphery of the urban area.
- Establish an integrated, linked, permanent parks and open space system.
- Create senior-friendly communities by promoting development patterns and urban design features that meet the needs of older adults.
- Achieve and maintain ambient air quality standards and ensure clean water to protect human health and environmental quality.
- Minimize exposure to excessive noise levels associated with land use and transportation services.

Metro Vision is the policy basis for all of DRCOG's programs and serves as the framework and context in which the council collaborates with other organizations on issues of mutual interest. **DRCOG supports efforts to implement *Metro Vision*, as well as efforts to encourage the state and other regional entities to respect the regional plan and any implementing regional agreements when making funding, siting and other decisions.**

Regional Planning Agreements. Following the adoption of *Metro Vision*, the local government members of DRCOG collaboratively developed the Mile High Compact, a unique intergovernmental agreement, created as an implementation tool for *Metro Vision*. While the compact is a regional planning agreement, it reinforces the role of local planning by committing local governments to use their comprehensive/master plans as the primary tool for growth and development decisions in their communities.

The signers of the compact agreed that their comprehensive/master plans will follow the specific principles and contain the specific elements outlined in the compact and will ensure consistency between local plans and between local plans and *Metro Vision*. DRCOG and the compact signers also committed to an ongoing assessment of *Metro Vision* implementation. **DRCOG supports the following goals as a framework for future regional planning agreements and may support or oppose legislative proposals based on consistency with these goals:**

- Establishment of a process and procedures for adoption of a regional planning agreement by the local governments within the region,
- Public participation in the development of the agreement,
- Focus on regional goals and plans to accomplish those goals for transportation, land use, housing, environmental quality and utility facilities,
- Consistency of the local plans with the agreement,
- Reevaluation and amendment of the agreement as needed, and
- Mechanisms for alternative dispute resolution.

Dispute Resolution. Implementation of *Metro Vision* and the Mile High Compact relies on the collaborative efforts of the region's local governments. DRCOG recognizes that neighboring communities may find themselves at odds over issues such as the intended use of adjacent lands. In addition, local governments may find themselves in conflict with state and federal agencies over the intended use of land within their jurisdiction. **DRCOG supports alternative dispute resolution techniques, such as facilitation and mediation, to resolve disputes among governments. Legal action in such disputes should be a matter of last resort rather than the initial form of remedy.**

Local Land Use Authority and Planning. Local comprehensive/master plans provide a framework for the exercise of local land use authority. They form the basis for local growth and development decisions. **DRCOG supports the use of comprehensive/master plans as the foundation for local land use decision-making.**

DRCOG respects private property rights within a legal context that protects local land use authority and emphasizes that governmental actions often add value to private property. While acknowledging that there are concerns over a potential for inappropriate uses of that authority, DRCOG believes the recent U.S. Supreme Court decisions defining constitutional restrictions on local government regulation of private property are adequate to protect both public and private rights. When these restrictions are coupled with established precedents of the Colorado Supreme Court, protections accorded to landowners are reasonable, appropriate and balanced. Therefore, **DRCOG opposes further restrictions on the ability of governmental entities to regulate private property for the benefit of the public and opposes takings and eminent domain legislation that goes beyond the existing rulings of the U.S. Supreme Court and the Colorado Supreme Court as an attempt to unconstitutionally restrict local land use authority.**

Planning Data and Support. DRCOG recognizes the importance of unbiased, reliable and consistent data in effective local and regional planning and decision-making. DRCOG has created the Metro Vision Resource Center to provide information, tools and services to provide such data support, with a particular emphasis on the implementation of *Metro Vision*. DRCOG also collaborates with the state to provide a variety of planning and technical assistance services to small communities. **DRCOG encourages the General Assembly and state agencies to support these efforts and any other efforts that would provide local governments with planning tools, technical assistance and other resources.**

Housing. An adequate supply and mix of housing options continues to be a concern of local governments in the Denver region. As the metro area has grown and developed, the availability and affordability of housing has become an even more important concern. The affordable housing shortage is particularly acute near major employment centers, causing increased transportation impacts, as workers must commute longer distances from housing they can afford. **DRCOG supports the following principles**

pertaining to the quality, quantity and affordability of housing in the Denver metro area.

- Regional approaches to addressing the affordable housing issue that complement local efforts.
- An adequate supply of good housing, regardless of income level, and continued public- and private-sector support for such an effort.
- Increased state financial support for loan and grant programs for low- and moderate-income housing.
- Collaboration among public and private entities, including efforts to develop loan programs and to address the jobs-housing connections.
- Funding for transit-oriented development and “reverse commute” programs to provide transportation “access to jobs” for low-income workers who cannot afford to live near where they work.

Transportation

Transportation Planning. Federal law mandates a critical role for the Metropolitan Planning Organization (MPO) in the transportation planning process. Congress has emphasized the importance of local government involvement, through the designated regional planning agency, in selecting projects and prioritizing funding for transportation. In order to reinforce this role at the state level, **DRCOG supports the process, established between DRCOG, the Regional Transportation District (RTD) and the Colorado Department of Transportation (CDOT) to address the following issues before final adoption of the Statewide Transportation Plan:**

- The distribution of estimated future regional transportation revenues, rules governing the process for allocating such revenues among DRCOG member governments, and the range of certainty regarding estimated funding allocations;
- Rules and criteria for determining regional transportation project selection, including maintenance projects as well as immediate and future transportation priorities based on the Regional Transportation Plan; and
- A dispute resolution process to mediate disputes related to these requirements.

The synergy between transportation and land use affects the region’s growth and development, use of transportation facilities and environmental quality. A coordinated approach between system planning efforts and local project development is crucial to ensure environmental compatibility, efficient system performance and cost-effective solutions. These issues are regional in nature and, although individual local governments can take action to address them in their own jurisdictions, a regional approach to addressing them is necessary. **DRCOG supports early and frequent consultations between agencies to coordinate regionwide system and project planning efforts, as well as to coordinate transportation, land use and air quality planning efforts. DRCOG supports legislation that promotes coordination and cooperation that builds consensus among the participating agencies.**

Role of the MPO. The interdependence of transportation systems in metropolitan areas, coupled with the twin complexities of growth and diminishing resources, necessitates a regional approach to transportation problem solving. As the Metropolitan Planning Organization (MPO) for the Denver metro region, DRCOG is responsible for planning and programming funds for the development of a multimodal transportation system for the metro area. The MPO serves as the forum for collaborative decision-making on regional transportation issues. The MPO brings together decision-makers from local governments, other regional agencies and state transportation agencies to consider strategic and innovative solutions to regional transportation issues. The critical role of the MPO needs to be recognized and supported at the state level. Consensus between state and regional transportation agencies also is critical. Transportation planning must be coordinated between DRCOG, the state's transportation agencies, the Regional Transportation District and affected local communities. Each participating transportation agency's plan must recognize the region's priorities in the context of statewide transportation priorities. The role of the MPO and the importance of cooperation among transportation agencies already are recognized in federal law and regulation.

- **DRCOG supports a strong role for MPOs, placing MPOs on an equal basis with the state department of transportation and the applicable regional transit agencies in selecting which projects are to be prioritized for funding, in order to ensure that local, regional and state transportation needs are met in a coordinated and cooperative manner.**
- **DRCOG supports legislation that reinforces collaboration between state and regional transportation agencies and recognizes their respective roles and interests.**
- **DRCOG urges the creation of one engineering region coterminous with DRCOG's boundaries as the basis for distribution of funds.**
- **DRCOG also supports legislation to ensure that representation on the Transportation Commission reflects the most recent population census.**

Transportation Financing. Colorado and the Denver metro area face serious funding shortages for meeting the transportation needs identified by the public and planning agencies.

DRCOG supports the following actions to meet those needs:

- **DRCOG supports efforts to increase funding for transportation, including innovative financing mechanisms and flexible provisions for using such funds to meet specific multimodal needs.**

- DRCOG supports transportation funding equity statewide based on needs and contribution and is currently working under the terms of an MOU with the Transportation Commission to achieve this goal.
- DRCOG supports the reexamination of state formulas and procedures to ensure that an adequate amount of federal and state funds are made available to urbanized areas in order to relieve congestion and maintain air quality standards.
- DRCOG urges the Colorado General Assembly to appropriate state funds for transportation with the flexibility to be used for implementation of necessary projects, regardless of mode.
- DRCOG supports the principle that regions should have the authority to implement regional financing tools, including the creation of regional taxing authorities to fund regional transportation solutions. Such “regional transportation authorities” should work closely with local jurisdictions, transportation planning agencies and other affected entities.
- DRCOG supports the use of tolls as a financing mechanism for public roads or highways with the conditions that (1) the road or highway is reviewed and approved by the DRCOG Board for inclusion in the fiscally constrained regional transportation plan, (2) toll receipts remain in the toll highway system within the region that is tolled; (3) toll receipts are allowed to be used for multimodal improvements; and (4) tolls can only be imposed on new capacity. DRCOG supports requiring private toll roads to follow the same regional planning procedures required for facilities planned by the Colorado Tolling Enterprise.

Multimodal Transportation. Efforts to address transportation needs in the region must draw upon an array of transportation modes to reduce single-occupant vehicle demand and to provide a variety of transportation choices. DRCOG strongly believes that multimodal solutions to transportation problems are imperative to preserve and enhance our quality of life. **DRCOG supports legislation that promotes efforts to create and fund a multimodal transportation system.**

Transportation Demand Management (TDM). TDM programs can help reduce congestion and improve air quality by decreasing the amount of automobile traffic during high-demand periods. DRCOG sees TDM as an increasingly important element of the region’s long-range growth management and transportation planning strategy. DRCOG actively promotes alternatives to the single-occupant vehicle, supports TDM programs that minimize the barriers to the use of such alternatives and encourages use of telecommuting, flextime and other changes to normal work patterns to avoid peak traffic conditions.

- **DRCOG supports encouraging employers to promote alternative mode use by their employees.**
- **DRCOG also supports coordinating use of transportation alternatives wherever traffic congestion may occur, such as at schools, large retail shopping centers, and in connection with sporting or cultural events.**

- **DRCOG supports providing incentives to individuals who use alternative modes and to limit the liability of rideshare agencies and others who promote or provide alternative transportation services.**

Effective Management of the Transportation System. Efforts to promote the effective management of the freeway and arterial road systems and transit facilities are important to making the best use of existing transportation investments. **DRCOG supports legislation to improve approaches that make use of the roadways and transit facilities more efficient, including programs for incident management and Intelligent Transportation Systems.**

Services to the Elderly and Persons with Disabilities. Access to transportation is of critical importance to older adults, particularly to obtain health care and food and to avoid isolation. The DRCOG Regional Transit Development Program recommends the establishment of a transportation broker in each county to most effectively utilize the limited resources available for transportation for older adults and persons with disabilities.

- **DRCOG supports a broker system that coordinates the resources and delivery of transportation services between providers, the federal government, counties, RTD and the state.**
- **DRCOG supports increased funding for transportation services for older adults and persons with disabilities.**
- **DRCOG supports increased state funding for Medicaid transportation services for the elderly and persons with disabilities, recognizing that recent reductions in the state budget have created serious hardships for those who rely on these services.**

Human Services

Older Adults. As the designated Area Agency on Aging (under the federal Older Americans Act) for Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Gilpin and Jefferson counties, DRCOG advocates, plans and coordinates the provision of services for older adults, the fastest-growing and most vulnerable portion of the region's population. As an advocate for older adults and their caregivers, DRCOG works with various groups and individuals to support state legislation, regulations and programs to meet the needs of older adults. DRCOG also provides direct services, where appropriate. **In performing these roles, DRCOG supports the following:**

- **Funding.** Colorado and the Denver metro area face serious funding shortages for meeting the needs of older adults in the region.
 - ▶ **DRCOG supports increased funding for programs providing services to older adults and their caregivers.**

- ▶ **DRCOG supports efforts to use state funds for programs that provide prescription drugs more efficiently and effectively. This would include efforts to reduce the costs of purchasing such prescription drugs to enable those programs to better serve their growing caseloads.**
 - ▶ **DRCOG supports increasing the continuing appropriation to the State Funding for Senior Services line item in the Long Bill. This includes restoration of cuts in the appropriation to the Older Coloradan's Fund, as well as any additional state General Fund monies that might become available.**
 - ▶ **DRCOG urges the General Assembly to fully fund the required share to match federal funds that are available to the state through the Older Americans Act, including the National Family Caregiver Program, so as not to require an increase in the required local share. Such state or local shares/matches should not be required to come from existing program funds.**
 - ▶ **DRCOG supports distributing State Funding for Senior Services monies using the existing structure created to administer Older Americans Act funds. DRCOG also supports the equitable distribution of the federal and state funds to the AAAs based on needs and contribution of each region.**
 - ▶ **DRCOG supports reexamination of the state procedures and distribution formulas for federal and state funds to ensure adequate funds are available to urbanized areas to meet the needs of older adults, particularly as identified in the *Strengths and Needs Assessment of Older Adults in the Denver Metro Area*.**
- **Long-Term Care.** Older adults living in long-term care facilities are some of the most vulnerable members of the regional community. As the Long-Term Care Ombudsman for the region, DRCOG is an advocate for the rights of residents in long-term care facilities and for improvement in the quality of care in such facilities. **DRCOG supports legislation that increases consumer protections for older adults and their caregivers and, in particular, legislation strengthening the role of the long-term care ombudsman as a patient/consumer advocate. DRCOG urges the state, when making decisions regarding funding for long-term care facilities, to structure such funding to protect the quality of care for residents.**
 - **Planning for Services.** The Older Americans Act mandates a critical role for the AAA: that of planning to meet the needs of older adults and distributing federal funds under the act. To reinforce this role at the state level, **DRCOG supports state legislative and regulatory provisions reinforcing collaboration between the state and AAAs and recognizing their respective roles and interests, consistent with the Older Americans Act.**
 - **Coordination of Services.** DRCOG works with other government agencies, service providers, private and nonprofit organizations and foundations to identify gaps in services and bring the interested parties together to address these gaps. **DRCOG supports collaboration and partnerships to more effectively and efficiently**

meet service needs consistent with DRCOG's role as an Area Agency on Aging.

- **Housing.** As with others in the metro area, available, affordable and accessible housing is a concern for older adults. However, in many cases a more critical concern is the ability to live independently. As individuals age, in-home and related services enable older persons to remain in their homes.
 - ▶ **DRCOG supports increased funding and regulatory changes that will improve the availability of these supportive services, while maintaining consumer protections for clients and family caregivers.**
 - ▶ **DRCOG also supports home modification programs and funding to assist seniors, persons with disabilities and others at-risk to remain in their homes.**
 - ▶ **DRCOG supports reinstatement and preservation of the Senior Property Tax Exemption to help reduce a tax liability that especially burdens seniors on fixed incomes.**

- **Seniors and Driving.** As individuals age their ability to drive safely can diminish. However, DRCOG is concerned that any legislation that might be enacted to address this issue solely based on age could impose undue hardships on older citizens who can still drive safely. When older citizens can no longer drive, the availability of transportation for medical appointments, grocery shopping and the like can mean the maintenance of independence for our region's older citizens. Adequate funding, therefore, must be available for providing transportation services for the elderly and persons with disabilities. **DRCOG supports functional assessments of driving ability, instead of a simple age cut-off, as the basis for imposing limitations on an individual's driving.**

Public Safety. One of DRCOG's key roles is serving as a resource for its participating local governments by providing programs that help them save time and money and provide enhanced services to their citizens. This is particularly true in the area of public safety where DRCOG administers shared services through its law enforcement, fire and dispatcher testing programs and its elevator/escalator inspection program.

In providing its testing services, DRCOG has recognized that law enforcement and fire departments throughout the metro area are experiencing increasing difficulties in finding quality candidates for entry-level positions. As the administrator of a regional elevator/escalator inspection program in the Denver metro region, DRCOG has been involved in recent General Assembly consideration of the statewide regulation of "conveyances." The state is considering establishing statewide regulations, including a state permitting system and certification of mechanics, contractors and inspectors.

- **DRCOG supports identification and implementation of strategies that improve the recruitment and retention of high quality law enforcement, firefighter and dispatcher candidates region-wide.**

- **DRCOG supports identifying regional approaches to recruitment, training and retention in collaboration with its members.**
- **DRCOG supports statewide standards for all conveyance equipment in the state with the caveats that (1) state regulations respect existing regional inspection programs and (2) a state program is coordinated and complements existing regional programs.**

Environment

Air Quality. Air quality affects all residents of the region and continues to be a concern, in spite of progress in recent years. Currently, the Denver metro region is in attainment of all federal air quality standards. However, the maintenance of this attainment status will continue to be a challenge. **DRCOG supports updating the mobile source emissions budget for carbon monoxide and small particulates (PM10) so as to allow for the required federal finding for 2035 of transportation/air quality conformity, while assuring protection of federal health standards. DRCOG supports incentives for alternative transportation choices. DRCOG supports efforts to reduce emissions from all sources in the metro area sufficient to meet federal air quality standards. DRCOG supports transportation and land use strategies that improve air quality in the region.**

Water Quality. As the designated water quality planning agency for the Denver metro region, DRCOG works with member jurisdictions, wastewater management agencies and others to develop and implement the water quality management plan for the Denver metro region as required by the federal Clean Water Act. Current funding levels, however, for regional planning and important analyses and permitting activities are inadequate. **DRCOG supports a regional approach to water quality planning and the protection and improvement of water quality in water bodies in the area. DRCOG supports coordination and collaboration among all entities with water quality responsibilities.**

Funding for these responsibilities is a concern for DRCOG. The Water Quality Control Division, the state agency responsible for implementing the state's water quality program also is experiencing funding challenges. It is important that the Division have adequate funding to meet its responsibilities to maintain state primacy for this program and not return responsibility to the U.S. Environmental Protection Agency. State primacy is important to ensuring maximum participation of local governments and the state's citizenry.

- **DRCOG supports retaining the state's "primacy" for the implementation of the Clean Water Act and Safe Drinking Water Act programs in Colorado.**
- **DRCOG supports permit fees for wastewater treatment agencies as an important foundation for funding the program but not as the only source of funding.**

- **DRCOG supports reasonable appropriations from the state General Fund to help meet the funding needs of the Water Quality Control Division and DRCOG's regional planning activities.**
- **DRCOG supports efforts to increase funding for state and regional water quality programs, including the allocation of adequate state funding for regional water quality planning and related activities.**

Water Supply. An adequate, dependable supply of water is necessary for urban, agriculture, recreation and open space priorities both in the metro area and throughout the state.

- **DRCOG supports water conservation efforts and coordination among all water users. DRCOG supports the state's conservation efforts, and water resource planning, management and development within the existing constitutional framework.**
- **DRCOG supports the principle of water reuse as one component in efforts to meet water supply needs and thus supports efforts to facilitate the reuse of water consistent with Colorado's constitutional water rights system.**
- **DRCOG also supports policies and practices that, consistent with local government authority, protect Colorado's water resources.**

Open Space. Open space resources available to citizens in the Denver metro region are important to our quality of life.

- **DRCOG supports planning, acquisition, protection and preservation of open space resources to safeguard this amenity to future generations.**
- **DRCOG supports increasing funding for open space preservation.**
- **DRCOG supports Great Outdoors Colorado and other efforts supporting advancing major land acquisitions along the Front Range that link open spaces within the metro area to protect canyons and river corridors, the mountain backdrop and prominent geographic features, freestanding community buffer areas, and the east metro plains.**

Intergovernmental Relations

Intergovernmental Cooperation. The state, local governments and regional agencies all play an important role in providing critical services and implementing programs for the benefit of Colorado residents. Legislative bodies and executive agencies at each level should respect the roles and responsibilities of the others. **DRCOG supports building consensus among state, local and regional entities in developing and implementing new and existing programs and improved approaches to planning and service provision.**

Shared Services. Many of the services provided by local governments to their citizens are also provided by neighboring communities. To address related coordination and

funding concerns, local governments have entered into agreements with each other and with DRCOG for shared service delivery. **DRCOG encourages local governments to enter into shared services agreements where appropriate and supports efforts to ensure that such agreements are honored and endorsed by the state.**

State/Regional Relations. As the state's policy issues become more complex, it is evident that the solutions are not "one size fits all." The Denver region has made significant progress in developing collaborative solutions and decision-making processes for a number of the complex issues with which it has been confronted—especially in the related areas of growth and transportation. As the Metropolitan Planning Organization for transportation, the regional water quality planning agency, the Area Agency on Aging and the regional planning commission, DRCOG is in a unique position to convene parties of interest on intergovernmental issues, provide the necessary forum for their resolution and facilitate a negotiated outcome. **In recognition of the growing importance of regionalism, it is an appropriate role for DRCOG to act as a facilitator of regional approaches. Consequently, it is appropriate for state agencies to ensure that actions they take affecting the region are consistent with regionally derived solutions and the adopted Metro Vision plan.**

Regional Service Delivery. The state plays an important role in the funding of public services and programs administered at the regional and local levels. When making such funding and programmatic decisions, it is appropriate for state agencies and the General Assembly to give consideration to which programs are implemented most appropriately at the local or regional level. State administration of federal programs can be problematic for local governments, as state agencies tend to be more removed from clients and less responsive to their needs. On the other hand, individual local governments may lack the resources to achieve the desired efficiencies and cost-effectiveness. Also, some programs, for example, transportation, air quality, water quality, are most appropriately and effectively addressed at the regional level. The collaborative partnerships typical of regional approaches can provide the critical mass of users and clients for services or programs to be cost-effective. **DRCOG urges the state, when making funding and programmatic decisions, including creating new programs or changing existing programs, to consider the following principles:**

- **Use existing local or regional service delivery systems wherever practical.**
- **Ensure a consultative process among federal, state and local governments and regional councils before any changes are made to services currently being delivered at the local or regional level.**
- **Ensure existing levels of services are maintained and adequate administrative funds are provided to implementing agencies to avoid shifting responsibility without adequate funds.**
- **Ensure the state treats the continuity of service delivery as a key principle guiding any actions to create new programs or revise existing programs by respecting the local and regional programs already in existence.**