

# Denver Regional Council of Governments Policy Statement on Federal Legislative Issues for 2010

## Introduction

This paper outlines the key federal policy issues of the Denver Regional Council of Governments (DRCOG) and its local government members. It identifies policy positions intended to inform the Colorado congressional delegation, Congress, federal and state executive branch officials and others as they develop and implement national policy on these issues. This policy statement guides DRCOG's federal legislative positions and actions during the coming year.

DRCOG is a membership organization of nearly 60 cities, towns and counties in the Denver metropolitan region. Under federal law, it serves as the Area Agency on Aging for eight counties, the region's water quality planning and management agency, and the Metropolitan Planning Organization (MPO) for regional transportation planning, which includes a requirement to coordinate transportation planning with air quality goals.

DRCOG also provides a forum for addressing regional issues and coordinating local activities. It acts as an advocate for regional problem solving and has adopted a legislative principle statement that asserts, 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.



## OLDER ADULTS

**Older Americans Act.** The Denver Regional Council of Governments (DRCOG) has been the designated Area Agency on Aging (AAA) for the metro area under the auspices of the federal Older Americans Act since 1973. In this capacity, DRCOG is responsible for planning and advocating for the needs of the region's older residents, as well as for providing a broad array of services and programs.

Congress reauthorized the Older Americans Act (OAA) in 2006. The reauthorization included new programs requiring states and local governments to address challenges brought by the aging of the baby boom generation. Unfortunately, the reauthorization did not include any additional funding, other than a small increase for the National Family Caregiver Program. The reauthorization also included provisions encouraging better federal, state and local coordination of services provided to persons in both in-home and community-based settings, but did not specify how these provisions would be implemented.

Accordingly, DRCOG adopts the following principles for implementation of the new legislation.

- ▶ **Encourage Meaningful Coordination with Other Systems and Programs.** The Administration on Aging should adopt rules and regulations incorporating the following specific concerns:
  - ▶▶ Require states, AAAs, Medicaid long-term care agencies, and other relevant entities to carry out coordinated regional and statewide planning of services and programs for seniors.
  - ▶▶ Coordinate all federal programs and planning processes that serve older citizens, such as Older Americans Act, Medicaid, SAFETEA-LU and Section 202 housing programs.
  - ▶▶ Remove barriers to the coordination of elderly and disabled transportation services by providing the flexibility to allow trips for elderly and non-elderly disabled persons and for meal, medical and personal services to be served by the same provider using a combination of U.S. Department of Health and Human Services and U.S. Department of Transportation funding.
  - ▶▶ Avoid shifting the cost burden from cash-strapped programs, such as Medicaid, to the Older Americans Act programs simply to bail out those programs.
- ▶ **Maximize Flexibility in Use of Older Americans Act Funds.** The majority of federal funding provided to state and local entities under the federal Older Americans Act is specifically earmarked to particular services. While all of the OAA-funded services, such as meals and transportation, are critically important, the area agencies on aging, local governments and service providers are in the best position to assess specific needs in the local areas. Increased flexibility in the use of program funds would allow area agencies on aging to better meet the needs of older adults.
  - ▶▶ **Simplify rules and regulations to allow better coordination of senior services thus enabling AAAs and service providers to more efficiently and effectively use federal funds to address local priorities.** This could include the consolidation of certain funding categories to improve administration of the affected programs. For example, the Title 3 C-1 congregate meal and Title 3 C-2 home-delivered meal programs could be merged.
  - ▶▶ **Create flexibility in state- and federally-specified allotments of Older Americans Act funds allowing area agencies on aging to utilize regional priorities to determine funding distributions at the local level, consistent with the goals of the Act.**
  - ▶▶ **Set required local match at 10 percent and required state match at 5 percent across all programs of the Older Americans Act.** Currently, required local and state funding match percentages vary widely. For example, state/local match for the National Family Caregiver Support Program is 25 percent, while the Nutrition and Supportive Services Programs require a 15 percent state/local match. In some cases, states can completely opt out of providing a state match as with the National Family Caregiver Support Program.
- ▶ **Fund Aging-Related Planning for Local Communities.** The reauthorization established new requirements for senior-friendly community planning but did not include funds for this new mandate. Congress should appropriate funds for state, regional, and local collaboration, planning, community capacity-building and technical assistance. This should include funds for conducting analyses of the strengths and needs of seniors in a given area.
- ▶ **Increase Federal Funding for Older Americans Act Programs.** The funding provided through the Older Americans Act has proven critical in maintaining a quality standard of living for many of the nation's senior citizens.

However OAA funding has not kept pace with inflation or the growing population of individuals eligible for services for years, yet demand by at-risk older adults in need of supportive services has risen and will continue to rise with growth of the aging population. This long-term gap in funding translates to greater numbers of older adults and family caregivers with unmet needs and increasing pressures on state and local agencies, service providers and families. Meanwhile, waiting lists for Older Americans Act-funded services such as Meals on Wheels, rides to medical appointments, and in-home care have burgeoned throughout the country. Compounding these problems, financial pressures on other programs that provide services to seniors, such as Medicare and Medicaid, have led to reductions in the services provided by those programs, and a related increase in demands on Older Americans Act programs. Congress needs to fund the Older Americans Act adequately now and into the future – in preparation for the aging of the baby boomers.

- ▶ Significant annual increases in the overall funding for the Older Americans Act Programs are necessary to catch up with the lag in historical funding. For FY 2010, the National Association of Area Agencies on Aging has determined an increase in funding of at least 12 percent is necessary to keep pace with projected population growth and price increases.
- ▶ Future authorized appropriations are needed at levels adequate to fund identified needs but at least commensurate with the rates of growth in inflation and the economically needy older population.
- ▶ Priority for funding should be given to those Older Americans Act programs and services that emphasize assisting clients to live in their homes as long and as independently as possible.
- ▶ Fund the OAA Title IV provisions for state and local planning to assist communities in meeting the challenges and opportunities of the coming “age wave.”
- ▶ Increases in the funding for family caregiver support services (including training, respite care, counseling, and information and assistance) and the continued distribution of these monies through AAAs, are important to address the growing needs of families who provide extensive care to their loved ones.
- ▶ Protecting the role of the Ombudsman program and increases in funding for Ombudsman programs are necessary to improve the ability to respond to complaints and safeguard residents’ rights.

▶ **Enact Project 2020.** The National Association of Area Agencies on Aging and the National Association of State Units on Aging, in conjunction with the Administration on Aging and the Centers for Medicare and Medicaid Services, have developed a coordinated national long-term strategy to enable older adults and persons with disabilities to get the support they need to successfully age where they want to – in their own homes and communities. The strategy incorporates a comprehensive and integrated approach to enable older adults and individuals with disabilities to make their own decisions, take steps to manage their own health risks, and to receive the care they choose in their own homes and communities as long as possible, thus avoiding unnecessary and unwanted institutionalization.

The strategy includes three key elements: person-centered access to information, evidence-based health promotion and disease prevention, and enhanced nursing home diversion services. According to initial estimates, the strategy also will rebalance the long-term care system by building on the non-Medicaid community-based support system embodied in the Older Americans Act, while saving Medicare and Medicaid dollars and producing net savings to the federal budget. **DRCOG supports the legislation that was recently introduced to implement this strategy: “Project 2020: Building on the Promise of Home and Community-Based Services Act” (S.1257/H.R.2852).**

**Long-Term Care Facility Quality of Care.** The quality of care received by residents of long-term care facilities is an ongoing concern to the residents, their families, local governments and resident advocates. DRCOG believes the following issues require particular attention by Congress and federal agencies.

- ▶ Federal regulations designed to ensure the quality of care in long-term care facilities are not fully enforced, largely due to inadequate staffing levels in the state enforcement agencies. There also are several actions that could be added to the regulations to improve enforcement. These include increased inspections and penalties on long-term care facilities failing to comply with regulations. **DRCOG supports such improved enforcement of long-term care regulations and an increase in funding for enforcement actions, which are the responsibility of state health departments.**
- ▶ Most complaints investigated by DRCOG ombudsmen are traceable to staffing issues in the long-term care facilities. The inability to maintain adequate staffing is a critical concern that negatively impacts long-term care

facility quality of service. DRCOG supports federal legislation, policies and programs to improve the quality of service in long-term care facilities, including setting minimum staffing levels and providing financial and technical assistance for the recruitment, training and retention of long-term care facility employees.

- ▶ “Nursing home transparency” legislation currently is under consideration in Congress. The nursing home transparency provisions will enhance families’ access to information about the quality of care in nursing homes and will improve the government’s ability to ensure quality care and a better-trained staff in those facilities. **DRCOG supports legislation that includes stronger disclosure of ownership and control of facilities, better oversight of quality of care indicators, improved consumer information, and an enhanced complaint and penalty process.**

**Elder Justice Act Reauthorization.** The Elder Justice Act is up for reauthorization. This legislation contains provisions relating to the nation’s long-term care system, particularly addressing the problem of elder abuse and enhancing the safety of long-term care residents. The reauthorization is expected to consider a comprehensive approach to preventing and combating elder abuse, neglect, exploitation and self-neglect. This is important legislation. As the long-term care Ombudsman for the metro area, the DRCOG Ombudsman program has seen investigations of elder abuse increase by 25 percent from 2005 to 2006. **DRCOG supports reauthorization of the Elder Justice Act, consistent with the following principles.**

- ▶ Provide a stronger and more coordinated federal response to promote elder justice.
- ▶ Increase federal support to states and communities for elder justice activities.
- ▶ Provide funding and training support to adult protection programs.
- ▶ Improve consumer protection by requiring the reporting of crimes by nursing facilities or employees and communication of consumer rights information.
- ▶ Provide new funding to improve Ombudsman capacity and training and for training of health department surveyors investigating allegations of abuse.

**Health and Home Care Services.** There are numerous other health and home care issues not covered under the Older Americans Act. In general, the policies below address concerns regarding consumer protection, access to treatment, and access to services that increase independence. **DRCOG believes it is appropriate for federal legislation, regulations**

**and policies to promote access to health care coverage and the integration of long-term care into a continuum of medical and non-medical services, including health promotion and disease prevention.**

- ▶ *Noninstitutional Care.* Home and community-based services are critical components in the continuum of care for the elderly and disabled and are more cost efficient than services in institutions, particularly with regard to rural areas and for minority populations. Adequate reimbursements to providers are necessary to offset the costs of providing these important services. **DRCOG supports increased funding of home and community-based care programs and higher Medicare and Medicaid reimbursements.**
- ▶ *Prescription Medication.* Older adults typically require more medication than younger people. Even with the adoption of a prescription drug benefit under Medicare, the high cost of prescription medication will continue to be a financial hardship for many older adults. **DRCOG supports revisions to the Medicare Part D prescription drug benefit to simplify the application process and coverages offered, as well as address the gaps in coverage to provide a more comprehensive prescription medication benefit for all beneficiaries. DRCOG also encourages the federal government to provide additional funding for Area Agencies on Aging to provide public education, counseling and enrollment assistance for citizens about the Medicare drug program.**
- ▶ *Patients’ Rights.* Enforceable federal protections, in areas including access to care, quality assurance, patient information, grievances and appeals, doctor-patient relationship, and physician treatment decisions, are necessary to ensure that quality health care and other services are available to all. **DRCOG supports legislation to protect consumers in managed care plans and other health coverage.**

**Housing.** The ability to afford to live in a residence independently is a concern of older adults, especially those on fixed incomes. As the Denver metro area has grown and developed, the shortage of affordable housing has become an even more important concern. **DRCOG supports increased federal assistance for the housing needs of low- and moderate-income adults, including home modification programs and funding of programs to assist seniors, persons with disabilities and others at risk to remain in their homes.**



## TRANSPORTATION

**Reauthorization of SAFETEA-LU.** In the coming year, it is expected Congress will consider reauthorization of the Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU). The law expired on September 30, 2009 but has been extended temporarily. In July 2009, the DRCOG Board adopted a comprehensive set of principles as an interim position to guide Board positions on specific reauthorization legislation. The Board action is incorporated into this policy statement as follows.

### INTERIM FEDERAL SURFACE TRANSPORTATION REAUTHORIZATION POSITION: A NEW VISION

The sunset of the federal highway and transit transportation program known as the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) provides a unique opportunity to create a new vision for the nation’s transportation system. Transportation solutions are essential elements of multidimensional efforts to advance economic development, industry growth and competitiveness; reduce our carbon footprint; and increase job access and mobility. This is a new vision for federal metro partnerships for prosperity. **The Denver Regional Council of Governments (DRCOG), representing almost 60 local governments in the Denver metro area, urges Congress to create a whole new policy framework that**

- ▶ Invests in Rebuilding the Nation’s Transportation Infrastructure
- ▶ Supports Multimodal Solutions
- ▶ Supports a Metropolitan Nation
- ▶ Improves Energy Efficiency and Environmental Sustainability
- ▶ Provides Responsible and Efficient Investment

**DRCOG supports an energy-efficient, environmentally sustainable, multimodal transportation system that ensures America’s economic competitiveness and provides livable communities for its residents. DRCOG supports providing additional transportation revenues to accomplish this vision.**

#### I. Invest in Rebuilding the Nation’s Transportation Infrastructure

In the DRCOG region:

- ▶ 1,170 miles of highway are rated poor (30 percent of the 3,900 state highway miles in the region)
- ▶ 104 bridges are structurally or functionally deficient (2006)<sup>1</sup>

- ▶ 76,500 crashes/accidents in 2004 resulted in 25,500 injuries and 228 fatalities

Nationally:

Nearly 161,750 miles of federal highways have pavement rated unacceptable and 153,990 bridges nationwide are structurally deficient or functionally obsolete and need to be replaced.<sup>2</sup>

**DRCOG supports a strategic initiative to rebuild the aging highway and transit infrastructure of the nation and commit to asset management practices that maintain the integrity of this infrastructure into the future.**

Maintaining and operating our nation’s transportation infrastructure requires the following components:

- ▶ Top priority must be given to maintaining, repairing, and reconstructing the existing infrastructure
- ▶ National goals for asset management and performance measures are needed as well as flexibility that allow each state and region to decide how to best make investments to show progress toward these national goals
- ▶ Include performance objectives for system operations and reliability
- ▶ Include incentives to use state-of-the-practice green materials and green maintenance and construction techniques
- ▶ Include performance objectives for safety in all modes, with increased emphasis on reducing the severity of accidents rather than just the total number of incidents
- ▶ Update the system to serve our nation’s aging population

#### II. Support Multimodal Solutions

In the DRCOG region:

- ▶ 2.8 million people are caught in 87.9 million hours of traffic annually
- ▶ \$1.7 billion is lost annually due to congestion

Nationally:

Addressing the nation’s transportation challenges requires investment in a comprehensive, multi-faceted approach. Traffic gridlock is an annual \$78 billion “hidden tax” on the American economy and productivity, causing 4.2 billion hours of travel delay and 2.9 billion gallons of wasted fuel annually.

**DRCOG supports adding multimodal transportation capacity appropriate to meet national objectives.**

Programs that allow states and planning regions to develop, fund and implement integrated investment solutions should be maintained and enhanced. In addition, transportation funding must allow flexibility to address the multimodal, energy and environmental needs of individual urban areas.

- ▶ National mobility and accessibility performance measures are needed as well as flexibility that allow each state and region to decide how to best make investments to show progress toward national mobility goals
- ▶ Equalize federal funding match requirements across all modes of transportation
- ▶ Create a national strategy for interregional person mobility
- ▶ Create a National Strategic Freight Mobility Program that provides for rational investment in efficient, long-distance freight movement
  - ▶▶ Would include a national vision and investment strategy
  - ▶▶ Would target eliminating freight chokepoints

### III. Support a Metropolitan Nation

Metropolitan areas account for 85 percent of the U.S. population and more than 85 percent of employment, income and production of goods and services.<sup>4</sup> Growing congestion, deteriorating infrastructure, and poor system reliability threaten the ability of these regions, and the nation, to compete globally. Metropolitan regions must play a stronger role in the nation's transportation programs, both in the authority to direct investment and demonstrate accountability for the system's performance.

#### **DRCOG supports the creation of a new Metropolitan Mobility Program.**

To achieve this, a new Metropolitan Mobility Program is needed. Under this program, each of the 50 metropolitan regions with populations of more than one million could choose to designate itself as a Metropolitan Mobility Authority. **These authorities would:**

- ▶ Focus on mobility and accessibility (critical infrastructure, stewardship and service needs remain with the appropriate transportation agencies)
- ▶ Be allocated new federal transportation funds addressing metropolitan mobility and accessibility issues and have project selection authority for those funds.
- ▶ Be required to meet new performance-based planning standards

#### **DRCOG supports transportation legislation that addresses metropolitan mobility and accessibility issues.**

- ▶ Enable major metropolitan areas to establish overarching plans for intraregional mobility and accessibility with focus on
  - ▶▶ Easy access, choices and seamless transfers
  - ▶▶ Elimination of chokepoints and congestion Strategies that manage transportation demand and support nonmotorized methods of travel
  - ▶▶ Strategies for accommodating interregional movement of people and goods within and through the metropolitan area
  - ▶▶ Fostering livable communities for all ages and abilities
  - ▶▶ Accountability for demonstrating progress toward meeting national performance standards
  - ▶▶ Performance metrics that extend beyond congestion and consider Vehicle Miles Traveled (VMT) reduction, economic development, environmental sustainability, global competitiveness, air quality, etc.
- ▶ Fold "Complete Streets" policies into the metropolitan planning process; so that transportation agencies routinely consider designing and operating the entire right of way to enable safe access for drivers, transit users and vehicles, pedestrians, and bicyclists, as well as for older people, children, and people with disabilities

### IV. Improve Energy Efficiency and Environmental Sustainability

Transportation plays a key role in achieving energy independence and addressing some of the nation's environmental concerns. More than 60 percent of every barrel of oil used in the United States today is used by the transportation sector, and transportation sources accounted for 29 percent of total U.S. greenhouse gas (GHG) emissions in 2006<sup>5</sup>.

The competitiveness of our economy, the health of our citizens and the strength of our national security depend on reducing our reliance on, and consumption of, fossil fuels.

#### **DRCOG supports strategies to reduce fossil fuel use by the transportation sector.**

- ▶ Expand investment in research and development for alternative fuels, new clean fuel technologies, more efficient vehicles, and new ideas and technologies for transporting people and goods.
- ▶ Incentivize conversion to more fuel-efficient and lower-emission vehicles.
- ▶ Increase incentives for environmentally-friendly replacement transportation fuels.
- ▶ Incentivize regions to more closely link land use and transportation infrastructure to reduce transportation energy consumption, increase non-vehicle transportation

options, and reduce VMT objectives, through techniques including scenario planning.

- ▶ Add public transit projects that enhance capacity, convenience and/or reliability to the exempt project list for Clean Air Act purposes; these types of improvements increase in importance in situations where conformity cannot be attained.

## V. Provide Responsible and Efficient Investment

The National Surface Transportation Policy and Revenue Study Commission, which released a congressionally mandated report in January of 2008, called for Interim investments of at least \$225 billion annually over the next 50 years at all levels of government.

The more recent, February 2009 report of the National Surface Transportation Infrastructure Financing Commission estimates that we need to invest at least \$200 billion per year at all levels of government to maintain and improve our highways and transit systems.

**DRCOG supports the funding principles adopted by the National Surface Transportation Infrastructure Financing Commission set up under SAFETEA LU, which include:**

- ▶ Funding and financing a framework that supports a goal of enhancing mobility for users of the transportation system
- ▶ Developing a funding and finance framework that generates sufficient resources to meet national investment needs on a sustainable basis with the aim of closing the funding gap
- ▶ Developing a funding and finance framework that causes users and direct beneficiaries to bear the full cost of using the transportation system to the greatest extent possible
- ▶ Developing a funding and finance framework that encourages efficient investment in the transportation system
- ▶ Developing a funding and finance framework that incorporates equity including geography, income, growth, generation, etc.
- ▶ Developing a funding and finance framework that is synchronized with other broad public policy objectives (and may include energy independence, environmental protection, and workforce housing).

**DRCOG supports both short- and long-term federal funding policies:**

### Short-term

- ▶ Boost the federal gas tax (at minimum, to restore the purchasing power of the Highway Trust Fund) and other existing Highway Trust Fund revenue
- ▶ Index the federal gas tax to inflation
- ▶ Create a National Strategic Freight Trust Fund

- ▶ Supported by a dedicated funding mechanism from all users of the freight system that is predictable, dedicated and sustainable
- ▶ Expand options available to states and localities such as tolling, congestion pricing and public/private partnerships
- ▶ Expand current federal credit programs

### Long-term

- ▶ Carbon tax or trading programs (if Congress implements such a program) should ensure that transportation activities that reduce greenhouse gas emissions receive a proportionate share of any new revenue generated by such programs
- ▶ Transition to a new, more direct user charge system such as the Vehicle Miles Traveled fee, this includes:
  - ▶ An aggressive research, development and demonstration program to address issues such as privacy rights, program administration, costs, revenues, partnerships with states and localities, and interplay with national policy objectives such as reducing VMT and congestion
  - ▶ A national public education program
  - ▶ A national pilot program

**DRCOG supports funding policies that promote stability and reliability:**

- ▶ Maintain transportation program's use of contract authority, allowing states to advance money for multiyear construction projects.
- ▶ While supporting a shift to national performance standards and goals, consideration must be given to equity issues (geographical/return on dollar).
- ▶ Reform earmarking process and discretionary programs to reduce the number of earmarks and ensure transparency, simplicity and accountability; earmarks should not reduce transportation program formula funds and should be fully funded.
- ▶ Limit rescissions -- rescissions in the past few years have cut real transportation program funds, not just unobligated balances; rescissions that cut into formula funds negatively impact fiscal constraint, responsible planning, implementation of federal requirements, and project continuity.

**DRCOG supports restructuring the federal transportation program**

The current federal surface transportation program has 108 separate highway and transit funding categories. As reported by the National Surface Transportation Policy and Revenue Study Commission, the sheer number of programs presents a challenge to project delivery time, selection and financing. These funding categories should be streamlined into fewer programs with accompanying performance measures and

standards. An important element of the streamlined programs would be the development of national plans to accomplish key national program goals. State and regional performance standards would form the basis for state and metropolitan plans.

### **DRCOG supports streamlining project delivery without compromising environmental or public participation values**

SAFETEA-LU recognizes the important link between the environment and the implementation of transportation projects and programs. As we gain more experience in building transportation systems without compromising environmental values or laws, it has become evident that project delivery can be streamlined to make the process more efficient. It is time to take the next step in the streamlining process by requiring coordination and simplification of environmental rules and regulations established by the various federal agencies.

- ▶ Streamline the environmental decision-making process by establishing a coordinated review process between U.S. Department of Transportation and other relevant agencies to move transportation projects forward, prevent duplication of effort, ensure communication between agencies, and reduce costs of reviewing and approving projects without compromising environmental standards.
- ▶ Simplify and streamline the National Environmental Policy Act process.
- ▶ Require greater coordination among federal agencies reviewing transportation project permits.
- ▶ Allow for a single Environmental Impact Statement rather than the current requirement for draft and final EISs while preserving adequate opportunities for public comment and review.

**DRCOG supports enhancing and strengthening the cooperative, collaborative partnerships required under current legislation with all the transportation planning partners.**

**DRCOG supports publication and dissemination of performance measurement results and analyses and widespread distribution of, and education about, the conditions of the transportation system.**

### **ADDITIONAL PRINCIPLES RELEVANT TO REAUTHORIZATION**

**Clarify and Enhance the Role of the Metropolitan Planning Organization.** The metropolitan planning process establishes a cooperative, continuous, and comprehensive framework for making transportation investment decisions in metropolitan areas. In many cases, MPOs

provide the only regional, multi-modal transportation plans that link transportation to land use, growth and air quality. Through the MPO process, local governments, in cooperation and collaboration with the state and local transit operators determine the best mix of transportation investments needed to meet long-term transportation needs of a metropolitan area. **This important role must be clarified and enhanced in order to make transportation planning successful.**

- ▶ SAFETEA-LU requires adequate financial forecasts through the cooperation and collaboration of the state, MPO and public transit agency to develop transportation plans. However, “collaboration, cooperation, and consultation” are poorly defined, giving states wide discretion in how and when those estimates of revenues are to be provided and allowing for various interpretations of the regulations. **DRCOG supports:**
  - ▶▶ **Expanding regulations should be expanded to require all three entities to agree upon procedures governing the projection of future revenue estimates.**
  - ▶▶ **Requiring all three agencies (DRCOG, RTD, and CDOT) to agree upon distribution of estimated revenues.**
  - ▶▶ **Establishing an external appeals process to USDOT if there is disagreement among the parties regarding estimate procedures and revenues.**
- ▶ SAFETEA-LU similarly requires cooperative project selection and prioritization for the Transportation Improvement Program (TIP). **DRCOG supports:**
  - ▶▶ **Expanding current regulations to require all three entities to agree upon procedures governing project selection and prioritization for transportation planning and there should be consequences for not following these procedures.**
  - ▶▶ **As part of the normal Memorandum of Agreement between an MPO, state DOT and local transit agency, requiring the three entities to cooperatively establish a process for addressing project cost overruns.**

**Transit.** Transit is an essential part of the metropolitan transportation system. Implementation of the Denver region’s transit system is a high priority of DRCOG. All of the corridors identified in the Regional Transportation Plan are critical components of the Denver region’s plan for a regional transit system. DRCOG also recognizes the importance of making transit-supportive improvements to these corridors along with the transit improvements. With the metro area having made a significant commitment of

local resources for the regional transit system, **DRCOG urges Congress and the administration to take the following actions in support of transit in the Denver region:**

- ▶ Continue the federal investment for transit and multi modal projects in the Denver region.
- ▶ Provide dedicated sources of revenue and increased funding for bus rapid transit and rail new starts programs.
- ▶ Provide federal funding for the FasTracks corridors.
- ▶ Clarify with regard to transit-oriented developments (TOD) that up to a half-mile from an existing or proposed transit station, parking and transportation infrastructure, TOD planning, and land acquisition are eligible for federal transportation funding and require that this clarification be incorporated in funding program decisions.
- ▶ Designate the “Rocky Mountain Corridor” (from Cheyenne, Wyoming through Colorado to Albuquerque, New Mexico and the I-70 corridor from DIA to the Utah border) and the Western High Speed Rail Alliance high-speed rail network (to provide high-speed rail connections between Denver, Salt Lake City, Reno, Las Vegas, and Phoenix) as High Speed Rail Corridors, thus identifying them as having potential for high speed rail activity and enabling these corridors to receive federal funds that might become available for corridor studies of high-speed rail options, development of plans for high-speed rail infrastructure, construction of high-speed rail facilities and highway/ rail grade crossing safety improvements.

**Air Quality Conformity.** The air quality conformity process is a success in the Denver region. It has increased support for multimodal planning and for integrated land use and transportation planning. It has also increased interagency coordination between the air quality and transportation planning agencies. **DRCOG supports maximum flexibility so that comparatively minor changes to the planned or programmed highway and transit network do not require a full conformity analysis at taxpayer expense. DRCOG supports continued funding for transportation projects that improve air quality.**

**Transportation Demand Management (TDM).** DRCOG views TDM principles and practices as increasingly important elements of the region’s long-range transportation planning strategy. DRCOG supports actions that minimize

the barriers to the use of alternatives to the single-occupant vehicle and encourage changes to normal work patterns to avoid peak traffic conditions. **DRCOG also supports efforts to provide incentives to employers, schools, rideshare agencies, and individuals to encourage alternative transportation use.**



Policy Statement on Federal Legislative Issues for 2010

## ENVIRONMENT

**Clean Water Act.** Local governments in the Denver region are faced with increasingly complex water quality challenges in an environment unique to the arid West but without the resources and flexibility to respond to them appropriately. Reauthorization of the Clean Water Act could provide local governments and regional water quality planning agencies the additional planning, financing and regulatory tools needed to address our growing water quality challenges. However, it appears a full reauthorization of the act is not likely in the next year. Instead, Congress looks to consider reauthorization of specific parts of the act, including strengthening Clean Water Act protections. As the legislative process proceeds in these areas, there are a number of issues of concern to DRCOG that Congress can address.

- ▶ **Watershed Approach.** As a coordinating framework to plan and implement measures to address water quality problems, the watershed approach has gained attention nationwide as a cost-effective approach to protecting and restoring water resources and ecosystems. **DRCOG supports a watershed-based resource management approach tying together control of point sources, nonpoint sources, and storm water through the involvement of watershed stakeholders. In connection with this, DRCOG supports the implementation of total maximum daily loads.**
- ▶ **Regional Planning.** The Clean Water Act recognizes the importance of planning to address the challenges associated with both point and nonpoint source pollution. The regional planning provided for in the act is even more critical, given the growing emphasis on watershed approaches. Congress should maintain and strengthen the regional planning process as the key component of the watershed approach. **The planning funds provided under section 604(b) need be increased to assist responsible parties in meeting the expanding responsibilities that accompany implementation of a watershed planning and management approach.**

- ▶ *Regulation of Nonpoint Sources.* To the extent that the Clean Water Act has been successful in reducing point source pollution, nonpoint source pollution (such as urban and agricultural runoff) remains one of the most significant challenges for improving water quality. National, state and regional nonpoint source programs must be integrated with other environmental and natural resource management programs. **It is important for Congress to support targeted, voluntary approaches, such as the nonpoint source program in the DRCOG region.**
- ▶ *Wetlands.* The loss of wetlands and natural habitat and the lack of adequate resources to mitigate these losses are key future water quality issues. **In keeping with a watershed management approach, a greater recognition of the key role of wetlands management is called for. It is appropriate for the act to account for the effects of wetlands regulations on local governments and property owners but not to provide for classification of wetlands according to economic value, nor mandate compensation to property owners for loss of such value related to wetlands regulations beyond what is provided under current law. In addition, DRCOG encourages increased funding for the acquisition of significant wetlands.**
- ▶ *Infrastructure Funding.* Colorado and the nation are at a critical juncture regarding water and wastewater infrastructure. There are significant needs for new treatment plants and upgrades to existing plants. Local governments already shoulder a significant portion of water and wastewater capital investment. **Increased funding for infrastructure investment as well as the provision of greater flexibility of these funds will allow states and local governments to determine the best use according to local prioritization of needs**
- ▶ *Good Samaritan Protection.* Abandoned and inactive mines present a serious risk to the quality of nearby water supplies. Lack of adequate funding for reclamation and the potential liability for “Good Samaritans” are serious obstacles that have prevented cleanup of many of these sites. **DRCOG supports federal funding for reclamation activities. DRCOG also supports legislation encouraging federal, state, tribal and local governments, as well as mining companies and nonprofit groups that have no prior ownership or responsibility for an abandoned mine, to clean up an abandoned or inactive mining site by granting them liability protections under several environmental statutes, including the Clean Water Act.**
- ▶ *Arid Area Standards.* Federal goals, statutes and programs often do not adequately account for the unique conditions and needs of the arid West. **To address this gap, it is**

**appropriate for the Environmental Protection Agency to develop criteria for ephemeral and effluent-dominated streams and waterways.**

**Superfund.** DRCOG is concerned that a number of Superfund issues have become serious problems in recent years while the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) has been awaiting reauthorization. DRCOG urges Congress to address the following issues individually or as part of a comprehensive reauthorization.

- ▶ *Liability Protection.* Under current law and regulation, parties interested in cleaning up a Superfund site may decide not to pursue remediation efforts for fear of being held liable for preexisting problems. Lengthy clean-up delays have occurred in our region and elsewhere while parties litigate over responsibility. **DRCOG supports federal funding for clean up activities. DRCOG supports legislation and regulations encouraging parties that have had no prior ownership or responsibility for a site to clean up the site by granting them liability protections under several environmental statutes, including the Superfund law. DRCOG also supports limiting liability when a party has complied with applicable environmental laws at the time of disposal to further the goal of timely and cost-effective clean up of Superfund sites.**
- ▶ *Community Participation.* Local governments often face significant community and neighborhood concerns regarding contaminated sites. Public involvement in the assessment, planning and cleanup for such sites is an important aspect of efforts to bring these sites to a safe condition. **Provisions that assist local governments in establishing and funding formal mechanisms for citizens to participate in the clean-up and land-use decision-making process are appropriate and necessary.**
- ▶ *Funding for Cleanup.* DRCOG is concerned that the federal government not reduce its commitment to assist with cleanup and redevelopment of these sites. **DRCOG supports the creation of new mechanisms to fund cleanup to the extent they are sufficient to make significant progress toward the Act’s goals. Allocation of cleanup costs among responsible parties should be according to the proportion of contamination caused by each.**
- ▶ *Health Risk Criteria.* The safety and health of populations exposed to pollution associated with superfund sites is a primary concern related to potential redevelopment. Health risk-based criteria are necessary to guide these efforts. These criteria must reflect the intended reuse of a site and the risks to special populations, including children, the elderly and those already disproportionately exposed to

pollution. **Risk-based standards specific to Superfund clean up are needed to promote redevelopment of contaminated sites while protecting human health and the environment.**

**Brownfields.** Redevelopment of brownfields is important for economic development and environmental and public health and safety in many areas within the Denver region. This is a specific issue related to CERCLA that is of particular significance and should be pursued separately, if inaction on the Superfund reauthorization continues. There are approximately 250 brownfields, former industrial and commercial sites, in both urban and rural areas throughout the nine-county Denver region. The redevelopment of brownfields is consistent with DRCOG's Metro Vision plan for the Denver metropolitan region. Metro Vision supports infill and redevelopment within the region. **DRCOG supports federal actions, including increased funding, to encourage the redevelopment of brownfields. DRCOG urges Congress to prioritize funding for projects that go beyond remediation and redevelopment of individual sites to focus on broader planning and economic development efforts, such as projects that incorporate brownfield remediation and redevelopment into larger infill development efforts.**

**Land Use.** Although the use of land is primarily a matter for local determination and regional coordination, DRCOG recognizes that the federal government can play a supportive role in encouraging local and regional efforts. Currently, Congress, the Administration and federal agencies are engaging in discussions about and pursuing various "sustainability" initiatives, including those previously cited regarding transportation. In addition to transportation, such initiatives include proposals to foster sustainable development, coordinate federal sustainability policies, support integrated regional planning efforts, and assist local governments in their planning for affordable, sustainable communities.

**DRCOG urges Congress to consider the following in support local and regional planning.**

- ▶ DRCOG supports improving the coordination of housing, community development, transportation, energy, and environmental policy in the United States; coordinating federal policies and investments to promote sustainable development; and encouraging comprehensive regional planning for livable communities and the adoption of sustainable development.
- ▶ DRCOG supports legislation that provides federal assistance to states to update land use planning legislation to promote improved quality of life, regionalism and sustainable economic development.

▶ 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 and the use of eminent domain 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.**

- ▶ Federal agencies and elected officials must respect local and regional plans and land use authority. This includes ensuring that funding decisions and the siting of federal and other facilities are consistent with those plans and respect local and regional land use authority. Federal agencies and elected officials also must ensure maximum local and regional participation in those decisions.
- ▶ The federal government must protect open space, including natural habitats, by fully funding the land conservation, preservation and infrastructure improvement trust fund programs and providing new incentives for land conservation.
- ▶ It is appropriate for Congress to provide funding and regulatory support and other incentives to support local and regional efforts to increase the supply of affordable housing.
- ▶ It is beneficial for the federal government to make investments in local and regional data and information programs that support local and regional planning. Such investments could help support DRCOG deliver improved information, tools and services for local and regional planning and decision-making. DRCOG supports funding for programs that promote the integration of public and commercial geospatial data for use by local, regional and state agencies.



## Policy Statement on Federal Legislative Issues for 2010



Policy Statement on Federal Legislative Issues for 2010

### INTERGOVERNMENTAL RELATIONS

**Intergovernmental Cooperation.** All levels of government — federal, state, local and regional — play an important role in providing critical services and implementing programs for the benefit of their residents. Legislative bodies and executive agencies at the federal and state levels should respect the roles and responsibilities of local governments and regional entities. **DRCOG supports cooperation between federal, state, local and regional entities in developing and implementing new programs and improved approaches to service provision.**

**Federal/Regional Relations.** The region is the nexus of local, state and federal issues and economic activities. DRCOG convenes parties of interest on intergovernmental issues, providing the necessary forum for their resolution, and facilitating a negotiated outcome. **DRCOG urges Congress, when new legislation is proposed and existing legislation is reauthorized, to identify and use regional agencies as critical partners in the implementation of such legislation, including the planning for and delivery of services.**

**Regional Service Delivery.** The federal government plays an important role in setting standards and priorities for the funding of public services and programs administered at the state, regional and local levels. **When making such funding**

**and programmatic decisions, it is essential to consider the most appropriate level of government for delivery of such public services.**

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. Further, some programs, such as transportation, air quality and water quality, that address issues crossing local political boundaries, are most appropriately and effectively addressed at the regional level. Regional programs also often benefit from economies of scale. The collaborative partnerships of regional approaches can provide more cost-effective services and programs for users and clients. **DRCOG urges Congress to use existing regional service delivery systems.**

**Principles for Implementation.** New programs or changes to existing programs must at least maintain the existing level of services and provide adequate administrative funds for implementation. Otherwise, there is a shift in responsibility without adequate funds for the services to be provided or programs administered. As such, it is important to treat the continuity of service delivery as a key principle guiding any actions to create new programs or revise existing programs. **A consultative process among the federal, state, local, and regional agencies must be in place before any changes are made to services currently being delivered at local or regional levels.**

#### More information

For more information about this legislative paper or other legislative issues, please contact Rich Mauro, senior policy and legislative analyst, at [rmauro@drcog.org](mailto:rmauro@drcog.org) or 303-480-6778.

