

## Preliminary DRAFT 2014 Fairfax County Legislative Program

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(Note: New language added since October 22 Legislative Committee meeting is **highlighted**.)

## **Preliminary DRAFT 2014 Fairfax County Legislative Program**

Fairfax County and the Commonwealth have long maintained a strong partnership in promoting economic development. The County has created a strong business climate, with a fair and competitive tax structure, excellent schools, an educated workforce, and services and amenities that attract new businesses every year. Both the Commonwealth and the County have benefitted from this partnership.

Unfortunately, it has been the practice of the Commonwealth to significantly underfund core services, leaving localities to fill funding gaps with local revenues in order to maintain essential services. This poses a particular threat to economic development efforts, as state funding cuts in recent years, coupled with the impact the recession has had on local revenues, threaten to destroy the very attributes that draw and retain businesses. Without solutions that provide funding to keep pace with the growth of Virginia's economy, the state is at risk of slipping further in economic competitiveness.

The Commonwealth's partnership with localities is a key factor in maintaining that competitiveness. It is clear at this time that state revenues are improving, as evidenced by four consecutive years of "surplus." Now is the time for the Commonwealth to begin the process of rebuilding the state's funding partnership with local governments, by providing adequate funding for core services, while avoiding shifting additional state costs and responsibilities onto localities.

The 2013 General Assembly made significant strides towards beginning that process, primarily in two key areas. First, after several years of "local aid to the Commonwealth," instituted in FY 2009 and requiring localities to pay tens of millions of dollars to the state each year to help the state balance its budget, this practice was eliminated for FY 2014. Second, and of critical importance to Northern Virginia, the 2013 GA enacted new transportation revenues, providing a significant step forward in alleviating the growing traffic congestion that threatens Virginia's economic prosperity.

It is critically important that Virginia continue down that path, investing the resources necessary to educate its citizens at all levels, ensure the rule of law, protect its natural resources, provide for the basic needs of the less fortunate and build a sound infrastructure, in order to remain a competitive state and an attractive place for economic development. The critical state-local funding partnership must continue to be restored so that the Commonwealth can emerge from the current fiscal crisis even stronger, as an investment in Virginia will pay dividends for years to come.

## Priorities

### Funding Core Services

#### **1.) K-12 Funding – Joint Position with the Fairfax County School Board**

**It is essential that the state fully meet its Constitutional responsibility to adequately fund K-12 education, including full funding for the biennial re-benchmark of Virginia's Standards of Quality (SOQ).**

Critical gaps continue to widen between the SOQ, the funding for those standards, and the actual local costs of providing a high quality education. Fairfax County and other Northern Virginia localities more than meet their responsibilities for K-12 education through large contributions to the State General Fund, strong local effort, and the effect of high local composite indices, which diverts State funding away from this region. Conversely, state funding for K-12 has declined significantly in recent years – in FY 2009, K-12 funding comprised over 35 percent of the state General Fund, but by FY 2014, investments in K-12 education had fallen to less than 30 percent of the General Fund. This reduction in state funding effort persists despite the fact that the Commonwealth has ended each of the last four fiscal years with a revenue surplus.

The Boards support realistic and fully-funded Standards of Quality which keep pace with ever-evolving accountability requirements within the Standards of Accreditation and the Standards of Learning. The Boards oppose state budget cuts that disproportionately target or affect Northern Virginia. The Boards also strongly oppose formula changes which further weaken the partnership between the state and localities, including but not limited to, any reduction in the current 55 percent State share of SOQ costs, capping state funding for support costs, and the elimination or reduction of cost of competing funding to Northern Virginia localities.

To that end, the Boards strongly support restoration of full funding for Cost of Competing Adjustment (COCA), which is an additional factor used in the state K-12 funding formula, recognizing the higher salaries required in identified high cost of living and competitive wage market regions to attract and retain the highest quality instructional and support personnel. This critical funding was all but eliminated for support positions in the previous biennium, despite findings from Virginia's Joint Legislative Audit and Review Commission in December 2012 that COCA for both instructional and support personnel was not only appropriate, but significantly underfunded by the state. The cut resulted in a loss of \$10.2 million to Fairfax County over the biennium.

Additionally, the Boards support increased state resources for early childhood education programs, which help young children enter kindergarten prepared to succeed. While failure to adequately meet the needs of the youngest Virginians can create repercussions for individual families, the larger community and the Commonwealth, investments in early childhood education can provide a foundation for learning and achievement, often reducing or eliminating the need for more costly remediation later.

Unfortunately, recent budget decisions by the General Assembly, like the reduction in COCA funding, exacerbate the stresses on the state-local K-12 partnership, by making permanent, structural cuts in state funding that localities expressly sought to avoid. Though one-time, temporary actions at least partially offset the dollar impact of these cuts (e.g. reduced VRS rates, federal stimulus funds), the overall impact of these structural changes continues to be felt by artificially lowering the state baseline for funding K-12 going forward.

## **2.) Transportation Funding**

**The Commonwealth should continue and build upon the successful enactment of significant, new transportation revenues by the 2013 General Assembly.**

The passage of HB 2313 was the result of bipartisan cooperation throughout the Commonwealth, as the Governor, General Assembly, localities and the business community worked vigilantly to enact a transportation funding package that provides substantial new resources in addressing statewide transportation needs that had long been underfunded. Of particular interest to Northern Virginia was the inclusion of a regional package generating \$300 million annually in increased Northern Virginia revenues. This funding is a significant step towards addressing the transportation needs of Northern Virginia, estimated in the TransAction 2040 Long-Range Transportation Plan at approximately \$950 million per year in additional funding. It is critical that Northern Virginia continue to receive its fair share of statewide revenues, as required by HB 2313, and that any potential changes to the HB 2313 revenues generate funds at least equal to the law as enacted.

The passage of HB 2313 moves the Commonwealth forward in the right direction, but transportation funding challenges remain:

- It is essential that the state work with the Federal Government to ensure that it, too, provides sufficient resources to address transportation needs. As anticipated revenues from enactment of the Marketplace Fairness Act are integral to the funding package, the Commonwealth should work with the Virginia Congressional delegation to ensure its passage.
- Due to legislative changes in 2012, the Commonwealth Transportation Board now has the authority to allocate up to \$500 million to priority projects before funds are provided to the construction fund. Due to this provision, the secondary and urban construction programs will receive no new funds until 2017, despite the additional transportation revenues. This is especially alarming as localities have not received funds for this program since FY 2010. Further, this change gives the CTB significant authority in allocating statewide resources, resulting in funds being allocated to a few large projects, rather than funds being provided equitably to localities throughout the state through the normal funding formula. It is imperative that Fairfax County receives its share of the statewide funds. It is recommended that this set aside be eliminated or modified to, at the very least, ensure equitable distribution of funds to each region. In addition, consideration should be given to updating the highway funding allocation formulas to better reflect the congestion relief and highway maintenance needs throughout the Commonwealth.
- Tysons is a major employment center and generator of public benefit for the County and the Commonwealth. However, for Tysons to remain successful and accommodate predicted growth, it must transform into a sustainable, transit-oriented, and walkable community. Fairfax County is transforming Tysons into an urban center with 100,000 residents and 200,000 jobs. Metrorail through Tysons will provide transit options, but funding from all partners is needed to ensure that pedestrian, bicycle, and transit use are allowed to thrive and roadway congestion is addressed. This will ensure the continued economic competitiveness of the area, as well as the Commonwealth. The County has approved a 40-year, \$3.1 billion funding plan for Tysons, which assumes significant funding from Fairfax County and developers. Nevertheless, it is important that the state and federal governments recognize the importance of Tysons, and provide the funding assistance that will be needed to complete funding for the plan.

A modern, efficient, multimodal transportation system is essential to the Commonwealth, and is intrinsically tied to continued economic development and the ability to compete in a global economy. Fairfax County, along with localities throughout the state, continues to provide millions in local funds for transportation each year, and we must continue to work together to ensure that our infrastructure needs are met. *(Revises and updates previous transportation funding position.)*

### **3.) State Budget**

**The Commonwealth should rebalance its resources and responsibilities so that the funding partnership with localities is restored, ensuring the delivery of critically needed services in communities throughout Virginia. State established standards for locally delivered services must be accompanied by state funding that is adequate to successfully provide those services, and accountability for successes and failures should be reciprocal, ensuring both the state and localities accept responsibility commensurate with their respective roles.**

The depth and breadth of state cuts to localities in recent years has severely stressed the state-local funding partnership. State aid to localities decreased by approximately \$1 billion since FY 2009. Beginning that year, the Commonwealth began requiring localities to return funds to the state in order to help balance the state's budget – essentially creating a new reverse concept of "local aid to the Commonwealth." Over the last five years, this translated into over \$20 million in state funding cuts to Fairfax County. This cut was finally eliminated by the 2013 GA, but unfortunately, state aid to localities has continued to decline.

While direct aid to localities was 52 percent of the General Fund (GF) in FY 2009, it only accounts for 44 percent of the General Fund in FY 2014. And K-12, the most critical core service shared by the state and localities, has dropped from 35 percent of the General Fund in FY 2009 to less than 30 percent in FY 2014. The allocation of resources is, in fact, a way of prioritizing areas of critical importance for the state. If core services and shared state-local programs are not at the top of that list, the pro-business environment Virginia has become known for will be jeopardized.

In addition to the two County priorities of K-12 and Transportation, action should be taken at the 2014 General Assembly on the following budget items:

- Full restoration of Cost of Competing Adjustment (COCA) funding for K-12 support positions in the 2014-2016 biennium budget. (see also page 3)
- Restoration of funding for HB 599 law enforcement funding, as statutorily required. (see also page 9)
- Provision of sufficient state funding for services to individuals leaving the Northern Virginia Training Center, ensuring the Commonwealth fulfills its responsibility to implement the federal settlement agreement. (see also page 12)
- Restoration of funding for human services programs, which serve the most vulnerable Virginians. (see also the Draft Human Services Issue Paper)

Regrettably, the Commonwealth has continued the trend of relying on fees, accounting maneuvers, debt and other non-GF revenues, rather than ensuring a modern, broad-based, tax and revenue structure for the state's General Fund. Additionally, current state "surpluses" have been generated in part by localities throughout Virginia. A national report indicates that, during the recession, only a handful of state governments cut more funds to local governments and school districts than did Virginia. Though the Commonwealth's budget shortfall was the 20<sup>th</sup> largest in the nation, the state funding cut to localities was third highest among states. Essentially, Virginia has relied on cuts to localities and school divisions to a greater extent than most other states.

A top priority of the 2014 General Assembly should be to rebalance the state's resources and responsibilities in order to rebuild the state-local funding partnership, ensuring that the Commonwealth can meet its Constitutional, statutory and contractual obligations to fund the essential services that localities deliver. (*Revises and updates previous position.*)

## **Governance**

A strong state and local partnership is essential to Virginia's success and the ability of both levels of government to respond to the needs of their residents. As the form of government closest to the people, local government must be provided the flexibility to serve the needs of residents, which can vary greatly from one part of the Commonwealth to another.

### **4.) Local Authority**

**Existing local government authority should be preserved, particularly in such key areas as taxation and land use, where local governments must have sufficient authority to govern effectively. Further, local authority should be enhanced to provide localities more flexibility in the administration of local government, as appropriate community solutions differ significantly from one area of the state to another. Finally, local government representatives should be included on all commissions or other bodies established by the state for the purpose of changing or reviewing local revenue authority or governance.**

The local tax structure, which has become outdated and over-reliant on property taxes, must be modernized. Local government revenues must be diversified, including the provision of equal taxing authority for counties and cities, without state mandated restrictions on use, or caps on capacity. Where possible, the state should consider updating state and local taxes to reflect changes in the economy or technology; avoid any expansion of revenue-sharing mechanisms controlled by the state; avoid any new state mandates while fully funding and/or reducing current requirements; avoid any diminution of current local taxing authority (including BPOL and machinery and tools taxes) and lessen restrictions currently imposed on local revenues; or lessen current restrictions on the use of state funds now provided to localities for shared responsibilities.

Local land use authority must also be preserved. Local government is the level of government best suited to equitably and effectively deal with these issues, ensuring orderly and balanced growth or redevelopment while providing meaningful and direct public participation and accountability in this critical process. Further restrictions on local use of eminent domain in addition to the Constitutional amendment recently passed by the General Assembly are unnecessary; Fairfax County has been extremely judicious in its use of condemnation. Moreover, additional legislation in this area should be avoided while courts adjudicate this anticipated change to a long-settled area of law.

Each level of government has unique strengths. However, as a Dillon Rule state, local governments in Virginia are significantly restricted in their authority, which impedes the ability of localities to react quickly and efficiently to emerging problems. In many instances, an overemphasis on statewide uniformity does not adequately consider the particular issues experienced in growing and urbanizing localities in Northern Virginia, limiting the ability of local governments to respond to community standards and priorities. At a minimum, the state should empower localities to solve their own problems, by providing increased authority or discretion for services that have no compelling priority or impact for the Commonwealth, thus eliminating the need to seek permission for ministerial matters from the General Assembly each year. Additionally, reinstatement of the requirement that all bills with a local fiscal impact be filed by the first day of the General Assembly session would be an important step in signaling the GA's willingness to recognize local fiscal concerns as new legislation is considered, by allowing localities the maximum time possible to highlight potential impacts. Furthermore, local governments must be included as full participants on any state commissions and study committees examining local issues, allowing for a more complete assessment of such issues and reflecting the governing partnership that must exist between the state and localities to ensure the effective administration of government. (*Updates and reaffirms previous position.*)

## Initiatives/Action Statements

### **Courts – Secure Remote Access to Juvenile and Domestic Relations Court Records**

Initiate legislation that would allow probation officers and Court Services Unit staff to view juvenile and domestic relations (JDR) records via secure remote electronic access. JDR staff are included in Virginia Code §16.1-305, which specifies who may have access to juvenile records in paper form. However, Virginia Code §17.1-293, which specifies what court-related information may be provided online, does not include JDR records. As a result of this technical issue, such records are not currently permitted to be posted by the Clerk in a method that would allow for remote access by JDR staff, even through a secure website that is not accessible to the public. Modifying the current statute to allow individuals who may already view JDR records in paper form to have the same access via secure online channels would provide for more efficiencies in communications among JDR personnel, as well as significantly reducing the costs associated with paper recordkeeping.

### **Environment – Municipal Net Metering**

Initiate legislation to permit net metering of up to 4.5 megawatts (MW) of energy by local governments, and to allow excess energy generated at one Fairfax County-owned site to offset consumption at non-contiguous County properties. Currently, Virginia Code allows net metering of only 0.5 MW of energy by eligible customer-generators, and in most cases the excess energy generated may only offset energy consumption on the same property (or contiguous property with the same owner, in the case of agricultural net metering). Through the County's Green Energy Triangle initiative, County staff have been working with representatives of the private and nonprofit sectors on several renewable energy and other environmentally beneficial projects in the Lorton area, including exploring the possibility of installing solar panels on the I-95 sanitary landfill and using the energy that would be generated to offset the energy costs of other County facilities. Allowing the net metering of energy above the current 0.5 MW cap and the transfer of credits to other County-owned properties would provide the greatest return on investment for the project.

### **Human Services – Medicaid-Funded Transportation Services**

Initiate legislation directing an independent analytical study by the Joint Legislative Audit and Review Commission (JLARC) of the continuing problems experienced by Virginians with intellectual disabilities or mental illness who depend on Medicaid-funded transportation, provided by the state's transportation broker, to reach essential medical and therapeutic appointments. This review should also examine oversight of the state's contract for these services by the Department of Medical Assistance Services (DMAS). Poor performance by the contractor has been an ongoing problem, and is a particular concern given the vulnerability of the population relying on these services, many of whom are medically fragile.

## Position Statements

### *Environment*

#### **Global Climate Change**

Support efforts to reduce greenhouse gas (GHG) emissions through conservation, use of renewable fuels, regulations, and market-based or other incentives. As a signatory to the Cool Counties initiative, support the reduction of GHG emissions to 80 percent below 2007 levels by 2050. As an avenue toward pursuing this goal, support implementation of strategies to reduce GHG emissions set forth in the Virginia Energy Plan, including: a 10 percent reduction in energy consumption by 2022; establishment and expansion of energy research and development programs; funding of renewable-energy grant programs; and incentives to assist the development and growth of energy-businesses and technologies. Support opportunities for consumers to purchase or generate renewable energy, including expanding the availability of net metering programs.

Support legislation which would provide state income tax incentives for businesses or residents to defray a portion of the cost of new construction or improvements which save energy and mitigate adverse environmental impacts. *(Reaffirms previous positions.)*

Support legislation clarifying that third-party power purchase agreements (PPAs) for renewable energy are legal within the established limits for net metering customers of investor-owned utilities. PPAs can facilitate the adoption of renewable energy by homeowners and other energy consumers by reducing the up-front costs, thus assisting in reducing greenhouse gas emissions and other forms of pollution. *(Reaffirms previous position. Legislation passed in 2013 to authorize a limited pilot program for such arrangements; the State Corporation Commission is in the process of implementing this program.)*

#### **Land Conservation**

Support the Governor's goal to preserve 400,000 acres statewide. Under the current Administration, approximately 162,853 acres have been preserved, as of July 16, 2013. Additionally, continue to support prioritizing the Virginia Land Preservation Tax Credit to encourage the preservation of land for public use. In addition to other benefits, the preservation of open space contributes to watershed protection, an important issue as the state works to reduce nutrient pollution in the Chesapeake Bay. *(Updates and reaffirms previous position.)*

#### **Reducing Environmental Contamination from Plastic and Paper Bags**

Support legislation or other efforts which would encourage the use of reusable shopping bags, consistent with the County's waste reduction goals and environmental stewardship efforts. As in previous sessions, it is anticipated that legislation to ban plastic bags or impose a fee for their use may be introduced again in 2014. Such legislation would need to be examined by the County for efficacy, cost, and ease of administration. *(Updates and reaffirms previous position. EQAC has requested that this position remain in the Program.)*

### *Funding*

#### **Public Safety/Courts Funding**

Public safety is a core service for the Commonwealth, as it is for localities. Protecting the Commonwealth's residents and ensuring the successful operation of all aspects of the justice

system requires appropriate state funding for this state-local partnership, including law enforcement, the courts, and jails/corrections. Continued and substantial state cuts in recent years, in addition to the underfunding that already exists, have placed an increased burden on localities to fund these state responsibilities. To that end, Fairfax County supports reversing this trend through adequate state funding for the following:

- **HB 599 – The Commonwealth should restore and increase funding for HB 599 commensurate with increasing state revenues, as required by statute.** This critical funding, provided to localities with police departments, must be maintained. Approximately 65 percent of all Virginians currently depend on local police departments for public safety services. This program strives to equalize state funding between cities, counties, and towns with police departments and localities in which the sheriff provides law enforcement. If state funding had increased with state revenues, as is required, Fairfax County would have received approximately \$14 million in additional funding over the past four years. *(Updates and reaffirms longstanding Board position.)*
- **Jails – The Commonwealth should adequately compensate localities at a level which is commensurate with the State’s responsibility for local jail operations.** Local governments in Virginia have historically borne a disproportionate burden of supporting jail confinement costs, as a result of significant underfunding by the Commonwealth. *(Updates and reaffirms previous position.)*
- **Courts – The Commonwealth should adequately fund Virginia’s courts, to ensure a well-functioning judicial branch.** Although funding for two much-needed judgeships in Fairfax County was authorized during the 2013 Session, the overall underfunding of Virginia’s court system continues to place additional burdens on localities and the judicial system. *(Updates and reaffirms previous position. A weighted caseload study conducted by the National Center for State Courts is due to be completed November 15, 2013.)*

#### **Water Quality Funding**

**Support budget action at the 2014 General Assembly to ensure adequate state appropriations to the Water Quality Improvement Fund to make full and timely payments under point source upgrade contracts with local governments; also support continuation of and increased funding to the Stormwater Local Assistance Fund (SLAF). Support the continuation of Virginia’s membership, and the restoration of funding for that membership, in the Interstate Commission on the Potomac River Basin (ICPRB).**

Fairfax County and local governments throughout Virginia face mounting costs for water quality improvements for sewage treatment plants, urban stormwater, combined sewer overflows (CSOs) and sanitary sewer overflows (SSOs). The state has made significant progress in providing funding in recent years, including deposits to the WQIF of surplus funds in each of the last four years and the establishment and funding of the SLAF (\$35 million was allocated to the SLAF in 2013). However, in order to meet federal Chesapeake Bay requirements, additional state assistance for urban stormwater needs will be required (the Senate Finance Committee estimates these costs to be between \$9.4 billion and \$11.5 billion by 2025), while additional funding will likely also be needed for wastewater treatment plant upgrades in the Chesapeake Bay watershed. The state must partner with localities in order to meet these federal mandates to ensure the success of this effort. Although the funding provided to these essential programs by the 2013 GA was substantial, such funding must continue to increase if Virginia is to meet its commitments for the Chesapeake Bay.

The scientific information provided by the ICPRB is critical to regional water quality and supply planning. While the GA has maintained the Commonwealth’s membership in the ICPRB, it has not maintained funding for the state’s annual dues payment in recent years. Fairfax County continues to strongly support continuing Virginia’s membership (with accompanying dues payments) in this critical organization. Loss of that membership could result if the state does not resume paying the required dues, which would seriously undermine its ability to perform vital

scientific tasks that support key Northern Virginia water supply and management efforts. *(Updates and reaffirms previous position.)*

## ***General Laws***

### **Elections**

Support legislation to promote participation in elections, including allowing any registered voter to vote absentee without requiring that the voter state a reason (“no-excuse” absentee voting), and providing for extended polling hours statewide to allow voters additional time to reach polling places. Legislation intended to enhance security regarding elections must be carefully analyzed to ensure that it strikes a balance between maintaining the integrity of elections while not discouraging the exercise of the franchise. The effects of recently-enacted voter ID legislation should be examined for potentially harmful consequences before further legislation in this area is introduced. Similarly, reactions at the state and federal levels to the recent Supreme Court decision striking down Section IV of the Voting Rights Act, which eliminated the requirement that changes to Virginia’s election laws be “pre-cleared,” should be closely monitored. Monitor consideration of an option for local governments to extend polling hours in the case of an emergency. Support greater state financial support for election administration. *(Updates and reaffirms previous position.)*

### **Procurement**

**Support legislation to eliminate caps on the use of job order construction contracts for localities.**

The job order construction (JOC) method of project delivery has long been used as an alternative to the traditional design/bid/build method, allowing for competitive bidding through a unit price book that provides preset costs for specific construction tasks, rather than requiring the separate procurement of each individual contract. The JOC method allows for a more streamlined procurement process, significantly reducing project timelines and yielding a more efficient allocation of resources.

Legislation adopted by the 2013 General Assembly (HB 2079) to make organizational changes to the Virginia Public Procurement Act (VPPA) also included a provision to establish annual and per project thresholds for JOC contracts. While HB 2079 successfully clarified and improved the VPPA, the County objected to the caps on JOC contracts during the 2013 session. As the JOC process was not well understood, the caps remained in the final legislation; however, the enactment of the JOC caps was delayed until July 1, 2014, and the bill included an overall study of the VPPA, allowing more time for the GA to discuss these issues. *(New position.)*

### **Sexual Orientation**

Support legislation to permit the County, as an urban county executive form of government, to prohibit discrimination in the areas of housing, real estate transactions, employment, public accommodations, credit, and education on the basis of sexual orientation. Fairfax County has already taken actions pursuant to existing State enabling legislation in the preceding areas on the basis of race, color, religion, sex, pregnancy, childbirth, and disability. *(Reaffirms previous position.)*

### **Videoconferencing of Advisory Boards**

Support legislation to establish a limited exception to provisions of the Virginia Freedom of Information Act that would permit certain local citizen boards, authorities, and commissions to conduct meetings via videoconferencing, which would serve several goals, including (1) increasing volunteerism, especially among senior citizens, (2) reducing time commitments and long commutes on congested roads that now serve as impediments to those persons who serve

on advisory panels, and (3) conserving fuel and lowering greenhouse gas emissions. Such a proposal could be crafted to apply only to entities that meet in an advisory capacity and are not required by statute. *(Reaffirms previous position; a study by the Joint Commission on Technology and Science is currently examining the issue of electronic meetings. Allowing electronic meetings by public bodies under certain circumstances was a recommendation of the Governor's Commission on Government Reform and Restructuring in 2010.)*

## ***Health***

### **Alternative On-Site Sewage Systems**

Support legislation that would require sellers of residential property to disclose to prospective purchasers that an AOSS is on the property and that the system will have to be operated and maintained in accordance with applicable standards and requirements. Support legislation that would provide localities with additional tools to ensure adequate reporting of periodic private-sector inspections and that would allow localities to abate or remedy violations of laws regarding the operation and/or maintenance of such systems. Oppose legislation that would further restrict local government authority to regulate the installation of such systems within the locality, including but not limited to authority to ensure installation according to approved designs and development plans, establish minimum setback distances and installation depths, and prohibit such systems within or near wetlands and other environmentally sensitive areas, unless such systems are approved by the Virginia Department of Health for use in the particular circumstances and conditions in which the proposed system is to be operating. *(Revises and updates previous position to reflect proposals currently under consideration by the Virginia Department of Health and a work group of stakeholders.)*

### **Lyme Disease**

Support funding initiatives that will advance research, surveillance, reporting, diagnostics, and treatment for Lyme disease, as recommended by the Lyme Disease Task Force convened in 2011 by the Governor and the Secretary of Health and Human Resources. Cases of Lyme disease have been on the rise in Virginia, with 756 confirmed and 267 probable cases reported to the Centers for Disease Control and Prevention in 2011. *(Updates and reaffirms previous position.)*

## ***Human Services***

### **Early Intervention Services for Infants and Toddlers with Disabilities/Part C**

**Support sustainable funding and infrastructure for Part C Early Intervention, which is a state/federal entitlement program that provides services for Virginia's infants and toddlers. In order to address immediate concerns, support increasing funding for Early Intervention services by \$2.5 million in General Funds in FY 2014, \$2.1 million in FY 2015, and \$2.3 million in FY 2016, to support growth in services to children who do not qualify for Medicaid.**

The Commonwealth of Virginia has long contracted with the Fairfax-Falls Church Community Services Board (CSB) to provide Early Intervention therapeutic services for infants and toddlers with developmental delays in areas such as speech, eating, learning and movement. The CSB, which is the Local Lead Agency for Fairfax County as part of the state's compliance with the federal Individuals with Disabilities Education Act (IDEA) Part C grant, provides services through the Infant Toddler Connection (ITC) program. ITC is funded through a combination of federal, state, local and insurance sources.

As the benefits of early intervention have become more widely known throughout the nation, enrollment in this program has grown from about eight percent per year to 38 percent in recent years, with a further increase of at least seven percent expected in FY 2014. The Fairfax-Falls Church CSB has gone from serving 789 children on average each month in FY 2010 to serving 1287 children on average per month by FY 2013. In response to a significant funding shortfall, the 2013 General Assembly provided an additional \$2.3 million in FY 2013 and \$6 million statewide in FY 2014; however, increased funding will continue to be necessary to keep pace with the demand for this critical program. *(Revises and updates previous position.)*

**Funding – Northern Virginia Training Center (NVTC)**

**Support additional state funding for community placements for individuals leaving the Northern Virginia Training Center, and increased Medicaid waiver rates to support those placements, to ensure the Commonwealth fulfills its responsibility to implement the federal settlement agreement.**

As a result of a state decision following the settlement agreement negotiated with the U. S. Department of Justice, the Commonwealth will be closing four of the state's five training centers, which provide residential treatment for individuals with intellectual and developmental disabilities. As of July 1, 2013, 108 individuals from Fairfax County reside at state training centers. Of this number, 82 reside at NVTC, which is scheduled to close by June 30, 2015.

Community Services Boards (CSBs) are responsible for transitioning all persons at training centers into community-based residential and day support services operated by the CSB, private non-profit or for-profit providers based on funds available as well as the choices of those being discharged to the community. Unfortunately, existing community-based service capacity is not sufficient to serve these individuals; therefore, additional capacity must be created. Under the state's current implementation plan, development and start-up funding to support such an expansion within the specified timeline has not been identified, though time is of the essence as the closure date is quickly approaching. It is estimated that in FY 2014, approximately \$7.7 million in state start-up funding is needed in Northern Virginia to expand community based residential placements and day support services, including the creation of 14 new community Intermediate Care Facilities (ICF) and 20 Intellectual Disabilities waiver homes.

In addition to creating this expanded capacity, the current Medicaid ID waiver reimbursement rates will need to increase to ensure sufficient, quality services, comparable to the services currently provided by training centers. It is estimated that state funding of approximately \$10.1 million per year will be needed to operate these services. NVTC is an intermediate care facility (ICF) which has provided cost-based reimbursement for community services. Fairfax County has long supported increasing Medicaid waiver rates for all recipients, which allow Medicaid reimbursement for services provided in the home and community for people with intellectual and developmental disabilities, among others. However, meeting the unique conditions of those transitioning from NVTC requires both increasing and restructuring some existing waiver rates, and should be an essential component of any state solution. Waiver rates are currently well below the cost of providing necessary services, and do not provide sufficient flexibility to meet the needs of the NVTC population. Support changes to waivers that would:

- Increase the Northern Virginia differential from 15% to 20%, reflecting the higher cost of living and services in this area;
- Increase waiver rates to compensate for higher congregate rates for group homes serving four or fewer;
- Establish higher rates to address the needs of individuals with high, complex and intense needs for support, including employment and day services;
- Increase reimbursement rates to enable the hiring of professional nurses;
- Enhance or reconfigure waiver services to fully reimburse nursing and behavioral supports;

- Restructure billing units to allow sufficient reimbursement for the provision of appropriate and adequate services, and;
- Include appropriate levels of funding to create community residential arrangements and infrastructure.

Successfully implementing the Department of Justice settlement is the Commonwealth's responsibility and obligation. Sufficient and timely state funding for the NVTC population is an essential component of that effort. (*Updates and reaffirms previous position.*)

**Medicaid Eligibility and Access to Care**

**Support increasing Medicaid eligibility in Virginia to 138 percent of the federal poverty level, as envisioned by the federal health care reform law, ensuring critical health coverage for some of the most vulnerable Virginians.**

Virginia's Medicaid program provides access to health care services for people in particular categories (low income children and parents, pregnant women, older adults, and persons with disabilities). Costs are shared between the federal government and the states, and states are permitted to set their own income and asset eligibility criteria within federal guidelines. Virginia's current eligibility requirements are so strict that although it is the 12th largest state in terms of population and 8th in per capita personal income, Virginia ranked 44th in Medicaid enrollment as a proportion of the state's population and 46th in per capita Medicaid spending.

The national recession has placed additional pressures on Medicaid, resulting in more Americans being eligible for this essential program, and the Commonwealth now faces a critical decision, as it decides whether or not to pursue the Medicaid expansion included in the federal health care reform law, along with the sizable federal funding provided for those newly eligible enrollees. Compromise budget language, approved by the 2013 General Assembly, created the Medicaid Innovation and Reform Commission, which must "review, recommend and approve innovation and reform proposals" prior to any expansion of Medicaid. Expansion of Medicaid requires an affirmative vote by three of the five members of the Commission from the House of Delegates and three of the five members from the Senate.

It is estimated that the expansion would provide coverage to as many as 248,000 Virginians, including 25,000-30,000 individuals in Fairfax County. Newly eligible individuals would include low income adults (individuals earning less than \$15,302 per year or families earning less than \$31,155 per year), low income children who lose Medicaid when they turn 19, and adults with disabilities not eligible for Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI).

It is clear at this time that the cost to the Commonwealth will be minimal in the first few years, while the savings in indigent and uncompensated care could be significant. Additionally, increasing less expensive preventative care and reducing more expensive emergency care could improve the overall health of residents of the Commonwealth, while slowing the growth in insurance premiums and reducing the "hidden tax" currently borne by all Virginians. As a result, Fairfax County supports increasing Medicaid eligibility in Virginia to 138 percent of the federal poverty level, as envisioned in the federal health care reform law, ensuring critical health coverage for some of the most vulnerable Virginians.

**Oppose actions that shift Medicaid costs to localities, such as through Medicaid service funding reductions, changes to eligibility that shrink access, or other rule changes that erode the social safety net.**

Irrespective of Virginia's decision on the Medicaid expansion, or of any other federal funding cuts or reductions in federal requirements which may be considered in the next Congress, it is

essential that the Commonwealth avoid taking actions that effectively shift costs to localities. Due to the increasingly critical shortage of private providers, poor reimbursement rates, and other factors that play a role in an overall increase in Medicaid program costs, ensuring success with any cost containment strategies will require close cooperation between the Commonwealth and local governments, as localities are frequently the service providers for the Medicaid population. Fairfax County supports cost containment measures that utilize innovation, increase efficiency and targeted service delivery, and use of technology to reduce Medicaid fraud, in order to ensure the best allocation of resources without reducing services or access to care. *(Revises and reaffirms previous position.)*

## ***Land Use***

### **Proffers**

Existing local authority to accept cash and in-kind proffers from developers must be retained without restrictions to assist localities in providing the capital facilities and infrastructure needed to serve new development, and to maintain local community standards that keep and improve the quality of life, and encourage and spur economic development. Any proposal for replacing such proffer commitments with development impact fees must be at the option of each locality. *(Revises and reaffirms previous position.)*

## ***Public Safety***

### **Accessibility**

Support ensuring the inclusion of people with disabilities throughout the Commonwealth by increasing accessibility.

Fairfax County supports access for people with disabilities and older adults in public and private facilities; in particular, the County supports increasing accessibility and visitability through incentives, voluntary standards for accessible housing and educational outreach to businesses, building officials, advocacy groups and the Commonwealth, as recommended in the recently published study on accessibility by the Departments of Housing and Community Development and Rehabilitative Services. While significant progress has been made toward ensuring the equality and inclusion of people with disabilities in the 20 years since the passage of the Americans with Disabilities Act (ADA), continued advancement is needed. Improved accessibility in public buildings, housing, transportation and employment benefits all Virginians, by allowing people with disabilities to remain active, contributing members of their communities, while retaining their independence and proximity to family and friends. *(Updates and reaffirms previous position.)*

### **Dangerous Weapons in Public Facilities**

Support legislation to allow local governments to prohibit the possession of dangerous weapons in or on any facility or property owned or leased by the locality, with certain exceptions, including any person who has been issued a permit to carry a concealed handgun. Violation of such an ordinance would be punishable as a misdemeanor. It is particularly important that the County have such authority for any facility or property owned or leased by the County serving large populations of youth under the age of 18. Current law permits private property owners to decide whether or not to permit dangerous weapons on their property. *(Reaffirms previous position.)*

**Pneumatic Guns**

Support legislation that would authorize a locality to adopt an ordinance that would ban the possession of pneumatic guns on school grounds, with an exemption for persons participating in school-sponsored activities. Pneumatic guns, particularly those fired by pump action or carbon dioxide gas cartridges, are capable of muzzle velocities that can result in skin or ocular penetration. A particular concern of County law enforcement is that modern pneumatic guns often strongly resemble firearms. Given the potential for injury caused by these guns, legislation which would allow localities to ban their possession on school property would provide important protection. The General Assembly has already banned the possession of a long list of weapons on school grounds, thus recognizing that schools should be a “safe zone.” *(Reaffirms previous position, which was previously included as an initiative. The County’s 2012 bill on this subject passed the Senate, but failed in a House subcommittee.)*

***Transportation***

**Secondary Road Devolution**

Oppose any legislation that would require the transfer of secondary road construction and maintenance responsibilities to counties, especially if these efforts are not accompanied with corresponding revenue enhancements. While there are insufficient resources to adequately meet the maintenance and improvement needs of secondary roads within the Commonwealth, the solution to this problem is not to simply transfer these responsibilities to local governments that have neither the resources nor the expertise to fulfill them. Further, oppose any legislative or regulatory moratorium on the transfer of newly constructed secondary roads to VDOT for the purposes of ongoing maintenance. *(Reaffirms previous position.)*