

Preliminary DRAFT 2019 Fairfax County Legislative Program

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(Note: New language added after September 18, 2018, is highlighted.)

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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 benefited 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. As state revenues continue to improve, it is critically important that Virginia continue to invest 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 recent 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

Public education funding in the Commonwealth is enshrined in the Virginia Constitution as a joint responsibility of both state and local governments, so it is essential that the state fully meet its Constitutional responsibility to adequately fund K-12 education. Unfortunately, the Commonwealth continues to allow critical gaps to persist between state funding and the actual costs of providing a high-quality education, placing more of the fiscal burden on localities while substantially limiting local revenue sources, creating a discrepancy that has become increasingly untenable.

Though there have been some recent helpful infusions of state funding, the current funding formulas do not adequately address the challenges facing high cost of living localities like Fairfax County. Those challenges are exacerbated by structural features in the formulas that leave statewide funding far behind the inflation-adjusted FY 2009 level. As the Joint Legislative Audit and Review Commission (JLARC) noted in its recent review of K-12 spending, localities provided a majority of total funding for school divisions in FY 2014, contributing an additional \$3.6 billion beyond the minimum funding required. JLARC also noted that in FY 2013, Virginia ranked 23rd nationwide in total per-student spending, but 11th in the local share of this spending, reflecting Virginia's reliance on local effort and a growing imbalance in this partnership.

Virginia businesses emphatically assert that strong public schools and an educated workforce are essential elements in their decision to locate and remain in Virginia. Investments in early childhood and K-12 education provide a foundation for learning and achievement, often reducing or eliminating the need for more costly interventions and spurring economic development. Failure to adequately meet the needs of the youngest Virginians can create repercussions for individual families, the larger community, and the Commonwealth. Moving Virginia's economy forward requires substantially increasing state investments in K-12 education.

The Boards strongly support:

- Restoration of full funding for a Cost of Competing Adjustment (COCA) for support personnel, a factor used in the state K-12 funding formula recognizing the competitive salaries required in high cost of living regions to attract and retain high-quality personnel;
- Increased state funding support for school divisions with high numbers or concentrations of English language learners (costs are approximately 30 percent more than general education), students living in economically disadvantaged households (costs are approximately 10 percent more than general education), and students receiving special education and mental health services (costs are approximately 100 percent more than general education);
- Elimination of the support positions ratio cap, which has artificially lowered the state's funding contributions for critical educational support positions by hundreds of millions of dollars since its adoption in 2009;
- Realistic and appropriately funded Standards of Quality consistent with actual local staffing needs and costs;
- Use of true weighted averages (which account for actual numbers of students/personnel) when calculating average teacher salaries and other education costs, instead of linear weighted estimators which significantly understate the true local costs of teacher salaries and other costs throughout the Commonwealth;
- Recognition of cost of living variations throughout the Commonwealth in state funding formulas, in order to more accurately determine a locality's true ability to pay; and,
- Increased state resources for early childhood education programs which help young children enter kindergarten prepared to succeed.

The Boards strongly oppose:

- State budget cuts that disproportionately target or affect Northern Virginia;
- State policies which divert K-12 education funding away from local public schools and toward non-public options; and,
- Structural cuts or formula/policy changes which impose unfunded mandates on localities, further weakening the partnership between the state and localities.

(Updates and reaffirms previous position.)

2.) Transportation Funding

The Commonwealth should build upon the successful enactment of significant transportation revenues by the 2013 General Assembly (GA) to ensure sufficient funding for transportation needs.

Statewide and regional funding generated by HB 2313 provided substantial new resources needed to begin addressing the transportation needs of Northern Virginia and the Commonwealth. While HB 2313 has moved the Commonwealth in the right direction, transportation funding challenges remain.

- **Washington Metropolitan Area Transit Authority (WMATA) and Regional Transportation Funding** – WMATA is vital to the transportation networks and economic growth of Northern Virginia and the Commonwealth. The 2018 GA took a major step forward by providing funding and governance reforms to address WMATA's efforts to enhance the safety, security, and efficiency of the system and its riders. The County and the region are working to implement the governance reforms. However, the legislation that was enacted addressed WMATA funding needs at the expense of other significant projects throughout the region by diverting existing funding from the Northern Virginia Transportation Authority (NVTA) to WMATA, reducing funding available for other critical transportation projects in Northern Virginia by \$102 million per year (approximately one-third of NVTA's revenues). Though numerous stakeholders agreed that utilizing some existing NVTA funds for WMATA, in addition to generating additional revenues through other sources, would be a part of compromise legislation, the immense reallocation of funds from NVTA annually is simply too great. As a result, the County will be unable to fund any additional transportation projects in the foreseeable future, and regional transportation funding included in NVTA's recently adopted Six Year Program provides approximately \$300 million less than anticipated for a region that remains one of the most congested in the nation. **Several County projects that received partial or no funding in NVTA's program, but may have received funds had this revenue been available, include: Route 28 Widening from Route 29 to the Prince William County line, Route 28 Widening northbound from Route 50 to McLearen Road, Rock Hill Road Bridge, Shirley Gate Road Extension, Soapstone Drive Extension, and Frontier Drive Extension.** The County strongly supports efforts to mitigate such impacts to ensure that transportation projects continue to move forward in Northern Virginia after decades of state underfunding.
- **Transit Capital Funding Bond Expiration** – During the 2015 session, the GA began to address the significant reduction in state transit capital funding expected to occur in upcoming years, due to the depletion of state transportation bonds. The Transit Capital Project Revenue Advisory Board, created through HB 1359 (2016), identified an average revenue gap of \$130 million annually over the next ten years (not including the updated capital plan for WMATA, which was released after the study's analysis was conducted). The report concluded that sustainable and dedicated bond replacement funding must be enacted, and that failure to do so would leave the transit capital program unable to maintain a state of good repair for existing assets. While the depletion of statewide funds is no longer expected to occur as quickly and suddenly as previously projected, solutions to address the shortfall must be achieved before **the crisis arrives**. Implementation of changes to the transit allocation process are ongoing, but such changes must be accompanied by sufficient state funding. The County supports efforts to fully address this impending deficit, to ensure that transit systems continue to receive the state resources needed to provide critical services to residents and travelers throughout the Commonwealth.

- **Allocation of Statewide Revenues –**
 - It is critical that Northern Virginia continue to receive its fair share of statewide revenues, as required by HB 2313, particularly in light of the Smart Scale process for prioritizing projects and continued changes to transit capital funding. Further, the new transportation funding created by HB 2313 should continue to only be used for transportation purposes.
 - Significant changes were made to the transportation funding formulas and processes during the 2014 and 2015 GA sessions. It is important that the continued implementation of Smart Scale (2014) and HB 1887 (2015) be closely monitored, especially during the initial years, to determine whether changes and improvements are necessary. Simplifying the implementation of Smart Scale, in particular, would ensure greater transparency and understanding of the processes while improving efficiency.
 - The Virginia Department of Transportation's (VDOT) Northern Virginia District is only expected to receive 6.39 percent of the State of Good Repair funds in FY 2019. While 86 percent of all roads in Fairfax County are in Fair or Better Condition, only 39 percent of secondary roads meet this goal. This is a substantial improvement from the 2015 level (18 percent); however, more must be done as the County's secondary roads remain far below both the Commonwealth's average of 60 percent in Fair or Better Condition and the statewide target of 65 percent. Millions of people drive these roads every day, and the deteriorated pavements will only get worse unless additional funding is identified, or a greater portion of current funding is allocated to Northern Virginia.
 - The County remains concerned about the current level of funding for the Revenue Sharing program. This program significantly leverages state transportation funds by encouraging local governments to spend their own money on transportation projects, and has been essential in helping fund some of Fairfax County's major road and transit projects. Additional funding should be provided to the Revenue Sharing program, to ensure that vital projects across the Commonwealth continue to move forward.
 - The County remains opposed to the Department of Rail and Public Transportation's (DRPT) policy of allocating state funds for capital costs based on the total cost of a project, rather than the non-federal share. As the Fairfax Connector and several other Northern Virginia systems do not receive federal funds, this policy change increased the local share Northern Virginia systems must pay for their projects, while reducing the share required for other local governments in the Commonwealth – in FY 2019, localities in Northern Virginia will provide over 19 percent in local revenues for transit capital purchases, while localities outside Northern Virginia will provide less than five percent.
- **Transportation and Economic Success** – The Commonwealth should provide funding assistance for the transportation needs of major employment centers to lay the groundwork for continued economic success. Fairfax County contains several major employment centers that generate public benefit for the County and the Commonwealth. For these centers, such as Springfield, Seven Corners, and Reston, to remain successful and accommodate predicted growth, they must transform into sustainable, transit-oriented, and walkable communities. This transformation has already begun in Tysons, where significant improvements in transit access have been made, but additional resources are needed to ensure that pedestrian, bicycle, and transit modes thrive and roadway congestion is addressed. The County's Six-Year Transportation Priorities Plan (TPP) assumes significant local funding, as well as funding from regional and statewide sources. The projects in the TPP focus on making investments to strengthen the County's major employment/activity centers, and it is important that the state and federal governments similarly recognize their importance by providing the funding needed to complete the transportation projects that have been identified in these areas. It is also vital that the capacity needs across the Potomac River be addressed, including at the American Legion Bridge and Rosslyn Tunnel, to alleviate the existing congestion and ensure the movement of people and goods throughout this economically vibrant region. Such action is essential to the economic success of Fairfax County and the Commonwealth.
- **Virginia Railway Express (VRE)** – The successful creation of the Commuter Rail Operating and Capital (CROC) fund and annual \$15 million allocation of regional gas tax revenue was an important step in securing long-term, dependable funding to maintain and increase commuter rail service. VRE is currently performing an in-depth financial analysis and updating its needs

assessment, following the implementation of CROC and other recently-approved funding sources. Fairfax County supports VRE's efforts to continue to explore long-term, dependable funding sources for both existing and future operations and capital costs, to ensure that VRE remains a safe and reliable commuting option in Northern Virginia. *(VRE is currently discussing its legislative program, so this position may be updated later this fall.)*

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 of dollars in local funds for transportation each year, and the County and the Commonwealth must continue to work together to ensure that infrastructure needs are met, maximizing the benefits to the transportation system. *(Updates and reaffirms previous 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 between FY 2009 and FY 2016, including a five-year period in which the Commonwealth required 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,” which translated into more than \$20 million in state funding cuts to Fairfax County. During that time period, Virginia also implemented sizable structural budget cuts to K-12, costing localities more than \$1.7 billion per biennium statewide by reducing the state's required contribution to fund public education (including a cap on funding for support positions, the elimination of an inflation factor used for non-personnel support items, and formula changes that artificially reduce the state's contribution to K-12). The Governor and the 2016 GA made significant progress in improving the state's commitment to K-12, with additional progress made by the 2018 GA. However, the increased assistance in recent years has often included state funding towards salary increases – a challenge in Fairfax County as state funding for the partial year FY 2018 salary increase totaled \$2.8 million, representing only a small fraction of the \$44 million required to fund a full year two percent salary increase for all instructional and support employees.

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. Regrettably, a national report indicates that, during the recent national 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 20th largest in the nation, the state funding cut to localities was third highest among states. Essentially, Virginia relied on cuts to localities and school divisions to a greater extent than most other states.

While direct aid to localities was 52 percent of the General Fund (GF) in FY 2009, it accounts for less than 44 percent of the GF in FY 2019. And K-12, the most critical core service shared by the state and localities, dropped from 35 percent of the GF in FY 2009 to less than 30 percent in FY 2019.

In addition to the County priorities of K-12 and Transportation, action should be taken at the 2019 GA on the following budget items:

- Full restoration of Cost of Competing Adjustment (COCA) funding for K-12 support positions in the 2018-2020 biennium budget *(see also page 2)*.

- Restore transportation revenues to NVRTA that were diverted to fund WMATA's capital funding gap for state of good repair and critical capital needs (*see also page 3*).
- Restoration, or at a minimum, level funding, for HB 599 law enforcement funding (*see also pages 10-11*).
- Support funding for implementation of STEP-VA (System Transformation, Excellence and Performance in Virginia), the Commonwealth's behavioral health transformation plan (*see also Human Services Issue Paper*).
- **Ensure that Medicaid expansion, a top County priority, is not implemented in a way that creates an undue fiscal impact on Community Services Boards, particularly those in Northern Virginia.**
- Provide additional state funding to increase Medicaid waiver rates and slots for individuals with developmental disabilities, to provide appropriate community services and ensure the Commonwealth fulfills its responsibility to implement the federal settlement agreement (*see also Human Services Issue Paper*).

State revenues have continued to fluctuate considerably in recent years, but the revenue picture has improved dramatically as a result of several recent factors. Overall state revenues have improved, and the state completed FY 2018 with a revenue surplus of over \$550 million, in addition to increased revenues projected due to recent changes in federal tax law. Additionally, after several years and substantial effort, the GA included expansion of Medicaid as envisioned in the Patient Protection and Affordable Care Act in the 2018-2020 biennium budget, providing enhanced federal revenues and freeing up state dollars to be redirected to other critical needs. It is important that the state continue to increase investments in K-12 and other essential local programs and services after years of underfunding. Now is the time for the state to focus on investments in critical core services that will continue to move Virginia forward. (*Updates and reaffirms 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, and the protection of public health, safety, and welfare, 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. The Special Joint Subcommittee on Local Government Fiscal Stress, created

by the 2017 GA, has begun examining issues of local government fiscal stress, including issues related to local taxing authority, which could provide a helpful first step.

Local land use authority must also be preserved. Historically, local governments have served as the level of government best suited to equitably and effectively deal with local land use issues. However, recent actions by the GA have significantly eroded local land use authority, which has the effect of distancing communities and neighborhoods from decisions about development in their area. Legislation enacted by the 2016 GA to severely limit proffer authority, which has long been used to ensure that new development or redevelopment is able to mitigate its impacts and address community concerns about such impacts, has posed challenges in its implementation and will likely continue to lead to serious repercussions in years to come.

Instead of statewide land use decisions that do not reflect differences in localities throughout the Commonwealth, communities should be empowered to act through their locally elected governments to ensure orderly and balanced growth and development, allowing direct public participation and accountability in this critical process. Additionally, further restrictions on, and additional procedural hurdles for, local use of eminent domain are unnecessary; Fairfax County has been extremely judicious and wholly appropriate in its very selective use of condemnation. Moreover, additional legislation in this area should be avoided while courts adjudicate the 2013 amendment to the Virginia Constitution, which changed what was 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. Consumer protection is an example of an area in which local government is often better equipped to address local concerns. 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 GA each year. Moreover, efforts to encourage the new “sharing economy” must balance such interests with those of the community, safeguarding local revenue sources and land use authority – the GA achieved that balance by providing new local authority for governing short-term lodging in residential areas, which Fairfax County recently utilized to allow short-term lodging with appropriate restrictions, after a process that included significant public outreach and discussion. Additionally, requiring that all bills with a local fiscal impact be filed by the first day of the GA session would allow localities the maximum time possible to highlight potential impacts as new legislation is considered. 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

Transportation – Six-Year Secondary System Construction Program (SSYP) Public Hearing

Initiate legislation to amend Virginia Code § 33.2-331 regarding public hearing requirements for the annual approval of the SSYP. Virginia Code requires that the governing body of each locality work with VDOT to annually update an SSYP. As part of this process, the local governing body is required to conduct a public hearing on the proposed plan prior to adoption of the program. However, due to changes to transportation funding formulas, state funding for secondary road funding has decreased substantially, from approximately \$29 million in 2004 to zero today. Conducting a public hearing to elicit input when there is minimal or no funding to allocate or reallocate creates confusion for members of the community, suggesting that there is additional funding available when that is not the case. Therefore, the Code should be amended to require a public hearing only when a new funding allocation is substantial.

Position Statements

Environment

Global Climate Change/Environmental Sustainability Initiatives *[TO BE UPDATED IN FUTURE DRAFT]*

Support efforts to reduce the County's greenhouse gas emissions and operational demand for energy through efficiency, conservation, and education.

The basis for these efforts is Fairfax County's strategic direction and commitment to achieve environmental and energy goals, including those set forth in the County's 2017 Environmental Vision, the 2009 Energy Policy, and the County's Comprehensive Plan.

Support incentives and opportunities for the expansion of renewable energy and energy efficiency initiatives, such as:

- Funding of renewable energy grant programs and incentives to assist the development and growth of energy businesses and technologies, such as renewable distributed energy generation.
- Opportunities for consumers to purchase or generate renewable energy, including expanding the availability of net metering programs, which allow eligible customers to offset their power consumption by selling self-generated power back to the energy grid. Legislation in 2015 raised the cap on the amount of energy that may be net metered by eligible customers, but more flexibility is needed to maximize the cost-effectiveness of larger projects.
- 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.
- Increased flexibility in the restrictions governing third-party power purchase agreements (PPAs) for renewable energy. PPAs can facilitate the adoption of renewable energy by reducing the up-front costs, thus assisting in reducing greenhouse gas emissions and other forms of pollution. Legislation was passed in 2013 to authorize a limited pilot program for such arrangements, subject to certain system-size requirements and an overall cap of 50 MW on generation. *(Updates and reaffirms previous position.)*

Land Conservation

Support the conservation of open space, which protects vital ecological resources and the environment, provides recreational opportunities, and improves the quality of life.

The County also supports state incentives that promote donations to park authorities or associated foundations, the prioritization of the Virginia Land Preservation Tax Credit to encourage the preservation of land for public use, and increased funding for the development and rehabilitation of park infrastructure, including trails, shelters, and fields. 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. In April 2018, Governor Northam announced a new conservation strategy which is currently being developed by the Virginia Department of Conservation and Recreation.)*

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 2019. Such legislation would need to be examined by the County for efficacy, cost, and ease of administration. *(Updates and reaffirms previous position.)*

Funding

Economic Success

Support a strong partnership between the Commonwealth and the County as Virginia's economy adapts to a changing fiscal landscape, particularly on innovation economy and smart communities efforts.

Virginia has historically been among the top states in the nation in per capita federal spending, and both the state and the County have benefited from significant federal investments in military and civilian employment, along with associated contracting industries. However, the effects of federal budget cuts and sequestration have had a negative impact on County and state revenues, as high-paying professional and contracting jobs have been replaced by lower-paying jobs in the service sector. Support full funding of the Commonwealth's Development Opportunity Fund and one-time investments in unique opportunities, which pay significant dividends for the County and the Commonwealth; for example, in the first half of 2018, the state awarded \$6.5 million in Development Opportunity Fund grants to businesses relocating to or expanding within Fairfax County, retaining more than 2,000 jobs and creating nearly 1,100 new jobs in the County.

In the long term, support a multi-faceted approach to position the County for future growth, including state investments to:

- Further strengthen the County's dynamic business climate through innovation, by facilitating the co-location of universities, research institutions, businesses, and incubators, while encouraging commercialization of the resulting research and spin-off ventures;
- Ensure a workforce equipped for emerging, high-growth industries (such as information technology and cyber) by providing coordinated career and technical education training opportunities, including multiple pathways to earn a diploma, work-based learning experiences, and career clusters (groupings of occupations/industries which help students investigate careers and design their courses of study) in K-12, noncredit workforce training programs, higher education, and community college settings;
- Diversify the local economy by attracting new industries to Fairfax County, while continuing to support businesses already located in the County;
- Protect existing federal facilities within the County, while encouraging additional federal expansions;
- Maintain an environment conducive to recruiting additional federal installations;
- Encourage regional and state collaboration on initiatives with an economic benefit to the County; and,
- Preserve and strengthen community assets (such as schools, transit, transportation, health care systems, vibrant public spaces, and workforce housing, among others) to encourage organizations to locate and expand operations in the County and to attract private investments. *(Updates and reaffirms previous position.)*

Libraries

Support increased state aid to public libraries, which provide communities with critical services such as student homework support, research assistance, and public internet access.

Over 4.5 million visits were made to Fairfax County public libraries in FY 2018, with approximately 11.2 million items borrowed. Although the 2018 GA provided some additional funding, annual state aid to libraries has declined by over \$4.7 million, or approximately 22 percent, since FY 2001. At a minimum, the state should avoid further reductions in aid. *(Updates and reaffirms previous position.)*

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, or at a minimum maintain, HB 599 law enforcement funding.** This critical funding, provided to localities with police departments, is a priority for localities throughout the Commonwealth. 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. Though state funding did increase in the 2018-2020 biennium budget, if state funding had consistently increased with state revenues, as is required, Fairfax County would have received approximately \$53.7 million in additional funding over the past nine years. *(Updates and reaffirms previous 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. *(Reaffirms previous position.)*
- **Courts – The Commonwealth should adequately fund Virginia’s courts, to ensure a well-functioning judicial branch.** The overall underfunding of Virginia’s court system continues to place additional burdens on localities and the judicial system (for example, because the state does not fund all necessary interpreters for the Fairfax Juvenile and Domestic Relations District Court (JDRDC), Fairfax County uses a mix of local dollars and volunteers to provide interpreters for certain proceedings, such as pre-dispositional juvenile matters, among others). Providing sufficient funding for the salaries of court personnel, including clerks, magistrates, Commonwealth’s Attorneys, public defenders, district court employees, and probation office employees, among others, is a critical state responsibility. The 2018 GA’s commitment to fund all judicial vacancies in FY 2020 is a step in the right direction, but all judicial vacancies should be filled in a timely fashion; the 2018 GA’s failure to elect two Fairfax JDRDC judgeships leaves the court with only 6 of the 8 authorized judges, raising serious concerns about the court’s ability to meet statutory timetables for hearing critically important domestic violence protective orders and abuse and neglect cases, among others. Further, the need for additional authorized and funded judgeships remains; when reevaluating the need for judgeships and state funding for each court, the quantity of filed cases and qualitative factors (including interpreters, increases in population and commercial development, and cost of living) should be considered. Additionally, the criminal justice system is increasingly dealing with individuals with mental health and substance use disorder issues, which requires additional time and resources. In accordance with best practices, Fairfax County has increased focus on diversion programs (including a drug court, veteran’s docket, and mental health docket); however, such efforts require significant time and resources from court employees. The 2018 GA provided \$1.8 million statewide over the 2018-2020 biennium to expand drug courts and mental health dockets, but additional state support is needed for core services throughout the judiciary. *(Updates and reaffirms previous position. See also the Mental Health, Public Safety, and the Criminal Justice System position on pages 13-14. The 2018 GA directed the Virginia Supreme Court to evaluate mental health dockets and report by October 1, 2018, and directed the Compensation Board to convene a workgroup to study the impact of body-worn cameras on the workload of Commonwealth’s Attorneys’ offices and report by December 1, 2018.)*

Water Quality Funding

Support budget action at the 2019 GA providing adequate state appropriations to the Water Quality Improvement Fund (WQIF) in order to ensure 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).

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 WQIF of surplus funds and the establishment and funding of SLAF (the GA

appropriated \$80 million for SLAF from FY 2014 to FY 2017 and \$20 million in FY 2019), and the County received \$5 million in SLAF funds for stream restoration projects at Lake Fairfax Park, Greentree Village Park, and Flatlick Branch Phase II in FY 2017. This funding has contributed to improvements in the health of the Chesapeake Bay, as evidenced by increases in underwater grasses and oysters, but significant challenges remain. Meeting federal Chesapeake Bay requirements will require additional state assistance for urban stormwater needs (in 2011, the Senate Finance Committee estimated these costs to be between \$9.4 billion and \$11.5 billion by 2025) and wastewater treatment plant upgrades and water reuse facilities 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, and such funding must continue to increase if Virginia is to meet its commitments for the Chesapeake Bay. *(Updates and reaffirms previous position.)*

General Laws

Elections

Support legislation to promote participation in elections, enabling citizens to exercise their right to vote in an efficient and equitable manner. Adequate state funding for election administration, voting equipment, and systems modernization is essential to this effort.

Also, support legislation 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. Similarly, following the 2013 Supreme Court decision striking down Section 4 of the Voting Rights Act, which eliminated the requirement that changes to Virginia’s election laws be “pre-cleared,” state and federal actions that may impact elections should be closely monitored. Additionally, support greater state financial support for voting equipment, systems modernization, and election administration, including training for the local electoral board members, registrars, and elections officials. The 2018 GA took positive steps in this area by committing approximately \$10.4 million GF over the biennium to replace federal Help America Vote Act (HAVA) funds that were exhausted in FY 2017; though Virginia received approximately \$9 million in cybersecurity HAVA funds after the session, such funding should supplement, not supplant, the state’s funding commitment in this critically important area. *(Updates and reaffirms previous position. The 2018 GA established the Joint Subcommittee on Election Laws to study absentee voting, post-election audits, recounts, and split precincts, among other issues; the Subcommittee is expected to meet four times this fall.)*

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 and gender identity.

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.)*

Health

Alternative On-Site Sewage Systems (AOSS)

Support legislation that provides tools to ensure AOSS are appropriately installed, serviced, inspected, monitored, and maintained.

Support legislation that would require sellers of residential property to directly disclose to prospective purchasers that an AOSS is on the property and that proper operation and maintenance is necessary, in accordance with applicable state and local standards and regulations. Support legislation that would

provide localities with the authority to receive reporting of periodic private-sector inspections and to assist residential property owners 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. (*Updates and reaffirms previous position.*)

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 remain high in Virginia, with 976 confirmed and 374 probable cases reported to the Centers for Disease Control and Prevention in 2016. (*Updates and reaffirms previous position.*)

Human Services

Affordable Housing and Homelessness Prevention [TO BE INCLUDED IN DRAFT HUMAN SERVICES ISSUE PAPER]

Substance Use Disorder [TO BE INCLUDED IN DRAFT HUMAN SERVICES ISSUE PAPER]

Mental Health, Public Safety, and the Criminal Justice System

Support sustainable funding, allocated based on localities' needs and population size, for public safety and mental health services that connect non-violent offenders experiencing mental health crises to treatment instead of the criminal justice system.

Police officers are often the first responders when an individual is in a mental health crisis; the Fairfax County Police Department received nearly 4,000 calls from January – June 2018 that were mental health related. Sometimes these calls lead to incarceration for low-level offenses (trespassing, disorderly conduct), precluding the individual from appropriate treatment in the community for underlying mental health issues. In fact, more than three in ten inmates who remain at the Fairfax County Adult Detention Center (ADC) for more than four days have been identified as needing mental health care, and inmates with mental health and substance abuse issues remain at the ADC on average 20 days longer than inmates without these issues. It is significantly more expensive to deliver mental health services in a detention facility than to provide the same service in community-based residential or community-based care.

To address these critical issues, in 2016 Fairfax County utilized local revenues to launch “Diversion First,” which offers alternatives to incarceration for people with mental illness, substance use disorders, or developmental disabilities who come into contact with the criminal justice system for low-level offenses. The program has had a significant impact; more than 1,000 people have been diverted from potential arrest. Successful expansion of this program will depend on adequate state investments in mental health services (and accompanying court and public safety resources) to:

- Increase the availability of secure 24/7 crisis assessment centers, crisis stabilization units, mobile crisis units, local psychiatric beds for forensic patients, affordable housing options, behavioral health counselors and therapists, peer support, reintegration services for youth and adults at high-risk of rapid re-hospitalization or re-offending, psychiatry, and forensic discharge planning (*See also the Human Services Issue Paper*);
- Strengthen responses to individuals in mental health crises by funding Crisis Intervention Team (CIT) and additional de-escalation training for law enforcement officers, Fire and Rescue and jail personnel, and Mental Health First Aid Training for social service organizations staff;
- Improve the screening, assessment and treatment of incarcerated individuals' mental health by gathering uniform system level data (including prevalence rates and demand for services);
- Support the development of specialty courts and dockets;
- Facilitate the exchange of health information of individuals believed to meet the criteria for temporary detention orders among law enforcement, the Court system, Community Services Boards, health care providers, and families and guardians;
- Expedite the process of placing individuals in psychiatric hospitals;
- Reduce justice system involvement by providing evidence-based, culturally competent, and trauma-informed behavioral health services for all ages, including integrated mental health and addiction care, case management, and housing and employment assistance for individuals with mental illness and substance use disorders;
- Increase funding of mental health services and substance abuse treatment for individuals who are incarcerated for offenses that make them unsuitable candidates for a diversion program; and,
- Remove barriers to reentry by providing adequately funded forensic discharge planning services to connect former inmates with mental health and substance abuse treatment in the community. (*Updates and reaffirms previous position. See also the Public Safety/Courts Funding position on pages 10-11.*)

Land Use

Proffers

Local authority to accept cash and in-kind proffers from developers must be restored without restrictions. Such proffers assist with providing necessary capital facilities and infrastructure to serve new development and maintain local community standards, in order to keep and improve quality of life and encourage and spur economic development.

The 2016 GA enacted legislation sharply limiting local proffer authority, reducing the County's ability to work with developers and local communities to ensure that new development or redevelopment mitigates its impacts and addresses community concerns about such impacts. Though the legislation was primarily intended to narrow localities' proffer authority, it also restricts developers' options to proffer an array of items to satisfy community concerns about a particular development. This new law prohibits localities from accepting proffers that fall outside the bounds of these new requirements, even if developers offer them voluntarily. Another challenge created by this new law is that it hinders a locality's ability to work cooperatively with a developer because the law includes enhanced damages for a developer if a locality "suggests" a proffer that could not be accepted, running counter to the collaborative environment that has been created in the County over many years. Though certain areas of Fairfax County were exempted from such requirements, challenges in navigating these new restrictions have arisen, as evidenced by the substantial decline in residential applications in non-exempt areas since the bill went into effect. The 2017 and 2018 GAs considered bills that would have changed aspects of the new law, but all such efforts were rejected; however, a meeting of the Senate Local Government Committee in the spring of 2018 highlighted the concerns localities have raised about this law, with indications that changes may be considered by the 2019 GA. The County continues to support full restoration of its proffer authority; no further restrictions on local land use authority should be considered, and any proposal for replacing proffer commitments with development impact fees must be at the option of each locality. (*Updates and reaffirms previous position.*)

Wireless Telecommunications Facilities

The siting of telecommunications facilities is an important component of local land use authority, ensuring community involvement, and should be retained.

Federal law currently preserves local land use authority to determine the location, construction, and modification of wireless telecommunications facilities, subject to certain restrictions. These federal restrictions on local land use decisions have been extensively litigated. Overlaying additional state restrictions on these local land use decisions may remove all community involvement in decisions about where very large facilities will be located, among other negative consequences.

Unfortunately, the GA has increasingly moved in the direction of restricting local land use authority over wireless telecommunications facilities in recent years. The 2016 GA eliminated some local flexibility by deeming telecommunications towers located in zoning districts where they are permitted by right to be in conformance with a locality's comprehensive plan, removing the requirement for a public hearing before the local planning commission. The 2017 GA then considered sweeping legislation removing substantial local authority, but ultimately a compromise was agreed to which imposed state restrictions on local approval of the siting of small cell wireless facilities that attach to existing structures and set mandatory standards for access to public rights-of-way, while removing many of the most egregious limitations on local government authority relating to such approvals for towers and facilities not attached to existing structures included in the introduced legislation. Part of the compromise was an agreement that local government groups would work with industry stakeholders to streamline the processes for approval of free-standing new towers and facilities in unserved or underserved rural areas; instead, the 2018 GA passed legislation related to free-standing new facilities in all areas of the Commonwealth, in contravention of the compromise. The 2018 legislation also removed public input from the approval process for certain structures, and related legislation passed allowing private telecommunications companies access to the public rights-of-way potentially at below market value prices. The County strongly supports restoration of its land use authority to determine the appropriate location of such facilities, in order to balance the need for wireless service with the community's interest in protecting the character of neighborhoods. *(Updates and reaffirms previous position.)*

Public Safety

Accessibility

Support ensuring the inclusion of people with disabilities throughout the Commonwealth by increasing accessibility to public places, housing, and transportation services (including transportation network companies).

Over 75,000 working-age Fairfax County residents have a disability, which includes people with hearing, vision, cognitive, ambulatory, self-care, and/or independent living disabilities. While significant progress has been made toward ensuring the equality and inclusion of people with disabilities since the passage of the Americans with Disabilities Act (ADA) more than 28 years ago, continued advancement is needed. Fairfax County supports access for people with disabilities and older adults in public and private facilities; in particular, by increasing accessibility through incentives, voluntary standards for accessible housing, and educational outreach to businesses, building officials, medical providers, advocacy groups, and state and local governments.

The lack of affordable, accessible, integrated housing is a major barrier facing older adults and people with disabilities. Innovative options include increasing the accessible housing stock in newly constructed multi-family housing (encompassing apartment buildings, condos, and assisted living housing among others); encouraging builders to offer "visitable" or Universally Designed options for new single family homes as an alternative to conventional design; raising the maximum annual allotment of the Livable Homes Tax Credit; and, establishing a comparable grant to help pay for much-needed home modifications. Incentives and initiatives for accessible housing and home modifications should benefit both homeowners and renters. Additionally, transportation network companies have the potential to reduce transportation barriers for individuals with disabilities and older adults, and innovative approaches should be considered for the

provision of wheelchair-accessible services. Improved accessibility in public buildings, housing, transportation, medical facilities 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 GA 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.)*

Taxation

Communications Sales and Use Tax

Support legislation to protect the financial interests of local governments based upon declining revenues in the communications sales and use tax.

After lengthy negotiations, the 2007 GA repealed many local telecommunications taxes and replaced them with a statewide communications tax. The expectation at that time was that the new communications tax would grow and localities would, at a minimum, receive the same amount of funding as they received in FY 2006 (\$85.5 million for Fairfax County). However, this tax has eroded and in FY 2018, the County only received approximately \$72 million. The 2018 GA exacerbated these concerns by diverting \$2 million per year of this local tax revenue to the state General Fund in the 2018-2020 biennium budget. Consequently, any consideration of formula changes must be avoided until and unless communications tax revenues increase sufficiently to ensure revenue neutrality for localities, as agreed upon when this compromise was reached. A 2015 report by the Virginia Department of Taxation found several reasons for the decline in Communications Sales and Use Tax revenue, including a decline in telephone landlines (down 21 percent between 2007 and 2014), a decline in gross receipts from satellite radio services (down 91 percent between 2007 and 2014), and exemptions in the current law for streaming audio and video services and prepaid calling services, which have become increasingly popular in recent years. These changes in market area, customers served, new technologies, and perhaps the rate itself must be examined to ensure a modern communications tax system for localities, which reflects and reacts to an ever-changing landscape. *(Updates and reaffirms previous position.)*

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 transfer these responsibilities to counties 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.)*

Pedestrian Safety and Access to Transit

Support revisions to Virginia's existing pedestrian law that clarify the responsibilities of both drivers and pedestrians, to reduce the number of pedestrian injuries and fatalities that occur each year. In particular, support legislation that would require motorists to stop for pedestrians in crosswalks at unsignalized intersections on roads where the speed is 35 mph or less, and at unsignalized crosswalks in front of schools.

Safe access to transit facilities can be improved through infrastructure investments, better traffic safety laws, and adequate sidewalk maintenance, including snow removal following inclement weather. With the opening of the Silver Line, along with significantly increased Fairfax Connector service and more concentrated growth, more residents and workers in the County are choosing to walk and use transit. *(Reaffirms previous position.)*