

Preliminary Draft 2021 Fairfax County Legislative Program

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(To be added at a future Committee meeting)

(Note: New language is **highlighted**.)

Draft 2021 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. The County has also placed an increased emphasis on social and racial equity through the establishment of One Fairfax, which commits the County and Fairfax County Public Schools (FCPS) to intentionally consider equity when making policies or delivering programs and services, because all residents deserve an opportunity to succeed. 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 of the recession and the unprecedented COVID-19 global pandemic 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 in economic competitiveness.

The Commonwealth's partnership with localities is a key factor in maintaining that competitiveness. **Though the state is facing fiscal challenges due to the pandemic, localities are as well,** and 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 **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 *[TO BE UPDATED IN FUTURE DRAFT]*

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 systematically underestimate actual local costs and continue to leave statewide funding far behind the inflation-adjusted FY 2009 level. As the Joint Legislative Audit and Review Commission (JLARC) noted in its 2015 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 primarily because education spending effort from Virginia's localities ranked 11th overall. More recent data from JLARC (from FY 2016) showed that Virginia's state per pupil funding effort was among the lowest in the US, ranking 42nd nationwide. This reflects Virginia's overreliance on local effort and a continued imbalance in what should be a state and local 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:

- Fully funding the biennial re-benchmark of Direct Aid to Public 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 annually since its adoption in 2009;
- 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);
- Realistic and appropriately funded Standards of Quality consistent with actual local staffing costs and flexibility to allow for variations in local staffing needs and capacity;
- 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.) (Position on full funding for K-12 costs and restoration of Cost of Competing Adjustment (COCA) funding shared by region. *)*

2.) Regional Transportation Funding

The Commonwealth must fully restore funding to the Northern Virginia Transportation Authority (NVTA) in an amount equal to what was diverted, to ensure that transportation projects continue to advance in Northern Virginia after decades of state underfunding.

The 2020 GA successfully enacted \$50 million in annual regional transportation funding to partially address the funding diversion enacted by the 2018 GA. The 2018 action, which included funding and governance reforms for the Washington Metropolitan Area Transit Authority (WMATA) to enhance the safety, security, and efficiency of the system and its riders, addressed WMATA funding needs at the expense of other significant projects throughout the region by diverting existing funding from NVTA to WMATA, reducing funding available for other critical transportation projects in Northern Virginia by \$102 million per year. Though the 2020 GA made significant progress towards restoring funding, efforts to mitigate the financial impacts of the COVID-19 pandemic have led to a delay in the imposition of some of the revenue streams, which will likely yield less revenue over the next few years than what was original projected when the legislation was being considered. Without additional action, it will be difficult for some projects to advance in the foreseeable future, and timelines for numerous existing County projects will continue to be affected. Several County projects have already been impacted, including: the Fairfax County Parkway widening, the Frontier Drive extension, the Davis Drive extension, and numerous bicycle and pedestrian projects throughout the County. *(Updates and reaffirms previous position.)*

3.) Transportation Funding

The Commonwealth should build upon the successful enactment of significant transportation revenues by the 2013 and 2020 GAs to ensure sufficient funding for transportation needs.

Statewide and regional funding generated by HB 1414/SB 890 (2020) and HB 2313 (2013) provided substantial new resources needed to significantly address the transportation needs of Northern Virginia and the Commonwealth. It is essential that this additional funding help ensure appropriate funding for new projects, as well as state road maintenance, including funding for improved repaving, snow removal, mowing in the right-of-way, and stormwater management. However, while HB 1414/SB 890 and HB 2313 moved the Commonwealth in the right direction, the impacts of the COVID-19 pandemic have changed transportation in unexpected ways and may lead to additional long-term transportation funding challenges.

- **Allocation of Statewide Revenues**

- Major transportation improvements that provide benefits beyond Northern Virginia, such as WMATA state-of-good repair, the I-66 Express Lanes, and projects that provide additional capacity across the Potomac River, should primarily be funded by the Commonwealth and federal government. Diverting existing Northern Virginia transportation revenues for such projects (as was originally done for WMATA, to the detriment of numerous projects) will significantly disrupt regional transportation planning and long-standing regional priorities. Additionally, 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, the MERIT process for

- prioritizing transit capital and operating funding, and other funding programs and processes created over the past several years. Further, the transportation funding created by HB 2313, HB 1414/SB 890, and other transportation funding legislation should continue to be used only for transportation purposes as originally intended.
- The 2019 GA provided helpful transition assistance in FY 2020 to aid transit systems that are projected to see a significant decrease in transit operating funds resulting from changes to distribution formulas (including an approximately \$1 million decrease in funds for the Fairfax Connector). The County supports metrics and improving the efficiency and effectiveness of transit, but it may be necessary to provide flexibility in implementation to address the COVID-19 pandemic and its impact to transit systems – transit ridership and farebox revenues have been greatly impacted by the pandemic, and using certain metrics could cause significant consequences in operating funding for systems throughout the Commonwealth. Additionally, it is essential that the methodology used addresses systems that provide different service types. For example, the Fairfax Connector provides several different types of service throughout the County (commuter routes along interstates, feeder routes to various Metrorail stations, and urban circulator routes in some of our activity centers), while many transit systems in the Commonwealth are less complex. This multifaceted approach to transit is extremely important to addressing the region's substantial traffic congestion, which is considered among the worst in the nation.
 - The Virginia Department of Transportation's (VDOT) Northern Virginia District is only expected to receive 6.34 percent of the State of Good Repair funds in FY 2020. While 88 percent of all roads in Fairfax County are in Fair or Better Condition, only 44 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 pavement will only worsen unless additional funding is identified, or a greater portion of current funding is allocated to Northern Virginia.
 - The County believes it is important that funding for the Revenue Sharing program be maintained and increased if possible. 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 advance.
 - **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. These centers, such as Tysons, Springfield, Seven Corners, and Reston, must be sustainable, transit-oriented, and walkable communities to remain successful and accommodate predicted growth. These efforts will be especially important as Northern Virginia and the Commonwealth work to recover from the current pandemic. Many projects in the County's Transportation Priorities Plan (TPP) strengthen the County's major employment/activity centers, and it is important that the state and federal governments recognize their importance by helping to provide funding needed to complete these projects. 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. In this vein, the continued efforts in Virginia and Maryland to address American Legion Bridge capacity are a significant step forward. 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 by the 2018 GA was a clear acknowledgement of the critical role VRE plays in the regional transportation system. It is important that these funds are protected so they continue to be utilized in a manner that best supports the system. *(VRE is currently discussing its legislative program, and this position will likely be updated later this fall to ensure consistency.)*
 - **Virginia Passenger Rail Authority (VPR)** – VPR was created by HB 1414/SB 890. Though the bills allow the three members of the Board of Directors that represent the Northern Virginia Transportation District and the Potomac-Rappahannock Transportation District to be selected from a list recommended by the Northern Virginia Transportation Commission (NVTC) and the Potomac and Rappahannock

Transportation Commission (PRTC), respectively, they are not required to be selected from those lists. Fairfax County believes it is vital that the Commonwealth select the region's members from the list provided by NVTC to ensure a successful partnership between these two entities, as well as with VRE and the Northern Virginia localities that will be significantly impacted by actions undertaken by the new VPRA.

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, especially as efforts continue to recover from the effects of the COVID-19 pandemic. 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 long-term benefits to the transportation system. *(Updates and reaffirms previous position.)*

4.) State Budget [TO BE UPDATED IN FUTURE DRAFT]

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 FY 2019 and FY 2020 salary increases totaled \$18.7 million, representing only a small fraction of the \$116.5 million required to fund a five 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 increasing funding for the County priorities of K-12 and Transportation, the 2020 GA should:

- Fully restore Cost of Competing Adjustment (COCA) funding for K-12 support positions in the 2020-2022 biennium budget *(see also page 2)*.
- Restore transportation revenues to NVTA that were diverted to fund WMATA's capital funding gap for state of good repair and critical capital needs *(see also page 3)*.

- Restore, or at a minimum, provide level funding, for HB 599 law enforcement funding; if state funding had consistently increased with state revenues, as is required, Fairfax County would have received approximately \$63 million in additional funding over the past ten years.
- 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 2019 with a revenue surplus of over \$797 million. 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.

5.) Local Authority

Existing local government authority should be preserved, particularly in such key areas as taxation, 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 continue to be diversified – the 2020 GA took a major step forward on this front with the passage of equal taxing authority legislation for counties and cities (though some restrictions on county taxing authority, like cigarette taxes, remain). Where possible, the state should continue to update state and local taxes to reflect changes in the economy or technology; avoid any new state mandates while fully funding current requirements; avoid any diminution of current local taxing authority (including BPOL and machinery and tools taxes); and, avoid restrictions on local revenues.

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, the most significant challenge to local land use authority in recent years was enacted by the 2016 GA, severely limiting 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. The negative statewide implications on residential development that followed led the 2019 GA to substantially alter the 2016 changes in ways that are helpful to local government, serving as an important lesson about the dangers of state intervention in local land use issues.

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 and increase the cost to localities; Fairfax County **continues to be** extremely judicious and wholly appropriate in its very selective use of **eminent domain**.

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 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.)*

Draft as of September 22, 2020

Initiatives/Action Statements

Position Statements

Environment

Global Climate Change/Environmental Sustainability Initiatives

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

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, 2009 Energy Policy, 2018 Operational Energy Strategy, and Comprehensive Plan.

After years of small advances in addressing global climate change and environmental sustainability, the 2020 GA passed legislation creating much more substantial change. Fairfax County supports building on these efforts by increasing incentives and opportunities for the expansion of renewable energy and energy efficiency initiatives in a number of ways.

- **Net metering** – Net metering programs, which allow eligible customers to offset their power consumption by selling self-generated renewable power back to the energy grid, have increased in popularity in recent years. The 2020 GA passed legislation allowing a large-scale net metering project in Fairfax County to move forward. As the benefits of such projects become more widely known, removing barriers to net metering for municipalities (including restrictions on the use of power purchase agreements (PPAs)) and consumers is critical.
- **Power Purchase Agreements (PPAs)** – PPAs can facilitate the adoption of renewable energy by reducing or eliminating the up-front costs of such projects, thus assisting in reducing greenhouse gas emissions and other forms of pollution. Legislation initially passed in 2013 authorized a limited pilot program for PPAs, subject to a variety of restrictions, including a cap on the total amount of generation from PPAs. The 2020 GA increased the cap to 500 MW for non-jurisdictional customers like the County, but careful monitoring will be needed to ensure the cap is not reached too quickly.
- **Demand** – Legislation requiring utilities to first reduce electric demand through energy efficiency, thereby decreasing the need for new fossil-fueled generation resources (i.e., an efficiency first requirement) is essential.
- **State Tax Incentives** – State income tax incentives for businesses or residents should defray a portion of the cost of new construction or improvements which save energy and mitigate adverse environmental impacts.
- **State Grants – Fund** renewable energy grant programs and incentives to assist the development and growth of energy businesses and technologies, such as renewable distributed energy 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. *(Reaffirms previous position.)*

Funding

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). 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, but for years the Commonwealth has ignored this obligation and has failed to adequately fund court personnel in Fairfax County, instead relying on the County to ensure the efficient and appropriate administration of justice. As a result, the County provides substantial funding for additional personnel and salary supplements for state positions – for example, while the state Compensation Board provides only \$21.5 million for the Offices of the Circuit Court Clerk, Commonwealth's Attorney, and Sheriff, the County provides more than four times as much local funding (\$95.7 million) for personnel in these offices (state funding formulas often fail to account for the needs of large localities in particular). Additionally, the District Court Staffing Model, developed by the Office of the Executive Secretary of the Supreme Court, illustrates that the statewide district court staffing crisis has a profound impact on Fairfax County, with the General District Court (GDC) needing more than 21 additional positions and JDRDC needing more than 9 additional positions. The 2020 GA's commitment to fund the 12th judgeship for the Fairfax GDC and additional positions for district court clerks is a step in the right direction; however, the funding provided in the budget was unallotted due to the COVID-19 pandemic. 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, mental health docket, and a supervised release program); however, such efforts require significant time and resources from court employees. At the same time, the formula used by the state to fund Commonwealth's Attorneys' offices must be updated to reflect the goal of improving policing – the current formula uses the number of felony indictments and sentencing events in Circuit Court as a major factor in funding, which is antithetical to the goal of increasing diversion programs and utilizing specialty dockets aimed at keeping people out of the criminal justice system or keeping them from felony sentencing consequences. 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 page 14.) (The 2020 GA directed the Secretary of Public Safety and Homeland Security to continue the workgroup examining workload issues, as well as other fiscal and policy impacts, as a result of body-worn cameras. Commonwealth's Attorneys' offices in each locality that employs body-worn cameras are required to submit information on the program to the Compensation Board and the workgroup on a quarterly basis. A report is due to the money committees by November 15, 2020.)*

Economic Success [TO BE UPDATED IN FUTURE DRAFT]

Support a strong partnership between the Commonwealth and the County as Virginia's economy adapts to a changing fiscal landscape, particularly on initiatives to nurture the innovation economy and foster 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 2018, the state awarded \$8 million in Development Opportunity Fund grants to businesses relocating to or expanding within Fairfax County, retaining more than 4,000 jobs and creating nearly 1,690 new jobs in the County.

In the long term, support a multifaceted approach to position the County for future growth, including state investments and efforts to:

- Ensure a workforce equipped for emerging, high-growth industries (such as information technology and cyber) by providing coordinated career and technical education training such as dual enrollment and work-based learning opportunities in K-12, noncredit workforce training programs, higher education, and community college settings;
- Diversify the local economy by attracting new industries to Fairfax County, supporting businesses already located in the County, and encouraging innovation through the co-location of, and partnership with, research institutions, incubators, start-ups, and established businesses;
- 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.)*

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. Jail per diem funding should be increased to levels that better represent the costs of housing inmates, and be adjusted for inflation so that payments keep pace with rising costs. The current rates of \$4 per day for local-responsible inmates and \$12 per day for state-responsible inmates are inadequate and represent an underfunded mandate on localities, as the actual cost of housing an inmate is \$273.77. The County has made significant efforts in recent years to reduce the jail population, including through the Diversion First program (established in 2016), resulting in a decrease of 48 percent since FY 2008; however, state funding remains inadequate. In FY 2019, the state provided \$15 million in funding for the Fairfax County Adult Detention Center (ADC), but the actual cost of running the ADC that year was \$95.8 million. *(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.

The COVID-19 pandemic created a unique impact on Fairfax County Public Libraries (FCPL), requiring the closure of the system to public visits for approximately 14 weeks while demand for digital content dramatically increased. More than 3.1 million in-person visits were made to FCPL in FY 2020, with nearly 9 million items borrowed (prior to the closure, compared to FY 2019, FCPL was on pace to record approximately 4.7 million visits and 11 million items borrowed). During that period, the library expanded its digital collection and pivoted to an all-online presence. Although the 2018, 2019, and 2020 GAs provided some additional funding, annual state aid to libraries has declined by nearly 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.)*

Water Quality Funding

Support budget action at the 2021 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 (between FY 2014 and FY 2021, the GA provided \$160 million in funding). For FY 2019, the County received approximately \$4 million in SLAF funds for stream restoration projects along Difficult Run Tributary and Turkey Run. 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 2017, the Senate Finance Committee estimated these costs to be \$19.7 billion by 2025), wastewater treatment plant upgrades, and water reuse facilities in the Chesapeake Bay watershed, particularly in light of the very ambitious goals set forth in the Chesapeake Bay Total Maximum Daily Load (TMDL) Phase III Watershed Implementation Plan. 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 equitable and efficient participation in elections, such as providing for extended polling hours statewide to allow voters additional time to reach polling places. Adequate state funding for election administration, voting equipment, and systems modernization and security is essential to this effort.

The 2020 GA took a major step towards increasing access to voting by passing legislation allowing no-excuse absentee voting for the entire absentee voting period, which Fairfax County has long supported. 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. Additionally, support greater state financial support for voting equipment, systems modernization and security, and election administration, including training for the local electoral board members, registrars, and elections officials. *(Updates and reaffirms previous position.)*

Paid Family and Medical Leave

Support paid family and medical leave for all employees in the Commonwealth.

The federal Family and Medical Leave Act (FMLA) entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Thirteen states and many cities have required mandatory paid sick days, while eight states and the District of Columbia have created paid family and medical leave programs. Unfortunately, Virginia does not require employers to offer paid family and medical leave, and even unpaid leave under FMLA is inaccessible to approximately 55 percent of working Virginians, either because they are ineligible for FMLA or cannot afford to take leave without pay. Paid family and medical leave allows workers to avoid having to choose between caring for their families and keeping their jobs.

Paid leave is also associated with increased health benefits, including better physical and mental health for mothers, a reduction in infant and child mortality, faster recoveries and shorter hospital stays for sick children, and increased time for adults to manage acute and chronic health conditions affecting them or older family members. Studies have shown that a lack of paid leave creates a disproportionate impact on women, because they are more likely to act as caregivers (60 percent of caregivers nationwide are women). The 2019 GA passed legislation providing eight weeks of paid leave to state employees, but all bills extending that benefit to private sector employees have failed. Offering paid leave improves business productivity by boosting employee morale and making it easier for businesses to retain skilled workers, which supports economic growth and benefits all Virginians. *(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 reports 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 **alternative** systems. Oppose legislation that would further restrict local government authority to regulate the installation of **these** 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.

Cases of Lyme disease **remain high** in Virginia, with **744** confirmed and **395** probable cases reported to the Centers for Disease Control and Prevention in **2018**. *(Updates and reaffirms previous position.)*

Human Services

Affordable Housing and Homelessness Prevention [TO BE UPDATED IN FUTURE DRAFT]

Support state funding and actions to increase the availability of affordable housing options and prevent homelessness, including expanded investments in tools and programs to address affordable housing needs, particularly in high cost of living areas like Northern Virginia.

Affordable housing is critically important for all Virginians, but obtaining it creates particular challenges in Northern Virginia, where housing is increasingly out of reach for low- and moderate-income earners. Fairfax County is already experiencing a deficit of 31,000 affordable rental homes, and the gap between the need and the supply will grow considerably without new approaches for expanding housing availability and affordability. It is anticipated that there will be a need for 15,000 new units affordable to households earning 60 percent of area median income and below over the next 15 years. The areas of greatest need in the development and preservation of affordable housing are small families and seniors. The Commonwealth should:

- Increase funding for the Virginia Housing Trust Fund (as recommended by the Virginia Department of Housing and Community Development for an additional \$13 million in FY 2020, \$30 million in FY 2021, and \$40 million in FY 2022) – this is essential to create and preserve affordable housing and reduce homelessness in Northern Virginia, where housing affordability creates substantial challenges for the economic competitiveness of the region, creating potentially negative impacts to the Commonwealth overall;
- Expand the pool of resources available for down payment assistance, as down payment costs are a major barrier to homeownership;
- Enhance and create more state-funded rental assistance programs for individuals with disabilities and people experiencing homelessness, such as the Livable Homes Tax Credit, State Rental Assistance Program (SRAP), Virginia Homeless Solutions Program (VHSP), and previously provided Housing Choice Vouchers;

- Increase funding for permanent supportive housing units (allocated based on the size of the population served) for individuals with severe mental illness, substance use disorder, and developmental disabilities; and,
- Prohibit housing discrimination based on source of income, which disproportionately impacts older adults and people with disabilities. *(Updates and reaffirms previous position.)*

Mental Health, Public Safety, and the Criminal Justice System [TO BE UPDATED IN FUTURE DRAFT]
Support sustainable funding, allocated based on localities' needs and population size, for public safety and mental health services that connect people who come into contact with the criminal justice system for non-violent offenses to treatment.

Law enforcement 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 2019 that were mental health related. Such calls can lead to incarceration for low-level offenses (trespassing, disorderly conduct), precluding the individual from receiving appropriate treatment in the community for underlying mental health issues. Additionally, 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, Fairfax County continues to utilize local revenues for “Diversion First,” which offers alternatives to incarceration for people with mental illness, substance use disorders, or developmental disabilities who commit low-level offenses. The program has already had a significant impact – since 2016 more than 1,500 people have been diverted from potential arrest. Additionally, there has been a 19 percent decrease in the number of inmates at the Fairfax County ADC with behavioral health issues who had only misdemeanor charges, and a 43 percent increase in the number of inmates referred to the Fairfax-Falls Church Community Services Board (CSB). Though the average daily population has decreased since FY 2008, the medical complexities of inmates has increased, with substance use and mental health disorders becoming more common.

Successful expansion of Diversion First will depend on adequate state investments in mental health services (and accompanying court and public safety resources) to:

- Increase the availability of community-based crisis services, local psychiatric beds for people with mental health issues, reintegration services for youth and adults at high risk of rapid re-hospitalization or re-offending, and discharge planning *(see also Human Services Issue Paper)*;
- Provide Crisis Intervention Team (CIT) and additional de-escalation training for law enforcement officers and dispatchers, and Mental Health First Aid training for Fire and Rescue, jail personnel, and health and human service organization staff to educate those interacting with individuals with developmental disabilities, substance use disorder, and mental illness;
- Improve the screening, assessment and treatment of incarcerated individuals' mental health by gathering uniform system level data;
- Support the development and expansion of specialty courts and dockets;
- Remove barriers in order to facilitate the exchange of health information of individuals among law enforcement, the court system, CSBs, health care providers, and families and guardians;
- Expedite the medical clearance process for individuals in need of psychiatric hospitalization;
- Increase funding of mental health services and substance abuse treatment for individuals who are incarcerated for offenses that make them ineligible for a diversion program; and,
- Remove barriers to reentry by providing adequately funded forensic discharge planning services. *(Updates and reaffirms previous position. See also the Courts position on page 10.)*

Substance Use Disorder [TO BE UPDATED IN FUTURE DRAFT]
Support increased capacity to address the Commonwealth's ongoing substance use disorder epidemic through community-based treatment (including detoxification, medication-assisted, residential, and intensive outpatient programs) and innovative efforts to limit the supply of opioids.

Across Virginia, law enforcement and health care professionals continue to report a dramatic number of deaths due to opioid overdoses. Although some improvements are beginning to emerge, the statistics remain startling:

- Opioids are the number one cause of unnatural death in Fairfax County;
- There were 83 opioid deaths in Fairfax County in 2018, and 64 of these deaths involved fentanyl and fentanyl analogs (in Virginia, fentanyl and fentanyl-analog overdose deaths have increased by more than tenfold since 2009);
- Although there was a small decrease in overall opioid overdose deaths in Virginia from 2017 to 2018 (from 1,230 to 1,215), Virginia is on track to have a record of nearly 1,300 deaths from opioid overdoses in 2019;
- In Fairfax County, the annual number of emergency department visits for opioid overdoses is still significantly higher than it was in 2013 (60 in 2013 vs. 211 in 2018);
- The highest rate of emergency department visits for heroin/fentanyl and fentanyl-analog overdoses in Fairfax County was among individuals aged 25-34 (25 per 100,000 people) in 2018;
- The highest rate of prescription opioid overdoses in Fairfax County was also among individuals aged 25-34 (25 per 100,000 people);
- Approximately 900 Fairfax County students in the 8th, 10th, and 12th grades reported taking painkillers without a doctor's order, and nearly 1,100 reported taking other prescription drugs without a doctor's order, within a month of the survey date in November 2018; and,
- For the sixth year in a row, the statewide rate of drug-caused deaths exceeded the number of deaths due to motor vehicle accidents.

Also, support coordinated strategies to meet the growing need for substance use disorder services that target specific high-risk age groups. In particular, innovative approaches to prevention (such as an e-cigarette tax) and nicotine addiction treatment are necessary to address the vaping crisis that is affecting teens and young adults at an alarming rate.

E-cigarettes are the most commonly used tobacco product among youth today. Despite being fairly new, in 2018 more than 3.6 million American middle and high school students reported using e-cigarettes in the previous 30 days. In Fairfax County, among students surveyed in the 8th, 10th and 12th grades, more students reported vaping within a month of the survey date in November 2018 than using any other substances, and lifetime prevalence rates were high across all age groups (15.1 percent of 8th graders, 29.5 percent of 10th graders, and 39.3 percent of 12th graders). Though e-cigarettes became popular because they have been considered less harmful than regular cigarettes, the recent discovery of severe respiratory illness in otherwise healthy young people as a deadly complication of vaping has raised alarm throughout the US.

While the Commonwealth of Virginia has taken action to combat these issues, including efforts to control the supply of opioids and increase the age to purchase all tobacco products to 21, significant challenges still exist. Complementary strategies, including well-funded, sustained intervention and education efforts, should be designed to support teens and young adults, many of whom may require specialized care to combat addiction. An e-cigarette tax could be a particularly helpful prevention tool, as research shows taxing tobacco is one of the most effective ways to reduce use. Under current Virginia law, Fairfax County is one of two counties that have authority to levy a tax on traditional cigarettes, though it is capped at the state rate of \$0.30 per pack – that cap should be eliminated and the authority should be expanded to include e-cigarettes, which could then be utilized to strengthen the deterrent for using both cigarettes and e-cigarettes. *(Updates and reaffirms previous position.)*

Land Use

Proffers

Local authority to accept cash and in-kind proffers from developers must be preserved. 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 restricted developers' options to proffer an array of items to satisfy community concerns about a particular development by prohibiting localities from accepting proffers outside the bounds of the new requirements, even if developers offered them voluntarily. The 2016 law also hindered a locality's ability to work cooperatively with a developer because of additional legal penalties if a locality "suggested" 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, there was a substantial decline in residential applications in non-exempt areas. The negative statewide impacts of the 2016 changes led the 2019 GA to enact substantial alterations to some of the most onerous aspects of the law, eliminating the potential legal liability for discussions between localities and developers and allowing localities to accept voluntary proffers from developers for a wide range of items. It will take time to assess the full impact of the 2019 changes, and to determine whether additional legislative changes are needed; however, the GA must avoid further restrictions on local land use authority, and proposals for replacing proffer commitments with development impact fees must be at the option of each locality. *(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.

The authority of local governments to determine the placement, construction, and modification of wireless telecommunications facilities, subject to certain restrictions, has long been established law. Regrettably, in 2018 the Federal Communications Commission (FCC) substantially reduced that local authority, imposing new restrictions on localities' ability to regulate small cell facilities. Unfortunately, in recent years the GA has also increasingly moved in the direction of restricting local land use authority over wireless telecommunications facilities, without requiring any expansion of service in return. In light of the FCC's 2018 ruling, any further action to overlay additional state restrictions on local land use decisions may create a confusing patchwork of regulations, and potentially eliminate the few remaining opportunities for community involvement in decisions about these facilities. The County strongly supports restoration of its land use authority to determine the appropriate location of wireless telecommunications facilities and balance the need for wireless service with the community's interest in protecting the character of neighborhoods. The County also supports restoration of its independent authority to set reasonable fees for wireless facility permits and to set fair compensation for access to its rights-of-way. *(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 81,500 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) 30 years ago, continued advancement is needed to ensure the protections offered by the ADA are strengthened. **Affordable, accessible transit is more important than ever as people with disabilities and older adults seek to return to work and other daily activities during COVID-19.** Additional affordable, accessible, integrated housing and transportation options, as well as support for Universal Design initiatives, allow 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

Support legislation to address gun violence in Virginia through common sense gun safety measures that will help ensure a safe and resilient community.

There have been numerous mass shootings across the United States, including at Virginia Tech in 2007 and more recently in Virginia Beach. In 2018, more than 39,000 Americans (including 1,038 Virginians) died as a result of gun violence, and in Virginia, more people were killed due to gun violence than died in car accidents. To address this critical issue, the 2020 GA passed substantial legislation to address gun violence, including requiring universal background checks for any firearm sale, allowing for “extreme risk protective orders,” banning bump stocks, limiting child access to firearms, restoring Virginia’s “one-gun-a month” law, and allowing localities to prohibit the possession or carrying of firearms, ammunition, or components in public facilities.

Fairfax County supports building on that success through legislation including:

- A ban on assault weapons, high-capacity magazines, and armor piercing ammunition; and,
- Authority for localities to ban the possession of pneumatic guns on school grounds, with an exemption for school-sponsored activities (pneumatic guns use pump action or carbon dioxide gas cartridges to fire explosives, often strongly resemble firearms, and can cause serious injury or death). *(Updates and 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 2020, the County only received approximately \$65.2 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.)*