

## **Preliminary Draft 2022 Fairfax County Legislative Program**

### **INDEX**

#### **PRIORITIES**

1.	Funding Core Services	K-12 Funding	2
2.	Funding Core Services	Regional Transportation Funding	3
3.	Funding Core Services	Transportation Funding	4
4.	Funding Core Services	State Budget	6
5.	Governance	Local Authority	7

#### **INITIATIVES/ACTION STATEMENTS**

General Government	Electric Vehicles and Infrastructure	9
<b>General Government</b>	<b>Virtual Net Metering for Local Governments</b>	9

#### **POSITION STATEMENTS**

Environment	Global Climate Change/Environmental Sustainability Initiatives	10
	Land Conservation	11
Funding	Courts	11
	Economic Development and Diversification	12
	Jails	13
	Libraries	14
	Water Quality Funding	14
General Laws	Elections	14
	Paid Family and Medical Leave	15
Health	Alternative On-Site Sewage Systems	15
	Lyme Disease	16
Human Services	Affordable Housing and Homelessness Prevention	16
	Behavioral Health, Public Safety, and the Criminal Justice System	17
	Substance Use Disorder	18
Land Use	Proffers	19
	Wireless Telecommunications Facilities	19
Public Safety	Accessibility	19
	Dangerous Weapons	20
Taxation	Communications Sales and Use Tax	20
Transportation	Safety and Coordination	21
	Secondary Road Devolution	21

#### **FACT SHEETS**

(To be added at a future Committee meeting)

**(Note: New language added after October 26, 2021, is highlighted.)**

## **DRAFT 2022 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 to maintain essential services.** This poses a particular threat to economic development efforts when coupled with the impact of the recent recession and unprecedented COVID-19 global pandemic on local revenues, threatening to destroy the very attributes that draw and retain businesses. Without solutions that provide ongoing 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 will always be a vital relationship. It is critically important that Virginia continue to invest the resources necessary to educate its citizens at all levels, ensure the rule of law and public health, protect its natural resources, provide for the basic needs of the less fortunate, and build a sound infrastructure. The critical state-local funding partnership must continue to be restored so that the Commonwealth can emerge from the current 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 and appropriately meet its Constitutional responsibility to adequately fund K-12 education. Unfortunately, the Commonwealth continues to allow the gap between state funding and the actual costs of providing a high-quality education, particularly in high cost-of-living jurisdictions like Fairfax County, to expand. This growing imbalance was highlighted in particularly stark terms in 2021.**

Virginia's state per pupil funding consistently ranks among the lowest compared to other states, a discrepancy that has become increasingly untenable at a time when a global pandemic has placed unprecedented challenges on public education. While local revenues were negatively impacted by the COVID-19 pandemic, increased pressures were placed on localities and school divisions to continue to deliver high-quality services, including public education, under unprecedented conditions with limited state support. However, it was the enactment of amendments to the 2020-2022 biennium budget by the 2021 **General Assembly** (GA) that cast a particularly bright light on the size of the current imbalance when it became clear that the state's portion of salary increases for K-12 staff in Fairfax County Public Schools (FCPS) would have been **over \$22 million**, while the local cost would have been **over \$100 million**. That exceedingly high local cost is due in part to the Local Composite Index (LCI), which, while purportedly designed to measure local "ability to pay," fails to account for the impact of the high cost of living in areas like Northern Virginia. The local cost is driven even higher because the state only funds positions recognized in the Standards of Quality (SOQ) and only provides funds based on a weighted statewide average salary – leaving localities to pay the full costs of any positions exceeding state requirements and the full cost of any portion of salary beyond those weighted averages.

The 2021 GA did take a promising step towards progress by directing the Joint Legislative Audit and Review Commission (JLARC) to study the true cost of education in the Commonwealth, including an accurate assessment of the costs to implement the SOQ. This long overdue update to the last JLARC education funding study, conducted in 2002, is an extraordinary acknowledgement by the GA that the SOQ formula does not accurately reflect the obligations of localities and school divisions seeking to deliver a high-quality education to Virginia's children. Although this study is an important first step, JLARC must engage with localities throughout the study process to ensure that the final report fairly and accurately measures the true total costs incurred at the local level to provide a 21st Century education, fulfilling the GA's goal of striking "a fair balance of costs between the state and the localities."

The Boards strongly support:

- Addressing education funding shortfalls, including those due to reduced student population counts (or Average Daily Membership), resulting from the ongoing effects of the COVID-19 pandemic;
- Fully funding the biennial re-benchmark of Direct Aid to Public Education;
- Eliminating 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;
- Continuing to build on the progress made by the 2021 GA toward restoring 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;
- Increasing state funding support for school divisions with high numbers or concentrations of English learners (approximately 30 percent higher costs than general education), students living in

economically disadvantaged households (approximately 10 percent higher costs than general education), and students receiving special education and mental health services (approximately 100 percent higher costs than general education);

- Realistic and appropriately funded SOQ consistent with actual local staffing and costs and flexible enough to allow for variations in local staffing needs and capacity;
- Rejecting the use of weighted averages and other estimators designed to reduce the state's share of public education costs when calculating average teacher salaries and other education costs;
- Recognizing 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,
- Increasing 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.) Regional Transportation Funding**

**The Commonwealth must fully restore funding to the Northern Virginia Transportation Authority (NVRTA) 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 GA has successfully restored approximately \$63.5 million of the \$102 million in annual regional transportation funding diverted to the Washington Metropolitan Area Transit Authority (WMATA) by the 2018 GA. The 2018 action, which also included governance reforms at WMATA to enhance the safety, security, and efficiency of the system and its riders, addressed WMATA funding needs at the expense of other critical projects throughout Northern Virginia. While the region continues to try to address the ongoing effects of the funding diversion, project costs continue to increase significantly. 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.

Further, it is essential that the regional and local transportation funding created by HB 2313 (2013), HB 1414/SB 890 (2020), and other legislation be maintained as originally intended. Major transportation improvements that provide benefits beyond Northern Virginia, such as WMATA state of good repair, the I-66 Express Lanes, and projects that create additional capacity across the Potomac River, should primarily be funded by the Commonwealth and the federal government. Diverting existing Northern Virginia transportation revenues for such projects (as was done for WMATA in 2018, to the detriment of numerous other projects) will significantly disrupt regional transportation planning and long-standing regional priorities, and must not be repeated. *(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 to significantly address the transportation needs of Northern Virginia and the Commonwealth. This is helping to provide necessary funding for new projects, state road maintenance (including funding for improved repaving, snow removal, mowing in the right-of-way, and stormwater management), and continued state assistance for local and regional transit systems (including the Fairfax Connector, the Virginia Railway Express, and WMATA). 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 that will need to be addressed. Additionally, the federal government has adopted various relief packages over the past two years and continues to work on substantial infrastructure legislation. It is essential that the Commonwealth prioritize funding for Virginia's infrastructure needs when possible. Further, as federal funding is made available for transportation purposes, it is essential that the Commonwealth work with the County and other localities in determining which programs and projects will benefit from such revenues.

- **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, the MERIT process for prioritizing transit capital and operating funding, and other funding programs and processes created over the past several years. New transportation revenues implemented since 2013 should continue to be used only for transportation purposes, as originally intended.
- The application processes for funding administered by the Commonwealth continue to increase in complexity. While the Smart Scale process uses objective criteria, it remains complex, time consuming, and expensive for applicants and the Commonwealth. At the same time, applications for other state programs, including Revenue Sharing and federal Transportation Alternative Set-Aside funds administered by the Commonwealth, are becoming more cumbersome. This complexity also makes scoring more difficult for the public to understand. These programs should be reviewed for opportunities to simplify or streamline existing processes.
- In recent years, transportation cost estimates have continued to increase dramatically due to high land acquisition, utility relocation, contingency, and other costs, especially in Northern Virginia and other urban areas – most of which are beyond the County's control. This is creating a significant impact on program applications and putting these projects at an inherent disadvantage, as the Smart Scale process is based on an analysis that considers various factors relative to the cost of the project. This issue is exacerbated by continuing changes in project cost estimates – in the most recent round of Smart Scale, total costs for projects submitted by the County increased by approximately 40 percent (\$500 million) from the original estimates provided by the Virginia Department of Transportation (VDOT) in summer 2020, and the final costs incorporated into the analysis following the Office of Intermodal Planning and Investment (OIPI) validation process in December 2020. It is essential that state estimates by project managers and Smart Scale reviewers are consistent, and that project cost revisions are undertaken uniformly.
- In Northern Virginia, 65 percent of high-volume secondary roads and 52 percent of low-volume secondary roads are in Fair or Better condition. While the condition of the region's roadways has improved substantially in the past five years, more must be done as these roads remain below the statewide targets of 82 percent for high-volume and 60 percent for low-volume secondary roads. Millions of people drive these roads every day, and the deteriorated pavement will only worsen unless additional funding is identified. The lack of attention will also result in even higher funding needs in the future. Instead, allocations should be increased in the next biennium budget.
- The County continues to strongly support 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. The 2020-2022 biennium budget granted flexibility to address the decrease in revenues resulting from the COVID-19 pandemic, allowing funding allocated to Revenue Sharing projects to be diverted to other ongoing projects as long as that funding is returned as needed to maintain the current project schedules, or by FY 2024 at the latest. If additional state funding becomes available, the Commonwealth should utilize it to restore the previous revenue sharing schedule. Further, funding that was originally requested for FY 2021-2022 was instead allocated in FY 2025-2026 – as additional transportation funding becomes available, the Commonwealth should seek to return to its original program allocations for Revenue Sharing, rather than the delayed schedule necessitated by the pandemic.

- Fairfax County is in the process of creating the ActiveFairfax Transportation Plan, which will update and combine the Bicycle Master Plan and the Countywide Trails Plan into one and establish an implementation plan for safe, convenient, and enjoyable streets and trails in the County. Interest in this plan is substantial – in addition to \$219 million for approximately 150 bicycle and pedestrian projects included in the County's Transportation Priorities Plan, the County has received hundreds of additional project suggestions. Additional state resources to improve access to the transportation network for all modes, including funding for bicycle and pedestrian facilities, are critical, as active transportation infrastructure becomes more vital. As the County moves forward with this essential plan, state investments, including a reasonable vegetation maintenance schedule that does not rely on local funding to maintain safety (including clear zone and sight distance requirements), to promote economic development and livable neighborhoods are vital, as regular road maintenance is a Commonwealth responsibility.
- The County is developing a plan to transition public transportation fleets from clean diesel buses to electric buses. This is a substantial undertaking due to the size of the Fairfax Connector fleet and the complexity and cost of transitioning these buses and related infrastructure, but is also an essential component of the County's environmental stewardship efforts. This is an area where the Commonwealth and localities should work in partnership, particularly in ensuring adequate state resources for localities to invest in electric vehicles.
- **Transportation and Economic Success** – The Commonwealth should provide funding assistance for the transportation needs of major activity centers to lay the groundwork for continued economic recovery. Fairfax County contains several major activity centers that generate public benefit for the County and the Commonwealth. These centers, such as Tysons, Springfield, Seven Corners, Centreville, Reston, and the Richmond Highway Corridor must be sustainable, transit-oriented, and walkable communities to remain successful and accommodate predicted growth. These efforts are 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 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 region as it works to return to its full economic vibrancy. 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.

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**

**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 adequate state funding to successfully provide those services, and reciprocal accountability for successes and failures, ensuring both the state and localities accept responsibility commensurate with their respective roles.**

The funding challenge that Virginia localities continue to confront is that the Commonwealth never fully satisfies its funding obligations to shared state and local programs and services. As a result, even when the state economy is flourishing and revenues are growing, the gap between what the state should provide for critical services (including K-12, public safety, human services, transportation, and economic development, among others) and what it actually provides is simply too substantial to make up. And because the economic picture is often cyclical, when revenue challenges create a substantial impact, like the recession several years ago or the current global pandemic, the issue is compounded as the state shifts more of the fiscal burden to localities at a time when they can least afford it, allowing the gap to grow ever larger.

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 previous national recession, only a handful of state governments cut more funds to local governments and school districts than Virginia did. Though the Commonwealth's budget shortfall was the 20th largest in the nation, Virginia's cut to funding for localities was the third highest among states. Essentially, Virginia relied on cuts to localities and school divisions to a greater extent than most other states. It is vital that the state avoid this approach to the current pandemic-related economic challenges.

In addition to increasing funding for the County priorities of K-12 and Transportation, the 2022 GA should:

- Fully restore Cost of Competing Adjustment (COCA) funding for K-12 support positions in the 2022-2024 biennium budget (the 2021 GA took an important step by including additional appropriations to restore funding for the COCA for support positions; however, the 2021 GA also included a required ratio for K-12 support staff that will increase local costs for implementation, erasing some of those gains.) (*see also page 2*).
- Fully restore regional transportation revenues 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 \$85.7 million in additional funding over the past twelve years.
- Provide the necessary resources to allow Virginians experiencing the impacts of the COVID-19 pandemic to recover, including assistance for affordable housing (*see also page 16*).
- Support full, uninterrupted 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*).
- Support increased state resources for early childhood education programs, including the Virginia Preschool Initiative (VPI), to allow localities to expand these critical programs. Research has increasingly shown the importance of high-quality early childhood education programs to children's cognitive and social-emotional development and their school success (*see also Human Services Issue Paper*).
- 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 due to the substantial injection of federal funds, including the most recent appropriation of \$4.3 billion from the American Rescue Plan Act (ARPA), the state is in a considerably stronger financial position than was expected at this time last year. Despite the ongoing global pandemic, current projections indicate the state has experienced substantial revenue growth, with overall total General Fund (GF) revenues increasing by 14.4 percent in FY 2021, resulting in a record state surplus of \$2.6 billion in FY 2021. However, localities continue to face significant challenges, at the same time that needs have increased dramatically. The state's extensive revenue surplus and receipt of significant federal funding provide an extraordinary opportunity to address long-standing challenges associated with the Commonwealth's sustained underfunding of shared state and local critical core services. The state must find ways to increase investments in K-12, human services, and other shared state and local programs after years of state 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 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 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. As local governments continue to address the affordable housing crisis, the lessons of the 2016 proffer legislation – that the GA must avoid restrictions on local land use authority and one size fits all mandates that eliminate local flexibility – have never been more important. Instead, the GA should increase state funding to the Virginia Housing Trust Fund, providing local governments with resources to address affordability issues equitably and effectively, without exacerbating existing challenges through the imposition of additional state mandates.

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. The state should also work cooperatively with localities and local communities affected by the siting of state facilities, including those located on state-owned property. At a minimum, the state should conduct a public meeting to receive community feedback on a proposed facility before making final siting and design decisions. 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, because Virginia is a Dillon Rule state, local governments are significantly restricted in their authority, which impedes their ability 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. Further, the state should adopt the International Green Construction Code (IgCC), and adopt the International Energy Conservation Code (IECC) and energy provisions of the International residential Code (IRC) without weakening amendments. Additionally, the state should provide localities with increased flexibility to explore initiatives that promote clean air, energy efficiency, conservation, new investment in green construction, tree preservation, reduced waste, recycling management, and other critical measures could spur the development of innovative approaches that address the impact of global climate change on health and the environment, and increase sustainability throughout the Commonwealth. Localities must have authority to increase their own minimum tree canopy or tree coverage percentages to assist in achieving environmental goals, increasing flood resiliency, and meeting water quality permit requirements. Additionally, giving localities the option to require retailers to implement a shopping cart control program would provide a meaningful way to prevent shopping carts from polluting local streams and waterways. In response to a Fairfax County legislative initiative, the 2021 GA enacted legislation granting local governments the authority to establish green banks, a groundbreaking effort generating innovative possibilities for Virginia. The 2021 GA also created a work group to improve tree preservation in urban areas. These important steps complement the considerable progress Fairfax County has already made through existing local initiatives, which could be significantly bolstered through enhanced local authority in this vital area.

The state should take additional steps to 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 “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.)*

## **Initiatives/Action Statements**

### **General Government – Electric Vehicles and Infrastructure**

Initiate legislation to allow the Fairfax County Park Authority (FCPA) to resell electricity through electric vehicle (EV) charging stations. Fairfax County has long been committed to environmental sustainability and addressing the impacts of global climate change, including conserving limited natural resources, and protecting the environment. Initiatives to assist residents and the County in transitioning to EVs will help reduce both direct emissions (those emitted from the vehicle tailpipe) and life cycle emissions (those related to fuel and vehicle production, processing, distribution, use, and recycling/disposal). The GA has taken several actions in support of EVs and EV infrastructure in recent years, including enacting several bills allowing certain entities to provide retail fee-based EV charging service without additional regulations, assuming certain conditions are met. This list has expanded over time to include localities, school systems, and state agencies. The FCPA does not fall within any of these authorized groups – as an authority, it does not fall under the definition of a locality under the Code of Virginia. As a result, the FCPA cannot provide retail fee-based EV charging service to its visitors, customers, and staff.

### **General Government – Virtual Net Metering for Local Governments**

Initiate legislation to reduce barriers for localities seeking to participate in virtual net metering through the state's existing municipal net metering pilot program. Net metering programs are of particular interest to local governments because they allow eligible customers to offset their power consumption by receiving credit for renewable power returned to the energy grid, helping reduce fossil fuel emissions. Currently, the Code of Virginia only allows participation in this program under restrictive conditions, precluding participation by localities that do not own and operate their own renewable energy generation facilities, or those that seek to use facilities installed and operated pursuant to power purchase agreements (PPAs) with third-party vendors. Other impediments include system size limits that are inconsistent with the state's net metering provisions, a very limited bill credit, and the obligation to bear undefined administrative costs. Fairfax County recently adopted a declaration committing to become carbon neutral by 2040, while significantly reducing operational greenhouse gas emissions in the building and energy, transportation, and solid waste sectors, and virtual net metering is a critical part of that effort.

## 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, the 2021 update to the Operational Energy Strategy, Comprehensive Plan, and the Carbon Neutral Counties Declaration. Adopted in July 2021, the Carbon Neutral Counties Declaration commits Fairfax County Government to be carbon neutral by 2040.

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; ultimately, the County supports eliminating PPA caps altogether.
- Shared Solar – Shared solar programs provide residents and businesses the opportunity to participate in the renewable energy market by purchasing solar-generated electricity and receiving renewable energy credits associated with their subscription to a shared solar facility. Though the GA has authorized two shared solar programs, existing provisions present obstacles to participation. The County supports legislative action that expands the availability of shared solar programs by increasing or eliminating program caps and establishing customer safeguards to ensure community members can take advantage of such programs.
- Demand – Legislation requiring utilities to first reduce demand for electricity through energy efficiency, thereby decreasing the need for new fossil-fueled generation resources (i.e., an efficiency first requirement) is essential.
- State Tax Incentives and Rebates – State income tax incentives and rebates for businesses or residents should defray a portion of the cost of new construction, building improvements, or the transition to more efficient or alternative fuel vehicles, like EVs (including new and used options), which save energy and mitigate adverse environmental impacts. Though the 2021 GA established an EV rebate program, funding was not provided to implement it – the County supports funding for the program, as well as flexibility in determining rebate eligibility in high cost-of-living areas like Northern Virginia
- 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.
- Building Code – Modernize state building codes (by adopting the IgCC and the full provisions of the IECC) and provide localities more flexibility to increase energy efficiency and improve resilience to climate change impacts.

- Infrastructure – Incentivize and reduce barriers to the installation of EV charging infrastructure to expand EV infrastructure where practicable. *(Updates and reaffirms previous position.) (The 2021 GA directed the State Corporation Commission to submit a report to the GA by May 1, 2022, that presents policy recommendations to accelerate statewide transportation electrification.)*

### **Land Conservation**

**Support the conservation of open space, which protects vital ecological resources and the environment, provides health and 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, action to discourage the sale of invasive species, and increased funding for the development and rehabilitation of park infrastructure, including trails, shelters, fields, and other facilities that promote physical and mental health. Increased education and early notification about environmentally sensitive land (including Resource Protection Areas) to property owners or purchasers can help protect water quality, mitigate climate change, support greenhouse gas reduction, prevent erosion, and perform other important biological and ecological functions. In addition to other benefits, the preservation of open space contributes to watershed and flood protection, an important issue as the state works to reduce nutrient pollution in the Chesapeake Bay, and a key part of Resilient Fairfax (the County's Climate Adaptation and Resilience Plan). *(Updates and reaffirms previous position.) (The 2021 GA directed the Secretaries of Conservation and Recreation and Agriculture and Consumer Services to study the sale and use of invasive plant species. A report is due to the Governor and GA by the first day of the 2022 Regular Session.)*

### ***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 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 over \$95.7 million for additional personnel and salary supplements for state positions (state funding formulas often fail to account for the needs of large localities in particular). The County is also one of only eleven jurisdictions that subsidize public defenders' offices. In the last two years, the GA has made progress on these issues, appropriating \$8.4 million statewide for additional public defender and related positions, as well as \$9 million for additional district court clerk positions. However, years of state underfunding mean that substantial gaps still remain, as the County only received four new public defender positions as a result of this increased funding, and the Supreme Court's own District Court Staffing Model shows that the County's General District Court (GDC) still has a deficit of 11 positions while JDRDC has a deficit of more than 10 positions. Moving forward, when reevaluating the need for judgeships and state funding for each court, the GA should consider the quantity of filed cases and qualitative factors (including interpreters, increases in population and commercial development, and cost of living).

In a positive development, the 2021 GA directed a study in the budget, based on a County legislative initiative, to address the state's outdated funding formula for Commonwealth's Attorneys' offices. The current formula uses an outdated approach focused on felony indictments and sentencing events in Circuit

Court, which is antithetical to the goal of increasing diversion programs and utilizing specialty dockets (such as the ones used in Fairfax courts for mental health and veterans), which are aimed at keeping people out of the criminal justice system or keeping them from felony sentencing consequences. While diversion programs and specialty dockets require significant prosecutorial resources, a Commonwealth's Attorney's office does not receive state funding for that work because the formula does not account for it – the current formula essentially discourages such efforts. In addition to substantially increasing state funding for the judicial system overall, the establishment of a new funding formula would reflect the goal of providing support for efforts to create a more equitable criminal justice system, improving outcomes for the entire community – it is essential that the state work with local governments throughout the study process to ensure a thorough, comprehensive examination of this critical issue.

Further, the state must begin to allocate additional resources to Commonwealth's Attorney's offices prosecuting misdemeanor cases. Commonwealth's Attorneys are Constitutional officers, and funding those offices is primarily a state responsibility – the state should not continue to rely on localities to supplement critical state functions (potentially creating situations where police officers are essentially prosecuting their own misdemeanor cases).

Although the GA is making some progress on addressing the underfunding of the criminal justice system, cooperation with localities before any new mandates are considered is essential. For example, the passage of legislation in 2021 to streamline the process for expungements and record sealings of some criminal records, including those for certain low-level marijuana-related offenses, is a worthy policy goal the County supports. However, the logistics and costs of doing such work in a timely, expeditious manner may impose significant costs and workload issues on localities (including IT investments and manual redaction of paper files, among others) that can be alleviated through appropriate consultation throughout the legislative process. *(Updates and reaffirms previous position. See also the Behavioral Health, Public Safety, and the Criminal Justice System position on page 17.)*

### **Economic Development and Diversification**

#### **Adapt to a changing economic landscape, with a focus on supporting areas of economic strength and high-growth sectors.**

The Fairfax County economy continues to build upon the military and federal government base, while also striving to expand economic diversification. The effects of previous budget cuts and sequestration have had an enduring negative impact on County and state revenues. This has also exposed the need to nurture high value-add, export-based, competitive sectors to achieve potential.

Fairfax County is a leader in innovation and technology, but growth rates in emerging industrial clusters at the regional level lag national trends. Remaining at the forefront of an increasingly global economy requires harnessing those strengths and enhancing investment in economic diversification, including support for commercializing academic research, building upon private sector technological and research investments, supporting local entrepreneurs, and cultivating innovation training programs and a talent pipeline.

The County supports varied strategies to encourage future growth, including state investments and efforts to:

- Explore and analyze opportunities for the deployment of innovative technologies that enable **business** growth across all sectors, such as blockchain, **new electronic payment methods, electronic wallets, cryptocurrency**, artificial intelligence, robotics, automation, and others;
- Provide the business infrastructure and funding for endeavors in smart community technology, particularly in mobility technology, sustainability, urban tech, and data analytics;
- Fully fund the Commonwealth's Development Opportunity Fund and one-time investments in unique opportunities, as well as provide additional resources for the Virginia Jobs Investment Program (VJIP)'s Small Business New Jobs and Workforce Retraining initiatives;
- Continue GO Virginia funding with enhanced program structures;
- Protect existing federal facilities within the County and encourage additional federal expansions – especially leveraging opportunities to augment facilities at Fort Belvoir;

- Encourage regional and state collaboration on initiatives with an economic benefit to the County;
- Provide early-stage firms with the technical assistance and resources to scale, including capital investment for high potential and growing firms; and,
- 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 research institutions, incubators, start-ups, and established businesses.

The pandemic has had significant impacts across certain industries, with hospitality, food service, and small retailers most heavily impacted and facing the longest trajectory for recovery. Job losses due to the pandemic and the ensuing COVID recession have disproportionately impacted women, low-income, and minority workers. As the economy recovers, some industries will be permanently altered. These shifts and workplace changes may require that job seekers acquire new or different in-demand skills. Additionally, minority and women-owned businesses are historically less likely to access financing, including angel and venture capital investment, or participate in public procurement opportunities, but they are key to future economic development efforts. The County and Commonwealth must continue to address recovery that supports a more just and resilient economy. This incorporates shorter-term initiatives for the most impacted sectors, businesses and communities, and a sustained focus on addressing structural, racial, and gender disparities in business ownership and economic mobility.

The County supports a multifaceted approach, including efforts that:

- Sustain pandemic-impacted sectors, workers and communities, and implement economic recovery initiatives targeted to the most impacted industries and communities;
- Support displaced, transitioning, and underemployed workers to obtain in-demand skills and connect with the technology industry, while ensuring such opportunities are brought to persons with low-income and communities of color;
- Ensure a workforce equipped for emerging, high-growth industries by providing affordable and accessible critical learning opportunities for all ages and stages of development, from high-quality early childhood education programs to coordinated career and technical education training in K-12 (such as dual enrollment and work-based learning opportunities), and noncredit workforce training programs in higher education, including community college settings;
- Preserve and strengthen community assets (i.e., schools, transit, transportation, health care systems, public spaces, and affordable housing) to encourage organizations to locate and expand operations in the County and to attract private investment;
- Develop local neighborhood job and entrepreneurship centers, as well as vibrant commercial districts; and,
- Support structures to allow disadvantaged businesses to more fully participate in local procurement and business development opportunities. *(Updates and reaffirms previous position.)*

### **Jails**

**The Commonwealth should adequately compensate localities at a level 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 utterly inadequate and represent an underfunded mandate on localities, as the actual daily cost of housing an inmate is approximately \$359. The County has made significant efforts in recent years to reduce the jail population, including through the Diversion First initiative (established in 2016), resulting in a decrease of 57 percent since FY 2008; however, state funding remains inadequate. In FY 2020, the state provided \$15.9 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. In addition, in FY 2021, Fairfax County provided approximately \$2.2 million to support behavioral healthcare at the ADC; while the state provided only approximately \$115,000. *(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 10 weeks in FY 2021, while demand for digital content dramatically increased. More than 1.1 million in-person visits were made to FCPL in FY 2021, with more than 10 million items borrowed. The library continued to expand its digital collection, enhancing its online presence while it provided express in-person service in accordance with CDC guidelines for masking and social distancing. The library also continued to offer contactless curbside service for more than 200,000 customers. While digital materials (eMaterials) became a critical lifeline to many whose lives were upended by the pandemic, public libraries often pay prices substantially higher than what a consumer would pay for the same digital item (in contrast to the standard for purchasing traditional books). Further, some publishing companies refuse outright to sell digital materials to libraries. Barriers to libraries acquiring eMaterials under reasonable terms and costs should be reduced. Although the 2018, 2019, and 2020 GAs provided some additional funding, annual state aid to libraries has declined by more than \$3 million, or approximately 14 percent, since FY 2002. At a minimum, the state should avoid further reductions in aid. *(Updates and reaffirms previous position.)*

### Water Quality Funding

**Support budget action at the 2022 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 2022, the GA provided \$185 million in funding). For FY 2019, the County received approximately \$4 million in SLAF funds for stream restoration projects along Accotink Creek and Cameron 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 continuing to facilitate voting by mail, providing for extended polling hours statewide, and expanding the use of drop boxes. Adequate state funding for election administration, voting equipment, and systems modernization and security is essential to this effort. Also, support efforts to provide expanded flexibility during emergencies, allowing local election officials to prevent any potential disruptions to election administration.**

The 2021 GA took a major step towards increasing access to voting by passing legislation to codify practices implemented during the COVID-19 pandemic, including the establishment of drop boxes for the return of absentee ballots. 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. Although the 2021 GA's \$16.7 million investment to replace the Virginia Election and Registration Information System (VERIS) is a step in the right direction, local input in the design and procurement of the new system is critical to ensuring its success. The unprecedented conditions surrounding the November 2020 election, which included a high-turnout Presidential election conducted amid a global pandemic, demonstrated the criticality of increasing flexibility to ensure that this fundamental element of the democratic process can proceed smoothly, even in unforeseen circumstances. *(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. Fourteen states and many cities have required mandatory paid sick days, while nine 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. A recent GA study included a number of recommendations for the Commonwealth to consider in establishing such a program in Virginia. 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. *(Updates and 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. *(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 788 confirmed and 411 probable cases reported to the Centers for Disease Control and Prevention in 2019. *(Updates and reaffirms previous position.)*

## ***Human Services***

### **Affordable Housing and Homelessness Prevention**

**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, and to mitigate evictions resulting from the economic impacts of the COVID-19 pandemic.**

Affordable housing is critically important for all Virginians, but obtaining it is particularly challenging 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 15,000 net new units affordable to households earning 60 percent of area median income and below will be needed by the year 2034. Development and preservation of affordable housing is most critical for small families, individuals with disabilities, and seniors.

The devastating economic effect of COVID-19 has exacerbated this looming crisis, placing many individuals and families at risk of eviction in Fairfax County, including communities of color who are disproportionately impacted by the pandemic. Prior to the pandemic, 45 percent of Fairfax County renters were already cost-burdened and spent at least 30 percent of their household income on rent. Cost-burdened renters who have lost jobs or had their incomes reduced as a result of the ongoing economic upheaval face greater barriers in paying for housing, making them more vulnerable to evictions. While there has been some short-term rental assistance funding and moratoriums to prevent evictions, the pandemic's financial impact will have long-term and pervasive consequences. Therefore, new substantial and sustained federal and state investments in programs and resources that enable renters to keep their housing is essential in preventing an eviction crisis and a resulting surge in homelessness in the community. Funding to mitigate the impacts of the pandemic on affordable housing must be in addition to the sizable resources already needed to address the existing affordable housing crisis in Northern Virginia.

The Commonwealth should:

- Support substantially increasing funding for the Virginia Housing Trust Fund, as well as increasing the funding cap that each development can request. This is essential to create and preserve affordable housing and reduce homelessness in Northern Virginia, where housing affordability poses substantial challenges for the economic competitiveness of the region, creating potentially negative impacts to the Commonwealth overall.
- Expand resources available to ensure legal assistance and aid to tenants facing eviction, including outreach and prevention services for potential beneficiaries.
- Expand the pool of resources available for down payment assistance, as down payment costs are a major barrier to homeownership for low- and moderate-income earners.
- Enhance and create more state-funded housing tax credits and 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.

- Consider changes to state law to protect residents of mobile home parks, including more assistance with relocations. *(Updates and reaffirms previous position.) (Discussions with stakeholders about an appropriate funding increase for the Virginia Housing Trust Fund in FY 2023 are ongoing and more detail will be added to this item as consensus is reached on that request.)*

### **Behavioral 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 people who come into contact with the criminal justice system for non-violent offenses to treatment.**

Law enforcement officers have often been the first responders when an individual is in a mental health crisis; the Fairfax County Police Department responded to nearly 10,000 mental health-related calls in calendar year 2020. Such calls, at times, can lead to incarceration for non-violent offenses precluding individuals from receiving appropriate treatment for behavioral health issues. Fairfax County identifies various points at which individuals may be diverted from potential arrest and incarceration to community-based services. Efforts are also underway to create co-responder teams, comprised of both behavioral health and law enforcement professionals, to enhance the County's response to behavioral health crisis calls.

People with mental illness, substance use disorders, and/or developmental disabilities receive needed treatment services and supports, avoiding the cycle of criminal justice involvement. Additionally, it is significantly less expensive to provide services in community-based settings than it is to deliver behavioral health services in a detention facility.

Fairfax County continues to use local revenues for Diversion First, a Countywide initiative to provide alternatives to incarceration for people with behavioral health issues who come into contact with the criminal justice system. The program has already had a significant impact – since 2016, more than 2,400 people have been diverted from potential arrest. Additionally, there has been a 28 percent decrease in the behavioral health population with misdemeanor charges from 2015 to 2020. Over that same period, the number of inmates referred to Fairfax-Falls Church Community Services Board (CSB) jail-based services increased by 21 percent. Though the average daily population has decreased since FY 2008, the medical complexities of inmates has increased, with complex substance use and mental health disorders becoming more common. Successful expansion of Diversion First will depend on adequate state investments in behavioral health services (and accompanying court and public safety resources) to:

- Provide full funding for the Commonwealth's System Transformation, Excellence and Performance in Virginia (STEP-VA) Crisis Services and for Marcus Alert implementation (enacted during the 2020 GA Special Session) *(see also Human Services Issue Paper)*;
- Increase the availability of community-based crisis services and local psychiatric beds for people with mental health issues;
- Provide additional case management resources to expedite the medical clearance process for individuals in need of psychiatric hospitalization;
- Enhance reintegration and discharge planning services for youth and adults at high risk of rapid re-hospitalization or re-offending *(see also Human Services Issue Paper)*;
- Increase funding of mental health services and substance abuse treatment for individuals incarcerated for offenses that make diversion programs unavailable to them;
- 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;
- Support the expansion of specialty courts and dockets;
- Provide Crisis Intervention Team (CIT) and Mental Health First Aid training to law enforcement personnel, dispatchers, Fire and Rescue, jail personnel, and health and human services 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 and substance use disorders by gathering uniform system level data; and,

- Provide adequate funding for forensic discharge planning and post-incarceration services to remove the barriers to community reentry. *(Updates and reaffirms previous position. See also the Courts position on pages 11-12.)*

### **Substance Use Disorder**

**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. 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.**

Across Virginia, the number of fatal overdoses set a new record high, with about 2,300 fatalities in calendar year 2020 – an increase of over 40 percent from 2019. The statewide number of opioid overdose-related deaths continues to exceed the number of deaths due to motor vehicle accidents. In the Fairfax Health District (including Fairfax County and the cities of Fairfax and Falls Church), opioids are the number one cause of unnatural death, with 94 opioid deaths in 2020; all but seven of these fatalities were due to fentanyl. Alarming, hospitals in the Fairfax Health District reported a 35 percent increase in the number of emergency room visits for opioid overdoses (including heroin and non-heroin) in 2020 relative to 2019. The number of such visits in the first half of 2021 is trending higher than the same period in 2020, raising concerns that the upward trend seen in 2020 may continue in 2021. This indicates that the opioid epidemic will continue to profoundly impact Fairfax County, and adequate resources and innovative strategies will be needed now more than ever. The 2021 GA took a helpful step by enacting legislation to establish the Opioid Abatement Authority, which will administer a significant amount of the moneys received from opioid litigation settlements for the purposes of treating, preventing, and reducing opioid use.

Another concerning trend is the widespread use of e-cigarettes, which have been the most used tobacco product among youth since 2014. In 2020, 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 2019 than using any other substances, and lifetime prevalence rates were high across all age groups (13.2 percent of 8th graders, 26.2 percent of 10th graders, and 37.3 percent of 12th graders). Though e-cigarettes became popular because they have been considered less harmful than regular cigarettes, the 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, especially among the youth population. The 2020 GA enacted legislation providing all counties with the authority to tax cigarettes at \$0.40 per pack (previously, Fairfax County was one of two counties authorized to levy a tax on traditional cigarettes, though it was capped at the state rate of \$0.30 per pack). That authority should be expanded to also include 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. Although the 2019 changes were an improvement, a chilling effect remains, making it difficult to ensure that all impacts of development are mitigated. 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. *(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.**

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, to the extent that those fees and compensation are permitted by federal law. *(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 87,000 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) 31 years ago, continued advancement is needed to ensure the protections offered by the ADA are strengthened. Continued access to affordable, accessible transit is more important than ever as people with disabilities and older adults seek to return to work and other daily activities that were limited during the COVID-19 pandemic. Also, increasing the stock of fully accessible units available to renters and buyers at all socio-economic levels is vital in advancing housing equity for persons with disabilities and older adults. 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, preventing unnecessary institutionalization based on disability. *(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 2019, more than 39,700 Americans (including 1,036 Virginians) died as a result of gun violence, and in Virginia, more people were killed due to gun violence than died in car accidents. The 2020 GA was a landmark session, as the 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;
- 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); and,
- Support for community violence intervention programs (in the 2021 Special Session II, the GA provided additional funding for gun violence reduction programs and youth and gang violence intervention efforts, which could potentially support community violence intervention programs). *(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 2021, the County only received approximately \$59.3 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***

### **Safety and Coordination**

**Support legislation that would allow signage related to the requirement that motorists stop for pedestrians in crosswalks at unsignalized intersections on roads where the speed is 35 miles per hour (mph) or less, and at unsignalized crosswalks in front of schools. Also, support increased coordination between localities and the Commonwealth in the process for considering speed limits and street standards. Finally, support adequate maintenance of sidewalks and trails in the County.**

With many multimodal transportation options provided throughout Fairfax County and more concentrated growth, improving multimodal safety and access to transit facilities has become increasingly important. This can be achieved through infrastructure investments, better traffic safety laws, and improved coordination with the Commonwealth. Additional flexibility within VDOT project approval processes and design standards to be responsive to the County's specific needs is vital.

The 2020 GA passed legislation which clarified the responsibilities of both drivers and pedestrians in order to reduce the number of pedestrian injuries and fatalities that occur each year, a long-time County priority. The County supports additional clarification of the law to allow appropriate and clear signage, which is essential to ensuring that motorists are aware of their responsibilities under the law. The 2021 GA passed legislation that allowed localities to reduce speed limits in a residence or business district to less than 25 mph (but not less than 15 mph). VDOT has determined that the legislation does not apply to streets that are in the state highway system, which would exclude the majority of roads within the County. Additionally, throughout the pandemic Northern Virginia has experienced an increase in vehicles with modified, loud exhaust systems, which present enforcement challenges for state and local agencies. Fairfax County supports state action to better regulate the sale and use of such exhaust systems in the Commonwealth.

Finally, as the County works to improve access to safe, convenient, and enjoyable streets and trails in the County through the Active Fairfax Plan, it is essential that our existing and future sidewalks and trails be maintained, especially as the use of active transportation infrastructure continues to increase. *(Updates and reaffirms previous position.)*

### **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.)*