

2008 LEGISLATIVE PROGRAM

PRIORITIES, POSITIONS, AND PROPOSALS

OTHER LEGISLATIVE ISSUES

PRIORITIES

(in alphabetical order)

1. **Conservation** – Open space conservation and tree preservation
2. **Education** – Funding of state and federal mandates for K-12 education
3. **Governance** – Reversal of the strict interpretation of the “Dillon Rule”
4. **Infrastructure** – Funding of critical local transportation and education infrastructure needs
5. **Land use** – Protection of local land use authority
6. **Tax structure** – Modernization of state and local tax structures
7. **Taxation authority** – Equal taxing authority for counties, cities and towns

1. CONSERVATION

a. LAND CONSERVATION. Support establishment of **annual dedicated funding** of \$50 million, or two (2) percent of the General Fund budget, for natural resources without jeopardizing funding education and transportation, to include acquisition of land and conservation easements to be used as open space, such as natural areas, watersheds, farmland, forests, parks, and historic sites. (continued from 2000)

***Rationale:** Virginia is the **only** state on the East Coast without dedicated funding for acquisition of open space. In 2004-2006, Virginia budgeted \$2.5 million annually for natural resources and added another \$10 million in 2005. Governor Kaine announced in June 2006 that he would like Virginia to conserve 400,000 acres of Virginia land as open space.*

b. TREE PRESERVATION. Support Fairfax County’s initiative for legislation enabling urbanized jurisdictions to require preservation of trees on development sites to meet tree canopy requirements in proportion to pre-development canopy, to permit increasing the amount of tree canopy required ten (10) years after development on residential sites, and to allow the designation of native species of new trees that could earn tree canopy credits. (2003)

***Rationale:** The goal is the preservation, rather than replacement, of trees during the development process and a specified degree of tree canopy on site.*

2. EDUCATION

FUNDING FOR K-12 MANDATES. Support legislation requiring state funding to reflect realistic costs for meeting state mandates such as the Standards of Quality (SOQ), the Standards of Learning (SOL), and the Standards for Accreditation (SOA) as well as federal mandates such as the Individuals with Disabilities Education Act (IDEA) and the No Child Left Behind (NCLB) Act. (2005)

Rationale: The Commonwealth budget approved in 2005 provided total increases in funding for Fairfax County Public Schools (FCPS) amounting to \$28.4 million – an increase from 19% to 20% of the FCPS budget. The General Assembly should increase such funding to reflect cost increases related to re-benchmarking of state standards.

Federal funding for IDEA is slightly less than one-half of the 40% promised when the mandate to educate all children with disabilities was legislated, and the funding for NCLB is significantly less than what is needed to raise the achievement of all students. The state legislature should adopt resolution and strategies to encourage Congress to increase funding for IDEA and NCLB or provide more flexibility to states and school districts in meeting federal mandates. (2006)

3. GOVERNANCE

DILLON RULE. Support modification of the “Dillon Rule” to grant to local jurisdictions those governing powers not expressly reserved to the Commonwealth or the federal government. (continued; revised 2002)

Rationale: The Commonwealth of Virginia practices a strict interpretation of the decision of federal Judge John F. Dillon of Iowa more than a century ago whereby local governments have only those powers expressly granted by the state or “indispensable to the declared objects and purposes of the corporation” (locality). Considering the significant growth in population and local jurisdictions in Virginia over the past century, this parsimony in local governing powers prevents local elected officials from being able to enact local ordinances to manage their communities effectively and efficiently.

4. INFRASTRUCTURE

a. STATE SUPPORT FOR SCHOOL CONSTRUCTION

(1) Virginia should increase its insignificant financial support for school construction, renovation, and debt service and allow localities to approve alternative sources of funding such as impact fees in addition to land proffers or increases in sales tax after approval by referendum.

Rationale: Virginia ranks near the bottom of states in financial support for school capital improvements although mandated and incentive programs require additional space or renovations, i.e., special education, reduced class size, Limited English Speaking (LEP) services, alternative programs for disruptive students, and applications of instructional technology.

(2) Support legislation for the use of Virginia’s unallocated Tobacco Master Settlement Agreement Fund to be expressly used for state school capital construction and renovation of elementary, secondary, and high schools with such funds to be distributed to local school districts on the basis of average daily membership.

Rationale: The Tobacco Master Settlement Fund is intended to reimburse the taxpayers for the past expenditures for medical treatment of tobacco-related illnesses. The reimbursement of expenditures for school construction would guarantee the return of the Fund to the local communities and aid the increased education programs to deter smoking by children.

b. TRANSPORTATION FUNDING. Support continuing legislative action at the federal, state and local levels to obtain the necessary funding from a variety of sources, including appropriate public-private partnerships, to allow for implementation of currently adopted transportation plans. (continued, revised 2006, 2007)

Rationale: The transportation funding shortfall in Northern Virginia in 1993 was \$5.6 billion. The TransAction 2030 report of 2006 by the Northern Virginia Transportation Authority (NVTA) projects a cost of \$30 billion to meet the needs of the Constrained Long-Range Plan (CLRP) by 2030; additional recommended

improvements would cost an additional \$16.6 billion, making the total cost \$46.6 billion in 2005 dollars. Broken down on an annual cost basis, the need is nearly \$2 billion annually. (2007)

The 2001 Alternative Transportation and Land Use Activity Strategies (ATLAS) Study suggests the following potential funding strategies for Northern Virginia: split-rate tax districts; tax increment financing; distance-based fees; regional funding authority; priority funding areas; congestion pricing; parking pricing; proffers; and community development authorities. The Metropolitan Washington Transportation Planning Board has recommended several potential sources: increased fuel tax; tolls on new highways; increased sales tax; 1.0% income tax; and a payroll tax.

c. TRANSPORTATION FUNDING FORMULA. Support continuing state and local legislative actions to assure increased state transportation funds for Northern Virginia in general and to Fairfax County in particular. (continued)

Rationale: While the 2007 General Assembly enacted new revenue sources for transportation infrastructure, they fall far short of the actual funding needs to meet the goals of the Virginia Six-Year Program and the Northern Virginia TransAction 2030 program goals and projects.

d. METRO FUNDING. Support an increase in the federal and state shares of funding for Metro capital and operating costs and a regional dedicated funding source for the Metro system capital, operations and maintenance programs. (continued from 2001; revised 2005)

Rationale: The state of Maryland pays the full cost of Maryland's share of the Metro system whereas Virginia pays only a small part of Northern Virginia's share. There is an additional two (2) percent gasoline tax in Northern Virginia, the proceeds of which are dedicated to Metro funding.

The 2007 Virginia General Assembly session approved the required \$50 million Virginia contribution – from NVTA funds – to be matched with District of Columbia and Maryland funds in order to get \$150 million in federal funds annually over ten (10) years – if Congress approves sponsor Congressman Tom Davis' bill.

The Washington area is the only major metropolitan region in the country without a dedicated funding source for its Metro system. Portions of the Washington Metro rail system are now more than 30 years old and badly in need of major maintenance. Also, the Red and Orange lines are at capacity during commuting hours. The \$1.5 billion Metro Matters capital program provides 185 new buses and 120 rail cars, but the 10-year program calls for 300 rail cars and 460 buses to serve the system adequately. Ridership increased 10% in 2004.

5. LAND USE

LAND USE AUTHORITY. Oppose any diminution of local land use authority, either by further limiting the scope of local regulatory authority or by creating new and more elaborate land use regulatory structures. (continued from 1999)

Rationale: Land use authority should remain with the local jurisdictions. At the same time, there should be regional consideration of land use plans and issues. This supports a Fairfax County legislative position.

6. TAX STRUCTURE

a. LOCAL AND STATE TAX POLICIES. Support a comprehensive restructuring and modernization of the Commonwealth's state and local tax policies. (continued from 1999)

Rationale: Reform of the state-local tax system, a long-standing Federation position and priority, is necessary to relieve heavy dependence on the real property tax. While studied by legislative committees for many years, no real solution has been forthcoming. The 2004 General Assembly increased the general sales tax by half a cent and reduced the sales tax on food but gave counties only an increase in one revenue source – the tax on cigarettes.

b. LOCAL SHARE OF STATE TAX REVENUES. Support the enactment of legislation to revise the state and local tax structure in Virginia to return a portion of state income tax revenue to local governments for their unrestricted use until such time as the General Assembly revises the

taxation structure in the Commonwealth to ensure fairness to local governments. (1999; revised 2001 and 2002)

Rationale: One method for localities to receive general revenues through other than real and personal property taxes is through a share of the state income tax.

c. LIMITATION. Strongly oppose state-imposed limits on local real property taxing authority. (2004)

Rationale: There has been much discussion during political campaigns about “capping” the annual increase in residential real estate taxes. With the increasing heavy dependency on real property tax revenue to fund local government operations, such a limitation would have severe consequences in the provision of services by the County. Real property taxing authority should remain a purely local power because it is the only revenue source over which a county has sole authority.

7. TAXATION AUTHORITY

a. LOCAL TAXING AUTHORITY. Support state legislation to grant counties the same taxing authority as cities and towns but oppose requiring counties to assume responsibility for construction and maintenance of roads. (continued from 1998; revised in 2004)

Rationale: Currently cities and towns can increase sales and use tax on certain products and services without conducting a voter referendum, as must be done by counties before taking such action. This legislation would enable counties to increase taxes on transient occupancy (hotels and motels), food and beverage (restaurants), and admissions without referendum, thereby enabling them to reduce reliance on property taxes for revenue. The 2004 General Assembly increased the transient occupancy tax but dedicated the revenue to tourism and economic development (Visit Fairfax).

b. LOCAL INCOME TAXES. (1) Support rescission of the current state legislation authorizing a local income tax for transportation purposes only. (2) Support legislative action to authorize local government bodies to levy a piggy-back income tax to reduce reliance on the real and personal property taxes as the primary local revenue base. (1998 and 2003)

Rationale: (1) Enacted in 1991, the legislation authorizing a local income tax for transportation purposes, through referendum, requires that the tax supplement, not supplant, current local investment in transportation projects. (2) The two property taxes currently comprise about three-quarters of the County's revenue stream. The real property tax is no longer the primary indicator of a person's wealth as it was many decades ago.

OTHER LEGISLATIVE ISSUES

CITIZEN INTERESTS

a. VIRGINIA FREEDOM OF INFORMATION ACT. Support assurance of open government and citizen access to government, its administration and operations. (continued from 1999)

Rationale: Supports an open governmental process with access by citizens to all aspects of its operation except for those areas expressly exempt.

b. SMOKING IN PUBLIC PLACES. Support prohibition of smoking in buildings open to the public except for those retail establishments that are exclusively devoted to the sale and use of tobacco products. (2007)

Rationale: Studies have shown that second-hand tobacco smoke can affect one's health. Therefore, public buildings should have a "no smoking" policy.

c. PAYDAY LOANS – USURY. Prohibit all lending institutions and businesses from charging prohibitively high interest rates and fees to people who must borrow money for short terms, especially those lower wage workers who have difficulty sustaining themselves and their families from payday to payday. (2007)

Rationale: The Code of Virginia currently allows charging exceptionally high and unfair interest rates for short-term loans, such as payday-to-payday loans. This unfair practice hurts especially the lower-wage workers. The current allowed interest rate in Virginia is 15% regardless of the term of the loan plus a fee for 6% with late payments. The minimum term is seven days with a maximum loan of \$500. For example: a lender of \$300 for seven days can charge up to \$45, an APR of 782%!

d. LIVING WAGE. Support, in concept, legislation to authorize Fairfax County to require County contractors to provide a living wage to employees. (2007)

Rationale: Nearly nine (9) percent of Fairfax County households have annual incomes under \$25,000. The high cost of living makes it particularly difficult for low-income workers to meet their basic needs. A worker earning the federal minimum wage makes only \$9,893 annually, which is near the federal poverty level of \$9,800. If state-enabling legislation is required, the Federation applauds this effort.

e. MINIMUM WAGE. Support an increase in the minimum wage in annual increments of \$1.00 per hour until the minimum hourly wage of \$8.15 is achieved. From that point in time, index the minimum hourly wage to the CPI increase. (2007; revised 2008)

Rationale: In May 2007, Congress approved and the President signed a bill to increase the minimum wage of \$5.15 an hour to \$7.25 an hour over the coming two years. Because it is impossible to support self or family on the minimum wage, even \$8.15 per hour would not enable a person or family to rise above the poverty level.

f. ELECTRIC RESTRUCTURING. Support a review to consider amending the Virginia Electric Utility Restructuring Act (VEURA) that provides for deregulation of the electric utility industry to allow for continued state regulatory oversight of electricity rates by the State Corporation Commission (SCC). (2007)

Rationale: Since VEURA was enacted in 1999, competition for electric service in Virginia has failed to materialize, with consumer prices remaining low because of caps ensuring rates unaffected by market forces. These rate caps are due to expire December 31, 2010, after which the market will affect the rates. This may cause escalating rates similar to the experiences in Maryland and Delaware where rates have increased from 59% to more than 100% since deregulation.

COMMUNITY ASSOCIATIONS AND SERVICES

a. COMMERCIAL VEHICLES IN NEIGHBORHOODS. Support amendment of *Virginia Code 46.2-1224* to expand the types of commercial vehicles subject to local prohibition of parking on public streets in residential neighborhoods. (continued from 1998; revised 2005)

Rationale: Fairfax County would support legislation to enable it to restrict parking of mid-size commercial vehicles on neighborhood streets.

b. LIBRARIES. Support removal of the population cap on state aid to libraries. (2006)

Rationale: According to state Code, the formula for state aid to public libraries is based on population, square miles served, and local effort. The current formula allocates \$0.30 per resident up to the first 600,000 residents and \$0.10 per resident above that population. Only Fairfax County suffers from this criterion.

c. OFFICERS, DIRECTORS AND TRUSTEES. Strongly oppose legislation that imposes unreasonable limitations on volunteer directors or trustees of homeowner associations or that imposes state authority upon associations other than that imposed by state corporation law. (continued from 2001)

EDUCATION

a. AFTER-SCHOOL PROGRAMS/AT-RISK YOUTH/GANG PREVENTION. Support continuing coordination of resources and activities among local, state, and federal agencies and with local nonprofit and community organizations aimed at prevention of gang violence and in support of comprehensive after-school programs, other prevention measures and academic enrichment programs. (2005; revised 2008)

Rationale: Two of the strongest predictors of adolescent substance abuse and other behavioral disorders are academic difficulties and unsupervised time after school. Although gang activity predominantly occurs in the community, it spills back into the schools and constitutes safety threats to students and staff.

b. COLLEGE CREDIT INITIATIVE. Support legislation that will encourage and help fund partnerships between school divisions and higher education to allow high school students to earn college credit and facilitate their pursuit of technical training for industry certifications. (2005)

Rationale: Growth of the Governor's Commonwealth College Course Collaborative and FCPS partnerships with Northern Virginia Community College (NVCC) and George Mason University (GMU) will require state and/or federal funding to minimize the financial burdens on students and families of such enriched high school opportunities.

c. EARLY EDUCATION. Support additional state and federal investments in pre-kindergarten education and child care programs, which will improve school readiness and reduce the costs of remedial education and social services, especially for children from low-income families, without creating an additional unfunded mandate. (2006)

Rationale: Thirty years of research have demonstrated that every dollar invested in early education for children from low-income families produces \$7 in cost avoidance for remedial and LEP instruction, and health and social services. Additional funding would provide training for pre-school programs and daycare providers so that more education and fewer maintenance activities are provided in daycare settings.

d. HIGHER EDUCATION FUNDING. Support efforts to provide adequate and equitable funding for all state institutions of higher education. In addition, fund NVCC and GMU at a level equivalent to that for other state institutions. In addition, the state should develop and fund a higher education Capital Improvement Program (CIP) to support growth projected through 2010.

The state should fund a new Cost of Living Allowance (COLA) adjustment for GMU faculty and staff. (revised 2002; 2005 and 2006)

Rationale: *Access to higher education is essential for economic development, preparing a skilled work force, and the continuing education needed for global competition in an information society. GMU and NVCC impact significantly the economic, educational, and cultural vitality of Northern Virginia, but should be funded at a level equivalent to similar state institutions. GMU is funded at a level less than for other doctoral-degree granting, research institutions in Virginia. Lack of adequate funding has caused increased costs of tuition and fees, an economic burden on families. Additional facilities are badly needed to accommodate a greatly increased number of students within the coming decade. GMU is having a difficult time recruiting and retaining staff, and a COLA adjustment appears the most equitable method of continuing to improve their position.*

e. PUBLIC SCHOOL CALENDAR.

(1) Support legislation permitting local school boards to set the opening day of school in accordance with the consensus of the local community. (2005)

(2) Support inclusion in the current law the following important reasons opening school prior to Labor Day: “additional effective instruction to students prior to assessments of academic achievement, the provision of appropriate summer remediation programs for students, and increased professional development opportunities for staff.” (2006)

Rationale: *The Code of Virginia mandates that schools open after Labor Day although, for the 2004-05 school year, 71 of Virginia’s 132 school divisions received waivers to open as much as three weeks earlier. Repeal of the “King’s Dominion” law would allow setting the school calendar to allow additional instruction prior to assessments of academic achievement, extended-year calendar options, and provision of stronger summer programs for student remediation and professional development.*

f. REFORM OF STATE AND FEDERAL ACCOUNTABILITY SYSTEMS.

(1) Align and revise the state and federal accountability system to ensure that high stakes decisions for students and schools are made on the basis of valid tests and procedures, reasonable SOL passing scores, and professional judgment; and that the analyses of data required by NCLB are used to help rather than punish students and schools. (2002; revised 2005)

(2) Target access to public school choice and supplemental services to individuals within subgroups that fail to achieve NCLB benchmarks. Allow only those students failing to meet NCLB targets the option of transferring to a school meeting Adequate Yearly Progress (AYP) targets. (2006)

Rationale: *Although SOL test scores have risen as a result of curriculum alignment, familiarity with the tests, and intensive remediation efforts, there is evidence that students and schools in poor and minority communities are more likely to fail to graduate and their schools to lose accreditation and federal funding. Such results will punish these students, schools and communities without eliminating the causes of failure and will doom the standards movement, which has the potential to strengthen education at every level. In addition, the requirements of NCLB for meeting AYP have created situations where schools that meet Virginia’s high standard are subject to federal sanctions, such as loss of funding, because of unreasonable requirements such as standardized testing of students who understand little English or children with severe disabilities.*

Currently, as a sanction for failing to meet NCLB targets, all students within a school failing to meet those targets are provided access to these additional school choices. In many cases, this includes large numbers of students who are achieving at or above benchmarks. Allowing such students the choice of leaving the underperforming school will result in a lower average score for the remaining students.

[NEW] g. ALTERNATIVE ASSESSMENTS.

(1) Support FCPS's position on NCLB, i.e., "support the use of 'linguistically appropriate' alternative assessments for qualified LEP students that are comparable to existing SOL examinations and are appropriate, valid and reliable".

(2) Support development and use of alternate assessments for students with disabilities that are necessary to demonstrate their mastery of SOL content, as well as development and use of alternate assessments that are linguistically appropriate for LEP students and that yield accurate information on these students' mastery of subjects other than English.

(3) Support requiring LEP students to participate in regular SOL testing only when their English language proficiency level is adequate for them to demonstrate their mastery of subjects other than English. (2008)

***Rationale:** Virginia's SOL tests were developed for native-English-speaking students and are extremely challenging for students learning English. According to FCPS, studies consistently show that LEP students need, on average, at least five (5) years of instruction in English to acquire the academic English language skills necessary to succeed on standard content area examinations.*

Per FCPS, "This would ensure that LEP students are being tested on subject matter knowledge rather than on their English language proficiency. Virginia has already successfully implemented a "plain English" mathematics assessment for LEP students and should develop similar versions for every SOL examination".

Alternative testing methods or instruments should be available for those students who, because of their disabilities, require such approaches to demonstrate their mastery of SOL content. However, the use of such substitute methods or instruments must not lower evaluation standards.

[NEW] h. MODIFICATION OF CALCULATIONS FOR SUBGROUPS. Support modifying achievement calculations for subgroups such that students who are members of multiple subgroups do not have a disproportionate impact on accountability results. (2008)

***Rationale:** Many FCPS students are multi-ethnic, and NCLB determines pass or failing schools based on 26 categories, many of them ethnic categories.*

[NEW] i. SALARY COMPETING FACTOR. Support FCPS position on supporting use of a cost of competing factor in the SOQ reimbursement formulas in recognition of the higher salaries paid by school boards in identified locations in order to attract and retain skilled teachers and other personnel within its competitive local regional wage market. (2008)

***Rationale:** According to FCPS, the State differential covers approximately 740 categories and includes all agencies with State classified employees in Northern Virginia. The instructional rate was last increased in 1996 based on 1995 JLARC report, and the non-instructional rate was last increased in 2004 to reach the rate recommendation made in 1995.*

ENVIRONMENT

a. CHESAPEAKE BAY PRESERVATION ACT.

(1) Oppose any legislation that weakens the Act. (continued)

(2) **Perennial streams.** Seek a Fairfax County policy change to require approval by the Board of Supervisors for removal of the designation of a perennial stream on the Resource Protection Area (RPA) map after stream analysis utilizing accepted County or state protocol. (2005)

Rationale: The approval of the Board of Supervisors is required to place a perennial stream, determined using established protocol, on the RPA map, but according to the Public Facilities Manual a perennial stream may be removed from the RPA map administratively based on “observational information.”

(3) **Permit fees.** State environmental permit fees should be set to fully cover the direct costs of administering the waste and water permit programs. (2005)

Rationale: The Department of Environmental Quality (DEQ) administers Virginia’s waste and water permit systems. The projected program costs of these permitting programs for FY 2005 totaled \$15.4 million, borne primarily by Virginia’s taxpayers. Although in 2004 the General Assembly raised the permit fees, revenues from these fees still cover only 39% and 35% of the costs of these programs, respectively.

(4) **Water Quality Improvement Fund.** Support increased funding for the Water Quality Improvement Fund (WQIF), preferably with a dedicated source of revenue to ensure continued funding. (2007)

Rationale: In 1997 the Virginia General Assembly passed the Water Quality Improvement Act that established the WQIF. The fund provides grants for the purpose of reducing the amount of nutrients entering the Chesapeake Bay. Both non-point sources such as agricultural operations and point source discharges such as wastewater treatment facilities are eligible for grants from the WQIF. The Virginia 2006-2008 budget provided \$100 million per year for WQIF but the estimated need for this program through 2025 is \$2.3 billion for upgrade of sewage treatment plants and other programs.

[NEW] b. COMPACT FLUORESCENT LAMPS (CFLs) AND COMPUTER MONITORS. Support legislation or regulation to require proper recycling and/or collection of spent CFLs and computer monitors. (2008)

Rationale: CFLs consume 70% less energy and last several times longer than incandescent lights. Consumers are encouraged to use them to save energy. The CFLs contain small amounts of mercury so should be disposed of properly, but there is no such current program. Surplus computer monitors contain toxins and must be properly recycled to prevent land and air pollution. Virginia should study programs already in place in other states or jurisdictions, such as Maine and Wisconsin, for safe disposal or recycling.

[NEW] c. ENDOCRINE DISRUPTOR COMPOUNDS, PHARMACEUTICALS, AND HORMONE WATER POLLUTION. Urge research and ensuing legislation that would mitigate endocrine disruptor pollution in Virginia waters. (2008)

Rationale: Endocrine disruptor compounds (EDCs) inhibit the regulation of biological processes related to growth, development and reproduction that have impacts on marine life and human health. This is a complex, highly technical, and very important issue that needs immediate attention through research and development of remedies. Pollution from pharmaceuticals is also a problem and may be partially responsible for multi-antibiotic resistant infections.

[NEW] d. ENERGY CONSERVATION AND RENEWABLE ENERGY PRODUCTION. Support legislation that will encourage energy conservation and the use of renewable energy generation. (2008)

Rationale: Most energy conservation projects will pay for themselves in less than five years so providing advice and low cost energy saving equipment such as CFL light bulbs will not only reduce our demand for fossil fuel-generated electricity but also save money for Virginia residents. Similarly encouraging distributive renewable generation will decrease the risk of power disruptions due to natural disasters or malicious activity. Both energy conservation and distributive energy production will lessen the need for new transmission lines.

e. ENVIRONMENTALLY PREFERABLE PRODUCTS. Support legislation to amend the Virginia Public Procurement Act to encourage the purchase of environmentally preferable products by providing a preference similar to that now granted for recycled products. (2007)

Rationale: Environmentally preferable products protect natural resources and have less impact on human health and the environment compared with competing products. These products minimize waste, use less landfill

space and conserve energy, raw materials, and water. This position supports an initiative by the Board of Supervisors.

f. PETROLEUM TANK FARMS. Support the phased relocation of the Pickett Road Tank Farm to a more appropriate location; also support legislative initiatives, such as allowing a maximum number of tanker truck trips to and from tank farms located in or near densely populated areas; state and local authority for additional safety requirements for bulk petroleum storage; increased state authority to regulate intrastate pipeline safety; and strengthening, codification, and enabling state and/or local agencies' enforcement power of nuisance laws. (continued from unknown year; revised 2008)

***Rationale:** Governor Wilder appointed a Governor's Advisory Commission on the Pickett Road Tank Farm following discovery in September 1990 of a massive oil spill of an estimated 200,000 to 300,000 gallons of hydrocarbons from the Texaco facility at the tank farm. Among the recommendations in the Commission's report of December 18, 1992 was relocation of the tank farm to a more appropriate location. The tank farm is located in a completely developed area with 400 tanker trucks a day going to and from the facility. There have been four oil spill incidents there within the past year, which has brought renewed urgency to this issue of safety and environmental degradation.*

g. SOLID WASTE. Support federal legislation that would allow states and localities to place restrictions on interstate transfer of solid waste, including medical and nuclear waste. (continued)

h. STREAM AND GROUNDWATER PROTECTION. Support legislation requiring the state to require pollution prevention measures, erosion and sedimentation controls, and storm water management facilities in state projects and programs. (continued with expansion)

i. TREE PRESERVATION. Support Fairfax County's continuing initiative for legislation enabling urbanized jurisdictions to require preservation of worthy trees on development sites to meet tree canopy requirements in proportion to pre-development canopy, to permit increasing the amount of tree canopy required ten (10) years after development on residential sites, and to allow the designation of native species of new trees that could earn tree canopy credits. (2003; revised 2008)

***Rationale:** The goal is the preservation, rather than replacement, of trees during the development process and a specific percentage of tree canopy on various types of sites.*

The Board of Supervisors approved a Tree Preservation Ordinance in October 2007 for specific types of trees on large tracks of land which would apply to development sites. The ordinance establishes fines for four categories of trees on individual properties or rights of way if the trees are removed without the permission from the county, but the private landowner must agree to such preservation or the county must pay the landowner to preserve it/them.

j. UNDERGROUND UTILITIES. Support legislation to encourage utility companies to install lines underground and to convert aerial lines to underground facilities. (revised 2007)

***Rationale:** This would reduce the number of power and other utility outages created by storms causing overhead utility lines to break and would improve the appearance of our communities. Also, life cycle cost analyses may show that underground facilities are more cost efficient than aerial facilities.*

k. UTILITY EASEMENTS. Support legislation that would require new or replaced utility lines (subsurface and aerial) to be located in commonly shared easements and to be balanced in consideration of both aesthetic and economic impacts, with siting approved in consultation with local officials. (continued from 1999)

HUMAN SERVICES

a. ESSENTIAL PROGRAMS. Support adequate state funding for essential human services programs that offer protection from abuse, neglect and exploitation and that assist people in achieving and maintaining independence and self-sufficiency. (2005)

Rationale: Federal or state statutes mandate many of these programs while other, non-mandated programs provide assistance for County residents who lack the resources to help themselves. Parenting classes and respite services for caregivers intervene to protect individuals at risk of abuse and might prevent a demand for more costly services. A JLARC report in 2002 ranked Virginia 42nd in the nation in state and local spending on public welfare, hospitals and health. Virginia's economic conditions have prevented improvement in state funding for these essential services.

[NEW] b. HUMAN TRAFFICKING. Support legislation to establish the practice of human trafficking and such trafficking for the purposes of commercial sex acts as felonies and to provide for restitution to victims and liability by the business entity. (2008)

Rationale: Two bills passed the 2007 General Assembly, one providing certain human trafficking-related actions as Class 5 felonies and the other creating a legislative Commission on the Prevention of Human Trafficking to address all aspects of human trafficking and to develop and coordinate the implementation of a State Plan. The latter bill has a sunset of July 1, 2009.

LAND USE

a. ADEQUATE PUBLIC FACILITIES ORDINANCE. Support legislation to enable Fairfax County to adopt an Adequate Public Facilities Ordinance to ensure an orderly and coordinated land development and supportive infrastructure program, including transportation and schools. Oppose any effort to add language obligating local governments to provide such facilities within a restrictive time frame set by the General Assembly. (continued)

b. ARCHITECTURAL STANDARDS. Support legislation to enable Fairfax County to consider architectural standards as part of development proposals. (continued from 2001)

Rationale: Counties are authorized to have Architectural Review Boards for consideration of architectural features in historic districts only.

c. BRAC IMPACTS. Support state funding to assist with the costs of providing the infrastructure, including rail, to accommodate the several thousand new employees who will be assigned to Fort Belvoir and nearby areas plus those employees who will be moved there from other Northern Virginia locations. (continued; revised 2008)

Rationale: Most of the Base Realignment and Closure (BRAC) funding in the current state biennial budget was provided to Virginia Beach to prevent closure of the Oceana Naval Base. With minimal funding by the federal government, Northern Virginia must look to the state government for financial assistance.

d. EMINENT DOMAIN. Support legislation that would prohibit the public "taking" of private property for private development. (2007)

Rationale: The US Supreme Court found in the *Kelo v. New London, CT*, decision of 2005 that private property could be taken for private development. The Federation feels that the right of eminent domain should not be expanded to include such "takings" but should be utilized only for public facilities and/or infrastructure. The 2007 General Assembly passed legislation and the Governor signed bills providing that eminent domain could be used for various public purposes as well as to "take" a blighted property to remove the blight and to "take" property in an abandoned redevelopment or conservation area or the acquisition is needed to clear title.

e. PRIVATE PROPERTY RIGHTS. Support the existing legal process that reviews protection of private property rights on a "case by case" basis. (continued)

f. PURCHASE OF DEVELOPMENT RIGHTS. Support a state Revolving Fund for the acquisition of historic properties, environmentally significant areas and natural open spaces and the application of protective easements prior to their resale. (continued from 2000)

Rationale: This would enable and ensure protection of these valuable properties without requiring them to be owned and maintained by the public sector over the long term.

g. TRANSFERABLE DEVELOPMENT RIGHTS. Support legislation that would authorize Fairfax County to enact an ordinance allowing the transfer of development rights if the development rights sold can never be reinstated. (continued; revised 2008)

Rationale: The transfer of development rights allows for adding density in areas that have infrastructure to support additional development, such as in transit station areas, by taking planned density from areas that should be kept in lower density to provide relief between more urban activity centers. The receiving area would provide financial consideration to the sending area for giving up its density rights. Any transfer of development rights ordinance must include a map or other description of the sending and receiving areas. A proposed transfer of density may only be initiated by the owners of both the sending property and the receiving property, and any compensation that may be paid to the owner of the sending property for the transferred density would be a matter of private agreement.

LEGISLATIVE PROCESS

a. HOUSE OF DELEGATES SUBCOMMITTEES. Strongly oppose the 2006 House Rule 18 that allowed subcommittees to act on bills without an open public process or a (recorded or unrecorded) vote and encourage House Leadership to rescind that rule to make subcommittee meetings open to public participation and formally record all votes. (2007)

Rationale: In 2006, House Leadership waived the requirement for subcommittees to have an open process on bills before them or to vote, either informally or recorded, before deciding action on a bill. This is not democratic or fair because it limits public input, blocks transparency of the legislative process and obscures accountability of member voting records. This does not apply to the Senate, which has its own rules for committee business.

b. LEGISLATIVE REDISTRICTING. Support review of the Virginia legislative redistricting process. (2007)

Rationale: The legislative redistricting process should be fair and ensure competitive districts.

NORTHERN VIRGINIA REGIONAL ISSUES

REGIONAL PLANNING. Support legislation to strengthen regional planning and cooperation through Regional Commissions by amending *Virginia Code 15.2, Chapter 42*, to delete the exclusion of planning districts which have multi-state councils of government. (continued from 1998)

PUBLIC SAFETY

a. ASSAULT WEAPONS. Enable local jurisdictions to regulate the sale of assault weapons. (continued; revised 2006)

b. DANGEROUS WEAPONS. Enable Fairfax County to regulate possession of dangerous weapons in public parks and County-owned or leased facilities or properties. (continued from 2000; revised 2006)

c. FIREARMS. Support increased penalties for illegal gun sales and for gun sales to minors. Also, support background checks for all gun sales, including sales at gun shows. (continued; revised 2004)

TAXATION AND FINANCE

a. BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE (BPOL) TAX. Ensure that any state or local legislation that might eliminate exemptions to the BPOL tax does not remove the current exemptions for non-profit organizations. (continued from 1998)

b. COURT-RELATED SALARIES. Support increased state funding of salaries for magistrates, District court employees, probation officers and public defenders. (2006)

Rationale: There are local higher-than-normal turnover rates in magistrate (23%) and probation officer (20%) positions. Some attorneys will no longer serve as public defenders because of very low pay rates. Localities can supplement magistrate and probation staff compensation. In FY 2006, Fairfax County did fund a 25% supplement to magistrates even though compensation is a state obligation.

c. JAIL OPERATIONS. Support full state reimbursement to localities for the actual cost of confinement of State inmates in local jails. (2006)

Rationale: The current state reimbursement, established nearly 20 years ago, is \$8 per day and rises to \$14 per day on the 61st day after a court-ordered conviction (when state law requires state prisoners to be transferred to state facilities). The actual cost of housing, feeding and other services for inmates is \$125 per day.

d. PERSONAL PROPERTY TAX. Support action by the General Assembly to repeal the personal property tax cap on reimbursement to localities of \$950 million per annum. (2005)

Rationale: The General Assembly tax changes in 2004 included the cap on personal property tax reimbursement to localities at \$950 million, which will soon have an impact on local revenues because of inflation. The Commonwealth must act to ensure that localities have a revenue source to replace this loss.

e. FEDERAL AND STATE MANDATES. Support full funding by the federal and state governments of all federal and state mandates, respectively, on local government. (continued from 1999; revised 2007)

f. TWO-YEAR BUDGETING. Support allowing local governments and school divisions to adopt biennial (two-year) instead of annual operating budgets. (2005)

Rationale: A biennial budget process for localities and school divisions would mirror the state's two-year budget, afford a longer time frame for financial planning, allow more time for program review and evaluation, and could be less expensive and time consuming than annual budgeting.

TELECOMMUNICATIONS

TELECOMMUNICATIONS FACILITIES. Ensure that any legislation protects the zoning powers of local government, ensures the public's right to be heard on proposed facilities regardless of whether the land is publicly or privately owned, protects the environment and communities, and restricts VDOT's ability to allow construction of telecommunications facilities without prior approval of the affected locality's land use and/or zoning authority. (continued)

TRANSPORTATION

a. PLANNING. Support legislation to ensure consistency and conformity among local, subregional, Washington metropolitan regional and state short- and long-range land use and transportation plans. (continued)

b. SAFETEA-LU AND CLEAN AIR ACT AMENDMENTS (CAAA). Support implementation strategies to assure efficient and cost effective compliance with all mandated SAFETEA-LU (2005) and CAAA requirements; assure adoption of all necessary actions to prevent potential loss of federal transportation funds, including support for Air Quality/Congestion Management Plans developed by the Metropolitan Planning Organization (MPO), i.e., the Metropolitan Washington Council of Governments. (continued)

[NEW] c. STOP FOR PEDESTRIANS. Support legislation to direct VDOT to require vehicles in a jurisdiction with the Urban County Executive form of government to stop for pedestrians in crosswalks at unsignalized intersections on roads with speed limits of less than 35 miles per hour. (2008)

***Rationale:** The lack of a law requiring vehicles to stop for pedestrians in denoted crosswalks is very unsafe. For example, Arlington, which builds, maintains and oversees its roadway network, has such a requirement. All urban areas need this requirement.*

d. TRUCK SAFETY. Support increased enforcement of truck safety laws, including inspections. (continued from 1999; revised 2005)

Approved by the Federation membership on November 15, 2007.

ADDENDUM

OTHER LEGISLATIVE ISSUES

CITIZEN INTERESTS

[NEW] g. RESTON TOWN STATUS. Recommend that a task force be convened within the current legislative session comprised of effected interests, including: General Assembly members, Fairfax County government, and key referendum stakeholders, and co-chaired by a representative of each of the following: Reston Citizens Association, the County of Fairfax, and the General Assembly, to address the mechanical issues of how the self governance of Reston should be implemented, identify and analyze the options, and make recommendations as to the governance of the proposed town of Reston. (2008)

***Rationale:** The Code of Virginia (15.2-817) prohibits the establishment of any new towns within the boundaries of an urban county with more than 200 people per square mile. More than 3,600 Reston residents signed a petition asking the General Assembly to authorize a referendum on whether Reston should become incorporated as a town.*

At the November 15, 2007 Federation membership meeting, the question of whether to include in the 2008 Legislative Program the support of a proposal by the Reston Citizens Association for a referendum on whether Reston should incorporate as a town was referred to an ad-hoc committee. The committee met on two occasions, and their recommendation, above, was adopted by the Federation membership at its December 13, 2007 meeting. For more information about the committee's deliberations and recommendation, see the Federation Legislation Committee webpage at www.fairfaxfederation.org/legislation1.htm.