

Virginia General Assembly

2004 Report from Delegate

Vivian Watts

In 2002, I started with, "Virginia's we-can-have-it-all bubble has burst. There are no easy answers. I can only promise to be honest with you..."

It turned out we had to cut \$6 billion in state spending from what the last administration had budgeted. We eliminated 5,000 state jobs, purged un-necessary agencies, and found many cost-savings. We also cut essential services, raised numerous fees, and borrowed more than I think wise. Virginia's house was still not in order. Here is the rest of the story:

L-o-n-g Time Coming

Virginia has one of the shortest legislative sessions of all the states. We've virtually never gone over 60 days. This year it took 115 days to reach a budget agreement.

Almost on a moment's notice, again and again I went down to Richmond whenever there was any hope we could hammer out a compromise. I slept on an air mattress in my office, rather than take expenses for what I believed we had an obligation to have finished in 60 days. Was it worth it? Not surprisingly, the answer must be "Yes" and "No."



Good News

- ★ Virginia preserved its AAA bond rating. Wall Street said that unless we brought state revenue and spending in line, Virginia would lose the top rating, which we've had since ratings began in the 1930's[^]. Losing it would cost millions in higher interest. More importantly, losing status as a well-managed state would effect local bond ratings and our ability to attract new employers into depressed areas.
- ★ Education and services for disabled persons received much needed funding. (See inside.)
- ★ Fairfax County taxpayers got some real estate tax relief. Without over \$50 million in additional state funds, Fairfax County's real estate tax rate could not have been cut 3¢ this year.
- ★ Neither Northern Virginians nor senior citizens bore the weight of tax increases, as some proposed. A higher income tax bracket – which would have fallen principally on this region – was rejected. We will benefit equally with taxpayers throughout the

state from increasing personal deductions to \$900, eliminating the marriage penalty, and raising the filing threshold. Those now receiving the full Age Tax Credit will see no change; however, for those not 65 by January 2004, it will be reduced by \$1 for every \$1 over \$50,000 (\$75,000 for joint returns.)

- ★ Virginia no longer will have the nation's lowest cigarette tax. On August 1st, the current 2.5¢ per pack increases to 20¢; then, to 30¢ next March. The revenue will go to health needs, including Medicaid.
- ★ We closed major corporate tax loopholes that most states had already closed regarding holding companies.
- ★ We put over \$400 million back into the Rainy Day Fund, which was virtually drawn down to zero to keep recent budgets afloat.

Could've Been Better

- ✗ The sales tax will increase to 5¢ August 1st. While over 20%[^] is paid by tourists and businesses, taxing food hits low income residents harder. We will continue to phase out the food tax: July 2005 it will drop to 2.5¢; July 2006 to 2.0¢, and July 2007 to 1.5¢.
- ✗ Fairfax schools got a bigger share of new education funding than currently but the compromise went only half as far as I argued it should. The state formula is out-of-date and un-fair, putting too much pressure on real estate taxes in a county like Fairfax. (See inside.)
- ✗ The state rebate of local car taxes is capped at \$950 million annually. This was an essential move to keep the AAA bond rating. Although \$950 million is substantially more tax relief than voters were promised in 1998, capping what each locality gets is unfair to fast growing areas.
- ✗ We did absolutely *nothing* to fund transportation needs.

Environment

Open Space – Back in 1966 the General Assembly created The Virginia Outdoors Foundation to work with private landowners to set-up conservation easements to preserve open space and protect stream valleys. Staffing has been minimal and we've lost opportunities in fast growing areas like Northern Virginia. A \$1 fee on recording deeds (not re-financing) will help expand this valuable program.

Justice

21-Day Rule – Until now, if new evidence was discovered more than 21 days after a person was sentenced, it couldn't be used to appeal the conviction. Three years ago that restriction was lifted for DNA and now it's been carefully lifted for other evidence. A person gets only one appeal and court review must find the evidence meets the highest standard of "beyond a reasonable doubt" before the appeal can proceed. The new law excludes anyone who pled guilty (including as part of a plea bargain or "Alfred plea".)



Public Safety

Those who serve us – Increased funding for law enforcement was a priority in the budget for many reasons, including the fact that state troopers could qualify for food stamps! Competitive salaries are more critical than ever because of the attraction of many security jobs created after 9/11. We added prison guards, probation officers, and funded a new prison to catch up with the fact that the number behind bars is growing faster than our general population. We also restored prosecutors that recent budgets cut.

Drunk Driving – Drunk driving laws were significantly strengthened in reaction to the steady increase in alcohol-related traffic deaths nationally and in Virginia since 1999 after almost two decades of decline. There were more drunk driving fatalities than



murders and 1/3 of the fatalities involve ^^ The tough new laws are directed at these hard core drunk drivers. 3rd time offenders will serve a mandatory 6 months in jail, permanently lose their driver's license, may lose their vehicle, and not get pre-trial bail. 2nd time offenders will automatically lose their license until trial and get 10 days in jail if convicted. Offenders with BAC's over .15 (almost twice the legal limit) will get extra jail time and ignition interlocks to prevent them from driving on a

restricted or suspended license if they've been drinking. Offenders with BAC's over .20 (rather than .25 the current highest limit, at which most of us would be passed out) will have even greater restrictions. Anyone driving with a suspended license will face criminal charges, as will repeat offenders who unreasonably refuse to take a blood test. (Penalties described may vary depending on the time between offenses.)

Gangs – \$1.1 million will go to fight gang activity. Initiatives include 3 new prosecutors for Northern Virginia, working across county and city lines, to effectively build cases against gang organizers. Schools will be informed when a student is arrested for gang activity, as they are now for other crimes. Bail will be harder to get. We increased penalties for 2nd and 3rd convictions and made it a crime to recruit or to intimidate someone into joining a gang.

Individual Rights

Contraception – Reproductive rights bills have shifted in the last several years from testing Roe v. Wade to efforts to outlaw common forms of contraception. Although the Senate defeated these bills, votes of a majority of House members reflect the belief that life begins at the moment egg and sperm join. If such a view prevails, all forms of birth control except those using a barrier or rhythm could be legally restricted as an abortion.

Binding Contracts – Same sex marriages have been against the law in Virginia since 1975. This prohibition was re-stated 1997. Nevertheless, a bill making a slight modification got drastically amended to go far beyond what is commonly recognized as a marriage. The bill that passed would negate any contract or "other arrangement" between two people of the same sex if their relationship entails the "privileges or obligations" of marriage. "Or" is key and could include power of attorney, medical directives, owning property, or even signing a lease. "Arrangements" could include, for example, widowed sister-in-laws. The law applies to contracts made in another state as well as Virginia.

Child Abuse – For the second year, bills to require that clergy report suspected child abuse – as doctors and teachers must – were defeated despite strong support from all but one denomination who spoke. The view that prevailed was that the clergy's first duty was to minister to the adult.

Transportation

Bottom of the well – Not only did we not increase transportation funding, we took \$270 million away! I objected at every turn but, as usual, my statements, as a former Secretary of Transportation, were too technical to find their way into the press:

- ▶ There’s been no new money for transportation in 17 years.
- ▶ As a per gallon levy, the tax has lost over 60% of its buying power since the 1980's to inflation and fuel efficiency .
- ▶ Repaying what was borrowed is now taking 13% of the construction budget and will take 20% by 20^^.
- ▶ Only 1% of the 6-Year Plan is designated for pre-construction planning because there are simply no future funds available; normally, over 10% goes for planning and design, including meeting environmental impact requirements.
- ▶ We’ve run out of designated maintenance funds. Construction and transit funds are being used for routine maintenance.



I could go on. The bottom line is that transportation will get worse before it can possibly get better. Even if there were a sudden influx of funds, road and transit improvements take time: a minimum of 4 years for riders to actually be able to benefit.

I believe that this is at the heart of legislators, even from Northern Virginia, turning their back on transportation to fund programs with immediate benefits they can point to in the next election.

Education

#1 Budget Priority – Throughout Virginia, local schools will get a total of \$1.5 billion in new state funding for the next two years. Even before the recent limited budgets, a state audit (JLARC) report had documented that state funding was less than ^^ of its share to maintain state standards. This lack of state funding not only affects the quality of education in the number of teachers, available equipment, and safety; it also helped drive up local real estate taxes.

Good news for Fairfax – Almost \$125 million in new state funds are coming to Fairfax. This includes \$16 million to restore a proposed federal fund offset, \$10 million for English-as-a-Second-Language students and At-Risk 4-year-olds, increased support for Thomas Jefferson High School, and funding to reduce class sizes in kindergarten through 3rd grade. In addition, higher education increases will allow more Virginia students to be admitted to the college of their choice and have the class offerings they need to finish in 4 years.

Half a Loaf – Since 1965^ when Virginia’s sales tax was enacted, 1 cent has gone to localities based on school age population. Fairfax gets 12% of this distribution.

Half of the 1/2-cent sales tax increase will also go to schools. In numerous meetings and conference calls, I argued that all of this 1/4-cent should also be distributed on the basis of school age population. This would make up for the fact that over 80% of total school funds (instead of just 55% as it used to be) are now distributed based on ability to pay. Fairfax gets less than 8% of this distribution.

Since not all Fairfax legislators supported a tax increase, they were not part of the coalition to get a fairer share and we had to compromise at half of what I wanted or 1/8-cent. Fairfax will get \$20 million^.

Vivian, the two issues I’m most concerned about are:

- Transportation K-12 Education Taxes Environment Higher Education
- Mental Health/Mental Retardation Crime Health Care Other _____

My concerns about #1 are _____

My concerns about #2 are _____

Cut along the dashed line on the back page to include your address label with your response.

Education

Un-Fair Funding – One of the most important goals of tax reform MUST be to reconcile how the state funds local schools with how local governments are allowed to make up the difference. With 1/3 of all state taxes going to K-12, how this money is re-distributed is critical to Fairfax taxpayers.

The gross unfairness of the current school funding formula is well-illustrated right here in Northern Virginia. Fairfax County has 3 times as many students as our neighbor, Prince William. We both will have about 5,000 new students in 2 years. And, yet, Prince William will get \$45 million MORE in state funds while Fairfax will get \$29 million LESS.

Fairfax is being penalized because 50% of the 2003-2004 state subsidy calculation was based on our income per person in 1999 – the heyday of dot.com salaries and capital gains. Even if that segment of the economy was still booming, we can't tax income; we only can tax real estate. Many of you know first hand that the assessed value of the house you've lived in for 25+ years does not reflect your current income and ability to pay.

Real estate values are 40% of the state subsidy calculation but, since the local sales tax base only accounts for the remaining 10%, tourist areas – like Virginia Beach – get large school subsidies from the state, despite all the local revenue they get from hotel, restaurant, and general sales taxes.

The down-state leadership was adamant that Fairfax voters couldn't be given their own source of funding out of fear we would refuse to help meet state needs. They were unwilling to acknowledge how much we already contribute, much less how much we need to be able to help ourselves.

tax revenue is growing at an annual rate of 9.3 percent because of higher sales tax and corporate tax receipts, according to state officials. The state had predicted last year that revenue would grow by 6.7 percent.

It's the third straight month that revenue collections exceeded the state's official expectations, though not nearly as big as the 22.5 percent growth reported in both March and April. In addition to a 14.1 percent jump in May sales taxes, there were several large estate-tax payments and fewer income-tax refunds, Bennett wrote. Year-to-date general-fund revenues are 9.3 percent more than the same point last year and well ahead of the official budgeted forecast for 6.7 percent annual growth. If the collections are 2 percentage points ahead of the 6.7 percent target when the fiscal year ends June 30, the state could realize a surplus of about \$200 million, according to the Warner administration.

Washington Times – Delegate David B. Albo, Fairfax County Republican, said Fairfax County will receive 7.4 percent of the funding for education under the budget, even though the county is home to 14 percent of the state's 7.3 million residents and represents 16 percent of sales taxes, 25 percent of the real estate recordation taxes and 27 percent of income taxes. ..Half of the revenue from the sales-tax increase - about \$377 million - will go to a special fund that local governments can use for education or to lower property taxes. Fairfax County will receive a \$31 million payment from the fund.

States across the country are reporting stronger tax collections this spring for the first time in three years... the first consistent increases many states have experienced since Wall Street's bubble burst in 2001... 30 states reported in March that personal income tax collections were at or above projections. In 36 states, sales taxes were coming in at levels as good as or better than forecast. And corporate income taxes were coming in on or above target in 37 states. ..Most states compensated for the lost revenue by cutting programs, raising tuition and fees, or borrowing, experts said. Only a few raised taxes during the downturn. As a result, many states are spending only slightly more today than they were five years ago, causing pent-up demands to spend in many legislatures. Governors expect expenditures for their 2005 fiscal years to rise 2.8 percent from 2004, well below the 26-year average of 6.2 percent, the National Governors Association, which released its own survey of budgets on Monday, said. The growth in spending is up from the 0.6 percent increase in the last fiscal year, which was the smallest increase in 20 years, the association said. "During the previous downturn in 1991, two-thirds of states filled their shortfalls by increasing taxes," said Raymond C. Scheppach, executive director of the governors' association. "This time, you've got the flip of that. Most states filled shortfalls by cutting budgets.".... states are finding that improved revenues are not offsetting rising costs, particularly for Medicaid, which is expanding at rates of more than 10 percent in most states. ..Maryland has experienced stronger revenue growth than Virginia this year. ..Some states are reporting only minimal revenue improvements, particularly in Midwestern manufacturing states like Michigan, Wisconsin, Indiana and Ohio, which have been hit hardest by layoffs.