

BACON'S REBELLION

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Transportation Abomination

Mutant offspring of a tortured political process, the transportation compromise before the General Assembly will do more harm than good. It needs to be strangled in the crib.

By James A. Bacon

At the onset of the 2007 General Assembly session, I was optimistic that the legislature would make at least incremental progress toward the far-reaching reforms needed to address Virginia's transportation woes. Adopting an air of weary cynicism at the time would have saved me a lot of grief. Our governance system has proven itself dysfunctional beyond my worst nightmares.

Democrats are blaming Republicans for the impasse, and Republicans are blaming Democrats. Sadly, there is probably truth to the accusations of both. Terrified of retribution in the fall elections, Republicans cobbled together an atrocious "compromise" package of legislation. Determined to deprive the GOP of a victory, the Dems have sabotaged efforts to enact this package while offering nothing to replace it but the same unworkable proposals that failed to pass last year.

Then there are the renegade RINOs, the "Republicans in Name Only," who muddy the waters by siding with the Dems. The ever-unhelpful press corps characterizes these RINOs, including, most famously, Senate Finance Chair John H. Chichester, R-Northumberland, as "moderates," even though they have advocated tax increases so

extreme that even Democratic Gov. Timothy M. Kaine and his predecessor Mark R. Warner have never embraced them.

If you want to understand what's going on, you need to strip away party labels. Then you need to apply two levels of analysis.

On the first level of analysis, the transportation train wreck pits the party of big government (or as I fondly call it, "the Axis of Taxes"), which includes most



Democrats plus a number of Republicans, versus the party of "small government," which consists mainly of Republicans, most of

whom serve in the House of Delegates. The Axis of Taxes contends that Virginia needs a stable, long-term source of revenue to pay for road improvements. Insisting that the funds should *not* come from the General Fund, where it would interfere with the break-neck expansion of education, health care and other programs, this coalition has pressed relentlessly for higher new taxes. The Small Government faction argues that it is unconscionable to raise taxes while the General Fund is running chronic budget surpluses, especially after the statewide tax hikes in 2004 and the run-up in local property taxes across most of Virginia.

That much is reasonably straight-forward. It's the narrative that the press corps has imposed upon the transportation debate, and it offers a familiar framework that the public can understand.

The Big Government/Small Government divide is very real, but it explains only part of what is going on. At a deeper level of analysis, the transportation train wreck also pits the forces of "Business As Usual" against the advocates of reform. The two polarities sometimes overlap, but not always.

Business As Usual consists of the vested interests who want to maintain the status quo, the current configuration of institutional power. The spokesmen for Business As Usual contend that transportation in Virginia has reached a "crisis" stage, and that the crisis has fiscal origins. The solution to traffic congestion is to increase the capacity of the transportation system: to build more lane-miles of roadway and, where appropriate, to expand mass transit capabilities. The main constraint is insufficient funds. The main solution is higher taxes.

The reformers counter that, however well Virginia's system for building and maintaining roads and rail worked when devised in the 1930s, it does not work well now. Human settlement patterns in Virginia have evolved from an "urban" form of development marked by mixed uses, higher densities, grid streets and pedestrian-friendly streetscapes, into an auto-centric "suburban" motif of separated land uses, lower den-

sities, pod development, and a cul de sac/collector/arterial road network. The suburban pattern forces people into their cars to accomplish their daily tasks.

Not only has population increased over the past generation, but as the Old Dominion has evolved into an auto-focused society depriving people of other transportation options, the number of licensed drivers has soared, too: In 1970, licensed drivers constituted 52.6 percent of the state's population; by 2005, they had increased to 70.1 percent. In other words, in one generation, Virginia has gone from five out of 10 people driving cars to seven out of 10. That single change puts 40 percent more automobiles on the roads.

Not only are there more drivers, Virginians take more frequent trips and longer trips than they used to. According to DMV numbers, average vehicle miles traveled *per licensed driver* has increased from 11,600 miles per year in 1970 to 15,000 miles in 2005 -- and that doesn't take into account the introduction in 2002 of a new methodology for calculating miles traveled that lowered the numbers.

At some point, the cost of providing unlimited mobility becomes unsustainable. The vTrans2025 study reflects the best thinking of the Virginia Department of Transportation the last time it calculated what it would cost to build enough road and rail capacity to "build our way out of traffic congestion." Looking ahead 20 years, this Warner administration document estimated that Virginia faced a funding gap of \$108 billion -- an average of \$5.4 billion a year. Virginia politics are gridlocked over increasing taxes by *\$1 billion* a year. Except perhaps in Sen. Chichester's office, there is

no appetite anywhere in Virginia for raising taxes by \$5.4 billion a year.

The funding gap has actually worsened since VTrans 2025, as VDOT has gotten a better handle on its long-term maintenance costs and as rising raw material prices have driven up the cost of building and maintaining roads, rails and bridges. Rather than adopt new strategies for providing mobility, however, the forces of Business As Usual are determined to perpetuate the *ancien regime* upon which they feed. The rising price of asphalt, concrete and steel becomes not a reason to devise transportation systems that use less of those materials but a justification for raising taxes to continue doing things the same way they always have been done.

By contrast, reformers argue that higher taxes will only paper over the growing cracks in Virginia's transportation system. Even if new legislation pumps an extra \$1 billion a year into the system -- far short of what it takes for us to "build our way out of congestion" -- they predict that failure to address the underlying flaws will result in traffic congestion continuing to get worse.

The reformers have had a difficult time getting their message across. First, the problems they describe -- dysfunctional land use practices, outmoded governmental institutions, counterproductive fund-raising mechanisms -- are complex. Second, Virginia's drive-by media has uncritically adopted the meta-narrative of Business As Usual, so the public is given no other framework for interpreting the debate. Third, the reformers themselves are not a unified force.

The reformers fall into two broad

camp: the conservationists and the conservatives. Conservationists and environmentalists rally under the banner of "smart growth." Tilting strongly toward the Democratic Party, they have a strong grass roots network and have achieved a small measure of influence in the office of Gov. Timothy M. Kaine. The Smart Growth policy mix leans toward more government intervention, not less. In the estimation of smart growers, the problem is that local government has insufficient power at its disposal to prevent developers from building where roads are inadequate to serve them. Their solutions include equipping localities with Adequate Public Facilities ordinances and greater legal authority to halt zoning where transportation facilities are inadequate. Smart Growers tend to regard the "property rights" movement as an obstacle. And not without reason: Developers have used property rights arguments in the courts to stymie growth-management initiatives.

The other group of reformers tends to regard government as the problem, not the solution. These conservatives are less than enthralled with proposed Smart Growth remedies. Leaning Republican, the free markets/property rights crowd tends to regard Smart Growth as a euphemism for social engineering: In their view, leftist tree huggers would compel them to exchange their big lots and single-family dwellings for townhouses, and trade in their SUVs for seats on a bus. Similarly, conservatives regard property rights as a protection against the leviathan state.

So, although both oppose Business As Usual, as manifested in their resentment of the special interests that dominate the political process, the Smart Grow-

thers and the free marketeers regard each other with suspicion. Differences in policy priorities are often magnified by differences in political rhetoric: The Smart Growth group tends to embrace more "liberal" causes and cultural values, while the free marketeers tend to be more conservative. Although some informal communications take place between the two camps, the foes of Business As Usual have developed no formal mechanisms for identifying common ground, much less for coordinating their efforts on the legislative front.

That is the background against which the transportation debate has taken place. The story of the 2007 session began with the special transportation session last September when the Small Government wing of the House of Delegates held steadfastly against higher taxes. That group, clustered around the leadership of House Speaker William J. Howell, R-Stafford, recognized, however, that "Just Say No to Taxes" did not constitute a compelling philosophy for governing. Howell and his allies began to develop the argument that greater spending had to be accompanied by reform in how that money was spent.

That line of thinking saw light in a package of proposals submitted during the September special session that would change the way the state built and maintained its roads. The bills would accomplish a number of things: They would create new tools for fast-growth counties to concentrate growth in urban management areas, and they would allow the transfer of responsibility for local roads from VDOT to local governments. Additionally, the House envisioned an overhaul of the way VDOT did business through privatization, outsourcing, public-private

partnerships and putting into place performance measures.

The plan had the virtue of dealing with underlying causes of traffic congestion -- it would have aligned transportation with land use planning in fast-growth counties -- something that Small Government faction had never contemplated before. But it had major limitations. It didn't give fast-growth counties the kinds of powers they wanted, nor did it bequeath them the powers that the Smart Growth community thought they should have. Further, the House bills did nothing to stimulate in-fill development and redevelopment in central cities and aging suburbs where roads and other infrastructure already exist. The Smart Growthers never bought in to the House solution.

More critically, the House plan had nothing to offer their fellow Republicans in the state Senate who, to varying degrees, belong to the Big Government faction. A working majority of Republican senators was convinced that the only meaningful solution to the transportation crisis was raising taxes.

Some time between September and January, however, House and Senate Republicans became more inclined to compromise. The surprise election of Jim Webb over incumbent Sen. George Allen sparked triumphal talk among Democrats that Republicans were vulnerable in Washington's Northern Virginia suburbs. Gov. Kaine threw down the gauntlet, threatening to make the do-nothing record of the GOP a campaign issue. Regardless of how Northern Virginians voted in 2002 (they defeated a plan to raise taxes to fund local transportation projects) and whatever the polls might say (large majorities of Virginia voters opposed higher

taxes to pay for transportation), Republicans panicked at the prospect of losing control of one or more chambers in the fall 2007 elections.

Concluding that they could not afford to be portrayed as obstructionists on transportation, the Big Government and Small Government wings of the Republican Party came together for mutual survival. They fashioned a grand compromise that was pleasing to none but grudgingly acceptable to most. The chief virtue of the compromise was that it would allow Republicans to proclaim that they had taken bold and decisive action.

The Axis-of-Taxes wing could take comfort from the fact that, if the two regions went along, the plan would jack up transportation spending by roughly \$1 billion a year. Yet by issuing debt, spending General Fund surpluses, raising obscure statewide taxes and giving Northern Virginia and Hampton Roads the option to raise regional taxes, it also allowed the Small Government faction to claim that it avoided a "statewide general tax increase." The compromise also recycled the VDOT/land use reforms that the Small Government faction felt would make the system work more efficiently.

For a time, it appeared that the Compromise GOP package had a shot at succeeding. The bills won over GOP senators who had fought the House the previous year. If the GOP could maintain solidarity in the Senate, they would carry the day, presenting Gov. Kaine with the choice of signing the legislation or vetoing it and killing the state's best chance at resolving the transportation issue.

But neither scenario unfolded. Sen. Chichester and a handful of

Republicans committed to Big Government aligned themselves with Senate Democrats to block the GOP compromise. Chichester's hostility came as no surprise: The veteran legislator had always made clear his opposition to any funding scheme that would use General Fund monies to fund transportation. Kaine and the senate Democrats went along. As Sen. Janet Howell, D-Fairfax, bluntly made their case: "A reasonable plan does not take money from public education, higher education, health care and public safety. Especially, it doesn't take money from our sick and our disabled neighbors."

It was an audacious gambit for the Big Government party. Virginia's current biennial budget provides 19 percent more for K-12 education, 22 percent for higher education, 15 percent for public safety, 21 percent for mental health, and 38 percent for the Chesapeake Bay than the two-year previous budget. The GOP compromise would not have cut spending in any of those categories -- it would have used surplus revenue only. But the Mainstream Media dutifully repeated the Big Government rhetoric without ever putting it in context of the actual facts. Comments such as Howell's were treated seriously, not greeted with the guffaws they warranted.

Now the transportation legislation is in the hands of Senate and House conferees, whose job is to reconcile competing versions of the way forward for transportation. Their challenge is to thread the needle between the GOP Big Government ultras in the Senate, who have shown zero willingness to compromise, the Dems, who want to see the Republicans fail, and the Small Government partisans in the House who have already com-

promised once and feel little inclined to make a second round of concessions.

Will the conferees pull off a legislative miracle, producing enough loaves and fishes to satisfy everyone and win passage? I don't know, and I'm past the point of caring. Some specific measures in the package -- VDOT/land use reforms, in particular -- could nudge Virginia in the direction of meaningful reform. But they would be insufficient by themselves to address root causes of traffic congestion, while the financing mechanisms that are bundled with them would be downright disastrous.

This Transportation Abomination, whatever its final form, would sever any connection between those who benefit from transportation improvements and those who pay for them. Through some yet-to-be-determined combination of General Fund surpluses, General Fund-backed debt, car registration taxes, regional taxes, and other obscure fees and levies too numerous to recite, transportation improvements would be paid for overwhelmingly by taxpayers generally and, to a lesser extent, car owners (70 percent of the population) generally.

The effect of any such legislation would be to subsidize the profligate, or those who drive the most, at the expense of the virtuous: those who walk, bicycle, telecommute, carpool, ride the bus, take the Metro, carpool or telecommute. *Virginia cannot hope to improve mobility by subsidizing those who cause traffic congestion at the expense of those who do not. This financing package will only encourage people to drive more.* This principle is so stunningly self-evident that I am at a loss for words to explain how anyone

can fail to see it.

Thus, it is my fervent wish that this political compromise collapses under the weight of its own contradictions. Let Gov. Kaine take the issue to the voters this fall, if he wants. Let the people decide this fall whether they want to raise taxes, spend General Fund revenues on transportation or send their representatives back to the drawing board to devise something better. Whatever the next legislature comes up with can't, it can't do any worse.

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