

# BACON'S REBELLION

The Op/Ed Page for Virginia's New Economy

## User Pays

**Virginia's transportation system needs more money. But *how* we raise the money is just as important as *how much*. Only a user pays system can break the political gridlock.**

By James A. Bacon

**W**ith the collapse of the funding formula embedded in last year's transportation funding package, the infamous HB 3202, the General Assembly has experienced a legislative meltdown of sub-prime proportions. The Old Dominion may enjoy the reputation as the Best State for Business and one of the three Best Run States in America, but you wouldn't know it from the spasmodic, floundering efforts to fashion a system for funding Virginia's transportation needs in the 21st century.

Responding to a public backlash, the General Assembly repealed outright one revenue-enhancement measure that it enacted last year: the notorious Abuser Fees. Meanwhile, the Supreme Court has struck down the creation of unelected and unaccountable regional transportation authorities with the power to tax, and an economic downturn has cut into the General Fund surplus that legislators had expected to devote to transportation. About all that's left from last year's financing package is a provision to borrow a sum that will pay for a tiny fraction of the state's anticipated needs.

While the legislative edifice fashioned by Republican lawmakers has buckled under its own weight, credit the GOP leader-

ship at least with trying to do something different. If you placed their Democratic colleagues under an MRI scanner and told them to focus their thoughts on transportation solutions, you wouldn't see a single neuron light up. The Dems offer the same-old, same-old: Increase the gas tax to build more stuff.

Despite a surge in energy prices that is precipitating a global economic realignment, Donkey Clan senators evidently see no reason to re-evaluate the tax-and-build transportation policy that arose in Virginia during decades of cheap energy. When it comes to traffic congestion, they appear to be of the opinion that there's nothing wrong with Virginia's transportation system that jacking up taxes and giving politicians more money to play with won't cure. As far as climate change and energy conservation is concerned... Quick, call the doctor -- brain functions are flat-lining.

If there's one thing everyone agrees upon, it's the necessity of doing *something*. There is a cost to doing nothing: It's called traffic congestion. A growing population and growing economy require investment in transportation infrastructure. If we fail to build new roads, bridges and rails, we will pay indirectly through strangled economic opportunities.

Delay is deadly also. With infla-

tion in the construction sector outpacing that of the general economy, the expense of doing anything only gets worse the longer we wait.

The breakdown in governance is not over the question *if* Virginia needs to raise more money but *how* to raise it. While most elected officials are inclined to do things the same way as always — just more of it — Virginia can no longer afford Business As Usual. Over and above the obvious waste of building roads to places only politicians and developers want to build them, a decade of rising energy prices have altered the economics of transportation so that the old energy-intensive patterns of travel no longer make sense.

If the slogan of the old Byrd Machine was "pay as you go," the mantra for the 21st century should be "user pays." The unifying principle is very simple: There needs to be a direct connection between the demands citizens place upon the transportation system and what they pay. If, despite the abundant financing options available, money can't be found for a desired improvement, that's a pretty good sign that the project is economically unjustified and should not be built.

A user-pays system, as I will outline in some detail, would meet several key criteria. It would be:

**Fair.** There would be a logical and transparent nexus between those who pay for transportation improvements and those who use them, or benefit from them. When adding a lane of Interstate

in Richmond or Hampton Roads, there is no justification for asking people who walk or bicycle to work in Arlington to help them pay for it. The people who use the Interstate should pay for it. There is no justification to ask people who ride the bus, telecommute, carpool, or don't work at all to subsidize those who drive 20,000 miles, 25,000 miles or more per year in long-distance commutes. There is no justification for taxing the general public to fund transportation improvements that enrich politically connected speculators whose property gains value from those investments.

**Demand-side responsive.** Any system for funding transportation improvements should *reduce* demand for automobile travel, not subsidize it, by giving people incentives to change their behavior: to walk, to bicycle, to telecommute, to carpool, to buy a home closer to where they work, or to adopt a one-car lifestyle. By encouraging people to drive less, a user-pays system would reduce the demand for new transportation infrastructure, which in turn, would reduce pressure for more spending.

**Long-term and sustainable.** Building transportation infrastructure is expensive, and so are delays. The Commonwealth needs sources of revenue that are sustainable over the long term, not subject to fluctuations of the business cycle or the whims of political expediency.

**Secure from budgetary raids.** Many members of the public do not trust politicians, bureaucrats and lobbyists to spend transportation dollars wisely. Citizens fear that the political class will raid transportation funds to pay for other needs or will use them to pay for politically inspired projects that disproportionately

benefit rent-seekers – the plugged-in developers, property owners and other special interests who know how to work the system. A carefully constructed user-pays system would ensure citizens and taxpayers that the people benefiting from the expenditure of big-dollar projects are the ones paying for them.

**Transparent.** It is interesting to hear Republican legislators tie themselves into knots to avoid a user-pays system. It wouldn't be "fair" to impose added taxes by increasing the gas tax or charging tolls, they say: Such levies would hurt people who can ill afford to absorb the extra costs. And what is the "fair" Republican solution? Divvy up the costs between so many different sources -- abuser fees, lodging taxes, real estate transfer taxes, car registrations, General Fund revenues, car insurance premiums, whatever -- that people have the illusion of getting something for nothing. People would pay just as much -- they just wouldn't know it.

Sleights of hand will not do. Raising taxes through opaque mechanisms does no one any favors. By obscuring the cost of automobiles as a mode of transportation, the GOP approach prolongs economically self-defeating behavior, preventing people from making the tough lifestyle decisions that rising gasoline prices and other costs will force them to make eventually. Misplaced sympathy only delays the inevitable day of reckoning.

Fortunately, there are numerous sources of funds to pay for new roads, highways, bridges, bus stations, rail lines and other improvements. The trick is to structure transportation financing in such a way as to gain buy-in from the public. A user-pays system built around the

following propositions meets the criteria of being just, transparent and less subject to manipulation by favor seekers.

**Dedicate the gas tax to maintenance.** At present, the gas tax of 17.5 cents per gallon of gasoline goes largely to maintenance, with an ever-shrinking share being applied to construction. In 15 years, Sen. Majority Leader Richard Saslaw said recently, a 17.5-cent-per-gallon gasoline tax will be totally consumed by maintenance costs. (Given the rate of inflation in the construction sector, that forecast may be conservative.)

Lawmakers should strike a bargain with taxpayers: The state will set the gasoline tax at whatever rate it takes to fully fund road and highway maintenance, and no more. If maintenance costs are less than 17.5 cents per gallon, as they would be for at least a few years, the General Assembly will cut the tax. (A tax cut! Whoopee!) If maintenance costs rise, the legislature will raise the tax. An annual re-setting of the gasoline tax will pressure lawmakers and the Virginia Department of Transportation to develop cost-efficient approaches to maintenance, such as implementation of asset-management systems that invest more in maintenance up front to yield greater savings down the road. An annual re-setting also would make clear to the public that there are costs associated with building new lane-miles of highway and accepting new subdivision streets into the system.

Most importantly, taxpayers would see a direct connection between how much they drive and how much they pay in gasoline taxes. It would be difficult for anyone to argue that they should be exempt from paying their fair share of what it costs

to maintain the roads they drive on every day.

**Prepare for the day when the gas tax doesn't work any more.** A recent General Assembly [study committee](#) concluded:

Based on current gas prices, current consumer demand, and Congress' recently enacted CAFE standards, the current methods of transportation funding in the Commonwealth will not keep pace with new energy technologies being used for motor vehicles (e.g., hybrid vehicles; increased use of alternative fuel) and the Commonwealth will see a decrease in motor vehicle fuels tax revenues.

The logical replacement of the gasoline tax is a levy based upon Vehicle Miles Traveled, which taxes vehicles on the basis of how many miles they travel, possibly adjusted for the weight (heavier cars cause more wear and tear on roads) and how much they pollute. Several states are studying a VMT tax, trying to figure out how to administer it efficiently and fairly, and how to resolve potential privacy issues associated with monitoring where and how far cars drive. Virginia needs to begin working through these thorny issues *now*, not when a financial crisis is upon us.

**Use tolls to build new facilities.** Private investors have tens of billions of dollars they are willing to commit to transportation infrastructure projects. Such investment is ideal for bridges and limited-access highways where tolls can be collected to repay the construction bonds. The Commonwealth should continue its policy of encouraging private entities to submit proposals for toll-based

projects.

Politically, citizens are accepting of toll-funded projects that create transportation options that didn't exist before. (They bitterly resent tolls on facilities that used to be free or in instances like the Dulles Toll Road where the bonds have been paid off and the tolls reinstated.) The logic is simple: If you don't want to pay the toll, you can take the route you used to take before the toll road was built. You are no worse off. Furthermore, while no one likes paying tolls, most people accept the logic that it's not reasonable to ask someone else to pay for a project built for your benefit but you are unwilling to pay for yourself.

**Charge Impact fees on residential and commercial development.** Here's the premise: Growth should pay for itself. Municipal governments should collect impact fees not only from developers whose land is being rezoned, but from by-right development and commercial development, all of which generates traffic and strains the capacity of secondary roads.

The tricky part is devising a methodology for determining how to set the impact fees. A two-tier structure like that proposed in the Watkins bill (one uniform fee for Northern Virginia localities, a lower fee for the Rest of Virginia) ignores the fact that traffic conditions vary from location to location, as do construction costs and the expense of acquiring right of way. Another complication is the task of calculating appropriate contributions from impact fees to cover the capital cost of building schools and public safety buildings. The General Assembly has agreed to study impact fees in depth in the year ahead. It is crucial to address the methodology for setting the fees.

While details remain to be ironed out, the idea is a winner from a political perspective. Impact fees don't get recycled through Richmond where rent seekers and politicians can get their hands on them. They go directly to the municipalities impacted by growth, and the funds are used to improve the roads and highways directly affected, at the point of impact. Moreover, most citizens accept the impact fees because they know they're getting something tangible -- roads and school buildings they might otherwise have to wait for years to see -- for their money.

**CDAs and TIFs.** In some instances, impact fees may not cover the cost of more ambitious transportation improvements. Another option is to set up Community Development Authorities to issue bonds and pay back the bonds through Tax Increment Financing, a surcharge on the normal tax rate. CDAs are voluntary. Property owners don't agree to create them unless the increase in property value made possible by the transportation improvement yields more than the cost of higher taxes -- in other words, unless property owners have more to gain than lose in the transaction.

Sometimes CDAs are structured so that the debt obligation is passed onto homeowners. History has shown that homeowners rarely complain. No one is compelled to buy a house in a CDA district. No one is forced to purchase a dwelling unless they believe the trade-offs (better infrastructure for a temporary tax surcharge) are worthwhile.

**Congestion tolls.** Politically, congestion tolls are the hardest sell of any of the proposals outlined here. In effect, lawmakers would be asking citizens to pay for access to roads they once enjoyed for free. Few citizens

are impressed by the economist's logic that congestion tolls are the most efficient way to allocate scarce highway capacity. Nor are they likely to be mollified that congestion tolls priced to maximize free-flow traffic conditions through the corridor (or within the tolling district) actually *increase* the carrying capacity of existing roads because free-flowing lanes move more cars than congested lanes.

One way to persuade citizens that they aren't getting ripped off may be to enact legislation allowing for the creation of "congestion corridor authorities" or "congestion district authorities." The legislation would require that revenues raised from congestion tolls would be reinvested to increase transportation capacity -- new lanes of road, ramp meters, traffic light synchronization, incident response management, park 'n' ride lots, bus stations, whatever -- *within the same district*.

**Economic development and public safety.** On occasion, it may be justified to spend General Funds on transportation improvements: when public safety (hurricane evacuation) or economic development (SW Virginia coalfields) is at stake. In these rare instances, transportation projects should compete with other priorities such as education, health care, corrections, etc.

**Constitutional amendment.** To build citizen trust, lawmakers need to give ironclad assurances that funds raised for highway maintenance or congestion-corridor improvements will not be diverted for politicians' other pet projects. Unfortunately, the General Assembly's track record is not encouraging. As part of any larger transportation-financing reform, the General

Assembly needs to set the machinery in motion to enact a constitutional amendment to protect transportation dollars.

Building a transportation system for the 21st century does not end with figuring out how to pay for it. Indeed, devising a workable financing system is only the first step. The General Assembly must enact other reforms to ensure that dollars are spent as efficiently as possible and that projects are prioritized on a non-political basis. Furthermore, it is essential to tie transportation planning with land use planning and to assign responsibility for both planning and spending to the appropriate levels of government.

But a rational financing scheme for transportation funding can help drive other reforms forward. Once people accept the idea that roads aren't something that "someone else" pays for, they will begin thinking very differently about what kind of transportation system they can afford.

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