

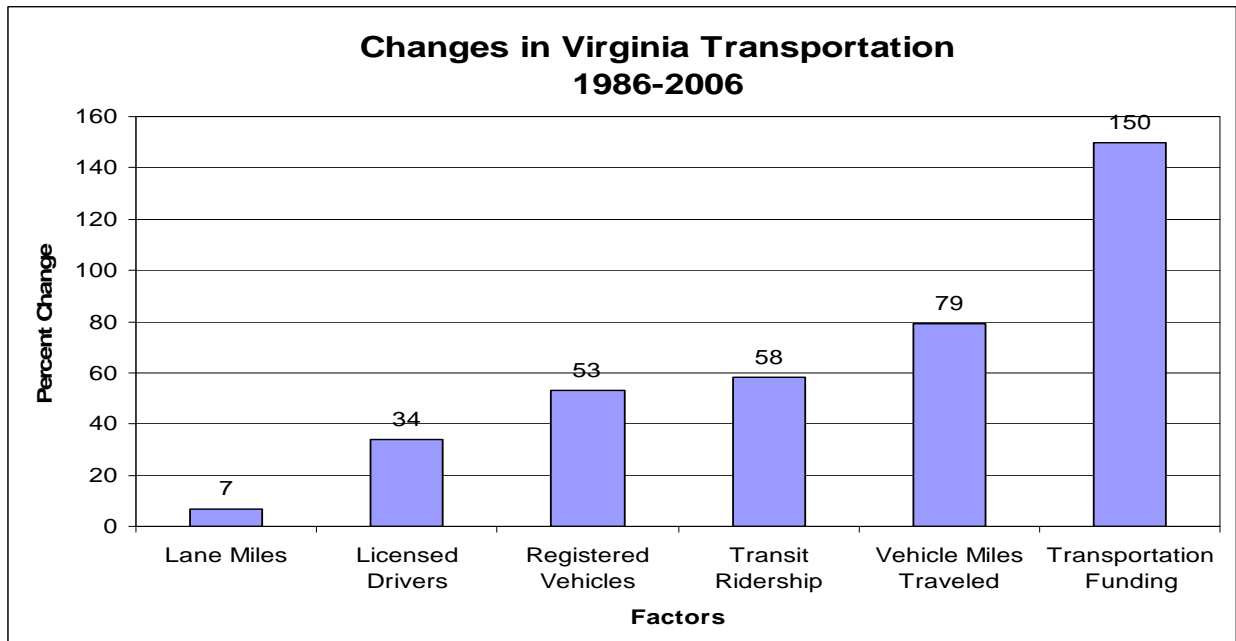
A CONSERVATIVE TRANSPORTATION ALTERNATIVE

As a result of the February 29, 2008, decision of the Virginia Supreme Court in *Marshall v. Northern Virginia Transportation Authority*, which invalidated the regional taxes that NVTAA was empowered to impose by the omnibus transportation legislation enacted last year (H.B. 3202; Acts of Assembly 2007, c. 896), the General Assembly and the Governor have been searching for another legislative solution to a perceived transportation funding problem. One issue dividing the House and Senate is whether the legislative response should be limited to restoring a stream of revenues for transportation in the two regions affected by the Supreme Court decision or whether a statewide “solution” should now be enacted by the General Assembly.

Conservatives should be concerned that few, if any, state legislators have challenged the assumption underlying much of the debate over these transportation issues that only more government and additional taxes can “solve” our transportation problems, particularly the persistent congestion in Virginia’s major urban areas. What follows is an attempt to put the debate in historical context and to provide data and analysis that should inform the decisions likely to be made this month by the General Assembly.

Debunking the Myth that Taxes Will Provide a Stable Source of Revenue

Once again, Virginia elected officials are turning to taxes for “a stable and dependable source of revenue for transportation.” The news media say flatly and repeatedly that we need yet another major infusion of tax revenues to assure a stable and dependable source of revenue because we have not had a tax increase since 1986. Some media reports have gone so far as to state, inaccurately, that tax revenues for transportation have been flat for two decades. The truth is that during the past decade, the Virginia Department of Transportation (“VDOT”) has had the greatest increase in general fund appropriations and second-to-highest increase in non-general fund appropriations.



Increases Since 1986

Total State Mileage:	1986: 56,500.21 2006: 68,797.58
Vehicle Miles Traveled:	1986: 51,726 million 2006: 80,377 million
VDOT Total Funds:	1986: \$1.16 billion 2007: \$4 billion
Total Outstanding Debt:	1986: \$262,396,000 2007: \$1,805,000,000
Population:	1986: 5,937,358 2007: 7,712,091

The Gap Between Needs and Available Revenue Has Widened

- 1986 Gov. Baliles stated that the cost of meeting unmet highway construction needs was \$20.5 billion.
- 1989 In January 1989, a report to incoming Gov. Wilder concluded that the unmet highway construction cost was \$37.8 billion — a 84% increase over the 1986 estimate.
- 2005 The VTRANS 2025 report put the cost of unmet highway needs at \$74.2 billion.

Despite the fact that the gap between available revenues and the demand for transportation spending has widened substantially since 1986, many legislators appear to favor repeating the decision made at the 1986 special session called by Governor Gerald Baliles to raise taxes for transportation. That action came just four years after Governor Charles Robb had persuaded the General Assembly to increase the gas tax.

Virginia should learn from the experience of the last several decades that increasing taxes to fund transportation is not likely to assure a stable and dependable source of revenue for transportation. The principal reason for this is that transportation spending from a large pool of tax revenues is driven by political considerations rather than by sound performance criteria, particularly the degree of traffic congestion relief to be provided. Compounding this factor is the tendency of our transportation funding approach to encourage an increase in daily trips by automobile, vehicle miles traveled by automobile, and the number of lane miles added to the state secondary road system in the form of new subdivision streets. Each of these factors has contributed to widely scattered development, which in turn makes transportation solutions more difficult and expensive to provide.

**Vehicle Miles Traveled
Four-State Comparison**

Virginia	(1986-1996)	16% increase in population 46% increase in vehicle miles traveled
California	(1986-1996)	20% increase in population 33% increase in vehicle miles traveled
New York	(1986-1996)	2% increase in population 27% increase in vehicle miles traveled
Illinois	(1986-1996)	3% increase in population 33% increase in vehicle miles traveled

Even new revenue measures that account for inflation (*e.g.*, sales and income taxes) would not close the gap between available funding and perceived transportation needs. The very method by which funding decisions are made will assure that the gap will widen over time.

The present approach to adding roads to our highway system has a hidden, sprawl-inducing effect. For example, local governing bodies approve the location of new development, often at considerable distance from other development because of the NIMBY (“not in my back yard”) factor and relatively less expensive land costs. VDOT has little or no discretion other than to accept the roads involved in those new developments into the State Highway System.

Based on the history of a persistent gap between revenues and needs — even with tax increases — continued reliance on additional taxes to fund transportation will likely mean a constant ratcheting up of taxes until there is nothing left for government to tax. Our politicians refuse to confront this reality.

In 1986, Governor Baliles argued that his massive tax increase would assure adequate funding for transportation into the 21st century. The General Assembly agreed to somewhat less in the way of a tax increase than Baliles requested, but he assured Virginians that this would simply mean that the transportation projects to be funded under his plan would be completed in a dozen and a half years rather than the ten years he had assumed when he submitted his request to the 1986 special session. Within three years of the implementation of the Baliles tax increase, he returned to the General Assembly with yet another tax proposal. The inadequacy of his 1986 tax increase was already apparent.

Transportation Spending Has Not Been Flat

In addition to the new tax revenues generated by the 1986 Baliles initiative, which included increases in the gas tax and sales tax for transportation purposes, there have been other, substantial infusions of new state revenues into Virginia’s transportation program. Those have included revenues from the state recordation tax and the state tax on insurance premiums. General fund revenues have also been appropriated in large amounts to fund transportation in 2000 (\$307 million), 2002 (\$147 million), 2005 (\$348 million) and 2007 (\$661 million).

The Route 58 Corridor Development Fund receives \$40 million annually from the collection of the state recordation tax to fund improvements on Rt. 58. This tax is collected on every deed, contract or legal instrument recorded by circuit court clerks, which means that the majority of the tax is collected in the major urban areas of the state where there is more costly economic development and greater home ownership.

The Virginia Transportation Act of 2000 established the Priority Transportation Fund (“PTF”) and identified Priority Transportation Projects throughout the state. Annual revenues collected for the PTF include the revenue from Insurance Premiums, which would average over \$100 million annually, any surplus from the Highway Construction Fund, and the revenue accumulated from changing the gas tax collection method. However, revenues from the Insurance Premiums were not paid into the PTF for several years, prompting increased resort to debt in the form of Federal Reimbursement Anticipation Notes (“FRANs”). The Commonwealth essentially allowed the issuing of \$1.2 billion in FRANs debt to build Priority Transportation Projects, even though the stream of revenue initially intended to fund those projects and pay debt service was not paid into the PTF until 2005.

The PTF legislation originally stipulated how much debt could be issued for each district and had a very specific project list approved for PTF funds. Not included in the original list of priorities was the last 17-mile segment of Route 288. The 2000 legislation was radically altered in 2005 when the project list and district funding caps were eliminated and a large amount of funding was used to pay off the debt on major projects — including Route 288. The initial purpose of the PTF was lost over a few short years due to political pressures to alter the plan.

The Commonwealth Has Borrowed Heavily to Finance Transportation

Politicians frequently refer to bond proceeds as “new revenue.” That’s not so. The funds needed to repay the debt must come from tax revenues or other sources. Borrowing simply accelerates the process, adds interest and other costs, and commits future revenues.

Virginia’s increase in outstanding debt for transportation has been dramatic. Outstanding debt for transportation has increased 587% since 1986 — from \$262 million to \$1.8 billion. This occurred despite a large appropriation of surplus funds in 2005 aimed at reducing the burden of annual debt service on transportation debt. Because of excessive reliance on debt in the form of FRANs, more than a billion dollars in future federal funds are already dedicated to projects built under the VTA because of the issuance of FRANs. This will effectively lessen the purchasing power of future dollars while essentially increasing the stress of matching funds. Debt still exists on major toll roads across Virginia. Some of that debt is general obligation debt, which means that it is backed by the Commonwealth’s promise to use its taxing authority to pay the debt.

Roughly \$100 million in principal debt is outstanding for Camp 30 in Fairfax County and is to be paid out of the Highway Maintenance and Operating Fund. Camp 30 is a new facility for VDOT and other agencies (although VDOT appropriations funded the entire cost), and was financed with “revenue bonds,” even though little, if any, revenue is likely to be earned by this operational facility.

Virginia turned heavily to borrowing between 1995 and 2002 to finance a number of major highway projects. For example, the final segment of Route 288 in the Richmond Region and improvements on U.S. Route 58 from Hampton Roads to Lee County were financed principally through debt. This obviously does not generate new revenue, but simply provides a method of accelerating the construction of projects that ultimately must be funded through taxes or user charges.

The Old Model Has Failed

The model of urban development that the Virginia legislature has been funding for decades simply doesn't work anymore — if it ever did. The sooner Virginia abandons it, the better.

Some legislators understand the problem, but few have shown the political fortitude to change the status quo. Powerful special interests that have benefited, and will continue to benefit, from government's financial support for the old model will resist any attempt to lessen the hidden subsidies they enjoy.

Virtually all of the assumptions underlying the model are flawed. It is foolish to assume, for example, that every resident in a region should be able to move by automobile from one point in the region to any other without substantial delay.

Another assumption is that interstate motorists can be whisked around or through urban centers on new highways. Whenever a highway is built for that purpose, it serves as a magnet for development, resulting in yet another clogged corridor.

The model also assumes that the public should be required to pay to extend roads and utilities to new residential and commercial developments located far beyond urbanized areas where the price of land is relatively low. Perhaps more than any single factor, this proposition has produced the sprawl that characterizes Virginia's metropolitan areas.

The prevailing attitude is that traffic congestion is a problem that can be relieved by constantly constructing new roads and adding lanes to existing ones. There is another way to look at congestion — as a commercial opportunity. Whenever traffic is congested, there is obviously substantial demand. Lots of drivers want to get from one place to another at approximately the same time.

The public sector is generally indifferent to the potential for profit and innovation that this situation offers, but a private entrepreneur welcomes it as an opportunity. Government tends to respond with a single formula: raise taxes and build more of the same. As Virginians have seen for at least two decades, this formula provides at most a temporary solution. When gridlock soon reappears, the next round of construction is even more costly than the last.

Elected officials have been too quick to pass over the most equitable, efficient and disciplined option for paying the staggering cost of transportation projects. That option is tolls or other user charges, land or cash contributions by adjacent property owners who will benefit or other methods of having special beneficiaries rather than taxpayers pay for new projects. Relying on general taxes to pay for these projects is a mistake. Unlike user charges or other payments by those who will benefit, these tax increases become permanent, encourage planning

for other projects without adequate financial discipline and incline the using public to think that these projects are free.

Proposals to increase general taxes to fund new transportation projects is based on the old development model. Ultimately, Virginians will be forced by circumstances to abandon that model. When that happens, the transition will be unavoidably painful. The longer that decision is put off, the more painful the adjustment will be.

Many of our elected officials also assume that we can proceed simultaneously to fund highway and mass transit projects in the same region, as if we can afford both. Perhaps the most troubling fallacy is that we can reduce congestion by building more highways while simultaneously funding and operating transit systems that are only cost effective where there is substantial congestion.

A Bold New Approach Is Long Overdue

Our present approach is inherently inefficient. Virginia cannot afford to continue along this course.

The Bush Administration has pointed to “a growing consensus among transportation policymakers and economists that existing financing mechanisms for highway and aviation infrastructure are unsustainable in the long-term and will be unable to keep pace with projected demands on the transportation network.” Pricing approaches are a far better option than continued reliance on taxes to address congestion.

An alternative that is sounder from the standpoint of economics, land use and equity is greater dependence on the free market and market-like strategies. It is also consistent with Republican principles. The first prong of the Virginia Republican Creed provides that “the free enterprise system is the most productive supplier of needs and economic justice.” Why would that not apply to transportation? It has served us well in the fields of energy and telecommunications, where private investment and innovation have increased following deregulation.

The discipline of the market and market-like methods such as user charges is vastly superior to the current pork barrel methodology of increased government spending without a reduction in congestion. When projects are funded with tax revenues instead of user charges or contributions by adjacent property owners, taxpayers are obviously providing a subsidy. We have added thousands of new subdivision streets to the state highway system so long as those subdivision streets meet VDOT design standards, but generally without regard to where the subdivisions are located and to the pressure those subdivisions will bring to build new roads or expand existing roads to serve a sprawling development pattern. State taxpayers are then left to pay for maintenance and replacement of these subdivision streets and the new roads that are needed to serve those scattered subdivisions.

Perhaps most startling is the fact that the maintenance and operating costs associated with the roads to be built with the revenues generated by the 1986 tax increase were not accounted for at the time the General Assembly voted to enact that tax hike. Maintenance and operating costs, which have been increasing dramatically, are projected to consume virtually all of the available transportation revenues by the year 2018.

Land Use and Transportation Planning Can Be Integrated Effectively

There is only one proven way to integrate land use planning and decisionmaking with transportation planning. That way is by making a local governing body legally responsible for both.

Virginia has an excellent example of how this merger of the two responsibilities at the local level can produce better overall results — Henrico County. Henrico County and Arlington County are responsible for the secondary roads within their respective borders. Because the same governmental officials are ultimately responsible in those jurisdictions for the consequences of decisions made about both land use and transportation, they tend to deal with them differently than they would if, as in other counties, VDOT and the Commonwealth Transportation Board exercised ultimate responsibility for secondary roads.

Henrico County was not as urbanized as Arlington County when they both elected in 1929 not to transfer responsibility for their secondary roads to the state. Arlington is now essentially a built-out locality and has been for decades. For that reason, Henrico County provides a more useful example of the effect on decisionmaking in a developing jurisdiction of merging the land use and transportation responsibilities in one elected body.

By deciding where it wanted development to occur, Henrico County was able to adopt a Thoroughfare Plan that supported and guided its land use planning. As rezonings occurred, the County was able to acquire rights-of-way from, and actual construction of roads by, developers without having County taxpayers absorb those costs. This approach should be encouraged statewide.

An Evaluation of Public Authorities Is Overdue

The Supreme Court's decision in *Marshall v. NVRTA* highlighted the facts that unelected public authorities have undermined political accountability. There is a consensus among conservatives that the two unelected regional transportation authorities should be abolished and that no new regional authorities be established. Some have advocated a thorough re-evaluation of all unelected public authorities in Virginia to determine whether their weakening of political accountability is justified by any overriding benefits.

Recommendations

1. Fund transportation
 - a) without tax increases,
 - b) without more tax-supported debt,
 - c) without allowing diversions of funds earmarked for transportation to non-transportation programs, and
 - d) by imposing the costs of new projects, to the extent possible, on those who will directly benefit from new transportation spending.
2. Refocus state transportation policy to encourage greater investment, innovation and risk-taking by the private sector.
3. Transfer responsibility for secondary roads to cities and counties that are not already exercising that authority, and accompany such transfer of responsibility with the authority over the revenues currently used at the state level to build and maintain secondary roads.
4. Adopt true performance-based criteria for spending government funds on transportation, with relief of traffic congestion having the highest priority.
5. Develop a methodology for allocating the cost of new, upgraded and expanded transportation facilities and other infrastructure that appropriately accounts for distance-related factors and any hidden cost of sprawl so that subsidies borne by taxpayers at large can be reduced or eliminated.

Trent A. Barton
Constance Carney Bedell
John E. Betts
James Bowden
Walter M. Curt
Robert Dean, Communications Director, Virginia Beach Taxpayer Alliance
Dennis Fusaro
Reid Greenmun, Transportation Chair, Virginia Beach Taxpayers Alliance
Paul C. Jost
Tom Kopko
Charles C. Livingston
D.J. McGuire
John McMullen, Vice-Chairman, Virginia Beach Taxpayer Alliance
John Moss, Chairman, Virginia Beach Taxpayer Alliance
Phillip A. Rodokanakis, President, Virginia Club for Growth
Jacob Roginsky, Ph.D., President, A Matter of Justice
Kristina Rasmussen, National Taxpayers Union
Frank Gus Tsutras
Patrick M. McSweeney

March 28, 2008