

Tertium Quids

Conservative leaders blast the 2007 Virginia Transportation Plan

RICHMOND (August 14, 2007) – Grassroots groups came together at the Virginia Capitol today to blast the General Assembly’s 2007 transportation plan and the politicians who crafted and continue to support it.

In a news conference organized by Tertium Quids, Virginia’s fiscally-conservative public policy advocacy organization, conservative grassroots leaders gathered together publicly for the first time since the transportation bill was passed and leveled heavy criticism at politicians for the plan, which they say is fundamentally flawed as transportation policy, constitutionally flawed as legislation, and “stunningly inept” as a political strategy going into November’s elections.



The Republican leadership in both the House and Senate – those who were architects and those who are continuing backers of the package – took the brunt of the criticism.

House Bill 3202, which authorized the plan, passed with bipartisan support in the General Assembly, but has received bipartisan disapproval at the grassroots level. An online petition has now collected more than 171,000 signatures of citizens who are demanding the repeal of exorbitant “abusive driver fees” and who

pledge not to vote for “any Delegate or State Senator who voted for this bill, or for any Delegate or Senator who does not take action to repeal the sections of House Bill 3202 that inflict these exorbitant and unjust penalties.”

However, more than just the high abusive driver fees component of the legislation came under fire at the news conference. The plan included tax and fee increases, unelected taxing authorities were created in Northern Virginia and the Tidewater region to raise revenues for transportation projects, and the Virginia Department of Transportation – already accused of wasting billions in taxpayer dollars – was given more money without measurable performance objectives for improving existing transportation problems.

“In a dishonest attempt to fool the voters of Virginia into thinking that they were not raising taxes, our legislators passed one of the worst



*Paul Jost, chairman
of the Virginia Club
for Growth*

pieces of legislation in Virginia's history. This contorted bill is a massive tax increase that will not pass constitutional muster," said Paul Jost, chairman of the Virginia Club for Growth. "It is time for new leadership in both houses of the General Assembly," he added.



Robert Dean, communications director of the Virginia Beach Taxpayer Alliance

Also rejecting the tax increases contained within the plan, Robert Dean, the cofounder and communications director of the Virginia Beach Taxpayer Alliance, stated, "HB 3202 penalizes folks who buy or build a home close to work by levying a grantors tax – an additional 40 cents per \$100 – which, on the sale of an average Virginia Beach home, will cost the seller \$1,800."

Dean concluded, "In a legislature in which the majority party is completely unable to field a leadership team, the Republicans are reduced to relying on more spending and higher taxes as the universal answer to every problem."

Patrick McSweeney of the Richmond law firm McSweeney, Crump, Childress & Gould, P.C. explained the legal bases for the constitutional challenge to the transportation legislation that his firm filed in the Circuit Court of the City of Richmond.

McSweeney outlined the claims in the lawsuit, stating that the legislation violated the provisions in the Virginia Constitution that (1) limit all statutes to a single subject, (2) prohibit the delegation of taxing power to unelected regional authorities, (3) prohibit the levying of impact fees that are not tied to the impact of a new development, (4) prohibit the issuance of either state or regional tax-supported bonds without voter approval, and (5) bar the assessment of civil redial fees that are actually fines. His lawsuit claims the law is a violation of the due process, double jeopardy, and excessive fines clauses of the Virginia Constitution, and is a violation of the requirement that fines be paid into the state's



Former Republican Party of Virginia chairman and attorney Patrick McSweeney explains to the press the legal bases for his firm's constitutional challenge to the 2007 transportation legislation.

Literary Fund (instead of being used for transportation, which was the plan's intent). Some of the claims are also based on the United States Constitution.



Dr. Ron Utt, senior research fellow with The Heritage Foundation

Criticizing the Commonwealth of Virginia's transportation policy for lacking any coherent goal or objective (ie. reducing congestion in high traffic regions), Dr. Ron Utt, a senior research fellow with The Heritage Foundation, asserted, "What we need is not more money for transportation in the commonwealth, but a performance-based Virginia Department of Transportation that utilizes quantitative measures of congestion relief and safety based upon the application of cost/benefit analysis to prioritize projects as well as to guide investment among alternative modes of travel."

John Taylor, organizer of the news conference and president of Tertium Quids and host of the Tuesday Morning Group coalition, reacted to comments made last week by a Republican leader in the House of Delegates who said that the citizens who are voicing opposition to the transportation plan “are the same anti-tax folks who oppose all progress.”

“My goodness! In the last five years, the federal budget has grown by a trillion dollars. In the last decade, the Virginia budget has grown by 120 percent. In communities across the commonwealth, property taxes are growing by double-digit percentages. And yet, despite this explosion in spending and taxing, according to Virginia’s politicians, the problem is that we do not have enough layers of government, we do not have enough layers of taxation, and we do not have enough unelected taxing authorities,” responded Taylor.

“The 2007 transportation plan is fatally flawed for any number of reasons. It needs to be scrapped, and we need to start again with the understanding that our first transportation priority in Virginia is congestion relief.”



John Taylor, president of Tertium Quids and host of the Tuesday Morning Group coalition

Commentary on the 2007 Transportation Plan

by John Taylor

president of Tertium Quids and host of the Tuesday Morning Group coalition

Given at the August 14th grassroots news conference in the Virginia Capitol.

So far today, we have heard Pat McSweeney offer an analysis on the constitutionality of the Transportation Bill, and Dr. Ron Utt has offered a critique of HB 3202 from a policy perspective. In the next few minutes, I am going to analyze the legislation from the standpoint of its political implications.

Going into the last General Assembly session, the common wisdom in the GOP was that a transportation bill had to be passed to prevent Republicans from losing seats in Northern Virginia in the November election.

A deal had to get done. And a deal was done. So how has that worked out?



“Despite the enormous growth of government and spending at all levels, our political leaders think the real problem we face in Virginia is that we don’t have enough layers of government, we don’t have enough layers of taxation, and it would be nice if the bureaucrats imposing the new taxes didn’t have to stand for election.”

It is telling that as legislators campaign door-to-door this summer, the same legislators, who voted for the Transportation Bill only four months ago, are now trying to distance themselves from it – if they are not calling for a special session of the legislature to scrap House Bill 3202 in part, or entirely. That is because their constituents, or perhaps their former constituents, are verbally beating them around the head and ears for voting for the Transportation Bill.

It is also telling that a gentleman in Alexandria started an on-line petition, which to date has been signed by more than 171,000 people who pledge not to “vote for any Delegate or State Senator who voted for this bill [HB 3202], **or** for any Delegate or Senator who does not take action to repeal the sections of House Bill 3202 that inflict these exorbitant and unjust penalties.”

However, what is most telling is the political tin ear of Republican leadership.

The Speaker, who was a prime mover behind this legislation, continues to stand by it even though it has badly divided his Party going into November’s election.

Recently, another Republican leader in the House of Delegates dismissed opposition to the Transportation Bill by saying that the opponents of HB 3202 are the same anti-tax folks who oppose all progress.

My goodness. In the last five years the federal budget has grown by a trillion dollars; in the last decade the state budget has grown by 120%; and property taxes are growing by double-digit percentages in many locations around Virginia. And the people of Virginia are scratching their heads and wondering, “Now where *is* that, uh, progress?”

And yet, despite this enormous growth of government and spending at all levels, our political leaders think they have put their finger on the real problem that we face here in Virginia.

They think we don’t have enough layers of government.

They think we don’t have enough layers of taxation.

And they think it would be nice if the bureaucrats imposing the new taxes didn’t have to stand for election.

So who is the winner, politically speaking, from this legislative fiasco? I would say Governor Kaine and the Democrats are the clear winners. Eight months ago, political observers were saying the Republicans could lose the Senate this year. But the majority of the Republicans in the Senate vote with the Democrats already. Thanks to the unpopularity of the Transportation Bill, the Democrats have the incentive and an opportunity to focus their campaign resources on House races.

Going into the next General Assembly session, it is conceivable that the Democrats could have the Governor’s mansion; effective, or actual, control of the Senate; the House of Delegates by a narrow margin; and a Transportation Bill for which the Republicans took the blame and the fall.

The 2007 Transportation Bill is a dramatic policy failure; we believe it is unconstitutional on a number of grounds; and it reflects a political ineptness that is truly stunning in an election year.

The grassroots in general, and the Republican grassroots in particular, needs to ask their political leaders:

“What Were You Thinking?”