State capitals were where the action was in 2013, with six states approving significant revenue packages and a number of others setting in motion plans for 2014, when the activity is expected to continue around the country. Some of the attention now shifts back to Washington as Congress must again consider legislation to authorize federal transportation programs and decide what to do about the dwindling Highway Trust Fund and as the legacy of the 2012 legislation, known as MAP-21, is cemented. Meanwhile public-private partnerships, which have helped some states fund pricey transportation projects and weather fiscal uncertainty in recent years, will likely continue to evolve in the year ahead. All this as officials at all levels of government and other stakeholders continue to seek approaches to ensure the vision of a multi-modal future for communities and commerce is realized.

Here’s my expanded article on the top 5 issues in transportation for 2014 and a wide variety of additional CSG and non-CSG resources where you can read more.

**Issue Number 1:**

**MAP-21 Reauthorization & the Future of the Highway Trust Fund**

MAP-21, the 2012 federal surface transportation authorization bill, will expire at the end of September. Without Congressional action, the Highway Trust Fund will run out of money in the 2015 fiscal year. The federal gas tax, which is the trust fund’s primary revenue source, has not been raised in more than 20 years and has never been adjusted for inflation. There appears to be little agreement in Congress about which of several avenues to take to ensure the future of the trust fund and the federal transportation program—increasing and/or indexing the gas tax, shoring up the trust fund with another transfer from the general fund, or finding a new, more sustainable primary revenue source. And then there are those who suggest a different path entirely for the federal government with regards to transportation—getting out of the business altogether and devolving the program to the states.

Kentucky Transportation Secretary Mike Hancock is not among the supporters of that last idea.

“What we would love to see is a multi-year bill that includes long-term, sustainable highway funding from the federal government,” said Hancock in a November interview. As the current President of the American Association of State Highway and Transportation Officials (AASHTO), Hancock will help lead the push for MAP-21 reauthorization. “We do want and need a vibrant role (for the federal government) in transportation funding in America. There are too many things at a national level that simply require federal involvement. We need to have that consistency in the program as a hallmark of the program.”

Candidly though, Hancock acknowledges the challenge Congress faces in getting MAP-21’s successor across the finish line on time.

“As a transportation professional, I would love to say they’re going to get it done and we’re going to be pleased with the outcome,” he said. “As a realist though, I’ve seen these kinds of situations before
and it’s really going to depend on the will of Congress as they approach the last minute, in many respects, as to whether or not transportation will win out over a number of other priorities that they have and we’ll have to see how that plays out.”

The pending insolvency of the Highway Trust Fund and inadequacy of its funding source make the challenge even greater, Hancock said.

“Since 1991, the buying power of the gas tax has eroded by 40 percent or more. So we simply are not keeping pace with inflation and we have not. So there is a strong argument that what we have in terms of the gas tax ... is insufficient in its own right. ... The gas tax as we look ahead is really in trouble. The (corporate average fuel economy) standards that we’re talking about, increased fuel efficiencies, the alternative fuel sources and their ultimate impact on the Highway Trust Fund and then something that a lot of folks are trying to understand ... people are actually just flat driving less. So you put all that together and you have a situation where the Highway Trust Fund is not as strong as it once was. How do we properly plan for transportation improvements in the future knowing that our primary revenue source is not going to perform at the levels it once did? The gas tax—the erosion in its buying power and then the combination of all these other factors—it’s really a difficult time for transportation as we try to envision the future for funding.”

While many want to see the principles of a user fee-based system maintained and perhaps an eventual transition to a mileage-based system at the federal level, some favor an interim step, such as a conversion to a sales tax that would better reflect inflation, but that might be less transparent than the existing per-mile gasoline tax.

**CSG Resources**


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Issue Number Two:

The Legacy of MAP-21

MAP-21 included many policy reforms long sought by state transportation officials that likely will continue to bear fruit in 2014 and beyond.

“I think we are seeing evidence of (its transformative impact) already,” said AASHTO’s Hancock. “Reduction in the number of federal aid categories doesn’t seem like much, but that has served to give the states a little more flexibility in how we utilize the money in each individual state to address our unique needs. I think that’s a good thing.”

Hancock believes ultimately the legacy issue for MAP-21 will be its provisions to transition to a performance-based transportation system.

“Congress through MAP-21 looked to institutionalize some focus on managing the country’s transportation assets and through managing or measuring performance as it relates to highway safety—the number of fatalities on our system and so forth—the pavement conditions, our bridge conditions, even freight movement. And as the states work with the Federal Highway Administration to completely understand and appreciate all of these provisions in the long term and what they mean for our country, I think you’ll see over the long term, better decisions made by the states in terms of keeping the roads and bridges in good condition as a result of these performance requirements in MAP-21. I really think that will be, over the long haul, the legacy item that MAP-21 will be most remembered for.”

But 2014 might also expose more about a potential negative legacy of MAP-21. Since the bill provided only two years of funding—and followed nearly three years of status quo, short-term extensions of the previous bill, SAFETEA-LU, state transportation departments have been in a prolonged period of uncertainty that has negatively impacted long-term, capital program planning processes.

“MAP-21 was a wonderful six-year bill with only two years of funding,” said Hancock. “That constantly forces the states to roll the dice, if you will, in the hopes that everything will come together for the following year’s program. Many of the projects that we do are multi-year projects and so when you commit to design of a project, quite often you’re committing to five, six, seven years-worth of activity
that leads to the ultimate construction and completion.”

Hancock believes the uncertainty has also had an impact on the nation’s construction workforce that has limited the effectiveness of MAP-21’s efforts to accelerate project delivery.

“Everyone is almost afraid to work themselves out of work,” he said. “It’s very difficult to accelerate things dramatically in that once someone is finished with a project, there may not be something waiting to take its place. I think the uncertainty in our federal program is creating some incredible problems for us. We’ve got this fiscal cliff looming for 2015 with the federal Highway Trust Fund and the inability to authorize any new projects potentially in 2015 unless Congress acts. This whole air and atmosphere of uncertainty very definitely is affecting how the states put together their programs and how those programs are executed.”

Some are also concerned that the major expansion of the TIFIA credit assistance and loan program under MAP-21 signals a shift away from the grant making role the federal government has traditionally played in transportation and that it could have an impact on the kinds of projects that get funded going forward.

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Issue Number Three:

Continuing State Activity on Transportation Revenues

2013 saw significant activity among states exploring ways of producing additional transportation revenues. Major investment packages were approved in Maryland, Massachusetts, Pennsylvania, Vermont, Virginia and Wyoming. The solutions employed included everything from gas tax increases to complex tax swaps. But 2014 could see significant state activity as well. A number of the states that were unsuccessful in 2013 have unfinished business and others have been exploring options in advance of 2014 legislative sessions. Some states that had success in 2013 could seek to do more, while others may see repeal efforts and political backlash. Ultimately, a greater abundance of statewide elections in 2014 may have some say in determining how successful states are in maintaining or achieving new revenue gains.

While states considered and in some cases adopted a wide variety of revenue strategies in 2013, AASHTO’s Hancock believes states would be wise to continue to follow the traditional “user pays” model of transportation funding.

“I think that’s the most fair way—as we’ve done for a century now—to fund transportation. Through user fees and the user-based system,” he said. “There are a number of things that the states are looking at. Some states have looked at decreasing their gas tax and increasing their sales tax. I don’t know that long term that’s a sustainable source of revenue. Things that happen with General Fund issues in individual states could create pressures that actually detract from transportation over the long haul.”

Hancock said states would be wise to follow the example of his home state of Kentucky when considering revenue options.
“We actually have an indexed gas tax here in Kentucky and that indexing provision really helps us keep pace when other forms of taxation may not be (keeping pace),” he said. “Our gas tax provision and indexing provision was enacted in 1985 and really didn’t kick in until 2005 because the floor for that calculation was set so high. But once it kicked in, it’s really kept us afloat and I wonder if there’s a lesson to be learned from those kinds of things.”

As for the future beyond the gas tax, many see promise in mileage-based user fees or VMT fees, something the state of Oregon will continue to experiment with as a result of legislation passed in 2013. But Hancock thinks broad acceptance and implementation of a mileage-based funding system is still a ways off and awaits further study by states.

“As we’ve talked about a (vehicle miles traveled) tax over the last many years, I think conventional wisdom has been we’ve sort of been in a ‘tweener’ stage where we know that the old gas tax is rapidly becoming something that can’t sustain itself into the future and yet we have a lot of the privacy issues and public acceptance issues on the side of having their mileage tracked through their vehicle or through some other mechanism,” Hancock said. “And this ‘tweener’ stage is sort of a necessary period to work toward potential acceptance of something like that. So I think where Oregon and some other states are going is to make sure that these systems are adequately tested and that if there are concerns that truly need to be dealt with over the long haul that they’re given an adequate incubator, so to speak, to work through those things. I think we’ll find over time that there will be more wide-based acceptance. ... I think we’ll see over time this whole attitude shift. But right now we’re kind of at that ‘tweener’ stage.”

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Issue Number Four:

Evolution of Public-Private Partnerships

Some states have turned to the private sector in recent years to help fund major transportation projects and 2014 is likely to see a substantial number of these projects move forward. But new public-private partnerships—also known as P3s—are taking on different shapes than earlier ones. Managed lane projects around the country, a major transit project in Maryland and a bundle of bridges in Pennsylvania are all being explored as P3s. Some states are turning to the P3 model known as availability payments, under which the public project sponsor retains the underlying revenue risk
associated with the project and makes payments to a private partner for designing, building, operating and/or maintaining a transportation facility.

Hancock’s home state of Kentucky is one of the 17 states that still do not have legislation on the books allowing them to enter into transportation P3s. Kentucky is completely surrounded by states that have either broad enabling legislation or limited or project-specific legislation.

“We certainly have been evaluating ... the utility of public-private partnerships in Kentucky,” he said. “I think it depends on the individual circumstances with a specific project. ... Public-private partnerships are a great tool to have in the toolbox when the situation is such that an equity partner can help you bring a project home.”

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Issue Number Five:

Finding Strategies for a Multi-Modal Future

With an expanded Panama Canal on the horizon in June 2015, U.S. seaports need expansion and dredging to accommodate larger container ships. Inland ports, which could see additional traffic, also need upgrades. But as with surface transportation, there is little agreement on how to pay for it all. Even if a bipartisan water projects bill pending in Congress wins early approval in 2014 as expected, there is much work to be done around the country. With demand for transportation alternatives growing in some communities and with future dedicated federal funding uncertain, states will need to continue to seek new partnerships and innovative funding and financing mechanisms to develop and maintain transit systems, bike and pedestrian facilities and other key features of vibrant communities.

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