Two new reports and a variety of recent developments in states lay bare the challenges of relying on the gas tax as a revenue source to meet transportation needs. I also have updates on some of my “States to Watch in 2015” and the usual roundup of recent items on MAP-21 reauthorization, public-private-partnerships and tolling, and state multi-modal activities.

**Eno Report Details ‘Life and Death of the Highway Trust Fund’**

The Eno Center for Transportation has a report out this month entitled “The Life and Death of the Highway Trust Fund.” It finds that the federal program for funding surface transportation infrastructure in this country is broken and there are really only three potential options to fix it.

Under solution number one, Congress could choose to align transportation spending with federal gas tax revenues either by reducing spending to no more than current receipts or by increasing user fees to produce the revenues necessary to meet the desired spending level. A second option would be to essentially codify the system that has been inadvertently created over the last few years that relies on both gas tax revenues and general fund revenues. But the third option would be more in line with the approach other developed countries are taking. It would dissolve the Highway Trust Fund, eliminate the gas tax and fund the surface transportation bill entirely through the appropriations process.

“Any of the options above could represent a dramatic improvement over the existing system,” the report’s authors write. “However, based on our analysis Solution 3 deserves fair consideration as an effective long-term solution to our national transportation funding problem.”

The report also notes interestingly that in using five transfers of General Fund revenues since 2008 totaling $65.3 billion to shore up the Highway Trust Fund, Congress has violated the 1974 Budget Control and Impoundment Act and is choosing to ignore it. The Atlantic and CityLab had more on this in a recent article.

Finally, the report offers case studies from the national transportation programs in Australia, Canada, Germany, Japan and the United Kingdom, where policies are in place that may be worth considering here.

At the heart of the report is the assertion that “the user pay principle works in theory but has not worked in practice, at least as applied to federal transportation funding in the United States to date.”

That's because in relying on a gas tax that has not been raised in more than 20 years and in relying on those General Fund transfers since 2008, the Highway Trust Fund isn't really a user pay system anymore anyway.

Those five developed countries highlighted in the report all have higher fuel taxes than the United
States but unlike the U.S., they don’t assume all those user fees will go to infrastructure or that infrastructure will be funded by nothing but user fees.

More from Eno:

- Eno President & CEO Joshua Schank had a recent post in which he tries to dispel some “Myths Surrounding Devolution of Federal Transportation Programs.” [5]
- Schank spoke at our Transportation Policy Academy in Washington, DC earlier this year. You can read highlights of his remarks here [6].

**Tax Policy Center Looks at ‘Reforming State Gas Taxes’**

State gas taxes are the focus of another recent report [7] issued by the Tax Policy Center, Urban Institute and the Brookings Institution. The report looks at the national trends affecting gas tax revenues and what states are doing—or not doing—in response to the erosion of those revenues.

“In all but a few states,” the report notes, “the gas tax is a per-unit tax, based on the number of gallons purchased and not a percentage of purchase price. Thus, the total tax paid at the pump does not change as gasoline prices rise, increasing only if drivers buy more gas or lawmakers raise the tax rate.”

But raising state gas taxes is often a tough sell for state legislators too. Massachusetts sought to overcome some of those challenges last year and to ensure future rate increases by indexing their gas tax to inflation. Then last month, Massachusetts voters approved a ballot measure to repeal the indexing mechanism, which means it will once again be up to the legislature to decide whether to approve future increases (see more here [8] and here [9]).

“Critics of indexing argue that automatic increases are unjust, and that legislators should have to vote on each increase,” the report says. “However, as demonstrated over the past 20 years, legislators are not inclined to raise rates very often or by very much. And the structure of the tax means it cannot keep pace with a growing economy if the rate is unchanged and tax base shrinks.”

Perhaps recognizing the unsustainability of existing gas taxes, a number of states appear poised to consider measures in the coming year to either lower their gas tax and replace it with a sales tax on gas or to simply extend their sales tax to gas purchases. Some believe this could help address revenue fluctuations due to inflation.

The report also notes that 14 states and D.C. have tied a portion of their tax to the cost of gas, either wholesale or at the pump. But at least one of those states, Kentucky, has expressed concern that recent declines in motor fuel prices are taking a big bite out of the state’s road fund and could lead to the delay or cancellation of some road and bridge projects, as the AASHTO Journal [10] and the Lexington Herald-Leader [11] both noted recently.

Still, the Tax Policy Center report argues that indexing gas taxes or retooling transportation funding by other means will be necessary if states hope to keep pace with the increasing costs of infrastructure.

“Whether the path is an indexed tax rate, a percentage of price tax, a (vehicle miles traveled fee), or alternative funding, inaction on revenue is no longer an option for states that don’t want to cut funding for transportation projects,” the report said.

**MAP-21 Reauthorization & the Future of the Highway Trust Fund**
Delaware Sen. Tom Carper has given up on passing a long-term transportation bill during the lame duck session of Congress, USA Today reported [12].

The Hill last week [13] noted that Congressmen Earl Blumenauer and Tom Petri enlisted the ghost of Ronald Reagan in support of their proposed gas tax increase. Reagan supported a 1982 federal gas tax increase.

The Atlantic looked at the politics of increasing the gas tax in a recent piece entitled “The Tax That Dare Not Be Hiked.” [14]

Former Pennsylvania Gov. Ed Rendell is among those arguing that lower gas prices make it a good time to increase the federal gas tax, CNBC reported [15].

House Republican Conference Chair Cathy McMorris Rodgers said last week passing a long-term transportation bill will be a priority for the conference in the next Congress, The Hill reported [16].

Former U.S. Transportation Secretary Ray LaHood was in Maine last week calling on transportation industry officials to pressure their congressional leaders to pass a longer-term transportation bill and shore up the Highway Trust Fund by increasing the gas tax, The Press Herald noted [17].

Transportation Secretary Anthony Foxx said recently that the failure of Congress to pass a long-term bill is especially damaging to Southern states, where the federal government pays for most road construction and where populations are growing, USA Today [18] reported [18].

The American Road and Transportation Builders Association is forecasting modest growth in 2015 for the U.S. transportation infrastructure market, according to this news release [19].

Ashley Halsey III of The Washington Post pondered the question of whether a new Congress can bail out transportation in five months in a recent piece [20].

State Activity on Transportation Revenues

Stateline took a look at fuel taxes around the country in a recent piece [21]. Among the states highlighted are Kentucky, Michigan and New Jersey.

California: The Los Angeles Times [22] looked at the mileage-based user fee concept, which California and nine other states are exploring.

Connecticut: Gov. Dannel Malloy indicated last week that transportation investment will be a major policy goal for his second term, The CT Mirror reported [23]. “I think part of the problem in Connecticut is that we’ve actually not told people the true size and the cost of what needs to be done if Connecticut is to be able to compete in the next 50 years,” he said. Malloy could provide more specifics when he delivers his inaugural speech and State of the State address on January 7.

Georgia: The Joint Study Committee on Critical Transportation Infrastructure Funding wrapped up its final public meetings last month and is now at work on recommendations to the legislature, which could come later this month or before the General Assembly convenes January 12, The Gainesville Times reported [24]. In a recent op-ed for Z Politics [25], one member of the committee offered a list of seven realities brought out by the hearings that they will keep in mind as they consider their recommendations. “At a minimum, Georgia must immediately find additional transportation funding of $1 billion per year just to properly maintain our present transportation system, and in the long run we must also find another $1 billion + per year to meet critically needed future improvements,” writes Edward Lindsey, a former legislator who is serving as a citizen member of the committee. “Greater flexibility and coordination between the state and local regions in Georgia are needed to allow our regions to assess and fast forward particularly critically needed transportation projects in their area. Public-private partnerships and toll lanes and roads are a viable option for future improvements in some areas. As motor vehicles become more fuel efficient and electric cars more common, the present primary dependency on motor fuel taxes to fund transportation must be re-evaluated. At the same time, the present policy of allowing the state and local governments to divert sales taxes collected on motor fuel for non-transportation purposes must also be reassessed. Greater coordination among metro Atlanta transit providers is required to make transit a viable transportation alternative in our urban and suburban area. The following
factors need to be adopted in determining which transportation projects should be at the top of the list for implementation: congestion mitigation; economic development; accessibility; safety; and environmental quality.”

- **Massachusetts:** *Boston Globe* opinion writers had some advice last month for newly elected Gov. Charlie Baker. Among their suggestions: “resist the highway mindset,” “don’t forget maintenance” and “consider new revenues.” On the latter, Derrick Z. Jackson offers this: “Just as Massachusetts voters passed a referendum to end the indexing of the gas tax to inflation — limiting funds the state uses to pay for roads, bridges, and mass transit — voters in Seattle, the Bay Area and other tech-friendly regions voted for major investments in transportation. Can Baker pivot from his support of the referendum and champion investments that help us keep up with our more visionary competitors? If he wants Massachusetts to remain a national economic engine, he must.”

- **Michigan:** The House last Thursday passed a plan that could eventually generate $1.2 billion annually in road funding without significantly increasing taxes for motorists, *Michigan Live* reported. The plan would phase out sales tax collections on fuel purchases between 2016 and 2021 but increase fuel taxes by a corresponding amount. While fuel taxes are one of the state’s primary road funding sources, most sales tax revenue is earmarked for schools and local governments. A competing plan approved by the Senate would ramp up total taxes. Gov. Rick Snyder was out and about in the state last week pushing for legislative action on the Senate measure, *The Detroit Free Press* and *Crain’s Detroit Business* both reported.

- **New Jersey:** *The Associated Press* had a roundup of revenue options lawmakers could consider to help pay for transportation projects across the state. Among them: a gas tax increase, a sales tax on gas, and a petroleum products tax. New Jersey faces a dilemma in 2015 because all the money currently going into the state’s transportation fund is set aside for paying down existing debt. The legislature and Gov. Chris Christie need to decide by July 1 next year whether to take on still more debt or abandon new projects.

- **Oregon:** Gov. John Kitzhaber has appointed members of a panel charged with envisioning what Oregon’s transportation system will look like in 30 years and how it should be paid for, *The Portland Tribune* reported. The panel will submit its report next year. But in noting the need for a long-term vision, Kitzhaber has also indicated he’ll push for short-term action for immediate upkeep of the state’s roads. To that end, a coalition known as the Oregon Transportation Forum has proposed some short-term financing measures, including linking future increases in the gas tax to fuel efficiency and using $100 million in lottery-backed bonds for projects other than highways and bridges. ... ICYMI, Democrat Chuck Riley unseated Republican state Sen. Bruce Starr in last month’s election, *The Oregonian* reported. Starr was a long-time proponent of the mileage-based user fee concept and authored the 2013 legislation setting in motion the volunteer road usage charge program that kicks in next July in the state.

- **South Dakota:** *KDLT News* reported that transportation funding only received a brief mention as Gov. Dennis Daugaard outlined his $4.3 billion state budget proposal recently. But that was enough for Sen. Mike Vehle to express optimism that the 2015 legislative session could bring action on a funding measure. Vehle chaired a legislative committee this summer to study highway needs and financing. The committee has proposed increasing the excise tax and taking a percentage of the wholesale tax on gasoline to provide additional revenues. Daugaard has been somewhat noncommittal thus far. “I thank the interim committee for making a specific proposal to start the discussion among many other discussions in the next session,” the governor said. *The Forum News Service* also reported recently on the process that led to the committee’s recommendations.

- **Texas:** State Rep. Ron Simmons has pre-filed legislation (HB 373) to direct revenues from motor vehicle sales, rental and use taxes to the State Highway Fund, *The Carrollton Leader* reported. Currently, the majority of motor vehicle sales tax collections are deposited to the state’s General Revenue fund. In 2013, vehicle sales tax collections totaled $3.48 billion. *Land Line* magazine also had a roundup of other pre-filed bills that have a bearing on transportation revenues.

- **Utah:** For the last year, the legislature’s Interim Transportation Committee has been sorting...
through a list of possibilities for covering an estimated $11 billion shortfall for priority transportation projects over the next 25 years, The Salt Lake Tribune noted recently. The committee has a computer program that can project how much money would come from different combinations of revenue mechanisms. The most likely possibilities are gasoline tax hikes, sales tax hikes and increases in vehicle registration fees, said committee co-chairman Sen. Kevin Van Tassell (a former co-chair of our CSG Transportation Committee). “My personal belief is doing nothing is not an option,” Van Tassell said. “If we do nothing, we lose everything we have gained” in recent years to address congestion.

- **Virginia:** The Daily Press notes that the state’s gas tax will increase January 1 by more than lawmakers originally planned when they passed a transportation funding package last year because Congress hasn’t been able to approve an internet sales tax measure that the Virginia legislature factored into the package.

- **Wisconsin:** Conservatives and environmentalists alike have some issues with the plan recently announced by the Wisconsin Department of Transportation to raise fees and taxes by more than $750 million over two years, reports The Capital Times. The plan would tie part of the gas tax to wholesale prices, apply an extra 2.5 percent tax on all new vehicle purchases, charge owners of electric or hybrid cars $50 annually and increase diesel fuel taxes to reflect the greater impact of trucks on the roads.

**Public-Private Partnerships & Tolling**

- Kevin DeGood of the Center for American Progress highlights public-private partnerships in a new brief, outlining the difference between procurement and finance. From his conclusion: “Public-private partnerships are a useful alternative form of procurement, allowing project sponsors to balance multiple goals against various delivery methods. They are not, however, a particularly useful or affordable method for raising capital when considered against the backdrop of an active municipal bond market. In the end, a government short of resources to repay a municipal bond will also be short the resources to repay a private entity a higher interest rate as part of a P3 deal.”

- **Colorado:** State transportation officials have decided not to pursue a public-private partnership for the rebuilding of C-470 in the southwest Denver area, The Denver Post reported. The road will be widened for toll lanes as a more traditional publicly funded, design-build project.

- **Indiana:** Two Northern Indiana counties have joined forces to submit a bid for the Indiana Toll Road lease, which is of course up for grabs in the wake of the current operator filing for Chapter 11 bankruptcy in September, Indiana Public Media reported. Also, Streetsblog USA had a three-part series last month about privately-financed roads. Part one looks at “The Indiana Toll Road and the Dark Side of Privately Financed Highways.” Part two examines “How Macquarie (the Australian firm that ran the ITR before going bankrupt) Makes Money By Losing Money on Toll Roads.” Part three, entitled “The Great Traffic Projection Swindle,” looks at what series authors Angie Schmitt and Payton Chung say are shaky assumptions toll road investments are based on and how that is putting the public at risk. ... Indiana DOT Commissioner Karl Browning said recently he doesn’t think the state should commit to any more availability payment P3 deals like those used to finance a section of the I-69 project and the Ohio River Bridges Project in the Louisville area, the Associated Press reported. “It’s a lot like borrowing,” Browning said. “I would be more than cautious about the notion of doing public-private partnerships of the nature of some of them that we’ve done.” Availability payments are often used to finance projects that can’t be tied to dedicated funding streams such as tolls. The city of Indianapolis, for example, is financing a criminal justice complex using such payments.

- **Kentucky:** I wrote an article for the November issue of the Kentucky business magazine The Lane Report about how tolling factors into the Ohio River Bridges Project in Louisville and the debate over using tolls to finance a new Brent Spence Bridge in the Cincinnati area. One of the folks I talked to for the piece was outspoken toll opponent, Covington City Commissioner Steve Frank.
City News reported that on a recent radio appearance by Frank in which he reacted to comments by U.S. Secretary of Transportation Anthony Foxx suggesting the burden was on Kentucky officials to end the impasse over the project by agreeing to tolls or coming up with an alternative.

**Maryland:** Some are suggesting toll rates on the lightly traveled Intercounty Connector between Montgomery and Prince George’s counties need to be lowered to draw more traffic from congested local roads, The Washington Post reported. ... Transit advocates now say they’re cautiously optimistic that Gov.-elect Larry Hogan will allow construction of the Purple Line light rail P3 project to move forward as planned, The Sentinel reported. Hogan has said he won’t discuss policy issues prior to being sworn in on January 21. Hogan said during the gubernatorial campaign he may choose not to fund either the Purple Line project or the Red Line transit project in Baltimore and instead devote money to road improvement. Meanwhile, the Maryland Transit Administration extended the deadline for private sector bids on the project from January to March to give the new Governor more time to deliver his assessment, The Baltimore Sun reported last month that Maryland Congressman John Delaney, a big proponent of P3s, survived a close re-election contest. Delaney was one of the speakers at this summer’s InfraAmericas U.S. P3 Infrastructure Forum, which I reported on here.

**North Carolina:** The state department of transportation said recently that toll lanes will play a major part in some big road projects over the next decade, The Charlotte Observer reported.

**Pennsylvania:** The next P3 project for the commonwealth is an effort to develop compressed natural gas fueling stations at public transit agencies around the state. Last month, the state’s Public-Private Transportation Partnership Office announced its inviting the private sector to submit their qualifications to compete for the project. ... Meanwhile the state’s P3 to finance, design, build and maintain 558 bridges in need of repair or replacement gets a shout-out in a recent essay by Duke University Professor Henry Petroski entitled “Here’s how to fix America’s crumbling bridges.” Robert Poole of the Reason Foundation also highlighted the bridge bundling project in his Surface Transportation News last month, concluding that “Pennsylvania has more than 4,000 (bridges) categorized as either structurally deficient (like these) or functionally obsolete, so if this PPP project goes well, there may be interest in applying the model to additional bridge-bundling PPP contracts. Likewise, other states with high percentages of deficient bridges may see the PennDOT model as something to emulate.”

**Virginia:** The Commonwealth Transportation Board has approved new P3 process guidelines aimed at increasing transparency and competition and improving the evaluation of the public’s risk in P3 transportation projects. ... Transportation Secretary Aubrey Lane said recently that if tolling is in the mix to help finance some transportation projects, the state can deliver all of the Hampton Roads region’s biggest bridge, tunnel and highway projects within 30 years, The Virginian-Pilot reported. Without tolling, it would likely take 60 years or longer, Layne said.

According to a new report from Fitch Ratings highlighted recently by Tollroadsnews, it’s not so much the lack of available financing from the public or private sectors that is to blame for underinvestment in infrastructure. “Instead, the ability to secure a revenue stream from either users or taxpayers is generally the limiting factor,” the report finds. “The problem requires an often-difficult political decision on who should pay for facilities that only a fraction of the population will use and that will also be used by future generations. This is made even trickier for Western economies that need to upgrade existing infrastructure. It is politically difficult to make people pay through either fees or taxes for a service that is not new and just aims to maintain what already exists.”

**State Multi-Modal Strategies**

**Transit**

- Arizona: Arizona State University News had a three-part series recently looking at sustainable
cities and transit-oriented development (TOD) in Phoenix and other Arizona cities. Speaking of TOD, a new Government Accountability Office report looks at the factors that influence the extent of development around transit projects. Among them: conditions that support transit-oriented development, such as demand for nearby real estate, land available to develop, residents’ support, and a transit system that provides a direct and efficient connection to jobs; challenges that hinder transit-oriented development, such as high associated costs, difficulty in obtaining financing, a difficult local-government review and approval process, an unsupportive local population, and a physical configuration around transit stations unattractive for development; and local government policies that support transit-oriented development, such as supportive zoning, planning, infrastructure investments, and tax incentives.

• **Maryland:** There is speculation as to how Gov.-elect Larry Hogan will seek to relieve congestion problems on I-270 in the DC suburbs, *The Washington Post reported*. The options include dedicated bus lanes or express toll lanes.

• **Oregon:** *The Washington Post reported last month* that the U.S. effort to help build a homegrown streetcar manufacturer has largely fallen short, despite being launched with great fanfare in Portland back in 2009. And according to a subsequent Post editorial, that has left the taxpayers of Washington, D.C. holding the bag as the District still awaits the opening of its much delayed streetcar line.

• **Puerto Rico:** Bus and city train service in San Juan won’t have to be shut down after officials were able to reach an eleventh-hour deal to increase a controversial oil tax and avert a debt crisis on the island, *Reuters reported last month*.

• **Virginia:** Arlington County may look to better buses after a long-in-the-works proposed five-mile streetcar line on Columbia Pike was abruptly canceled last month, *The Atlantic CityLab reported*. ... Fairfax County officials meanwhile have formally agreed to the terms of a $403 million, low interest federal TIFIA loan to help pay for their share of construction costs on the second phase of the Silver Line, the Metro extension that will eventually connect Washington, DC to Dulles Airport, *The Washington Post reported*.

**High-Speed Rail**

• **Florida:** A “higher-speed” intercity passenger rail service is being developed by Florida East Coast Industries that will connect Miami to Orlando in just under three hours and could one day reach as far north as Jacksonville. *MetroJacksonville.com had a recent piece* on the project that includes a couple of nifty infographics with numbers on the potential economic impact.

• A new maglev train in Japan transported its first passengers recently at a speed of 311 mph, *The Independent reported*.

**Ports & Waterways**

• **Minnesota:** The state department of transportation last month released its first-ever statewide plan for Minnesota’s ports and waterways, *KBJR News reported*. The plan recommends improvements to the system’s infrastructure, capacity, technology and logistics that would be supported by a mix of public and private investment.

**Active Transport**

• *The State Smart Transportation Initiative reports* that state DOTs are beginning to embrace protected bike lanes in their planning processes.
[66] http://www.washingtonpost.com/opinions/the-districts-streetcar-deal-leaves-taxpayers-holding-the-bag/2014/12/02/6f535b56-79d1-11e4-84d4-7c896b90abd_c_story.html
[67] http://www.reuters.com/article/2014/12/01/us-usa-puertorico-idUSKCN0JE0UF20141201
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