New Jersey’s Public Question No. 2: Dedication of All Gas Tax Revenue to Transportation Amendment

**Title of Legislation:** Assembly Concurrent Resolution 1/ Senate Concurrent Resolution 190/ Public Question No. 2

**Result:** Approved by voters Nov. 8, 2016.

**Purpose:** Constitutionally dedicate all revenue derived from the sale of motor fuels—including the motor fuel excise tax and the Petroleum Products Gross Receipts tax—to the state’s Transportation Trust Fund, to be used exclusively for transportation infrastructure purposes.

### Public Question No. 2 (2016)

<table>
<thead>
<tr>
<th>Date Approved</th>
<th>Percent Yes</th>
<th>Percent No</th>
</tr>
</thead>
<tbody>
<tr>
<td>11/8/2016</td>
<td>55</td>
<td>45</td>
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### ACR 1 (2015)/ SCR 190 (2015)

<table>
<thead>
<tr>
<th>Date Approved</th>
<th>Yes Votes</th>
<th>No Votes</th>
</tr>
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<tbody>
<tr>
<td>Senate</td>
<td>1/11/2016</td>
<td>36</td>
</tr>
<tr>
<td>House</td>
<td>1/11/2016</td>
<td>75</td>
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A case study by the American Road and Transportation Builder’s “Transportation Investment Advocacy Center”™.

TiAC staff researches and prepares detailed case studies of recent successful—and unsuccessful—state and local legislative and ballot initiative campaigns aimed at increasing transportation infrastructure investment. For each case, the studies dig into the politics, issues, media and major players involved in the effort.

**Report Contact Information:**

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Phone: 202-289-4434
CONSTITUTIONAL AMENDMENT TO DEDICATE ADDITIONAL REVENUES TO STATE TRANSPORTATION SYSTEM

Do you approve amending the Constitution to dedicate all revenue from the State motor fuels tax and petroleum products gross receipts tax to the Transportation Trust Fund?

This amendment would provide that an additional three cents of the current motor fuels tax on diesel fuel, which is not dedicated for transportation purposes, be dedicated to the Transportation Trust Fund. In doing so, the entire State tax on diesel fuel would be used for transportation purposes. The entire State tax on gasoline is currently dedicated to the Transportation Trust Fund and used for transportation purposes.

The amendment would also provide that all of the revenue from the current State tax on petroleum products gross receipts be dedicated to the Transportation Trust Fund. In doing so, the entire State tax on petroleum products gross receipts would be used for transportation purposes.

This amendment does not change the current tax on motor fuels or petroleum products gross receipts.

I. Need for Lockbox Legislation

Prior to approval of Question 2, all revenue from the state’s 10.5 cents-per-gallon excise gas tax was deposited into its Transportation Trust Fund (TTF), as was 10.5 cents of the 13.5 cents-per-gallon diesel tax. The additional 3 cents-per-gallon of the diesel tax not deposited into the TTF went to the General Fund.

The additional petroleum products gross receipts tax (PPGRT), an added 2.75 percent tax on the gross receipts from the first sale of petroleum products in New Jersey (charged as 4 cents-per-gallon since June 30, 2000), deposited a minimum of $200 million annually into the state’s Transportation Trust Fund. The remaining revenue was deposited into the General Fund. In fiscal year 2016, the PPGRT generated $215 million in revenue.

Preparing for a Motor Fuel Tax Increase
In the years leading up to the 2015 legislative session, New Jersey officials repeatedly warned that the state would not be able to fund transportation construction projects or debt payments beginning July 1, 2016. New Jersey roads and bridges were deteriorating at a rapid pace, while population growth exacerbated the need for solutions to congestion and safety improvements.

For more information on the state of New Jersey’s transportation infrastructure, read ARTBA-TIAC’s case study, “New Jersey’s 2016 Motor Fuel Tax Increase Legislation”.

As part of a compromise to raise motor fuel taxes for the needed transportation investment, Gov. Chris Christie (R) requested subsequent tax decreases in other areas to balance out the increase. Additionally, during an on-air interview Dec. 15, 2014, Christie stated, “I can make a commitment that it will be put towards the Transportation Trust Fund...The only way to ensure it is [through] a Constitutional dedication. That could go on the ballot in 2015 [or] 2016.”

II. Path to the Ballot

On Dec. 14, 2015, lawmakers revealed legislation that would constitutionally dedicate all revenue derived from the sale of motor fuels to the TTF for transportation purposes. The legislation, Assembly Concurrent Resolution (ACR) 1 (2015), was introduced by a bipartisan team of legislators, including Assembly Members Prieto, Wisniewski, Singleton, Lagana and Spencer and Senators Sacco and Pennacchio.

On Jan. 11, 2016 the Assembly unanimously passed ACR 1 with a vote of 75-0. The Senate substituted in identical bill Senate Concurrent Resolution (SCR) 190 and approved the legislation 36-1.

Interpretive Statement

This amendment would dedicate all of the revenue from the State tax on motor fuels to the Transportation Trust Fund. The current dedication is 10.5 cents per gallon on gasoline and diesel fuel.

The amendment would include an additional three cents of the tax on diesel fuel that is not currently dedicated. The total revenue from the tax on motor fuels this fiscal year is estimated to be $541 million. The amendment also dedicates all of the revenue from the tax on gross receipts of the sale of petroleum products to the Transportation Trust Fund. The current minimum dedication is $200 million per year. This fiscal year, the revenue from the tax on gross receipts of the sale of petroleum products is estimated to be $215 million.

The amendment does not change the current tax on motor fuels or petroleum products gross receipts. The dedication to the Transportation Trust Fund ensures that the revenue is only used for transportation purposes.
III. Ballot Campaign

On Oct. 14, Gov. Christie signed into law legislation (Assembly Bill 10 and Assembly Bill 12) to increase the state gas tax by 23 cents-per-gallon and the state diesel tax by 27 cents-per-gallon. This increase further illustrated the need to pass Question 2 and ensure the funds were used for transportation purposes.

![Flyer to raise awareness of Question 2](image)

**Figure 1** Flyer to raise awareness of Question 2 (UTCA NJ)

Polls

Fairleigh Dickinson University PublicMind poll

“Fifty-one percent of registered voters say they will support the Gas Tax Dedicated to Transportation Funding Amendment. A third (34%) are opposed. This amendment, if passed, would require all revenue from gas taxes to go to the failing Transportation Trust Fund in order to pay for transportation projects.
Support for this amendment is virtually unchanged from January 2016, when a similar question was asked (49% favor; 30% oppose).

“With TTF funding soon to run out, and various solutions floated recently by the Governor and legislature seemingly going nowhere, voters remain lukewarm to the idea of amending the state constitution in order to address the TTF’s shortfall,” said Jenkins. “The amendment would ensure that money already being collected go entirely to the TTF’s road projects. Despite this, there is not an overwhelming degree of support.”

Democrats (58%) and independents (51%) support the amendment more than Republicans (39%). Republican support is down from where it was in January 2016 (51%).

Over a third (38%) have been paying attention to news about the proposed amendment, with almost one-in-five paying a lot of attention (17%).

Questions:

<table>
<thead>
<tr>
<th>If the election were held today, would you vote yes or no [or] to vote on this amendment, which would require all revenue from gas taxes to go to the Transportation Trust Fund in order to pay for transportation projects?</th>
</tr>
</thead>
<tbody>
<tr>
<td>PID</td>
</tr>
<tr>
<td>---</td>
</tr>
<tr>
<td>All</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>No</td>
</tr>
<tr>
<td>DK (vol)</td>
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<tr>
<td>Refused (vol)</td>
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(Continued on next page.)
### Poll Question 1

**Please tell me how much you’ve heard or read about a proposed amendment to the state’s constitution, known as the Gas Tax Dedicated to Transportation Funding Amendment?**

<table>
<thead>
<tr>
<th>PID</th>
<th>Gender</th>
<th>Race</th>
<th>Education</th>
<th>Age</th>
</tr>
</thead>
<tbody>
<tr>
<td>All</td>
<td>Dem</td>
<td>Ind</td>
<td>Repub</td>
<td>Male</td>
</tr>
<tr>
<td>A lot</td>
<td>17%</td>
<td>14</td>
<td>23</td>
<td>18</td>
</tr>
<tr>
<td>Some</td>
<td>21%</td>
<td>22</td>
<td>17</td>
<td>21</td>
</tr>
<tr>
<td>Just a little</td>
<td>26%</td>
<td>26</td>
<td>17</td>
<td>26</td>
</tr>
<tr>
<td>Nothing at all</td>
<td>36%</td>
<td>36</td>
<td>42</td>
<td>33</td>
</tr>
<tr>
<td>DK (vol)</td>
<td>1%</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Refused (vol)</td>
<td>0%</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
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### Poll Question 2

**January 2016**

_Do you favor or oppose [rotate] amending the state constitution and requiring the state to make all revenue from the gasoline tax go to the transportation trust fund?_

<table>
<thead>
<tr>
<th>PID</th>
<th>All</th>
<th>Dem</th>
<th>Ind</th>
<th>Repub</th>
</tr>
</thead>
<tbody>
<tr>
<td>Favor</td>
<td>49%</td>
<td>50</td>
<td>50</td>
<td>51</td>
</tr>
<tr>
<td>Oppose</td>
<td>30%</td>
<td>29</td>
<td>32</td>
<td>31</td>
</tr>
<tr>
<td>DK (vol)</td>
<td>19%</td>
<td>21</td>
<td>16</td>
<td>17</td>
</tr>
<tr>
<td>Refused (vol)</td>
<td>1%</td>
<td>1</td>
<td>2</td>
<td>1</td>
</tr>
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</table>

Figure 2 Text and graphics from poll release.
Nov. 4 2016 Stockton Poll

“Regarding a second proposed Constitutional amendment, 63 percent support dedicating increased gasoline tax revenues to pay for transportation projects, while 33 percent oppose it and 4 percent are unsure.”

Questions:

| Q15 with LEAN. Another proposed amendment to the state Constitution would use more of the current gasoline tax to pay for transportation projects. The tax itself would not increase. If the election were held today, would you support or oppose this amendment? |
|---|---|---|---|
| Frequency | Percent | Valid Percent | Cumulative Percent |
| Valid SUPPORT | 414 | 61.1% | 61.1% |
| Lean support | 11 | 1.6% | 1.6% |
| OPPOSE | 222 | 32.7% | 95.4% |
| Lean oppose | 2 | 0.3% | 95.7% |
| NOT SURE/DON'T KNOW | 26 | 3.8% | 99.5% |
| REFUSE | 3 | 0.4% | 100.0% |
| Total | 678 | 100.0% | 100.0% |

| Q15 COMBINED. Another proposed amendment to the state Constitution would use more of the current gasoline tax to pay for transportation projects. The tax itself would not increase. If the election were held today, would you support or oppose this amendment? |
|---|---|---|---|
| Frequency | Percent | Valid Percent | Cumulative Percent |
| Valid SUPPORT | 424.9 | 62.7% | 62.7% |
| OPPOSE | 223.9 | 33.0% | 95.7% |
| NOT SURE/DON'T KNOW | 26 | 3.8% | 99.5% |
| REFUSE | 3 | 0.4% | 100.0% |
| Total | 678 | 100.0% | 100.0% |

### IV. Key Players

**Supporters**

Several organizations that had been outspoken in their opposition to the Oct. 14 state motor fuel tax increase came out in support of a transportation funding lockbox.

**Americans for Prosperity**

One of the most vocal opponents of the October legislation, praised the lockbox as a sensible choice to preserve revenue from being used for purposes it was not intended for.
“Americans for Prosperity supports the ballot measure and constitutionally dedicating the remaining revenues collected from the tax on diesel and the petro tax to the transportation fund.

“At the same time, AFP wants voters to be clear that this referendum does not authorize a gas tax increase, nor does it in any way resolve the transportation challenges the state is facing. The remaining revenue from these two taxes amounts to less than $30 million, a mere fraction of the $1.2 billion collected for the TTF last year.

“Americans for Prosperity is steadfast in our opposition to a gas tax hike. We continue to urge lawmakers to pursue reforms to rein in wasteful spending and to ensure our transportation dollars are used solely for our roads and bridges.””

Americans for Tax Reform (ATR)

ATR came out both in support of the motor fuel tax increase legislation (which they saw as a net gain, when coupled with the subsequent tax cuts) and Question 2.

“But another victory is that finally New Jersey taxpayers will be protected from politicians stealing from gas tax revenues and spending them on politics as usual. If New Jersey passed Public Question 2 that protects our gas tax monies from politicians looking to fund special interests. Limiting gas taxes to building roads and transportation projects is giant step in reducing corruption in New Jersey,” said Grover Norquist, president of Americans for Tax Reform. vi

Engineers Laborers Employer Cooperative

The Engineers Laborers Employer Cooperative organized that pro-Question 2 campaign, “Road to Repair”. The campaign, in coordination with Forward NJ, produced a social media campaign, prepared fact sheets, created a video, and reached out to the public through letters-to-the-editor and other forms of media.
One of the largest supporting coalitions was Forward NJ, a better-roads promotional group founded by the Utility and Transportation Contractors Association of New Jersey that advocated for long term road policy reform and funding solutions. They published a wide variety of op-eds and blog posts that advocated for long term funding solutions for New Jersey. This coalition was supported by a variety of businesses and organizations who also believed in the importance of road improvement.

The coalition enjoyed the support of a wide range of participants throughout New Jersey, including chambers of commerce, unions, transportation organizations, state associations, environmental groups and private businesses.

During the campaign, the Forward NJ political action committee raised $841,500.iii

Forward NJ and its coalition members led a social media awareness campaign (#YESonQ2), organized press conferences, and put out a call to action encouraging supporters to submit letters to the editor on why Question 2 was so important.

Forward NJ’s primary message point was “Don’t let Trenton control new gas tax revenue.”

Opponents

Arguments

- Voting ‘no’ on Question 2 would send a message to legislators that they should repeal the Oct. 14 motor fuel tax increase. (Some news agencies and officials incorrectly stated that voting ‘no’ would actually repeal the motor fuel tax increase, which was not related to the lockbox measure.)
- The language in Question 2 was not strong enough and did not include bonds, which would be open for diversions if acquired with motor fuel tax revenue. This too was incorrect, the State had bonding authority with or without the passage of the measure.
- Voters have no say in how revenue in the TTF is spent and relies too heavily on borrowing, which would be further enabled by Question 2.
- Expenditures for the TTF include items beyond roads and bridges.

Key Players

While no organized Question 2 opposition arose, several state lawmakers and media personalities came out strongly against the measure.
Lt. Gov. Kim Guadagno (R)

Lt. Gov. Guadagno was one of Question 2’s most out-spoken opponents, leading a #VoteNoOnTwo social media campaign, and making multiple statements in the media including a weekly radio appearance, and holding speeches and rallies. Lt. Gov. Guadagno also created a handout outlining the arguments against the lockbox measure.

As lieutenant governor in New Jersey, Guadagno was also responsible for overseeing elections in the state.

Radio host Bill Spadea

“If you vote ‘yes’ on the question, Gov. Christie and Steve Sweeney will be able to borrow billions and spend the TTF money on the projects agreed to in the back room, like the light rail projects which advocates pretended didn’t exist. Additionally, with the latest tax bill the pension is still underfunded because the politicians created a one billion dollar hole in the budget almost overnight.

How about forcing these corrupt Trenton insiders to allocate budget money from existing taxes and the new one they saddled us with to fund critical infrastructure projects and pension funding without borrowing billions more that will be the justification for higher taxes down the road?

Bottom line is that a ‘yes’ vote is exactly what Christie and the rest of the Trenton insiders want. Give them a strong NO and tell them you are sick and tired of the corrupt backroom deals that have left teachers without proper funding and roads in disrepair.”

Assemblyman Erik Peterson (R-Hunterdon)

“The only reason the governor and Democratic leadership are pushing the ballot question is to enable borrowing against the new tax increases, which will exhaust all of the new revenue in eight short years and will require future tax increases.”

V. How did voters respond?

Voters narrowly approved Question 2 on the Nov. 8, 2016 General Election ballot, with 55 percent (1,660,021 voters) in favor and 45 percent (1,385,321 voters) opposed."
Election Information

In this election, 68 percent (3,957,303 voters) of eligible voters (5,826,117 total registered voters) cast a ballot. Most registered voters (2,518,828 voters) were unaffiliated with a political party. Registered Democrats were the next biggest pool of voters (2,076,528 voters), and Republican voters made up the third largest group (1,213,075 voters).

VI. How did it succeed?

Bipartisan Government Support

There was significant governmental support for the bill’s passage. Both houses of the state legislature overwhelmingly passed the initial proposal for the ballot measure, with only one vote coming against the measure in the Senate. The only major opposition came from Lt. Gov. Guadagno, who spoke out against Gov. Christie’s support of the amendment. She believed that supporting the measure would allow the state to continually bond to further drive its overall economy into bankruptcy.

Strong Leadership

Question 2 sponsors participated in promoting the measure through traditional and social media. Having lawmakers involved in the process further legitimized the efforts of Forward NJ and “The Road to Repair” campaign, particularly when lawmakers were encouraging voters to protect the TTF from any attempts to divert the revenue by their colleagues.

Strong Coalition and Comprehensive Campaign to Reach Voters

Forward NJ and “The Road to Repair” campaigns built off of momentum from the campaign to increase the state gas tax and made a significant impact through letters to the editor, mailings, advertisements, and social media. With the support of a broad-based coalition it was able to reach a large, diverse audience and appeal to many different interests. The visibility of the campaign played a significant role in raising awareness on the importance of a lockbox.

Groups that Opposed the Gas Tax Supported the Lock Box Amendment

It is especially important to note the support of organizations that had strongly opposed the motor fuel tax increase that had taken place less than a month before the measure was up for vote on the ballot.
The universal appeal of a lockbox certainly played a large role in its ability to pass, particularly when New Jersey residents were expressing dissatisfaction with politics overall, with some resentment about the manner of the gas tax increase.

The support of groups and individuals that normally oppose transportation funding measures greatly widened the audience. These organizations included Americans for Prosperity and the Reason Foundation, as well as Assemblyman Jack Ciattarelli (R- District 16). The ability to reach their audiences with factual information about the lockbox helped counteract negative campaigns.
“NJ Governor and Lawmakers Exploring Transportation Trust Fund Solutions”, ARTBA-TIAC.

http://view2.fdu.edu/publicmind/2016/160711/


http://www.elec.state.nj.us/ELECReport/SearchContribCandidate.aspx

http://nj1015.com/spadea-on-nj-ballot-question-2-this-is-only-the-beginning/


“Total Number of Registered Voters, Ballots Cast, Ballots Rejected, Percentage of Ballots Cast and the Total Number of Election Districts in New Jersey”, New Jersey Division of Elections. 11/8/2016.

“Statewide Voter Registration Summary”, New Jersey Division of Elections. 11/30/16.