Title of Ballot Measure: Question 1: Constitutional Amendment (Ch. 422 of the 2013 Legislative Session)
Transportation Trust Fund – Use of Funds

Type: Constitutional Amendment

Election Cycle: November 4, 2014

Status of Amendment: Passed

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Background
State analysts estimated that without an increase in transportation funding Maryland would only be able to maintain its transportation system after 2017, which meant the state would be unable to continue new construction projects such as Montgomery County’s Purple Line light rail and the Corridor Cities Transitway rapid bus line. In order to address this issue and increase transportation funding Maryland legislators approved the Transportation Infrastructure Investment Act of 2013, a bill to increase the state’s flat excise tax, link it to the Consumer Price Index (CPI) so the tax could adjust to changes in inflation, and create a new 3 percent sales tax on the price of wholesale gasoline.
While discussing the legislation, transportation advocates raised concerns over the state’s ability to ensure this new revenue would be used for its intended purpose. Starting in 1984, governors and lawmakers agreed to transfers from the Transportation Trust Fund to the General Fund, with the understanding that repayments are required. A 2011 report by a legislatively commissioned study of the state’s transportation funding needs documented 11 transfers totaling $571 million from the Transportation Trust Fund to the General Fund between 1984 and 2011, with repayment nearly complete at $544.3 million. However, starting in 2003, transfers from the Local Highway User Revenues (HUR) to the General Fund began, totaling $947.5 million by 2011. None of those funds were repaid, leaving counties and locals with an inadequate sum to maintain and repair their roads and bridges. At the start of the Recession in 2009 Maryland altered the HUR formula, diverting 71.5 percent for the state Department of Transportation, 19.3 percent for the General Fund, and 7.5 percent for Baltimore City, leaving counties with 1.7 percent—much less than the 30 percent previously allocated to locals.

Summary of Legislation

Senate Bill 829 (2013) was introduced Feb. 1, 2013 by a bipartisan coalition of legislators (see page 11). The bill was approved and sent to the House on March 29, 2013 with a vote of 45-2. In the House, the Appropriations and Ways and Means Committee made minor changes, and the House approved the bill with amendments on April 8, 2013 108-30. The Senate subsequently accepted the amendment and gave final approval the same day, 40-7. Both chambers passed SB 829 well above the minimum 60 percent majority vote requirement.

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<th>SENATE</th>
<th>Republicans</th>
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<tr>
<td>Yes</td>
<td>6</td>
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### Ballot Language

#### Question 1
**Constitutional Amendment (Ch. 422 of the 2013 Legislative Session)**

**Transportation Trust Fund – Use of Funds**

(Amending Article III by adding Section 53 to the Maryland Constitution)

Limits the use of Transportation Trust Funds to the payment of principal and interest on transportation bonds and for constructing and maintaining an adequate highway system or any other transportation-related purpose. Also prohibits the transfer of Transportation Trust Funds into the General Fund or a special fund of the State, except for: (1) an allocation or use of highway user revenues for local governments or (2) a transfer of funds to the Maryland Transportation Authority or the Maryland Transportation Authority Fund. Transportation Trust Funds may be used for non-transportation related purposes or transferred to the general fund or a special fund only if the Governor declares a fiscal emergency and the General Assembly approves legislation, by a three-fifths vote of both houses, concurring with the use or transfer of the funds.

### Proposed Amendment Language

**Article III (Legislative Department), Section 53: Section 1.**

(A) THERE IS A TRANSPORTATION TRUST FUND.

(B) EXCEPT AS PROVIDED IN SUBSECTION (F) (E) OF THIS SECTION, THE FUNDS IN THE TRANSPORTATION TRUST FUND MAY BE USED ONLY:

1. FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON TRANSPORTATION BONDS AS THEY BECOME DUE AND PAYABLE; AND
2. AFTER MEETING DEBT SERVICE REQUIREMENTS FOR TRANSPORTATION BONDS, FOR ANY LAWFUL PURPOSE RELATED TO THE CONSTRUCTION AND
MAINTENANCE OF AN ADEQUATE HIGHWAY SYSTEM IN THE STATE OR ANY OTHER PURPOSE RELATED TO TRANSPORTATION.

(C) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, FUNDS IN THE TRANSPORTATION TRUST FUND MAY NOT BE TRANSFERRED TO THE GENERAL FUND OR A SPECIAL FUND OF THE STATE.

(D) THIS SECTION DOES NOT APPLY TO:

(1) AN ALLOCATION OR USE OF HIGHWAY USER REVENUES FOR THE COUNTIES, MUNICIPALITIES, OR BALTIMORE CITY THAT IS AUTHORIZED UNDER TITLE 8, SUBTITLE 4 OF THE TRANSPORTATION ARTICLE; OR

(2) A TRANSFER OF FUNDS IN THE TRANSPORTATION TRUST FUND TO THE MARYLAND TRANSPORTATION AUTHORITY OR THE MARYLAND TRANSPORTATION AUTHORITY FUND.

(E) FUNDS IN THE TRANSPORTATION TRUST FUND MAY BE USED FOR A PURPOSE NOT RELATED TO TRANSPORTATION OR TRANSFERRED TO THE GENERAL FUND OR A SPECIAL FUND OF THE STATE IF:

(1) THE GOVERNOR, BY EXECUTIVE ORDER, DECLARES A FISCAL EMERGENCY EXISTS; AND

(2) THE GENERAL ASSEMBLY, BY LEGISLATION PASSED ON A YEA AND NAY VOTE SUPPORTED BY THREE-FIFTHS OF ALL THE MEMBERS ELECTED TO EACH OF THE TWO HOUSES OF THE GENERAL ASSEMBLY, CONCURS WITH THE USE OR TRANSFER OF THE FUNDS.

To read the Senate Fiscal and Policy analysis, visit:

Support

Supporter’s Arguments:

- Because transportation projects require long-term planning, it is necessary to guarantee that funds will be available for use. Without that guarantee, critical transportation projects may not be completed or may take longer to complete. Additionally, the knowledge that funding will be maintained will aid in financing future projects.

- A “no new taxes” way to ensure transportation infrastructure is effectively funded.

- The amendment still allows flexibility in the event of a fiscal emergency.

- The Transportation Infrastructure Investment Act of 2013 included a measure requiring a majority of votes in specific Senate and House panels in order to dip into the Transportation Trust Fund for non-transportation related purposes. However, legislation would not adequately
protect the Transportation Trust Fund, as it would not constitutionally require future legislators or Governors to maintain the protection granted in the law.

**Key Players:**
The 2014 general election also included gubernatorial elections in Maryland. Both Lt. Governor Anthony Brown, the Democrat gubernatorial candidate, and Larry Hogan, the Republican gubernatorial candidate, came out strongly in favor of the proposed constitutional amendment.

The campaign to create a lockbox on the state’s transportation fund was led by The Committee to Protect Marylanders’ Transportation Trust Fund. The group of business, labor and transportation organizations launched a campaign through television ads, radio and digital advertising to educate voters on the issue beginning in September 2014.

Script from a radio ad released by the Committee read:

“Do [horns beeping] and [tires squealing] and [people yelling] make you want to [scream] over and over? Yeah- we feel the same way. And because Maryland has some of the worst traffic in the country, we don’t see it getting any better soon. Unless we vote for Question 1. You see, voting for Question 1 means transportation funds are actually spent on things like roads and highways; new metro lines and stops; new buses and bus routes. That’s right, voting for Question 1 means far less traffic. So when you arrive to work or at home at the end of the day, you feel [sigh of relief]. Vote for Question 1 November 4.”

The coalition included:

- AAA Mid-Atlantic
  - Baltimore Washington Corridor Chamber
- Central Maryland Transportation Alliance
- Corridor Cities Transitway Coalition
- Dorchester Chamber of Commerce
- Gaithersburg-Germantown Chamber of Commerce
- Garret County Chamber of Commerce
- Greater Baltimore Committee
- Greater Bethesda-Chevy Chase Chamber of Commerce
- Greater Capital Area Association of Realtors
- Greater Severna Park and Arnold Chamber of Commerce
- Greater Silver Spring Chamber of Commerce
- Greater Washington Board of Trade
How much money was raised in support of Question 1: $264,025

Endorsements for the amendment:

The Washington Post: “One way to defuse such arguments is by installing a so-called lockbox in state budgets, ensuring that money raised for transportation, such as from a gas tax, is spent on transportation. In Maryland, voters can address this problem by voting for the proposed constitutional amendment in Ballot Question 1. The amendment would establish just such a lockbox on the state’s Transportation Trust Fund — and it would also furnish the governor and state lawmakers with a key to open it in case of dire circumstances. We support the amendment as a sensible way to detoxify what has become a perennial, venomous debate in Annapolis.”

The Baltimore Sun: “But here's one more thing it accomplishes: It demonstrates that Maryland places great value on transportation infrastructure and will tolerate a reduction in such spending only under extraordinary circumstances (although exactly what constitutes a fiscal emergency under the law is left entirely up to future governors).”

The Gazette: “Statewide Question 1 involves the Transportation Trust Fund, a pot of money Maryland collects that includes revenue from the gas tax and vehicle registration fees. As the name implies, the fund was created to pay for transportation projects but over the years, lawmakers have distributed the money to other programs to balance the Maryland budget. By law, all Maryland budgets must balance.
The question would require the fund be spent on road and transit projects. The money could be transferred into other accounts if the governor declares a fiscal emergency and the General Assembly approves legislation authorizing the transfer with a three-fifths majority. We think these are significantly high hurdles and transfers will be rare, which means the money will be used for the purpose intended.”

*The Star Democrat:* "vi

“Despite that, the constitutional amendment will better ensure funds that are supposed to be used for transportation purposes are in fact used for transportation purposes.”

*Southern Maryland News:* "vii

“This constitutional amendment offers some protection that the taxes and fees Marylanders pay as a price for driving an automobile won’t be siphoned off to cover other shortfalls in the state budget before the region’s road projects get a fair hearing.”

*Maryland Rural Counties Coalition:* "viii

“While lawmakers rightfully point out most of the funding “borrowed” from the state’s Transportation Trust Fund in recent years was eventually repaid, the deployment of dedicated transportation funding for other uses nevertheless detracted from the state’s ability to address infrastructure challenges. ... We urge voters to say yes to Question 1, thereby adding an additional layer of protection for Maryland’s highway needs.”

**Opposition**

**Opposition Arguments:**

- Fiscal emergency is not defined in the legislation, leaving the funds at risk for unnecessary diversions.
- The proposed constitutional amendment did not cover Local Highway User Revenues (HUR).
- Other state funds should also qualify for protection from diversions, not just the Transportation Trust Fund.
- The three-fifths majority vote required to access the transportation fund was not sufficient to ensure revenues would not be unduly diverted.

**Key Players:** No organized opposition against Question 1.

**Endorsements against the amendment:**

*Maryland Center on Economic Policy:* "xx
“Question 1 will not increase financial accountability in Maryland. On the contrary, it will increase turmoil and uncertainty in times of crisis and prevent the stabilization of Maryland’s economy.

The ability to transfer resources into the General Fund was one method Maryland lawmakers used to protect residents and the economy from the worst effects of the Great Recession. While other states were sharply cutting funding for education, health care, and other important services, Maryland was able to continue providing quality services.

If the United States suffered another economic downturn, like we saw from December 2007 to June 2009, Question 1 would stall or even block the governor from taking necessary action to prevent deep cuts to services—at the very moment when those services are needed most.”

_BaltCo Blue:_xxi

“A NO vote on Constitutional Amendment Question 1 will allow our elected officials to maintain flexibility when making budget decisions. It will allow them to take money from projects that can wait and use it for immediate needs. When people are out of work, losing their homes and their livelihoods, a new road is insignificant.”

_Monoblogue: xxii_

“...But let’s begin by looking at the other source of the road funding problem. In 2012 it was noted that mass transit takes up 48% of the highway budget, compared to 23% for roads. Simply reversing that proportion would likely have alleviated the need for the additional gas tax passed in 2013.

I know there’s an argument that says I shouldn’t let the perfect get in the way of the good, and just having a lockbox is a good step – basically echoing the AAA contention. But to me voting no sends a message that the proposal is not good enough. We should hold out for a “lockbox” of at least 2/3 – I’d prefer it to be 3/4, meaning that at least some GOP votes would be required. If we pass it this time, the issue will never be revisited, I guarantee it.

If I could trust the majority party any farther than I can throw it, that would be one thing. But I’ve seen the definition of some things they consider “emergency” legislation and there’s potential for abuse here.”

.Elements for Success

The Maryland Transportation Fund Amendment (2014) campaign came right on the heels of a successful legislative victory which increased transportation funding. Voter approval of an amendment to protect those newly-ratified funds from diversions illustrates resident’s support for the revenue increase and for transportation funding in general.

_Bipartisan Support_

While Democrat lawmaker support was much higher—with 97% of Democrats approving the bill—Republican legislators showed they weren’t afraid to cross the aisle. 31% of Republican lawmakers...
supported SB 829, with three of the sixteen bill sponsors from the Republican party. This is a drastic change when compared to votes on House Bill 1515 (the Transportation Infrastructure Investment Act of 2013), approved by the legislature less than two weeks prior to the vote on SB 829 with zero votes in favor by Republicans.

Stakeholder Coalition
The grassroots mobilization of broad coalitions, coupled with effective campaign strategies that focused on job creation and economic benefits, can help states pass transportation initiatives. Key elements of a successful coalition include representation of various industries, regions and politics. Including intermodal transportation groups is also important when appealing to voters and legislators.

Effective Communication & Messaging to the Public: Focus on Job Creation & Economic Benefits
According to Lee Munich, the director of the State and Local Policy Program at the University of Minnesota’s Humphrey School of Public Affairs, focusing on how the benefits of proposed infrastructure investment are presented to the public is a key factor of success. Therefore, messaging strategies need to be targeted to the specific audiences. Munich said, “Certainly in urban areas, congestion is a major issue. In rural areas, it’s going to be the access to jobs and businesses and things like that. So I think you’ve got to convert it into terms that people can see what the public investments are going to be.”

In particular, the Coalition to Protect Maryland’s Trust Fund’s emphasis on the elimination of traffic, as well as the maintenance and creation of jobs attributed to security in Maryland’s continuing transportation funding, resonated with voters and legislators.
The Transportation Investment Advocacy Center ™ (TIAC) is a first-of-its kind, dynamic education program and internet-based information resource designed to help private citizens, legislators, organizations and businesses successfully grow transportation investment at the state and local levels through the legislative and ballot initiative processes.

The TIAC website, www.transportationinvestment.org, was created so transportation investment advocates do not have to “re-invent the wheel” to mount successful campaigns. It exists to put in one place—and promote the sharing of—strategies... sample political and communications tools... legislative and ballot initiative language... and information on where to obtain professional campaign advice, research and help. To subscribe to at no cost—and receive via email—the regularly updated TIAC blog, visit the website.

In addition to the website, the TIAC program includes an annual workshop in Washington, D.C., and ongoing webinars for transportation investment advocates featuring case studies, best practices, and the latest in political and media strategies. State and local chamber of commerce executives, state legislators, state and local transportation officials, “Better Roads & Transportation” group members, industry and labor executives, and leaders of state and local chapters of national organizations who have an interest in transportation development programs are welcomed to participate.

The TIAC is a project of the American Road and Transportation Builders Association’s “Transportation Makes America Work!”™ (TMAW) program (www.tmaw.org) and funded through voluntary contributions and sponsorships. To become a sponsor or to make a contribution, visit the ARTBA store or contact TIAC Manager Carolyn Kramer at ckramer@artba.org or 202-289-4434. Also contact Ms. Kramer if you have questions or comments about any reports or case studies published through the TIAC.
Breakdown of Legislative Votes for a Constitutionally-Protected Transportation Fund

Senate (Passed April 8, 2013 with 40 Ayes and 7 Noes)

Senators Who Voted in Favor of SB 829:

*Sen. President Thomas V. Mike Miller, Jr. (D-District 27)
*Sen. Robert J Garagiola (D-District 15)
Sen. Thomas M Middleton (D-District 28)
Sen. John C Astle (D-District 30)
Sen. Joseph M Getty (R-District 5)
Sen. Karen S Montgomery (D-District 14)
Sen. Joanne C Benson (D-District 24)
Sen. Lisa A Gladden (D-District 41)
Sen. C. Anthony Muse (D-District 26)
*Sen. David R Brinkley (R-District 4)
*Sen. Verna L. Jones-Rodwell (D-District 44)
*Sen. Douglas J.J. Peters (D-District 23)
Sen. James Brochin (D-District 42)
*Sen. Edward J Kasemeyer (D-District 12)
Sen. Paul G Pinsky (D-District 22)
*Sen. Richard F Colburn (R-District 37)
Sen. Delores G Kelley (D-District 10)
Sen. Catherine E Pugh (D-District 40)
Sen. Joan Carter Conway (D-District 43)
*Sen. Nancy J King (D-District 39)
Sen. Victor R Ramirez (D-District 47)

*Sen. Ulysses Currie (D-District 25)
*Sen. Allan H Kittleman (R-District 9)
*Sen. Jamin B Raskin (D-District 20)
*Sen. James E DeGrange Sr. (D-District 32)
Sen. Katherine A Klausmeier (D-District 8)
*Sen. James N Robey (D-District 13)
Sen. Roy P Dyson (D-District 29)
*Sen. Richard S Madaleno Jr. (D-District 18)
Sen. James C Rosapepe (D-District 21)
*Sen. George C Edwards (R-District 1)
*Sen. Roger Manno (D-District 19)
Sen. Norman R Stone Jr. (D-District 6)
Sen. William C Ferguson IV (D-District 46)
Sen. James N Mathias Jr. (D-District 38)
Sen. Ronald N Young (D-District 3)
Sen. Jennie M Forehand (D-District 17)
*Sen. Nathaniel J McFadden (D-District 45)
Sen. Robert A Zirkin (D-District 11)

* Sponsor of SB 829

Senators Who Opposed SB 829:

Sen. Barry Glassman (R-District 35)
Sen. E. J. Pipkin (R-District 36)
Sen. Christopher B Shank (R-District 2)
Sen. Nancy Jacobs (R-District 34)

Sen. Edward R. Reilly (R 33)
Sen. Bryan W Simonaire (R-District 31)
Sen. J. B. Jennings (R-District 7)

House (Passed April 8, 2013 with 77 Ayes and 21 Noes)
Representatives Who Voted in Favor of SB 829:

Rep. Michael E Busch (D- 30)  
Rep. Frank M Conaway Jr. (D- 40)  
Rep. Stephen S Hershey Jr. (R- 36)  
Rep. Brian K McHale (D- 46)  
Rep. Kelly M Schulz (R- 4A)  
Rep. Kathryn L Afzali (R- 4A)  
Rep. Norman H Conway (D- 38B)  
Rep. Sheila E Hixson (D- 20)  
Rep. Maggie McIntosh (D- 43)  
Rep. Luiz R.S. Simmons (D- 17)  
Rep. Curtis S Anderson (D- 43)  
Rep. Robert A Costa (R- 33B)  
Rep. Patrick N Hogan (R- 3A)  
Rep. Aruna Miller (D- 15)  
Rep. Theodore J Sophocleus (D- 32)  
Rep. Sam Arora (D- 19)  
Rep. Marvin E Holmes Jr. (D- 23B)  
Rep. Joseph J Minnick (D- 6)  
Rep. Dana M Stein (D- 11)  
Rep. Charles E Barkley (D- 39)  
Rep. Dereck E Davis (D- 25)  
Rep. Michael J Hough (R- 38)  
Rep. Melvin L Stukes (D- 44)  
Rep. Benjamin S Barnes (D- 21)  
Rep. Steven J DeBoy Sr. (D- 12A)  
Rep. Carolyn J.B. Howard (D- 24)  
Rep. Heather R Mizeur (D- 20)  
Rep. Michael G Summers (D- 47)  
Rep. Kumar P Barve (D- 17)  
Rep. John P Donoghue (D- 2C)  
Rep. James W Hubbard (D- 23A)  
Rep. Peter F Murphy (D- 28)  
Rep. Swain, Darren M. (D- 24)  
Rep. Pamela G Beidle (D- 32)  
Rep. Kathleen M Dumais (D- 15)  
Rep. Tom Hucker (D- 20)  
Rep. Shirley Nathan-Pulliam (D- 10)  
Rep. Kathy J Szeliga (R- 7)  
Rep. Wendell R Beitzel (R- 1A)  

Rep. Adelaide C Eckardt (R- 37B)  
Rep. Jolene Ivey (D- 47)  
Rep. Doyle L Niemann (D- 47)  
Rep. Shawn Z Tarrant (D- 40)  
Rep. Elizabeth Bobo (D- 12B)  
Rep. Feldman (- )  
Rep. Mary-Dulany James (D- 34A)  
Rep. Nathaniel T Oaks (D- 41)  
Rep. Frank S Turner (D- 13)  
Rep. John L Bohanan Jr. (D- 29B)  
Rep. C. William Frick (D- 16)  
Rep. Sally Y Jameson (D- 28)  
Rep. John A Olszewski Jr. (D- 6)  
Rep. Veronica L Turner (D- 26)  
Rep. Talmadge Branch (D- 45)  
Rep. Barbara A Frush (D- 21)  
Rep. Adrienne A Jones (D- 10)  
Rep. Joseline A Pena-Melnyk (D- 21)  
Rep. Kriselda Valderrama (D- 26)  
Rep. Aisha N Braveboy (D- 25)  
Rep. Tawanna P Gaines (D- 22)  
Rep. A. Wade Kach (R- 5B)  
Rep. Shane E Pendergrass (D- 13)  
Rep. Joseph F Vallario Jr. (D- 27A)  
Rep. Eric M Bromwell (D- 8)  
Rep. James W Gilchrist (D- 17)  
Rep. Anne R Kaiser (D- 14)  
Rep. James E Proctor Jr. (D- 27A)  
Rep. Michael L Vaughn (D- 24)  
Rep. Emmett C Burns Jr. (D- 10)  
Rep. Glen Glass (R- 34A)  
Rep. Ariana B Kelly (D- 16)  
Rep. Justin D Ready (R- 5A)  
Rep. Jeffrey D Waldstreicher (D- 18)  
Rep. Rudolph C Cane (D- 37A)  
Rep. Cheryl D Glenn (D- 45)  
Rep. Benjamin F Kramer (D- 19)  
Rep. Kirill Reznik (D- 39)  
Rep. Jay Walker (D- 26)  
Rep. Jon S Cardin (D- 11)  
Rep. Melony G Griffith (D- 25)

**Representatives Who Opposed SB 829:**

| Rep. Susan L.M. Aumann (R- 42) |
| Rep. Ronald A George (R- 30) |
| Rep. Nicholas R Kipke (R- 31) |
| Rep. LeRoy E Myers Jr. (R- 1C) |
| Rep. Michael D Smigiel Sr. (R- 36) |
| Rep. Gail H Bates (R- 9A) |
| Rep. Jeannie Haddaway-Riccio (R- 37B) |
| Rep. Susan W Krebs (R- 9B) |
| Rep. H. Wayne Norman Jr. (R- 35A) |
| Rep. Donna Stifler (R- 35A) |
| Rep. Joseph C Boteler III (R- 8) |
| Rep. Anne Healey (D- 22) |
| Rep. Susan K McComas (R- 35B) |
| Rep. Anthony J O’Donnell (R- 29C) |
| Rep. Nancy R Stocksdale (R- 5A) |
| Rep. Donald B Elliott (R- 4B) |
| Rep. Richard K Impallaria (R- 7) |
| Rep. Michael A McDermott (R- 38B) |
| Rep. Charles J Otto (R- 38A) |
| Rep. Geraldine Valentino-Smith (D- 23A) |
| Rep. Mark N Fisher (R- 27B) |
| Rep. Jay A Jacobs (R- 36) |
| Rep. Warren E Miller (R- 9A) |
| Rep. Neil C Parrott (R- 2B) |
| Rep. Cathleen M. Vitale (R- 33A) |
| Rep. William J Frank (R- 42) |
| Rep. Kevin Kelly (D- 1B) |
| Rep. Dan K Morhaim (D- 11) |
| Rep. Andrew A Serafini (R- 2A) |
| Rep. John F Wood Jr. (D- 29A) |
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