



The *Legislative* Fair Share Amendment – FAQs

S.16 (Sen. Lewis) and H.86 (Rep. O’Day)

What is the Fair Share Amendment?

The Fair Share Amendment is a proposal to amend the Massachusetts Constitution, creating an additional tax of four percentage points on the portion of a person’s annual income above \$1 million. The new revenue, approximately \$2 billion a year, would be spent on quality public education, affordable public colleges and universities, and the repair and maintenance of roads, bridges, and public transportation. To ensure that the amendment continues to apply only to the highest income taxpayers, who have the ability to pay more, the \$1 million threshold would be adjusted each year to reflect cost-of-living increases.

What are the main arguments for the Fair Share Amendment?

- The Massachusetts economy is working great for those at the top, but in order for all of our residents to benefit, **we need to invest in high-quality public schools and colleges and a modern transportation system that works.**
- Everyone agrees that our transportation and public education systems in Massachusetts need major new investments. **The Fair Share Amendment is the most fair, progressive, and sustainable way to raise the major new revenue needed to make those investments.**
- The state constitution gives the people of Massachusetts the right to vote to amend our constitution. There are two pathways for amendments to be presented to the voters: legislative amendments and citizens’ amendments. **Nothing in last year’s Supreme Judicial Court ruling, which related to the citizens’ amendment process, prevents the legislature from exercising its constitutional prerogative and placing the Fair Share Amendment before the voters on the 2022 ballot as a legislative amendment.**
- The Fair Share Amendment already received over 150,000 signatures from Massachusetts voters and passed two constitutional conventions with the support of 134 out of 200 legislators. Large majorities of voters have supported it in repeated public polling, and it’s backed by more than 100 community, faith, and labor groups across the state. **It’s time to put it on the ballot and let the people vote.**

Why do we need the Fair Share Amendment?

To help working families and build a stronger economy for us all, we need to make sure we have quality public schools for our children, affordable public higher education, and a transportation system that works. Without investments in these common goals, working families fall behind and our communities suffer.

New revenue is necessary to improve our public schools and pre-K programs; rebuild crumbling roads, bridges, sidewalks, and bike paths; make high-quality public higher education affordable; and invest in fast and reliable public transportation.

Right now, the highest-income households in Massachusetts – those in the top 1 percent – pay a smaller share of their income in state and local taxes than does any other income group. Our wealthiest residents can clearly afford to pay a little more to fund the investments we all need.

How does the legislative Fair Share Amendment differ from the prior citizen’s initiative? Is it constitutional?

The state constitution gives the people of Massachusetts the right to vote to amend our constitution. There are two pathways for amendments to be presented to the voters. Each pathway has a separate and distinct set of requirements that proposed amendments must meet.

The **legislative amendment** process allows any legislator to introduce a constitutional amendment. The amendment must then receive the support of 50% of the Legislature in two consecutive constitutional conventions, followed by an affirmative vote by the people on the ballot. This method does not require signature collection at any time. There is no requirement that the subjects in a legislative amendment be related.

The **citizens’ amendment** process, which is how Raise Up Massachusetts first pursued the Fair Share Amendment, begins with petitions signed by thousands of citizens. The amendment must then receive the support of 25% of the Legislature in two consecutive constitutional conventions, followed by an affirmative vote by the people on the ballot. A citizens’ amendment is subject to some unique restrictions, including a requirement that all items in the amendment be “related or mutually dependent.”

The original Fair Share Amendment, a citizens’ amendment, garnered over 150,000 signatures from Massachusetts voters and then passed two constitutional conventions with the support of 134 out of 200 legislators. Large majorities of voters have supported it in repeated public polling.

After a corporate-financed lawsuit, the Supreme Judicial Court ruled against the original Fair Share Amendment on the grounds that it did not meet the “related or mutually dependent” requirement for citizens’ amendments. Nothing in the Supreme Judicial Court ruling prevents the legislature from exercising its constitutional prerogative and placing the Fair Share Amendment before the voters on the 2022 ballot as a legislative amendment.

What’s the timeline/process for the legislative Fair Share Amendment?

Legislation introduced by Sen. Lewis (S.16) and Rep. O’Day (H.86), which is supported by the Raise Up Massachusetts coalition, starts the legislative process of amending the constitution. In order to place the amendment on the ballot, it must be reported out of the Revenue Committee by April 24, 2019 and placed on the agenda of the constitutional convention by May 8, 2019, and then receive two consecutive 50% votes of the constitutional convention: one from the 2019/2020 Legislature, and another from the 2021/2022 Legislature. If both votes are successful, the amendment will be placed on the November 2022 ballot.

Is it constitutional to dedicate funds?

Yes. Dedicating the revenues from this amendment in the text of the constitution ensures that the money must be spent on those important goals, where the voters want it to go. The Fair Share Amendment properly dedicates funding to the general purposes of transportation and public education. It is the Legislature’s job to then make specific appropriations, like funding regional transit authorities, expanding pre-K programs, maintaining bridges, reducing tuition at public colleges and universities, etc.

Is this just another attempt to create a graduated income tax?

The constitutional amendment would not change the Constitution’s prohibition on the Legislature setting multiple tax brackets. It would only create a single additional tax of four percentage points on the portion of a person’s annual income above \$1 million. Setting multiple tax brackets would still require another constitutional amendment, with a 4 year process and multiple veto points.

Who won't pay?

As it stands now, everyone in Massachusetts pays the same 5.05 percent, no matter how much you earn. Ninety-nine percent of us won't pay a penny more, but we will all benefit from investments in transportation and public education that contribute to economic growth.

Who will pay? How much will they pay?

Anyone with an annual income of over \$1 million would pay an additional 4 percentage points only on the portion of their annual income above \$1 million. For example, if an individual's annual income is \$1.1 million, they would pay an additional \$4,000. If their annual income is \$5 million, they would pay an additional \$160,000. Basically, for each \$1 million an individual makes in a single year after their first \$1 million, they would pay an additional \$40,000.

How does it compare to other revenue sources?

The other major ways we fund transportation, like the sales tax, gas tax, and public transit fares, are regressive – lower-income people pay a higher share of their incomes than lower-income people. The other major way we fund public education, through local property taxes, is inequitable – high-income communities have more property wealth, and can afford to spend more on their schools, than low-income communities. The Fair Share Amendment is an economically progressive and equitable source of much-needed revenue for these two major investment areas.

How much revenue would be raised?

If the Fair Share Amendment tax were in effect today, the state Department of Revenue estimates it would have generated approximately \$1.9 billion in 2019.

How would we compare to other states?

Several other high-income states similar to Massachusetts already tax their highest income residents at about the same rates being proposed in Massachusetts: New York (8.82%), New Jersey (8.97%), Vermont (8.95%), Minnesota (9.85%), Oregon (9.9%), Hawaii (11%), and California (13.3%). Including local income tax, New York City's top tax rate is 12.7%.

There have been numerous economic studies of the effects in those other states and they have not found the negative consequences that opponents predict. On the contrary, these investments help create better economic opportunities for our residents and a transportation infrastructure that works, all of which will help attract and grow businesses in the state. More than 70 Massachusetts economists signed a [statement](#) supporting the Fair Share Amendment because it will improve our economy and create greater opportunities.

How would this affect business who file as S-Corporations?

Under our tax code, S-Corporations are taxed like partnerships. Instead of the corporation paying tax on its profits, an S-Corporation treats the profits as being distributed to the shareholders in the corporation. The shareholders, not the corporation, pay income tax on those profits. So, the tax treatment of an S-Corporation's profits will depend not on the size of the corporation's net income, but on the size of the income of each shareholder.

The Fair Share Amendment makes no changes to the basic structure of the tax code. Whether a person's income is from salaries, stocks, bonds or an S-Corporation is irrelevant to the current or proposed tax rate. S-Corporation owners would continue to pay income taxes only on the corporation's profits, after subtracting all its costs. Taxpayers with total income of more than \$1 million in a single year, including their share of any S-Corp's profits, will simply pay a little more – just 4 extra percentage points starting with their second million dollars.

Would millionaires move to other states to avoid this tax?

Research shows that high-income people move to be near family and jobs, or to places with cheaper housing markets or warmer weather, not to save a few percentage points on their taxes. Multiple studies have found that when states such as New Jersey, Oregon, and Maryland raised the rate on their top tax brackets, there was no major change in the number of high-income filers who moved to other states.

While a small number of retired people do migrate for tax purposes, studies have found that high income people who are working in the state are very unlikely to leave the state in response to tax changes – partly because someone earning over a million dollars usually has a particular job that they can't keep if they leave the state. Millionaires tend to share exactly the same attributes of people least likely to move out of the state: older, married, and embedded in local business and social networks.

A Massachusetts Budget and Policy [analysis](#) of the latest research on the effects of state income tax rates on millionaire migration estimated that if the Fair Share Amendment went into effect, Massachusetts would retain about 99% of the revenue increase, a net gain of some \$1.86 billion in annual revenue. And that estimate doesn't include the additional tax revenue generated by a better educated workforce with improved infrastructure.

How does the Fair Share Amendment interact with the recent federal tax changes? What about the reduction in the SALT deduction?

Taxpayers in Massachusetts with an annual income of over \$1 million, who would be impacted by the Fair Share Amendment, received an estimated \$2.58 billion combined tax cut in 2019 as a result of the new federal tax law. That's more than the size of the tax increase they'd see from the Fair Share Amendment!

Amid these deep tax cuts, a new federal limit on the deductibility of state and local taxes (SALT) has received a lot of attention. But for Massachusetts taxpayers with an annual income of over \$1 million, the average tax cuts from other federal changes in the law are more than twice the average size of the impact from the loss of SALT deductibility.

What happens if we hit a recession soon?

Massachusetts has been underinvesting in transportation and public education for years, and that puts our economy at risk. Investments in transportation and public education are some of the best ways to strengthen our economy, making us more resilient in future economic downturns. And other states that tax their highest income residents at a higher level have gone through recessions without negative consequences.

About Raise Up Massachusetts

Raise Up Massachusetts, which has led the campaign for the Fair Share Amendment since 2015, is a coalition of community organizations, religious groups, and labor unions committed to building an economy that invests in families, gives everyone the opportunity to succeed, and creates broadly shared prosperity. Since our coalition came together in 2013, we have nearly doubled wages for hundreds of thousands of working people by winning two increases in the state's minimum wage, won best-in-the-nation earned sick time and paid family and medical leave benefits for workers and their families, and started to build an economy that works for all of us, not just those at the top. To learn more or to get involved in our grassroots movement, go to www.raiseupma.org