

## Massachusetts' Income Surtax

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### Issue

Briefly explain Massachusetts' income surtax. How was it enacted and what does its revenue fund?

### Summary

Massachusetts' income surtax, also known as the "fair share income surtax" or "millionaire's tax," is a 4% tax on taxable income of more than \$1 million. The surtax takes effect beginning with the 2023 tax year and applies in addition to the state's 5% flat income tax (and 12% tax on certain capital gains). The \$1 million threshold is subject to an annual cost of living adjustment ([MGL ch. 62, § 4](#), as amended by [2023 Mass. Acts Chapter 28](#), §§ 28-29 & 107). The surtax was enacted by a constitutional amendment approved by voters in November 2022, and its revenue is dedicated to "quality public education and affordable public colleges and universities, and for the repair and maintenance of roads, bridges, and public transportation" ([Massachusetts Constitution Art. XLIV](#), as amended by [Art. CXXI](#)).

The state's recently enacted FY 24 budget act appropriates \$1 billion of the surtax's expected revenue for specified education (\$523.5 million) and transportation (\$476.5 million) purposes. The budget act also establishes three dedicated funds for the revenue to support both short- and long-term education and transportation investments.

## How Was It Enacted?

The constitutional amendment was introduced by the legislature during the 2019-2020 session as [H.86](#) and approved 147 to 48 in joint session on June 12, 2019. It was subsequently referred to the 2021-2022 session as [S.5](#) and approved 159 to 41 in joint session on June 9, 2021, which qualified it to appear on the 2022 state election ballot. It reads as follows:

To provide the resources for quality public education and affordable public colleges and universities, and for the repair and maintenance of roads, bridges and public transportation, all revenues received in accordance with this paragraph shall be expended, subject to appropriation, only for these purposes. In addition to the taxes on income otherwise authorized under this Article, there shall be an additional tax of 4 percent on that portion of annual taxable income in excess of \$1,000,000 (one million dollars) reported on any return related to those taxes. To ensure that this additional tax continues to apply only to the commonwealth's highest income taxpayers, this \$1,000,000 (one million dollars) income level shall be adjusted annually to reflect any increases in the cost of living by the same method used for federal income tax brackets. This paragraph shall apply to all tax years beginning on or after January 1, 2023.

An identical amendment was proposed in 2015 as a citizen-initiated ballot measure, but blocked by the Massachusetts Supreme Judicial Court on the grounds that the state constitution prohibits citizen-initiated ballot measures from placing more than one subject in a single constitutional amendment (*Anderson v. Att'y Gen.*, [479 Mass. 780](#)).

## What Does It Fund?

### *Dedicated Funds*

The FY 24 budget act directs the surtax revenue to a new Education and Transportation Fund and requires the fund to be used for quality public education and affordable public colleges and universities, and for the repair and maintenance of roads, bridges, and public transportation. The fund's expenditures are subject to appropriation and capped at an annual threshold amount.

For FYs 24 and 25, this threshold is proposed by the governor and enacted by the legislature as part of the state's consensus revenue process, and it must reflect the amount of revenue that may reliably be expected to occur in the next fiscal year based on prior experience and hearing testimony. (The [FY 24 consensus revenue agreement](#) reached between the executive branch and House and Senate leaders in January 2023 set the FY 24 threshold at \$1 billion.) Beginning with FY

26, the annual spending threshold is the prior year’s threshold plus an adjustment factor that generally equals the 10-year rolling growth rate of income subject to the surtax ([2023 Mass. Acts Chapter 28](#), §§ 17-18 & 105-106; codified as MGL ch. 29 §§ 2BBBBBB to 2DDDDDD).

Under the act, any surtax revenue collected in excess of the annual threshold is directed to two new funds: 15% to the Education and Transportation Reserve Fund and 85% to the Education and Transportation Innovation and Capital Fund. The former is a reserve fund designed to offset revenue volatility during economic downturns, while the latter is dedicated to funding one-time investments (e.g., pay-as-you-go capital projects) in education or transportation. (The reserve fund’s total balance is capped at 33% of the annual threshold amount. Once reached, any remaining funds must be transferred to the Education and Transportation Innovation and Capital Fund.)

The surtax revenue is exempt from Massachusetts’ (1) revenue cap law, which directs tax revenue collected in excess of the annual cap to be returned to taxpayers, and (2) requirement that excess capital gains tax revenue be transferred to the state’s Stabilization Fund and pension funds ([2023 Mass. Acts Chapter 28](#), § 17(d) & (f)).

### ***FY 24 Appropriations***

The FY 24 budget act appropriates \$1 billion in surtax revenue directed to the Education and Transportation Fund to the purposes listed in Table 1 ([2023 Mass. Acts Chapter 28](#), § 2F). In all, it appropriates \$476.5 million to transportation purposes and \$523.5 million to education purposes.

**Table 1: FY 24 Education and Transportation Fund Expenditures (Budgeted)**

Amount (millions)	Purpose
<b>Transportation</b>	
\$25.0	Matching funds for state or municipal transportation projects eligible for U.S. Department of Transportation discretionary grants
50.0	Bridge (and related infrastructure) construction, preservation, reconstruction, and repair
180.8	Massachusetts Bay Transportation Authority (MBTA) infrastructure improvements
5.0	Program to research the feasibility of an MBTA means-tested fare program
90.0	Transit improvements at regional transit authorities and supportive transit improvements across the state
5.7	Pilot program to support grants for operational assistance to ferry services
20.0	MBTA projects to address ongoing safety concerns
100.0	Municipal road construction and reconstruction

**Table 1 (continued)**

Amount (millions)	Purpose
<b>Education</b>	
25.0	Efforts to reduce the waitlist for income-eligible early education and care programs
5.5	Pre-kindergarten and preschool expansion activities
15.0	Capital grant program to accommodate expanded early education and care slots
25.0	Reimbursement rate increase for center-based subsidized early education and care
69.0	Reimbursement for universal free school meals
50.0	Competitive grant program for clean energy infrastructure for K-12 public schools or districts
5.0	Expansion of early college, workforce, technical, and innovation pathway programs
100.0	Supplemental grants for previously approved school construction projects
84.0	Scholarship program for Massachusetts students enrolled at public higher education institutions in the state
50.0	Deferred maintenance capital program for higher education institutions in the state
20.0	MassReconnect scholarship program for eligible community college students age 25 and older
25.0	Scholarship program for students pursuing higher education at public higher education institutions for an eligible in-demand profession
10.0	Endowment matching grants for the state universities and community colleges
12.0	Free community college implementation costs
18.0	Scholarship program for eligible community college nursing students
10.0	Endowment matching grants for UMass

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