

Sam Hendrickson  
[sam.hendrickson@leg.wa.gov](mailto:sam.hendrickson@leg.wa.gov)

Legislative Assistant  
Elizabeth Calvillo Dueñas  
[elizabeth.calvilloduenas@leg.wa.gov](mailto:elizabeth.calvilloduenas@leg.wa.gov)

To subscribe to my online newsletter, please [sign up here](#). To send any comments, or to learn more please visit [my website](#).

---

**From:** Mitchell, Jeffrey <[Jeffrey.Mitchell@leg.wa.gov](mailto:Jeffrey.Mitchell@leg.wa.gov)>  
**Sent:** Friday, September 5, 2025 11:18 AM  
**To:** Pedersen, Sen. Jamie <[Jamie.Pedersen@leg.wa.gov](mailto:Jamie.Pedersen@leg.wa.gov)>  
**Cc:** Bridges, Matt <[Matt.Bridges@leg.wa.gov](mailto:Matt.Bridges@leg.wa.gov)>  
**Subject:** RE: research and drafting request

Hi Sen. Pedersen –

Below are some brief, initial thoughts in red. As I think of additional points for your consideration, I will periodically send those to you as well.

Also, I will be out of the office for the next two weeks. However, I will be able to follow up on any additional questions/research that you may have as soon as I get back. Also, if you think this concept is likely to be introduced, I should probably start formulating a draft by October. If you could let me know by the end of September, it would be greatly appreciated.

Regards,  
Jeff

**Jeff Mitchell, Fiscal Coordinator/Counsel**  
Washington State Senate Ways & Means Committee  
Senate Committee Services  
[jeffrey.mitchell@leg.wa.gov](mailto:jeffrey.mitchell@leg.wa.gov) 360.786.7438

---

**From:** Pedersen, Sen. Jamie <[Jamie.Pedersen@leg.wa.gov](mailto:Jamie.Pedersen@leg.wa.gov)>  
**Sent:** Wednesday, August 27, 2025 9:16 PM  
**To:** Mitchell, Jeffrey <[Jeffrey.Mitchell@leg.wa.gov](mailto:Jeffrey.Mitchell@leg.wa.gov)>  
**Cc:** Bridges, Matt <[Matt.Bridges@leg.wa.gov](mailto:Matt.Bridges@leg.wa.gov)>  
**Subject:** research and drafting request

Hi Jeff –

I hope that your summer has been great. I need your help with development of an idea that I am working on for next session.

The basic concept would be a “millionaire excise tax”, which would be a new tax on federal adjusted gross income received by individuals (not businesses; I would not expect to touch B&O taxes at this point) in excess of \$1 million each year.

Questions/requests:

1. I'd like to use federal AGI as the base so that it is as easy to calculate and enforce as possible – does that create a delegation problem? As a starting point, an open-ended reference to federal tax law (rolling conformity) would likely present a delegation problem. However, structured in a manner that allows DOR to periodically update the federal tax code reference under certain well-defined conditions such as a “de minimis” impact on state revenues with additional sideboards would probably avoid significant delegation concerns. However, because of the broader legal considerations likely to arise, it might make sense to start with static conformity where the state code ties to the federal tax code as existing on a specific date without automatic updates. As some additional context, the state capital gains tax does provide a mechanism where the date for the IRC reference can be updated without legislation. The state law allows DOR by rule to specify a later date in a manner consistent with the capital gains tax law. However, DOR has not updated the reference yet, i.e., it is still based on the date specified in the original enacting legislation. I've reached out to DOR to get their thoughts on what considerations they think would go into a possible update.
2. What are my options for handling the different federal filing statuses (single, married filing jointly)? I think it will be important politically to be able to say that it applies only to income above \$1 million and that income below that is fully exempt. Generally, in most states with income taxes, the standard deduction for married couples filing jointly is typically double the amount for single or married filing separate status. However, the standard exclusion is much lower in these states. This proposal could use our state capital gains tax approach where spouses and state-registered domestic partners receive a total, combined exclusion of \$270K regardless of filing status. In other words, under this concept, if a married couple filed separately, the \$1M exclusion would be divided between the two tax returns.
1. Do you have any other suggestions for how to keep the bill (a) as short and easy to understand as possible and (b) as cheap for DOR to administer as possible? Basing the state tax on the federal return to the largest extent possible will certainly help reduce DOR admin/implementation costs. Also, the \$1M exclusion will narrow the scope of the impacted taxpayers considerably further reducing administrative costs. As a very rough estimate, using a uniform \$1M threshold for all returns regardless of filing status, the proposal would impact roughly 20,000 taxpayers out of approximately 3.5 million.
2. I'd like to start with a rate of 9.99%, with a dollar-for-dollar credit for capital gains taxes paid. Can you get an estimate for how much money that would raise? As a rough estimate, about \$3B in revenue would have been generated in 2025 under a very basic scenario where all tax returns – single and joint - are eligible for a \$1M exclusion and the tax pivots directly from federal AGI. In other words, the 9.99% rate is applied to the portion of a taxpayer's federal AGI above \$1M. This rough estimate reflects an offset for the state capital gains tax; however, the amount has not been reduced by a credit for WA residents working in Oregon (or other states) and paying Oregon (or other states) income taxes. For example, a WA resident would show all income on a WA return but receive a credit for the portion of income subject to Oregon's income tax. This same taxpayer would file a nonresident return with Oregon only showing the wage income earned in Oregon. With a \$1M threshold, I don't think there would be a significant impact for out-of-state credits.
3. I'd like to leave open the possibility that we could allocate part of the stack (maybe up to 2% each) to county and city governments. If you decide to proceed with having this proposal drafted, I'll make sure to include placeholder language for an allocation for cities/counties.
4. I expect that the bill will get challenged in court. I would like to force the Washington Supreme Court to reconsider its caselaw that considers income to be property. Do you have any other suggestions about how to bolster the argument that this would be an excise tax and not a property tax? With the capital gains tax and its specific focus on the sale of capital assets, a lot of people were reasonably confident it would be construed as

an excise tax because of its transactional nature. As a counter example, a wealth tax, while impacting similar financial assets, is clearly a type of property tax. Along similar lines, a tax based on employment activity, as measured by wages/salaries, would seem to fall within the excise tax bucket. However, dividend and interest income is more complicated because those revenues result directly from property ownership, somewhat conflating matters. However, one option would be to structure the tax for these revenues based on the idea of engaging in investment activity. In short, it might make sense to specify the triggering activity in the draft for each type of income subject to tax to bolster the argument that the disparate forms of revenue captured within AGI and subject to the state tax are based on specific triggering activities, a fundamental hallmark of an excise tax.

5. I'd like to understand where that rate would put us relative to the rates in other US jurisdictions (particularly our major blue-state economic competition, such as CA, MA, IL, NY, CO, and VA, as well as neighboring states such as ID and OR) for income at that scale. **Attached is a spreadsheet with state income tax rates.**
6. Are there any lessons from previous income tax attempts that I should take into account? **I will ponder this one and follow up.** I worked on some of the proposals by Jim McIntire many years ago as well as the original version of the capital gains tax by Rep. Jinkins about 14 years ago. However, a lot has changed in terms of the legal landscape as well as the statutory landscape with the state capital gains tax (and working families' credit, which is very similar to the federal EITC).
7. Are there any other suggestions that you have for how to proceed with this concept? **Another option would be to work from Sen. Frame's payroll tax proposal last year but change the legal incidence of the tax from the employer to the employee.** As some context, wages and salaries account for roughly 2/3 of federal AGI. Capital gains contribute around 5-10%. Therefore, this approach would capture most of the revenue that would be obtained from a more traditional income tax (and the capital gains tax is already in place). Because it would be narrowly focused on high-earner employment activity, it might be potentially easier to argue it is an excise tax and it would also capture the faster wage growth associated with high income individuals. (The latter point would of course also be true under the more traditional income tax approach.) On the flip side, the tax would, by its nature, disregard interest, dividend, and other types of income. Also, I think an effort to truly force the WA Supreme Court to reconsider its caselaw would necessitate the use of a broader AGI-type tax that includes revenue items like dividends and interest. Lastly, there is a 1950s court case (Cary v. Bellingham), where the state supreme court invalidated an employee excise tax imposed by the city of Bellingham. The key issue centered around the city's authority to require employees to secure an annual license. In other words, the focus, in my opinion, was more on the licensing aspect versus the excise tax element. For now, I just wanted to raise the issue for future consideration.

Please let me know if you have any other clarifying questions or need further direction from me. I appreciate your help with this!

Best, Jamie

Senator Jamie Pedersen  
Majority Leader  
43rd Legislative District  
[jamie.pedersen@leg.wa.gov](mailto:jamie.pedersen@leg.wa.gov)  
*pronouns: he, him, his*

Olympia Office  
307 Legislative Building  
P.O. Box 40443