

Mayer, Ellie (ATG)

From: Purcell, Noah Guzzo (ATG)
Sent: Thursday, December 11, 2025 11:26 PM
To: Pedersen, Sen. Jamie
Cc: Zalesky, Chuck (ATG); Jensen, Dan (ATG)
Subject: RE: research and drafting request; attorney-client privileged and confidential
Attachments: Pedersen-AGI_czEdits.docx

Senator Pedersen,

Thank you for your patience as we reviewed this. I'm cc'ing here my colleagues Chuck Zalesky and Dan Jensen, from our Revenue Division, who are the leading experts on this issue and both reviewed the bill. In general, as a legal matter, we think this achieves your desired policy goals. We just have a few comments and suggestions for your consideration:

First, Chuck prepared detailed comments in the attached and included potential language for an intent section if you want to incorporate it.

One other idea we had for the intent section was that it might be useful for the legislature to say something about why the Culliton line of cases is harmful (e.g., that it leads to WA having such a regressive tax system).

Both Chuck and Dan noted that the draft grants married couples the same amount of deduction as single persons. That creates a marriage penalty where married persons receive, in effect, only ½ of the deduction amount two single persons would receive in the aggregate. Dan also noted that under Section 7 the DOR would only receive wage data for individuals earning more than \$1,000,000, making it more difficult to audit married couples who both earn under that threshold but collectively earn more than \$1,000,000.

Dan noted that Section 11 focuses more on businesses that have sales. Other businesses fall under the last subsection of Section 11, which creates an odd petition process to the DOR. We would advise the Legislature to come up with a specific method for non-sales related businesses rather than creating a process where the taxpayer petitions the DOR for an apportionment method. What happens when the DOR denies the taxpayer's petitioned apportionment method? Is that appealable? We think that could get messy.

Dan suggests that you don't need a separate substantial underpayment penalty in RCW 82.32.090(11). The one in subsection (2) already applies because all of Chapter 82.32 RCW is incorporated into this bill. Otherwise, you could have taxpayers owing a 30% substantial underpayment penalty with RCW 82.32.090(2) penalties and proposed RCW 82.32.090(11) penalties both applying.

Last but not least, unless I missed it, I did not see an emergency clause. Without one, someone could try to subject the bill to a referendum. It should not be subject to referendum because it raises revenue, but under the Secretary of State's longstanding practice, they only reject proposed referenda if the bill has an emergency clause, so someone would have to sue to prevent a referendum on the bill as written. I just wanted to make sure you were aware of that.

We hope this is helpful, and please let us know if you have any questions or want to discuss further.

All the best,
Noah

From: Pedersen, Sen. Jamie <Jamie.Pedersen@leg.wa.gov>
Sent: Monday, December 8, 2025 1:10 PM