

**From:** MACK Deanna D \* DOR [Deanna.D.MACK@oregon.gov]  
**Sent:** Friday, February 05, 2016 8:53 PM  
**To:** Rep Parrish; Rep KenyGuyer; Rep Hayden; Rep Read  
**Cc:** SAIKI Clyde K; Waggoner Jennifer; Rep Taylor; Sen Boquist  
**Subject:** RE: HB 4133 Advance WFCDC

Rep. Parrish et al –

Thank you for giving us a chance to provide feedback on your bill so that the agencies could administer a pilot project. From reading the introduced version of the bill, we aren't sure, but we think that what you mean to accomplish is something akin to the former "Advanced EITC" the feds used to do. This was an advanced payment of the credit *in lieu of* the credit claimed on the return. I'm not entirely sure how that should be drafted but I'm confident that LC could make it clear that if the person receives advance payments that they may not also claim the credit upon which the advanced payments were based. Otherwise, there would likely be an actual revenue impact as opposed to just a shift in one.

Additionally, some of the credits that are listed in the bill expired in tax year 2015 and were replaced with a new credit that Rep. Keny-Guyer spearheaded in 2016. These credits have different qualifying attributes and don't need to be referenced in the bill since it applies to tax years 2016 and later.

We would also recommend small number listed in statute as to who can participate in the pilot project as we anticipate that about 45,000 taxpayer may be eligible for the new WFCDC and some subset of them receive the Oregon Trail card. Because this is an entirely manual process for the pilot, we think some number under 500 folks would manageable for a manual pilot. Here are some other items staff identified that are fairly technical in nature which I've listed below for the benefit of LC if you choose to share our email with them.

It does look like a long list, but the issues aren't insurmountable and many could be resolved through rule-making once the agencies had an opportunity to meet and discuss the project. We are happy to work with LC if they have questions too. Please let me know if you have any questions about this at all or if you'd like us to work with LC in crafting language that would allow us to do this pilot. Thanks! Deanna  
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**TECHNICAL CONSIDERATIONS for 4133**

- 1) The bill refers to dependent care expenses paid under WFC, CDC, and WFCDC after January 1, 2016. (Page 1, Section 1, Lines 7-8 & Page 10, Section 5, Lines 5-6). WFC and CDC credits expired 12/31/15.

(1) The Department of Revenue, in collaboration with the Department of Human Services, shall develop and implement a pilot program to distribute in monthly installments estimated proceeds of the tax credits available for dependent care under ORS ~~315.262~~, 315.264 ~~or 316.078~~.

(2) Not later than November 30 of each year, the Department of Revenue shall provide to the Department of Human Services a list of taxpayers who, for the tax year ending on the preceding December 31, have claimed a credit under ORS ~~315.262~~, 315.264 ~~or 316.078~~.

- 2) The bill provides for distribution of “estimated proceeds of” the dependent care tax credits, but there are no “proceeds” of a tax credit. (Section 1, Page 1, Lines 5-8). It is unclear what is being distributed. We think that it should be the estimated amount of the credit to be claimed on the return for the tax year in which the advanced payments are received. In other words, payments issued beginning in January 2017 would be estimated based on the estimated amount of the 2017 credit which the taxpayer would otherwise normally receive sometime in 2018 when they file their return. Then when they file their 2017 return in 2018, the credit would be reduced by the payments they actually received in 2017. This could be modeled off of the old Advance EITC language.
- 3) The list provided by DOR is to include the amount of the credit and the taxpayer’s address. The taxpayer’s name and SSN is not included. (Section 1, Page 1, Lines 12-14). Without this information, it will be very difficult to determine who is eligible especially if there are multiple adults at the same address.
  - (3) The list required under subsection (2) of this section shall include, for each taxpayer:
    - (a) The amount of credit allowed to the taxpayer; ~~and~~
    - (b) The taxpayer’s address;
    - (c) The taxpayer’s name; and
    - (d) The taxpayer’s tax identification number.
- 4) A taxpayer does need an SSN to qualify for the WFCDC, they can have an ITIN. This may be difficult for SNAP to match the taxpayer’s that filed a return with the SNAP list to see who may qualify for this pilot program.
- 5) There is no method to deal with a person who gets the advance payments and then either is audited or amends their 2016 return to where they no longer qualifies for WFCDC (income or dependents changed). This would be situations occurring after DOR gave the list to DHS so we would need some process in statute on how to handle those situations.
- 6) An individual can receive SNAP assistance at any point during the previous calendar year (Section 1, Page 1, Lines 17-19). This means a taxpayer could have received SNAP for just one month, maybe January 2015, and be able to participate in this pilot program if they qualified for WFCDC in 2016. Do you intend to limit it to just folks who qualify every month of the year? Or would we have to load it just for the one month?
- 7) We would recommend DHS provide electronically to DOR, the amount of assistance the taxpayer received throughout the year so we can ensure that they don’t claim

too much of a credit on the tax return upon which the advanced payments were based, assuming you intend the advance payment to be in lieu of the credit.

- 8) The taxpayer may be able to receive a double-benefit for dependent care expenses as the intro version of the bill is drafted. The bill states that the WFCDC credit is to be claimed on the tax return; however, there is no language in the bill or WFCDC statute stating the amount of credit that is to be granted on the return is first reduced by the amount of the DHS disbursements for the year. Add language in ORS 315.264 that the amount of the credit will be reduced by the disbursements received by DHS and may result in paying back the amount that was overpaid.
  - 9) The bill does not address how people are to enroll in the program. Assume the individuals are enrolled in the pilot program unless they opt out. There is not a long enrollment period because by December 15<sup>th</sup> DHS has to provide notice to the individuals and provide an opportunity for them to opt out of the pilot program before January 10<sup>th</sup> when the first check is supposed to be disbursed by DHS. (Section 1, Page 1, Lines 15-28).
  - 10) By January 30<sup>th</sup> of each year, DHS is to provide a list of names of all taxpayer's participating in the pilot project (Section 1, Page 2, Lines 4-6). The list needs to be in a format compatible with GenTax. The list should also include the taxpayer's SSN and the monthly amount the taxpayer is scheduled to receive.
- (7) Not later than January 30 of each year, the Department of Human Services shall ~~notify~~ provide in electronic format to the Department of Revenue, of the names, tax identification number, and the monthly disbursement amount of all taxpayers participating during the year in the pilot program.**
- 11) The taxpayer is able to opt out of the program by November 30<sup>th</sup> of each year (Section 1, Page 2, Lines 7-11). There is no guidance on this process. Maybe add language that this will occur on a form prescribed by DHS.
  - 12) The bill does not address how the disbursements are to be made or claimed in the following scenarios: taxpayer's change filing status (e.g. head of household person gets married; TPs were filing married filing joint and are now filing separately, etc.); the taxpayer moves out of state mid-year, the taxpayer's income changes during the year, and the childcare costs change. This may result in many returns having to pay back some or all of the disbursement if the taxpayer no longer qualifies for the same amount of the credit for which they received the disbursement.
  - 13) Many of these issues could be solved through rule-writing, however neither DOR nor DHS are granted rule writing authority. We recommend granting rule writing authority to both agencies for the implementation of this pilot program.

**From:** MACK Deanna D \* DOR  
**Sent:** Thursday, February 04, 2016 6:31 PM  
**To:** 'Rep Parrish'; REP KenyGuyer; REP Hayden; REP Read  
**Cc:** SAIKI Clyde K; WAGGONER Jennifer  
**Subject:** RE: HB 4133 Advance WFCD

Yes. I'm happy to get you some information so that LC can draft an amendment. I'll get staff to get you a summary of their concerns tomorrow. Thanks for working with us on this! Deanna 😊

**Deanna Mack**

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**From:** Rep Parrish [<mailto:rep.julieparrish@state.or.us>]  
**Sent:** Wednesday, February 03, 2016 7:26 PM  
**To:** MACK Deanna D \* DOR; REP KenyGuyer; REP Hayden; REP Read  
**Cc:** SAIKI Clyde K; WAGGONER Jennifer  
**Subject:** RE: HB 4133 Advance WFCD

Deanna,

I'd be glad to meet to help get the amendment language you need hopping. Are you prepared to get us the language we need so I can get an amendment drafted? I'd like to get us moving on this quickly.

Thanks!  
Julie

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**From:** MACK Deanna D \* DOR [Deanna.D.MACK@oregon.gov]  
**Sent:** Wednesday, February 03, 2016 6:49 PM  
**To:** Rep Parrish; Rep Hayden; Rep KenyGuyer; Rep Read  
**Cc:** SAIKI Clyde K  
**Subject:** HB 4133 Advance WFCD

Good afternoon everyone –

I spoke with Clyde Saiki at DHS late this afternoon about this particular bill. He indicated that his agency folks met with Rep. Parrish and perhaps Rep. Hayden yesterday to talk about whether they could administer the provisions of the bill. I understand he said if the Department of Revenue can give them the information, that DHS can run a manual project. He called us to confirm that we could in fact send the needed information. I wanted to let you all know that yes, we probably can give DHS the information contemplated in the bill but I also wanted to alert you to the fact that there are some technical issues that DOR would need to fix in the bill so that we could make it work on our side of the world. I'm happy to meet with any of you or your staff to explain the technical issues in more detail. We are happy to work with you and Legislative Counsel to determine how best to accomplish your goals

in this bill. Please let me know which of your staff you'd like us to work with. Thank you! Deanna  
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