HB 1370 -- Tax Credit Accountability

Sponsor: Dempsey

This bill makes changes to the laws regarding tax credits. The bill:

(1) Establishes a system of classifications for tax credits and minimum requirements for each classification. The administering state agencies may promulgate rules to include additional requirements or to explain the listed requirements;

(2) Implements reporting requirements to assist future legislatures in assessing the value of tax credit programs. Reporting occurs over a period of three years for most credits. Annual reports will be due June 30 each year. Reporting will be the duty of the recipient of the credit, except in the case of certain contribution-based credits. The bill requires that a taxpayer receiving a credit be made aware of the future reporting requirements prior to issuance;

(3) Implements a compliance system for reporting. Failure to meet the annual reporting requirements will result in graduated penalties. A six-month grace period and at least one notice by certified mail to the last known address of the taxpayer is included. If fraud is found by a court of competent jurisdiction, a 100% penalty will be incurred. Penalties will be assessed against a noncompliant taxpayer at the end of the taxpayer's taxable year and due on the last date of filing of the taxpayer's return. Collection procedures follow current procedures for income taxes;

(4) Requires that prior to approval of any tax credit application, an administering agency will verify through the Department of Revenue that the tax credit applicant does not owe any delinquent taxes, including penalties and interest. A tax delinquency will not affect the approval of the application for the tax credits, except that the amount of credits issued will be reduced by the applicant's tax delinquency;

(5) Requires two months’ notice to the Department of Revenue whenever more than $1 million of income tax credits are going to be redeemed. The notice must come prior to the assessment of tax liability whenever a large sum of credits are going to be claimed against a taxpayer's income tax liability. The bill provides that an early filing of tax liability will count as notice so long as it is at least two months prior to the assessment date;

(6) Provides that the minimum application requirements are made open records once the credits have been issued. When state

approval of a credit application occurs prior to actual issuance, the application data will become an open record at the time the application is approved. Information relating to the application for a special needs adoption tax credit are excluded from the open record requirement;

(7) Expands the existing audit statutes for state-sponsored cost benefit analysis to require periodic examination of all credits. Currently, only credits administered by the Department of Economic Development are subject to analysis. All audits will be provided to the Governor, the legislature, and the Joint Committee on Tax Policy; and

(8) Charges the Joint Committee on Tax Policy with an automatic review of the State Auditor's tax credit program audits. After this period of review, the committee will be given the option to make an official recommendation to the General Assembly on its merit and to suggest future treatment of each credit.