

House Bill 361

By: Representative O`Neal of the 146<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,  
2 relating to imposition, rate, computation, and exemptions regarding income tax, so as to  
3 change certain provisions regarding certain state income tax credits; to provide for  
4 procedures, conditions, and limitations; to provide an effective date; to provide for  
5 applicability; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to  
9 imposition, rate, computation, and exemptions regarding income tax, is amended by revising  
10 Code Section 48-7-40.5, relating to tax credits for employers providing approved retraining  
11 programs, as follows:

12 "48-7-40.5.

13 (a) As used in this Code section, the term:

14 (1) 'Approved retraining' means ~~employer~~ retraining that is provided or ~~employer~~  
15 sponsored ~~retraining~~ by a business enterprise that meets the following conditions:

16 (A) It enhances the functional skills of employees otherwise unable to function  
17 effectively on the job due to skill deficiencies or who would otherwise be displaced  
18 because such skill deficiencies would inhibit their utilization of new technology;

19 (B) It is approved and certified by the Department of Technical and Adult Education;  
20 ~~and~~

21 (C) The ~~employer~~ business enterprise does not require the employee to make any  
22 payment for the retraining, either directly or indirectly through use of forfeiture of leave  
23 time, vacation time, or other compensable time; and

24 (D) The retraining is offered:

1 (i) On the premises of the business enterprise or on premises approved by the  
 2 Department of Technical and Adult Education by instructors hired by or employed by  
 3 the business enterprise; or

4 (ii) Pursuant to a contractual arrangement with a school, university, college, or other  
 5 instructional facility which offers approved retraining that is paid for by the business  
 6 enterprise.

7 (2) 'Business enterprise' means any business or the headquarters of any such business  
 8 which is engaged in manufacturing, warehousing and distribution, processing,  
 9 telecommunications, tourism, and research and development industries. Such term shall  
 10 not include retail businesses.

11 ~~(2)~~(3) 'Cost of retraining' means direct instructional costs as defined by the Department  
 12 of Technical and Adult Education including instructor salaries, materials, supplies, and  
 13 textbooks but specifically excluding costs associated with renting or otherwise securing  
 14 space.

15 ~~(3)~~(4) 'Employee' means any employee of a business enterprise who is a resident in this  
 16 state who is employed for at least 25 35 hours a week, and who has been continuously  
 17 employed by the employer business enterprise for at least 16 consecutive weeks.

18 ~~(4) 'Employer' means any employer upon whom an income tax is imposed by this~~  
 19 ~~chapter.~~

20 ~~(5) 'Employer provided' refers to approved retraining offered on the premises of the~~  
 21 ~~employer or on premises approved by the Department of Technical and Adult Education~~  
 22 ~~by instructors hired by or employed by an employer. 'New technology' means new~~  
 23 machinery, equipment, software, and quality assurance programs that significantly  
 24 change the operational structure of the business enterprise such that current employees  
 25 cannot continue to function effectively on the job without retraining on such new  
 26 machinery, equipment, software, or quality assurance programs. The replacement of or  
 27 enhancements to existing machinery, equipment, software, or quality assurance programs,  
 28 including, but not limited to, routine upgrades, a change of vendor or service provider,  
 29 or a new version or model that performs the same basic function as the current version  
 30 or model are not considered new technology.

31 ~~(6) 'Employer sponsored' refers to a contractual arrangement with a school, university,~~  
 32 ~~college, or other instructional facility which offers approved retraining that is paid for by~~  
 33 ~~the employer.~~

34 (b) A tax credit shall be granted to ~~an employer who~~ a business enterprise that provides  
 35 or sponsors an approved retraining program. The amount of the tax credit shall be equal to  
 36 one-half of the costs of retraining per full-time employee, or \$500.00 per full-time  
 37 employee, whichever is less, for each employee who has successfully completed an

1 approved retraining program, not to exceed \$1,000.00 per such employee per year. No  
 2 ~~employer~~ business enterprise may receive a credit if the employer requires that the  
 3 employee reimburse or pay the ~~employer~~ business enterprise for the cost of retraining.

4 (c) Any tax credit claimed under this Code section for any taxable year beginning on or  
 5 after January 1, 1998, but not used for any such taxable year may be carried forward for  
 6 ten years from the close of the taxable year in which the tax credit was granted. The tax  
 7 credit granted to any ~~employer~~ business enterprise pursuant to this Code section shall not  
 8 exceed 50 percent of the amount of the taxpayer's income tax liability for the taxable year  
 9 as computed without regard to this Code section.

10 (d) To be eligible to claim the credit granted under this Code section, the ~~employer~~  
 11 business enterprise must certify to the department the name of the employee, the course  
 12 work successfully completed by such employee, the name of the provider of the approved  
 13 retraining, and such other information as may be required by the department to ensure that  
 14 credits are only granted to ~~employers who~~ business enterprises that provide or sponsor  
 15 approved retraining pursuant to this Code section and that such credits are only granted to  
 16 ~~employers~~ business enterprises with respect to employees who successfully complete such  
 17 approved retraining. The department shall adopt rules and regulations and forms to  
 18 implement this credit program. The department is expressly authorized and directed to  
 19 work with the Department of Technical and Adult Education to ensure the proper granting  
 20 of credits pursuant to this Code section.

21 (e) The Department of Technical and Adult Education is expressly authorized and directed  
 22 to establish such standards as it deems necessary and convenient in approving ~~employer~~  
 23 retraining programs provided and ~~employer sponsored retraining programs by a business~~  
 24 enterprise. In establishing such standards, the Department of Technical and Adult  
 25 Education shall establish required hours of classroom instruction, required courses,  
 26 certification of teachers or instructors, progressive levels of instruction, and standardized  
 27 measures of employee evaluation to determine successful completion of a course of study."

## 28 SECTION 2.

29 Said article is further amended by revising Code Section 48-7-40.12, relating to the income  
 30 tax credit for qualified research expenses, as follows:

31 "48-7-40.12.

32 (a) As used in this Code section, the term:

33 (1) 'Base amount' means ~~the product of a business enterprise's Georgia taxable net~~  
 34 ~~income in the current taxable year and the average of the ratios of its aggregate qualified~~  
 35 ~~research expenses to Georgia taxable net income for the preceding three taxable years or~~  
 36 ~~0.300, whichever is less~~ the sum of the qualified research expenses for the three years in

1 the base period divided by three. If a business enterprise was not doing business in  
 2 Georgia during one or more of the base period tax years, the business enterprise shall  
 3 include that year with '0' expenditures when computing the base amount. If a business  
 4 enterprise is in Georgia for less than a full year during any tax year in the base period, the  
 5 business enterprise shall annualize the qualified research expenses for that year by  
 6 multiplying the qualified research expenses by 365 and dividing the result by the number  
 7 of days taxable in Georgia; the business enterprise shall use this annualized amount when  
 8 computing the base amount.

9 (2) 'Base period' means the three taxable years immediately preceding the taxable year  
 10 for which the credit is being claimed.

11 (2)(3) 'Business enterprise' means any business or the headquarters of any such business  
 12 which is engaged in manufacturing, warehousing and distribution, processing,  
 13 telecommunications, tourism, and research and development industries. Such term shall  
 14 not include retail businesses.

15 (3)(4) 'Qualified research expenses' means qualified research expenses for any business  
 16 enterprise as that term is defined in Section 41 of the Internal Revenue Code of 1986, as  
 17 amended, except that all wages paid and all purchases of services and supplies must be  
 18 for research conducted within the State of Georgia.

19 (b) A tax credit is allowed a business enterprise which has qualified research expenses in  
 20 Georgia in a taxable year exceeding a base amount, provided that the business enterprise  
 21 for the same taxable year claims and is allowed a research credit under Section 41 of the  
 22 Internal Revenue Code of 1986, as amended.

23 (c) The tax credit provided in subsection (b) of this Code section shall be ~~10~~ 6 1/2 percent  
 24 of the excess of the qualified research expenses incurred for the taxable year for which the  
 25 credit is being claimed over the base amount ~~referred to in said subsection.~~

26 (d) Any unused credit claimed under this Code section may be carried forward ten years  
 27 from the close of the taxable year in which the qualified research expenses were made. The  
 28 credit taken in any one taxable year shall not exceed 50 percent of the business enterprise's  
 29 remaining Georgia net income tax liability after all other credits have been applied."

### 30 SECTION 3.

31 Said article is further amended by revising paragraph (1) of subsection (a) of Code Section  
 32 48-7-40.15, relating to the income tax credit for base year port traffic increases, as follows:

33 "(1) 'Base year port traffic' means the total amount of net tons, containers, or twenty-foot  
 34 equivalent units (TEU's), of product actually transported by way of a waterborne ship or  
 35 vehicle through a port facility during the period from January 1, ~~1997~~ 2006, through  
 36 December 31, ~~1997~~ 2006, with such base year to advance forward by three years

1 beginning on January 1, 2010, and similarly advancing on the first day of January every  
2 three years thereafter; provided, however, that in the event the total amount actually  
3 transported during such period was not at least 75 net tons, five containers, or ten  
4 twenty-foot equivalent units (TEU's), then 'base year port traffic' means 75 net tons, five  
5 containers, or ten twenty-foot equivalent units (TEU's)."

6 **SECTION 4.**

7 This Act shall become effective upon its approval by the Governor or upon its becoming law  
8 without such approval and shall be applicable to all taxable years beginning on or after  
9 January 1, 2007.

10 **SECTION 5.**

11 All laws and parts of laws in conflict with this Act are repealed.