The House Committee on Ways and Means offers the following substitute to HB 361:

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to imposition, rate, computation, and exemptions regarding income tax, is amended by revising Code Section 48-7-40.12, relating to the income tax credit for qualified research expenses, as follows:

"48-7-40.12.

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

(1) 'Base amount' means ~~the product of a business enterprise´s Georgia taxable net income in the current taxable year and the average of the ratios of its aggregate qualified research expenses to Georgia taxable net income for the preceding three taxable years or 0.300, whichever is less~~ the sum of the qualified research expenses for the three years in the base period divided by three. If a business enterprise was not doing business in Georgia during one or more of the base period tax years, the business enterprise shall include that year with '0' expenditures when computing the base amount. If a business enterprise is in Georgia for less than a full year during any tax year in the base period, the business enterprise shall annualize the qualified research expenses for that year by multiplying the qualified research expenses by 365 and dividing the result by the number of days taxable in Georgia; the business enterprise shall use this annualized amount when computing the base amount.

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

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

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

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

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

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

SECTION 2.

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

″(1) 'Base year port traffic' means for tax years beginning prior to January 1, 2007, the total amount of net tons, containers, or twenty-foot equivalent units (TEU´s), of product actually transported by way of a waterborne ship or vehicle through a port facility during the period from January 1, 1997, through December 31, 1997 and for all tax years beginning on or after January 1, 2007, an average of the total amount of net tons, containers, or twenty-foot equivalent units (TEU's), of product actually transported by way of a waterborne ship or vehicle through a port facility for the three taxable years immediately preceding the taxable year for which the credit under this Code section is claimed and allowed; provided, however, that in the event the total amount actually transported during such period was not at least 75 net tons, five containers, or ten twenty-foot equivalent units (TEU´s), then 'base year port traffic' means 75 net tons, five containers, or ten twenty-foot equivalent units (TEU´s).″

SECTION 3.

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

SECTION 4.

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