The Senate Committee on Finance offered the following substitute to HB 936:

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 the imposition, rate, computation, and exemptions from income taxes, so as to provide for an income tax credit for members of the Georgia State Defense Force; to clarify certain terms in respect to the wages necessary to qualify for a jobs tax credit; to provide for related matters; 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 the imposition, rate, computation, and exemptions from income taxes, is amended by adding a new Code section to read as follows:

"48-7-29.20.

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

(1) 'Georgia State Defense Force' means the organization established pursuant to Part 3 of Article 1 of Chapter 2 of Title 38.

(2) 'Georgia State Defense Force member' means an individual who is an active member in good standing of the Georgia State Defense Force for at least eight months.

(b) A Georgia State Defense Force member shall be allowed a credit against the tax imposed by Code Section 48-7-20 in an amount not to exceed $500.00 per taxable year. In no event shall the amount of the tax credit exceed the taxpayer's income tax liability for any taxable year, and any unused tax credit shall not be allowed to be carried forward to apply to the taxpayer's succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability.

(c) The commissioner shall promulgate any rules and regulations necessary to implement and administer this Code section."

**SECTION 2.**

Said article is further amended by revising paragraph (1) of subsection (e) of Code Section 48-7-40, relating to designating counties as less developed areas, as follows:

"(e)(1) Business enterprises in counties designated by the commissioner of community affairs as tier 1 counties shall be allowed a tax credit for taxes imposed under this article equal to $3,500.00 annually per eligible new full-time employee job for five years beginning with the first taxable year in which the new full-time employee job is created and for the four immediately succeeding taxable years; provided, however, that where the amount of such credit exceeds a business enterprise's liability for such taxes in a taxable year, the excess may be taken as a credit against such business enterprise's quarterly or monthly payment under Code Section 48-7-103 but not to exceed in any one taxable year $3,500.00 for each new full-time employee job when aggregated with the credit applied against taxes under this article. Each employee whose employer receives credit against such business enterprise's quarterly or monthly payment under Code Section 48-7-103 shall receive credit against his or her income tax liability under Code Section 48-7-20 for the corresponding taxable year for the full amount which would be credited against such liability prior to the application of the credit provided for in this paragraph. Credits against quarterly or monthly payments under Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established by this paragraph shall not constitute income to the taxpayer. Business enterprises in counties designated by the commissioner of community affairs as tier 2 counties shall be allowed a job tax credit for taxes imposed under this article equal to $2,500.00 annually, business enterprises in counties designated by the commissioner of community affairs as tier 3 counties shall be allowed a job tax credit for taxes imposed under this article equal to $1,250.00 annually, and business enterprises in counties designated by the commissioner of community affairs as tier 4 counties shall be allowed a job tax credit for taxes imposed under this article equal to $750.00 annually for each new full-time employee job for five years beginning with the first taxable year in which the new full-time employee job is created and for the four immediately succeeding taxable years. Where a business enterprise is engaged in a competitive project located in a county designated by the commissioner of community affairs as a tier 2 county and where the amount of the credit provided in this paragraph exceeds such business enterprise's liability for taxes imposed under this article in a taxable year, or where a business enterprise is engaged in a competitive project located in a county designated by the commissioner of community affairs as a tier 3 or tier 4 county and where the amount of the credit provided in this paragraph exceeds 50 percent of such business enterprise's liability for taxes imposed under this article in a taxable year, the excess may be taken as a credit against such business enterprise's quarterly or monthly payment under Code Section 48-7-103 but not to exceed in any one taxable year $2,500.00 for each new full-time employee job when aggregated with the credit applied against taxes under this article. Each employee whose employer receives credit against such business enterprise's quarterly or monthly payment under Code Section 48-7-103 shall receive credit against his or her income tax liability under Code Section 48-7-20 for the corresponding taxable year for the full amount which would be credited against such liability prior to the application of the credit provided for in this paragraph. Credits against quarterly or monthly payments under Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established by this paragraph shall not constitute income to the taxpayer. The number of new full-time employee jobs shall be determined by comparing the monthly average number of full-time employees subject to Georgia income tax withholding for the taxable year with the corresponding period of the prior taxable year. In tier 1 counties, those business enterprises that increase employment by two or more shall be eligible for the credit. In tier 2 counties, only those business enterprises that increase employment by ten or more shall be eligible for the credit. In tier 3 counties, only those business enterprises that increase employment by 15 or more shall be eligible for the credit. In tier 4 counties, only those business enterprises that increase employment by 25 or more shall be eligible for the credit. The ~~average~~ wage of ~~the~~ each new ~~jobs~~ job created must be above the average wage of the county that has the lowest average wage of any county in the state to qualify as reported in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor. To qualify for a credit under this paragraph, the employer must make health insurance coverage available to the employee filling the new full-time employee job; provided, however, that nothing in this paragraph shall be construed to require the employer to pay for all or any part of health insurance coverage for such an employee in order to claim the credit provided for in this paragraph if such employer does not pay for all or any part of health insurance coverage for other employees. Credit shall not be allowed during a year if the net employment increase falls below the number required in such tier. The state revenue commissioner shall adjust the credit allowed each year for net new employment fluctuations above the minimum level of the number required in such tier.″

**SECTION 3.**

Said article is further amended by revising subsections (a) and (e) of Code Section 48-7-40.1, relating to tax credits for business enterprises in less developed areas, as follows:

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

(1) 'Broadcasting' means the transmission or licensing of audio, video, text, or other programming content to the general public, subscribers, or to third parties via radio, television, cable, satellite, or the Internet or Internet Protocol and includes motion picture and sound recording, editing, production, postproduction, and distribution. 'Broadcasting' is limited to establishments classified under the 2007 North American Industry Classification System Codes 515, broadcasting; 519, Internet publishing and broadcasting; 517, telecommunications; and 512, motion picture and sound recording industries.

(2) 'Business enterprise' means any business or the headquarters of any such business which is engaged in manufacturing, including, but not limited to, the manufacturing of alternative energy products for use in solar, wind, battery, bioenergy, biofuel, and electric vehicle enterprises, warehousing and distribution, processing, telecommunications, broadcasting, tourism, biomedical manufacturing, and research and development industries. Such term shall not include retail businesses. Businesses are eligible for the tax credit provided by this Code section at an individual establishment of the business based on the classification of the individual establishment under the North American Industry Classification System. For purposes of this Code section, the term 'establishment' means an economic unit at a single physical location where business is conducted or where services or industrial operations are performed. If more than one business activity is conducted at the establishment, then only those jobs engaged in the qualifying activity will be eligible for the tax credit provided by this Code section.

<u>(3) 'New full-time employee job' means a newly created position of employment that was not previously located in this state, requires a minimum of 35 hours a week, and pays at or above the average wage earned in the county with the lowest average wage earned in this state, as reported in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor.</u>"

"(e) Business enterprises in areas designated by the commissioner of community affairs as less developed areas shall be allowed a job tax credit for taxes imposed under this article equal to $3,500.00 annually per eligible new full-time employee job for five years beginning with the first taxable year in which the new full-time employee job is created and for the four immediately succeeding taxable years; provided, however, that where the amount of such credit exceeds a business enterprise's liability for such taxes in a taxable year, the excess may be taken as a credit against such business enterprise's quarterly or monthly payment under Code Section 48-7-103 but not to exceed in any one taxable year $3,500.00 for each new full-time employee job when aggregated with the credit applied against taxes under this article. Each employee whose employer receives credit against such business enterprise's quarterly or monthly payment under Code Section 48-7-103 shall receive credit against his or her income tax liability under Code Section 48-7-20 for the corresponding taxable year for the full amount which would be credited against such liability prior to the application of the credit provided for in this subsection. Credits against quarterly or monthly payments under Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established by this subsection shall not constitute income to the taxpayer. The number of new full-time employee jobs shall be determined by comparing the monthly average number of full-time employees subject to Georgia income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those business enterprises that increase employment by five or more in a less developed area shall be eligible for the credit; provided, however, that within areas of pervasive poverty as designated under paragraphs (2) and (4) of subsection (c) of this Code section businesses shall only have to increase employment by two or more jobs in order to be eligible for the credit, provided that, if a business only increases employment by two jobs, the persons hired for such jobs shall not be married to one another. The ~~average~~ wage of ~~the~~ each new ~~jobs~~ job created must be above the average wage of the county that has the lowest wage of any county in the state to qualify as reported in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor. To qualify for a credit under this subsection, the employer must make health insurance coverage available to the employee filling the new full-time employee job; provided, however, that nothing in this subsection shall be construed to require the employer to pay for all or any part of health insurance coverage for such an employee in order to claim the credit provided for in this subsection if such employer does not pay for all or any part of health insurance coverage for other employees. Credit shall not be allowed during a year if the net employment increase falls below five or two, as applicable. The state revenue commissioner shall adjust the credit allowed each year for net new employment fluctuations above the minimum level of five or two.″

**SECTION 4.**

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