

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2869 Session of  
2022

INTRODUCED BY HOWARD, SCHLOSSBERG, SANCHEZ, DELLOSO AND MADDEN,  
OCTOBER 6, 2022

REFERRED TO COMMITTEE ON FINANCE, OCTOBER 6, 2022

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An  
2 act relating to tax reform and State taxation by codifying  
3 and enumerating certain subjects of taxation and imposing  
4 taxes thereon; providing procedures for the payment,  
5 collection, administration and enforcement thereof; providing  
6 for tax credits in certain cases; conferring powers and  
7 imposing duties upon the Department of Revenue, certain  
8 employers, fiduciaries, individuals, persons, corporations  
9 and other entities; prescribing crimes, offenses and  
10 penalties," providing for phoenix employee and returnship tax  
11 credits; and imposing penalties.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as  
15 the Tax Reform Code of 1971, is amended by adding an article to  
16 read:

17 ARTICLE XVII-M

18 PHOENIX EMPLOYEE AND RETURNSHIP TAX CREDITS

19 Section 1701-M. Definitions.

20 The following words and phrases when used in this article  
21 shall have the meanings given to them in this section unless the  
22 context clearly indicates otherwise:

1 "Company." A corporation, partnership, limited liability  
2 company, limited liability partnership, business trust,  
3 affiliate, unincorporated joint venture or other business entity  
4 doing business in this Commonwealth.

5 "Department." The Department of Revenue of the Commonwealth.

6 "Educational program." A program offered by a secondary  
7 school or institution of higher education. The term does not  
8 include trainings or classes taken to maintain an occupational  
9 licensure or certification.

10 "Occupation of high demand." An occupation that has a  
11 shortage of qualified individuals to fill working positions as  
12 determined by the department in consultation with the Department  
13 of Labor and Industry.

14 "Phoenix employee." An employee or prospective employee who  
15 has not been enrolled in an educational program within the last  
16 three years and meets one of the following:

17 (1) has been out of the workforce for two years; or

18 (2) has been hired into a position that would increase  
19 the employee's earnings by at least 50% over the employee's  
20 previous company.

21 "Phoenix employee tax credit." A phoenix employee tax credit  
22 issued under section 1703-M.

23 "Returnship." A paid internship that reintroduces a phoenix  
24 employee into the workforce or an industry, with the intent of  
25 the company to hire the phoenix employee into a permanent,  
26 substantially similar position.

27 "Returnship tax credit." A tax credit issued under section  
28 1704-M.

29 Section 1702-M. Eligibility.

30 To be eligible to receive a phoenix employee tax credit or

returnship tax credit under this article for occupations of high demand under this article, a company must demonstrate to the department:

(1) The ability to hire or create jobs for phoenix employees.

(2) The ability to provide applicable training and resources for phoenix employees who are reentering the workforce.

(3) A signed statement stating the intent to retain a phoenix employee for at least three years.

(4) A signed statement stating the intent to maintain operations in this Commonwealth for a period of five years from the date the company submits a phoenix employee tax credit or returnship tax credit certificate to the department.

Section 1703-M. Phoenix employee tax credit.

(a) Maximum amount.--A company may claim a phoenix employee tax credit equal to two times the percentage of the State personal income tax, prior to deductions, imposed on a phoenix employee within the company.

(b) Evidence of phoenix employee.--The company shall submit the following evidence that the employee meets qualifications of a phoenix employee:

(1) Evidence of a phoenix employee's salary from previous employment, if applicable.

(2) Evidence of a phoenix employee's previous enrollment in an educational program, including photographic or written evidence of a degree or diploma, photographic or written evidence of enrollment in an educational program or other form of evidence deemed acceptable by the department.

1       (3) Evidence that a job was created to hire a phoenix  
2       employee, if applicable.

3       (c) Applicable taxes.--A company may apply the phoenix  
4       employee tax credit to 100% of the company's State corporate net  
5       income tax, capital stock and franchise tax or the capital stock  
6       and franchise tax of a shareholder of the company if the company  
7       is a Pennsylvania S corporation, gross premiums tax, gross  
8       receipts tax, bank and trust company shares tax, mutual thrift  
9       institution tax, title insurance company shares tax, personal  
10       income tax or the personal income tax of shareholders of a  
11       Pennsylvania S corporation or any combination thereof.

12       (d) Phoenix employee tax credit term.--A company may claim a  
13       phoenix employee tax credit for each new phoenix employee hired  
14       or job created for three consecutive years after the phoenix  
15       employee's date of hire, provided the phoenix employee is still  
16       employed by the company.

17       (e) Limitation.--A company may not receive more than  
18       \$150,000 in the first fiscal year, \$300,000 in the second fiscal  
19       year and \$450,000 in subsequent fiscal years in phoenix employee  
20       tax credits. This amount shall be adjusted to reflect any upward  
21       changes in the Consumer Price Index for All Urban Consumers  
22       (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland  
23       area.

24       (f) Availability of phoenix employee tax credit.--

25               (1) During the first fiscal year of the phoenix employee  
26       tax credit program, \$15,000,000 in phoenix employee tax  
27       credits shall be made available to the department and may be  
28       awarded by the department under this section.

29               (2) In the second fiscal year of the phoenix employee  
30       tax credit program, a minimum of \$30,000,000 in phoenix

1 employee tax credits shall be made available to the  
2 department and may be awarded by the department under this  
3 section. This amount shall be adjusted to reflect any upward  
4 changes in the Consumer Price Index for All Urban Consumers  
5 (CPI-U) for the Pennsylvania, New Jersey, Delaware and  
6 Maryland area.

7 (3) In the third and subsequent fiscal years of the  
8 phoenix employee tax credit program, a minimum of \$45,000,000  
9 in phoenix employee tax credits shall be made available to  
10 the department and may be awarded by the department under  
11 this section. This amount shall be adjusted to reflect any  
12 upward changes in the Consumer Price Index for All Urban  
13 Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware  
14 and Maryland area.

15 Section 1704-M. Returnship tax credit.

16 (a) Duty of department.--The department shall establish  
17 standards for returnships that qualify for a returnship tax  
18 credit under this section.

19 (b) Maximum amount of returnship tax credit.--A company may  
20 claim a returnship tax credit of \$1,000 for each returnship  
21 completed by an employee in a tax year. This amount shall be  
22 adjusted to reflect any upward changes in the Consumer Price  
23 Index for All Urban Consumers (CPI-U) for the Pennsylvania, New  
24 Jersey, Delaware and Maryland area.

25 (c) Limitation.--A company may not receive more than  
26 \$100,000 in returnship tax credits in a year. This amount shall  
27 be adjusted to reflect any upward changes in the Consumer Price  
28 Index for All Urban Consumers (CPI-U) for the Pennsylvania, New  
29 Jersey, Delaware and Maryland area.

30 (d) Evidence of returnship.--To receive a tax credit under

1 this section, a company must submit the following evidence of a  
2 returnship an employee completes to the department:

3 (1) Salary of the returnship.

4 (2) Certification of completion of the returnship.

5 (3) Details of a job offer the employee was offered  
6 after the completion of the returnship.

7 (4) Other evidence the department requires.

8 (e) Applicable taxes.--A company may apply the returnship  
9 tax credit to 100% of the company's State corporate net income  
10 tax, capital stock and franchise tax or the capital stock and  
11 franchise tax of a shareholder of the company if the company is  
12 a Pennsylvania S corporation, gross premiums tax, gross receipts  
13 tax, bank and trust company shares tax, mutual thrift  
14 institution tax, title insurance company shares tax, personal  
15 income tax or the personal income tax of shareholders of a  
16 Pennsylvania S corporation or any combination thereof.

17 (f) Availability of returnship tax credit.--Each fiscal  
18 year, \$10,000,000 in returnship tax credits shall be made  
19 available to the department and may be awarded by the department  
20 under this section. In each subsequent year, this amount shall  
21 be adjusted to reflect any upward changes in the Consumer Price  
22 Index for All Urban Consumers (CPI-U) for the Pennsylvania, New  
23 Jersey, Delaware and Maryland area.

24 Section 1705-M. Phoenix employee tax credit for occupations of  
25 high demand.

26 (a) Occupations of high demand list.--The department shall  
27 consult with the Department of Labor and Industry and publish on  
28 the department's publicly accessible Internet website a list of  
29 occupations of high demand by January 1 of each year.

30 (b) Credit amount.--The amount of a phoenix employee tax

credit for occupations of high demand shall be \$1,000 per year  
and contingent upon the phoenix employee's continued employment  
in the occupation of high demand and employment with the company  
that is receiving a phoenix employee tax credit for occupations  
of high demand under this section. This amount shall be adjusted  
to reflect any upward changes in the Consumer Price Index for  
All Urban Consumers (CPI-U) for the Pennsylvania, New Jersey,  
Delaware and Maryland area.

(c) Phoenix employee tax credit.--A phoenix employee may  
apply the phoenix employee tax credit for occupations of high  
demand to the phoenix employee's personal income taxes.

(d) Length of phoenix employee tax credit.--A phoenix  
employee may be eligible for the phoenix employee tax credit for  
occupations of high demand for a period of three consecutive  
years after the phoenix employee's date of hire.

(e) Availability of phoenix employee tax credit for  
occupations of high demand.--

(1) During the first fiscal year of the phoenix employee  
tax credit for occupations of high demand program,  
\$10,000,000 in phoenix employee tax credits for occupations  
of high demand shall be made available to the department and  
may be awarded by the department under this section.

(2) In the second fiscal year of the phoenix employee  
tax credit for occupations of high demand program, a minimum  
of \$20,000,000 in phoenix employee tax credits for  
occupations of high demand shall be made available to the  
department and may be awarded by the department under this  
section. This amount shall be adjusted to reflect any upward  
changes in the Consumer Price Index for All Urban Consumers  
(CPI-U) for the Pennsylvania, New Jersey, Delaware and

1 Maryland area.

2 (3) In the third and subsequent fiscal years of the  
3 phoenix employee tax credit for occupations of high demand  
4 program, a minimum of \$30,000,000 in phoenix employee tax  
5 credits for occupations of high demand shall be made  
6 available to the department and may be awarded by the  
7 department under this section. If a phoenix employee is  
8 terminated without cause, the employee is still eligible for  
9 a phoenix employee tax credit under this section despite the  
10 employee's termination. This amount shall be adjusted to  
11 reflect any upward changes in the Consumer Price Index for  
12 All Urban Consumers (CPI-U) for the Pennsylvania, New Jersey,  
13 Delaware and Maryland area.

14 Section 1706-M. Fair payment of phoenix employees.

15 No company shall pay a phoenix employee, either in salary or  
16 benefits, less than other employees of the same position and  
17 years of experience, including any prior experience in a similar  
18 job. The department may take complaints from employees regarding  
19 this article and shall investigate any credible complaint.

20 Section 1707-M. Severing of employment.

21 (a) Termination.--If a phoenix employee is terminated with  
22 cause, the company shall provide evidence to the department of  
23 the termination and if the termination was merited, the  
24 department shall provide the phoenix employee tax credit for  
25 that year. If the termination is found to be without cause and  
26 not merited, the department may not award the phoenix employee  
27 tax credit to the company.

28 (b) Separation.--If a phoenix employee voluntarily separates  
29 from a company, the company shall receive the phoenix employee  
30 tax credit for that year.



1 Section 1708-M. Penalties.

2 (a) Failure to maintain operations.--A company that receives  
3 a phoenix employee tax credit or returnship tax credit and fails  
4 to substantially maintain existing operations or operations  
5 related to the phoenix employee tax credit or returnship tax  
6 credit for a period of five years from the date the company  
7 first receives the phoenix employee tax credit or returnship tax  
8 credit shall be required to refund to the Commonwealth the total  
9 amount of phoenix employee tax credit or returnship tax credit  
10 granted.

11 (b) Fraud.--It is a felony of the third degree if a company  
12 or the company's representative, employee, agent or phoenix  
13 employee knowingly submits false documentation to the department  
14 or commits fraud to obtain benefits under this article.

15 Section 2. This act shall take effect in 60 days.