

Senate Engrossed House Bill

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
First Regular Session  
2003

CHAPTER 122

# HOUSE BILL 2058

AN ACT

AMENDING SECTIONS 43-221, 43-222, 43-1021, 43-1022 AND 43-1029, ARIZONA REVISED STATUTES; REPEALING SECTION 43-1076, ARIZONA REVISED STATUTES; AMENDING SECTIONS 43-1080, 43-1081 AND 43-1121, ARIZONA REVISED STATUTES; RELATING TO THE INCOME TAX CREDIT REVIEW COMMITTEE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 43-221, Arizona Revised Statutes, is amended to  
3 read:

4 43-221. Joint legislative income tax credit review committee

5 A. The joint legislative income tax credit review committee is  
6 established consisting of the following members:

7 1. Five members of the house of representatives ways and means  
8 committee appointed by the speaker of the house of representatives. Not more  
9 than three appointees shall be of the same political party.

10 2. Five members of the senate finance committee appointed by the  
11 president of the senate. Not more than three appointees shall be of the same  
12 political party.

13 B. The committee shall determine the original purpose of existing tax  
14 credits and establish a standard for evaluating and measuring the success or  
15 failure of the tax credits. The standard for evaluating tax credits may  
16 include:

17 1. The history, rationale and estimated revenue impact of the credit.

18 2. Whether the credit has provided a benefit to this state including,  
19 for corporate tax credits, measurable economic development, new investments,  
20 creation of new jobs or retention of existing jobs in this state.

21 3. Whether the credit is unnecessarily complex in the application,  
22 administration and approval process.

23 C. The committee shall review the individual and corporate income tax  
24 credits pursuant to the schedule prescribed in section 43-222. The committee  
25 shall use the joint legislative budget committee staff and may use the staff  
26 of the department of revenue and legislative council for assistance.

27 D. After completing the review process, the committee shall determine  
28 whether the credit should be amended, or repealed OR RETAINED. IF THE CREDIT  
29 IS RECOMMENDED TO BE RETAINED OR AMENDED, THE COMMITTEE SHALL RECOMMEND THAT  
30 THE CREDIT BE RETURNED TO THE INCOME TAX CREDIT REVIEW SCHEDULE PRESCRIBED  
31 IN SECTION 43-222. THE NEXT REVIEW YEAR SHALL BE THE FIFTH FULL CALENDAR  
32 YEAR FOLLOWING THE DATE THE CREDIT WAS REVIEWED. The committee shall report  
33 its findings and recommendations to the president of the senate, the speaker  
34 of the house of representatives and the governor by December 15 of the year  
35 that the committee reviews the credit. THE COMMITTEE SHALL PROVIDE A COPY  
36 OF THE REPORT TO THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND  
37 PUBLIC RECORDS.

38 Sec. 2. Section 43-222, Arizona Revised Statutes, is amended to read:

39 43-222. Income tax credit review schedule

40 Each year the joint legislative income tax credit review committee  
41 shall review the following income tax credits:

42 ~~1. In 2002, sections 43-1076, 43-1077, 43-1078, 43-1079, 43-1080,~~  
43 ~~43-1165, 43-1166, 43-1167 and 43-1169.~~

44 2. 1. In 2003, sections 43-1074.01, 43-1081, 43-1085, 43-1168,  
45 43-1170, 43-1173 and 43-1178.

1           ~~3.~~ 2. In 2004, sections 43-1081.01, 43-1083, 43-1084 and 43-1170.01.

2           ~~4.~~ 3. In 2005, sections 43-1087, 43-1088, 43-1090.01, 43-1175 and  
3 43-1177.

4           ~~5.~~ 4. In 2006, sections 43-1073, 43-1089, 43-1089.01, 43-1089.02,  
5 43-1090, 43-1176 and 43-1181.

6           5. IN 2007, SECTIONS 43-1077, 43-1078, 43-1079, 43-1080, 43-1165,  
7 43-1166, 43-1167 AND 43-1169.

8           Sec. 3. Section 43-1021, Arizona Revised Statutes, is amended to read:  
9 43-1021. Additions to Arizona gross income

10           In computing Arizona adjusted gross income, the following amounts shall  
11 be added to Arizona gross income:

12           1. A beneficiary's share of the fiduciary adjustment to the extent  
13 that the amount determined by section 43-1333 increases the beneficiary's  
14 Arizona gross income.

15           2. An amount equal to the "ordinary income portion" of a lump sum  
16 distribution that was excluded from federal adjusted gross income pursuant  
17 to section 402(d) of the internal revenue code.

18           3. The amount of interest income received on obligations of any state,  
19 territory or possession of the United States, or any political subdivision  
20 thereof, located outside the state of Arizona, reduced, for tax years  
21 beginning from and after December 31, 1996, by the amount of any interest on  
22 indebtedness and other related expenses that were incurred or continued to  
23 purchase or carry those obligations and that are not otherwise deducted or  
24 subtracted in arriving at Arizona gross income.

25           4. Annuity income received during the taxable year to the extent that  
26 the sum of the proceeds received from such annuity in all taxable years prior  
27 to and including the current taxable year exceeds the total consideration and  
28 premiums paid by the taxpayer. This paragraph applies only to those  
29 annuities with respect to which the first payment was received prior to  
30 December 31, 1978.

31           5. The excess of a partner's share of partnership taxable income  
32 required to be included under chapter 14, article 2 of this title over the  
33 income required to be reported under section 702(a)(8) of the internal  
34 revenue code.

35           6. The excess of a partner's share of partnership losses determined  
36 pursuant to section 702(a)(8) of the internal revenue code over the losses  
37 allowable under chapter 14, article 2 of this title.

38           7. The amount by which the adjusted basis of property described in  
39 this paragraph and computed pursuant to the internal revenue code exceeds the  
40 adjusted basis of such property computed pursuant to this title and the  
41 income tax act of 1954, as amended. This paragraph shall apply to all  
42 property which is held for the production of income and which is sold or  
43 otherwise disposed of during the taxable year, except depreciable property  
44 used in a trade or business.

1           8. The amount of depreciation or amortization of costs of any capital  
2 investment that is deducted pursuant to section 167 or 179 of the internal  
3 revenue code by a qualified defense contractor with respect to which an  
4 election is made to amortize pursuant to section 43-1024.

5           9. The amount of gain from the sale or other disposition of a capital  
6 investment which a qualified defense contractor has elected to amortize  
7 pursuant to section 43-1024.

8           10. The amount of depreciation or amortization of costs of child care  
9 facilities deducted pursuant to section 167 or 188 of the internal revenue  
10 code for which a credit is taken under section 43-1075, subsection A,  
11 paragraph 1.

12           11. Amounts withdrawn from the Arizona state retirement system, the  
13 corrections officer retirement plan, the public safety personnel retirement  
14 system, the elected officials' retirement plan or a county or city retirement  
15 plan by an employee upon termination of employment before retirement to the  
16 extent they were deducted in arriving at Arizona taxable income in any year.

17           12. That portion of the net operating loss included in federal adjusted  
18 gross income which has already been taken as a net operating loss for Arizona  
19 purposes or which is separately taken as a subtraction under the special net  
20 operating loss transition rule.

21           13. Any nonitemized amount deducted pursuant to section 170 of the  
22 internal revenue code representing contributions to an educational  
23 institution which denies admission, enrollment or board and room  
24 accommodations on the basis of race, color or ethnic background except those  
25 institutions primarily established for the education of American Indians.

26           ~~14. The amount of depreciation or amortization of costs of recycling~~  
27 ~~equipment deducted pursuant to the internal revenue code for which an~~  
28 ~~election is made pursuant to section 43-1076.~~

29           ~~15.~~ 14. The amount paid as taxes on property in this state with  
30 respect to which a credit is claimed under section 43-1078.

31           ~~16.~~ 15. Amounts withdrawn from a medical savings account by the  
32 individual during the taxable year computed pursuant to section 220(f) of the  
33 internal revenue code and not included in federal adjusted gross income.

34           ~~17.~~ 16. Any amount of agricultural water conservation expenses that  
35 were deducted pursuant to the internal revenue code for which a credit is  
36 claimed under section 43-1084.

37           ~~18.~~ 17. The amount by which the depreciation or amortization computed  
38 under the internal revenue code with respect to property for which a credit  
39 was taken under section 43-1080 exceeds the amount of depreciation or  
40 amortization computed pursuant to the internal revenue code on the Arizona  
41 adjusted basis of the property.

42           ~~19.~~ 18. The amount by which the adjusted basis computed under the  
43 internal revenue code with respect to property for which a credit was claimed  
44 under section 43-1080 and which is sold or otherwise disposed of during the

1 taxable year exceeds the adjusted basis of the property computed under  
2 section 43-1080.

3 ~~20.~~ 19. The amount by which the depreciation or amortization computed  
4 under the internal revenue code with respect to property for which a credit  
5 was taken under either section 43-1081 or 43-1081.01 exceeds the amount of  
6 depreciation or amortization computed pursuant to the internal revenue code  
7 on the Arizona adjusted basis of the property.

8 ~~21.~~ 20. The amount by which the adjusted basis computed under the  
9 internal revenue code with respect to property for which a credit was claimed  
10 under either section 43-1081 or 43-1081.01 and which is sold or otherwise  
11 disposed of during the taxable year exceeds the adjusted basis of the  
12 property computed under section 43-1081 or 43-1081.01, as applicable.

13 ~~22.~~ 21. The deduction referred to in section 1341(a)(4) of the  
14 internal revenue code for restoration of a substantial amount held under a  
15 claim of right.

16 ~~23.~~ 22. The amount by which a net operating loss carryover or capital  
17 loss carryover allowable pursuant to section 1341(b)(5) of the internal  
18 revenue code exceeds the net operating loss carryover or capital loss  
19 carryover allowable pursuant to section 43-1029, subsection F.

20 ~~24.~~ 23. Any amount deducted pursuant to section 170 of the internal  
21 revenue code representing contributions to a school tuition organization or  
22 a public school for which a credit is claimed under section 43-1089 or  
23 43-1089.01.

24 ~~25.~~ 24. Any amount deducted in computing Arizona gross income as  
25 expenses for installing solar stub outs or electric vehicle recharge outlets  
26 in this state with respect to which a credit is claimed pursuant to section  
27 43-1090.

28 ~~26.~~ 25. Any wage expenses deducted pursuant to the internal revenue  
29 code for which a credit is claimed under section 43-1087 and representing net  
30 increases in qualified employment positions for employment of temporary  
31 assistance for needy families recipients.

32 ~~27.~~ 26. Any amount deducted pursuant to section 170 of the internal  
33 revenue code representing the contribution of a motor vehicle for which a  
34 credit is claimed pursuant to section 43-1090.01.

35 ~~28.~~ 27. Any amount deducted for conveying ownership or development  
36 rights of property to an agricultural preservation district under section  
37 48-5702 for which a credit is claimed under section 43-1081.02.

38 ~~29.~~ 28. The amount of any special depreciation allowance allowed  
39 pursuant to section 168(k) of the internal revenue code.

40 Sec. 4. Section 43-1022, Arizona Revised Statutes, is amended to read:  
41 43-1022. Subtractions from Arizona gross income  
42 In computing Arizona adjusted gross income, the following amounts shall  
43 be subtracted from Arizona gross income:  
44 1. The amount of exemptions allowed by section 43-1023.

1           2. Benefits, annuities and pensions in an amount totaling not more  
2 than two thousand five hundred dollars received from one or more of the  
3 following:

4           (a) The United States government service retirement and disability  
5 fund, retired or retainer pay of the uniformed services of the United States,  
6 the United States foreign service retirement and disability system and any  
7 other retirement system or plan established by federal law.

8           (b) The Arizona state retirement system, the corrections officer  
9 retirement plan, the public safety personnel retirement system, the elected  
10 officials' retirement plan, an optional retirement program established by the  
11 Arizona board of regents under section 15-1628, an optional retirement  
12 program established by a community college district board under section  
13 15-1451 or a retirement plan established for employees of a county, city or  
14 town in this state.

15           3. A beneficiary's share of the fiduciary adjustment to the extent  
16 that the amount determined by section 43-1333 decreases the beneficiary's  
17 Arizona gross income.

18           4. The amount of any distributions from an individual retirement  
19 account as provided for in section 408 of the internal revenue code or from  
20 a qualified retirement plan of a self-employed individual as provided for in  
21 section 401 of the internal revenue code to the extent that total adjustments  
22 made pursuant to this paragraph in all tax years do not exceed the total of  
23 all contributions made by the taxpayer to such plans prior to December 31,  
24 1975, which were included in computing Arizona taxable income.

25           5. The amount of income on an installment receivable which is  
26 recognized pursuant to the internal revenue code and which has already been  
27 recognized on the death of the taxpayer for purposes of this title for tax  
28 years ending before January 1, 1990.

29           6. Interest income received on obligations of the United States, less  
30 any interest on indebtedness, or other related expenses, and deducted in  
31 arriving at Arizona gross income, which were incurred or continued to  
32 purchase or carry such obligations.

33           7. The amount of any income tax refunds which were received from  
34 states other than Arizona and which were included as income in computing  
35 federal adjusted gross income.

36           8. Annuity income included in federal adjusted gross income pursuant  
37 to section 72 of the internal revenue code if the first payment with respect  
38 to such annuity was received prior to December 31, 1978.

39           9. The excess of a partner's share of income required to be included  
40 under section 702(a)(8) of the internal revenue code over the income required  
41 to be included under chapter 14, article 2 of this title.

42           10. The excess of a partner's share of partnership losses determined  
43 pursuant to chapter 14, article 2 of this title over the losses allowable  
44 under section 702(a)(8) of the internal revenue code.

1           11. The amount by which the adjusted basis of property described in  
2 this paragraph and computed pursuant to this title and the income tax act of  
3 1954, as amended, exceeds the adjusted basis of such property computed  
4 pursuant to the internal revenue code. This paragraph shall apply to all  
5 property which is held for the production of income and which is sold or  
6 otherwise disposed of during the taxable year other than depreciable property  
7 used in a trade or business.

8           12. The amount allowed by section 43-1024 for amortization, by a  
9 qualified defense contractor certified by the department of commerce under  
10 section 41-1508, of a capital investment for private commercial activities.

11           13. The amount of gain included in federal adjusted gross income on the  
12 sale or other disposition of a capital investment that a qualified defense  
13 contractor has elected to amortize pursuant to section 43-1024.

14           14. The amount allowed by section 43-1025 for contributions during the  
15 taxable year of agricultural crops to charitable organizations.

16           15. The portion of any wages or salaries paid or incurred by the  
17 taxpayer for the taxable year that is equal to the amount of the federal work  
18 opportunity credit, the empowerment zone employment credit, the credit for  
19 employer paid social security taxes on employee cash tips and the Indian  
20 employment credit that the taxpayer received under sections 45A, 45B, 51(a)  
21 and 1396 of the internal revenue code.

22           16. The amount of prizes or winnings less than five thousand dollars  
23 in a single taxable year from any of the state lotteries established and  
24 operated pursuant to title 5, chapter 5, article 1, except that all such  
25 winnings before March 22, 1983, including periodic distributions from such  
26 winnings made after March 22, 1983, may be subtracted.

27           17. The amount of exploration expenses that is determined pursuant to  
28 section 617 of the internal revenue code, that has been deferred in a taxable  
29 year ending before January 1, 1990 and for which a subtraction has not  
30 previously been made. The subtraction shall be made on a ratable basis as  
31 the units of produced ores or minerals discovered or explored as a result of  
32 this exploration are sold.

33           18. The amount included in federal adjusted gross income pursuant to  
34 section 86 of the internal revenue code, relating to taxation of social  
35 security and railroad retirement benefits.

36           19. To the extent not already excluded from Arizona gross income under  
37 section 112 of the internal revenue code, compensation received for active  
38 service as a member of the armed forces of the United States for any month  
39 during any part of which the member served in a combat zone as determined  
40 under section 112 of the internal revenue code or in an area given the same  
41 treatment as a combat zone for purposes of section 112 of the internal  
42 revenue code.

43           20. The amount of unreimbursed medical and hospital costs, adoption  
44 counseling, legal and agency fees and other nonrecurring costs of adoption  
45 not to exceed three thousand dollars. In the case of a husband and wife who

1 file separate returns, the subtraction may be taken by either taxpayer or may  
2 be divided between them, but the total subtractions allowed both husband and  
3 wife shall not exceed three thousand dollars. The subtraction under this  
4 paragraph may be taken for the costs that are described in this paragraph and  
5 that are incurred in prior years, but the subtraction may be taken only in  
6 the year during which the final adoption order is granted.

7 21. The amount authorized by section 43-1027 for the taxable year  
8 relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

9 22. With respect to a medical savings account established pursuant to  
10 section 43-1028:

11 (a) An eligible individual may subtract:

12 (i) The amount of contributions made by the individual's employer  
13 during the taxable year to the individual's medical savings account pursuant  
14 to section 43-1028 to the extent that the employer contributions are included  
15 in the individual's federal adjusted gross income.

16 (ii) The amount deposited by the individual in the account during the  
17 taxable year to the extent that the individual's contributions are included  
18 in the individual's federal adjusted gross income.

19 (b) The individual's employer may subtract the amount of contributions  
20 made by the employer to a medical savings account established on the  
21 individual's behalf to the extent that the contributions are not deductible  
22 under the internal revenue code.

23 23. The amount by which a net operating loss carryover or capital loss  
24 carryover allowable pursuant to section 43-1029, subsection F exceeds the net  
25 operating loss carryover or capital loss carryover allowable pursuant to  
26 section 1341(b)(5) of the internal revenue code.

27 24. Any amount of qualified educational expenses that is distributed  
28 from a qualified state tuition program determined pursuant to section 529 of  
29 the internal revenue code and that is included in income in computing federal  
30 adjusted gross income.

31 25. Any item of income resulting from an installment sale that has been  
32 properly subjected to income tax in another state in a previous taxable year  
33 and that is included in Arizona gross income in the current taxable year.

34 26. The amount authorized by section 43-1030 relating to holocaust  
35 survivors.

36 27. The amount authorized by section 43-1031 for constructing an energy  
37 efficient residence.

38 28. With respect to property for which the depreciation allowance  
39 pursuant to section 168(k) of the internal revenue code was added under  
40 section 43-1021, paragraph 29 28, an amount equal to three-sevenths of the  
41 amount of depreciation allowed pursuant to section 167(a) of the internal  
42 revenue code as computed on the adjusted basis provided pursuant to section  
43 168(k)(1)(B) of the internal revenue code.

44 29. With respect to property that is sold or otherwise disposed of  
45 during the taxable year by a taxpayer that complied with section 43-1021,

1 paragraph 29 28 with respect to that property, the amount of depreciation  
2 that would have been allowed pursuant to section 167(a) of the internal  
3 revenue code computed without regard to section 168(k) of the internal  
4 revenue code to the extent that the amount has not already reduced Arizona  
5 taxable income in the current or prior taxable years.

6 Sec. 5. Section 43-1029, Arizona Revised Statutes, is amended to read:  
7 43-1029. Restoration of a substantial amount held under claim  
8 of right; computation of tax

9 A. This section applies if:

10 1. An item of income was included in gross income for a prior taxable  
11 year or years because it appeared that the taxpayer had an unrestricted right  
12 to the item.

13 2. A deduction would be allowable under the internal revenue code or  
14 this title for the taxable year, without application of section 1341(b)(3)  
15 of the internal revenue code or section 43-1021, paragraph 22 21, because  
16 after the close of the prior taxable year or years it was established that  
17 the taxpayer did not have an unrestricted right to all or part of the item.

18 3. The amount of the deduction exceeds three thousand dollars.

19 B. If all of the conditions in subsection A of this section apply, the  
20 tax imposed by this chapter for the taxable year is an amount equal to the  
21 tax for the taxable year computed without the deduction, minus the decrease  
22 in tax under this chapter for the prior taxable year or years that would  
23 result solely from excluding the item or portion of the item from gross  
24 income for the prior taxable year or years.

25 C. If the decrease in tax exceeds the tax imposed by this chapter for  
26 the taxable year, computed without the deduction, the excess is considered  
27 to be a payment of tax on the last day prescribed by law for the payment of  
28 tax for the taxable year and shall be refunded or credited in the same manner  
29 as if it were an overpayment for the taxable year.

30 D. Subsection B of this section does not apply to any deduction that  
31 is allowable with respect to an item that was included in gross income by  
32 reason of the sale or other disposition of stock in trade of the taxpayer,  
33 or other property of a kind that would properly have been included in the  
34 inventory of the taxpayer on hand at the close of the prior taxable year, or  
35 property that is held by the taxpayer primarily for sale to customers in the  
36 ordinary course of the taxpayer's trade or business. This subsection does  
37 not apply if the deduction arises out of refunds or repayments with respect  
38 to rates made by a regulated public utility that is listed in section  
39 7701(a)(33)(A) through (H) of the internal revenue code, if the refunds or  
40 repayments are:

41 1. Required to be made by the government, political subdivision,  
42 agency or instrumentality referred to in that section.

43 2. Required to be made by an order of a court.

44 3. Made in settlement of litigation or under threat or imminence of  
45 litigation.

1 E. If the exclusion under subsection B of this section results in:  
2 1. A net operating loss for the prior taxable year or years for  
3 purposes of computing the decrease in tax for the prior year or years under  
4 subsection B of this section:

5 (a) The loss shall be:

6 (i) Carried over under this chapter to the same extent and in the same  
7 manner as was provided under prior law for taxable years beginning on or  
8 before December 31, 1989.

9 (ii) Carried back and carried over to the same extent and in the same  
10 manner as provided under section 172 of the internal revenue code for taxable  
11 years beginning from and after December 31, 1989.

12 (b) No carryover beyond the taxable year may be taken into account.

13 2. A capital loss for the prior taxable year or years, for purposes  
14 of computing the decrease in tax for the prior taxable year or years under  
15 subsection B of this section:

16 (a) The loss shall be carried back and carried over to the same extent  
17 and in the same manner as is provided under section 1212 of the internal  
18 revenue code.

19 (b) No carryover beyond the taxable year may be taken into account.

20 F. In computing Arizona taxable income for taxable years subsequent  
21 to the current taxable year, the net operating loss or capital loss  
22 determined in subsection E of this section shall be taken into account to the  
23 same extent and in the same manner as a net operating loss or capital loss  
24 sustained for prior taxable years.

25 Sec. 6. Repeal

26 Section 43-1076, Arizona Revised Statutes, is repealed.

27 Sec. 7. Section 43-1080, Arizona Revised Statutes, is amended to read:

28 43-1080. Credit for construction costs of qualified  
29 environmental technology facility

30 A. A credit is allowed against the taxes imposed by this title for  
31 expenses incurred in constructing a qualified environmental technology  
32 manufacturing, producing or processing facility as described in section  
33 41-1514.02. The amount of the credit is equal to ten per cent of the amount  
34 spent during the taxable year to construct the facility, including land  
35 acquisition, improvements, building improvements, machinery and equipment,  
36 but not exceeding seventy-five per cent of the tax liability under this title  
37 for the taxable year determined without applying the credit.

38 B. Amounts qualifying for the credit under this section must be  
39 includible in the taxpayer's adjusted basis for the facility. The adjusted  
40 basis of any asset with respect to which the taxpayer has claimed a credit  
41 shall be reduced by the amount of credit claimed with respect to that  
42 asset. This credit does not affect the deductibility for depreciation or  
43 amortization of the remaining adjusted basis of the asset.

44 ~~C. A credit allowed under this section is in lieu of a credit under~~  
45 ~~section 43-1076 with respect to the same recycling equipment.~~

1           D. C. A taxpayer may claim a credit under this section with respect  
2 to new qualifying construction within ten years after the start of the  
3 facility's initial construction, but a credit is not allowed under this  
4 section for any amount spent more than ten years after the start of the  
5 facility's initial construction.

6           E. D. A taxpayer qualifies for the credit under this section if the  
7 taxpayer owns the facility or leases the facility or any component of the  
8 facility for a term of five or more years.

9           F. E. If the allowable tax credit exceeds seventy-five per cent of  
10 the taxes otherwise due under this title on the claimant's income, or if  
11 there are no taxes due under this title, the amount of the claim not used to  
12 offset taxes under this title may be carried forward for not more than  
13 fifteen taxable years as a credit against subsequent years' income tax  
14 liability.

15           G. F. Co-owners of a business, including partners in a partnership  
16 and shareholders of an S corporation, as defined in section 1361 of the  
17 internal revenue code, may each claim only the pro rata share of the credit  
18 allowed under this section based on the ownership interest. The total of the  
19 credits allowed all such owners may not exceed the amount that would have  
20 been allowed for a sole owner of the business.

21           H. G. If either of the following circumstances occurs with respect  
22 to a qualified environmental technology manufacturing, producing or  
23 processing facility, the tax imposed by this title for the taxable year in  
24 which the circumstance occurs shall be increased by the full amount of all  
25 credits previously allowed under this section with respect to that facility:

26           1. The taxpayer abandons construction before the facility is placed  
27 in service.

28           2. Before the facility is placed in service, the taxpayer changes  
29 plans in such a manner as to no longer qualify as an environmental technology  
30 manufacturing, producing or processing facility under section 41-1514.02.

31           I. H. If, within five years after being placed in service, an  
32 operating environmental technology manufacturing, producing or processing  
33 facility with respect to which a credit has been allowed under this section  
34 ceases for any reason to operate as an environmental technology  
35 manufacturing, producing or processing facility as described in section 41-  
36 1514.02, the tax imposed by this title for the taxable year shall be  
37 increased by an amount determined by multiplying the full amount of all  
38 credits previously allowed under this section with respect to that facility  
39 by a percentage determined as follows:

40           1. If the facility was placed in service less than one year before  
41 ceasing to operate as an environmental technology manufacturing, producing  
42 or processing facility, one hundred per cent.

43           2. If the facility was placed in service at least one year but not  
44 more than two years before ceasing to operate as an environmental technology  
45 manufacturing, producing or processing facility, eighty per cent.

1           3. If the facility was placed in service at least two years but less  
2 than three years before ceasing to operate as an environmental technology  
3 manufacturing, producing or processing facility, sixty per cent.

4           4. If the facility was placed in service at least three years but less  
5 than four years before ceasing to operate as an environmental technology  
6 manufacturing, producing or processing facility, forty per cent.

7           5. If the facility was placed in service at least four years but less  
8 than five years before ceasing to operate as an environmental technology  
9 manufacturing, producing or processing facility, twenty per cent.

10          ~~¶~~ I. The department by rule shall prescribe record keeping  
11 requirements for taxpayers who claim a credit under this section.

12           Sec. 8. Section 43-1081, Arizona Revised Statutes, is amended to read:  
13           43-1081. Credit for pollution control equipment

14           A. A credit is allowed against the taxes imposed by this title for  
15 expenses that the taxpayer incurred during the taxable year to purchase real  
16 or personal property that is used in the taxpayer's trade or business in this  
17 state to control or prevent pollution. The amount of the credit is equal to  
18 ten per cent of the purchase price.

19           B. Property that qualifies for the credit under this section includes  
20 that portion of a structure, building, installation, excavation, machine,  
21 equipment or device and any attachment or addition to or reconstruction,  
22 replacement or improvement of that property that is directly used,  
23 constructed, or installed in this state for the purpose of meeting or  
24 exceeding rules or regulations adopted by the United States environmental  
25 protection agency, the department of environmental quality or a political  
26 subdivision of this state to prevent, monitor, control or reduce air, water  
27 or land pollution. The credit allowed pursuant to this section does not  
28 apply to the purchase of any personal property that is attached to a motor  
29 vehicle.

30           C. Amounts that qualify for a credit under this section must be  
31 includible in the taxpayer's adjusted basis for the property. The adjusted  
32 basis of any property with respect to which the taxpayer has claimed a credit  
33 shall be reduced by the amount of credit claimed with respect to that  
34 asset. This credit does not affect the deductibility for depreciation or  
35 amortization of the remaining adjusted basis of the asset.

36           D. Co-owners of a business, including partners in a partnership and  
37 shareholders of an S corporation, as defined in section 1361 of the internal  
38 revenue code, may each claim only the pro rata share of the credit allowed  
39 under this section based on the ownership interest. The total of the credits  
40 allowed all such owners may not exceed the amount that would have been  
41 allowed a sole owner.

42           E. If the allowable tax credit exceeds the taxes otherwise due under  
43 this title on the claimant's income, or if there are no taxes due under this  
44 title, the taxpayer may carry the amount of the claim not used to offset the

1 taxes under this title forward for not more than five taxable years' income  
2 tax liability.

3 ~~F. A taxpayer who claims a credit for pollution control equipment~~  
4 ~~under this section may not claim a credit under section 43-1076 for the same~~  
5 ~~equipment.~~

6 G. F. For 1995 and 1996, the maximum credit that a taxpayer may claim  
7 under this section is seven hundred fifty thousand dollars in a taxable  
8 year. For all years after 1996, the maximum credit that a taxpayer may claim  
9 under this section is five hundred thousand dollars in a taxable year.

10 Sec. 9. Section 43-1121, Arizona Revised Statutes, is amended to read:  
11 43-1121. Additions to Arizona gross income; corporations

12 In computing Arizona taxable income for a corporation, the following  
13 amounts shall be added to Arizona gross income:

14 1. The amounts computed pursuant to section 43-1021, paragraphs 3  
15 through 9, 13 and 29 28.

16 2. The amount of dividend income received from corporations and  
17 allowed as a deduction pursuant to sections 243, 244 and 245 of the internal  
18 revenue code.

19 3. Taxes which are based on income paid to states, local governments  
20 or foreign governments and which were deducted in computing federal taxable  
21 income.

22 4. Expenses and interest relating to tax-exempt income on indebtedness  
23 incurred or continued to purchase or carry obligations the interest on which  
24 is wholly exempt from the tax imposed by this title. Financial institutions,  
25 as defined in section 6-101, shall be governed by section 43-961,  
26 paragraph 2.

27 5. Commissions, rentals and other amounts paid or accrued to a  
28 domestic international sales corporation controlled by the payor corporation  
29 if the domestic international sales corporation is not required to report its  
30 taxable income to this state because its income is not derived from or  
31 attributable to sources within this state. If the domestic international  
32 sales corporation is subject to article 4 of this chapter, the department  
33 shall prescribe by rule the method of determining the portion of the  
34 commissions, rentals and other amounts which are paid or accrued to the  
35 controlled domestic international sales corporation and which shall be  
36 deducted by the payor. "Control" for purposes of this paragraph means direct  
37 or indirect ownership or control of fifty per cent or more of the voting  
38 stock of the domestic international sales corporation by the payor  
39 corporation.

40 6. Federal income tax refunds received during the taxable year to the  
41 extent they were deducted in arriving at Arizona taxable income in a previous  
42 year.

43 7. The amount of net operating loss taken pursuant to section 172 of  
44 the internal revenue code.

- 1           8. The amount of exploration expenses determined pursuant to section  
2 617 of the internal revenue code to the extent that they exceed seventy-five  
3 thousand dollars and to the extent that the election is made to defer those  
4 expenses not in excess of seventy-five thousand dollars.
- 5           9. Amortization of costs incurred to install pollution control devices  
6 and deducted pursuant to the internal revenue code or the amount of deduction  
7 for depreciation taken pursuant to the internal revenue code on pollution  
8 control devices for which an election is made pursuant to section 43-1129.
- 9           10. The amount of depreciation or amortization of costs of child care  
10 facilities deducted pursuant to section 167 or 188 of the internal revenue  
11 code for which an election is made to amortize pursuant to section 43-1130.
- 12           11. Arizona state income tax refunds received, to the extent the amount  
13 of the refunds is not already included in Arizona gross income, if a tax  
14 benefit was derived by deduction of this amount in a prior year.
- 15           12. The amount paid as taxes on property in this state by a qualified  
16 defense contractor with respect to which a credit is claimed under section  
17 43-1166.
- 18           13. The loss of an insurance company that is exempt under section  
19 43-1201 to the extent that it is included in computing Arizona gross income  
20 on a consolidated return pursuant to section 43-947.
- 21           14. The amount by which the depreciation or amortization computed under  
22 the internal revenue code with respect to property for which a credit was  
23 taken under section 43-1169 exceeds the amount of depreciation or  
24 amortization computed pursuant to the internal revenue code on the Arizona  
25 adjusted basis of the property.
- 26           15. The amount by which the adjusted basis computed under the internal  
27 revenue code with respect to property for which a credit was claimed under  
28 section 43-1169 and which is sold or otherwise disposed of during the taxable  
29 year exceeds the adjusted basis of the property computed under section  
30 43-1169.
- 31           16. The amount by which the depreciation or amortization computed under  
32 the internal revenue code with respect to property for which a credit was  
33 taken under either section 43-1170 or 43-1170.01 exceeds the amount of  
34 depreciation or amortization computed pursuant to the internal revenue code  
35 on the Arizona adjusted basis of the property.
- 36           17. The amount by which the adjusted basis computed under the internal  
37 revenue code with respect to property for which a credit was claimed under  
38 either section 43-1170 or 43-1170.01 and which is sold or otherwise disposed  
39 of during the taxable year exceeds the adjusted basis of the property  
40 computed under section 43-1170 or 43-1170.01, as applicable.
- 41           18. The deduction referred to in section 1341(a)(4) of the internal  
42 revenue code for restoration of a substantial amount held under a claim of  
43 right.

1 19. The amount by which a capital loss carryover allowable pursuant to  
2 section 1341(b)(5) of the internal revenue code exceeds the capital loss  
3 carryover allowable pursuant to section 43-1130.01, subsection F.

4 20. Any amount deducted in computing Arizona taxable income as expenses  
5 for installing solar stub outs or electric vehicle recharge outlets in this  
6 state with respect to which a credit is claimed pursuant to section 43-1176.

7 21. Any wage expenses deducted pursuant to the internal revenue code  
8 for which a credit is claimed under section 43-1175 and representing net  
9 increases in qualified employment positions for employment of temporary  
10 assistance for needy families recipients.

11 22. Any amount of expenses that were deducted pursuant to the internal  
12 revenue code and for which a credit is claimed under section 43-1178.

13 23. Any amount deducted pursuant to section 170 of the internal revenue  
14 code representing the contribution of a motor vehicle for which a credit is  
15 claimed pursuant to section 43-1177.

16 24. Any amount deducted for conveying ownership or development rights  
17 of property to an agricultural preservation district under section 48-5702  
18 for which a credit is claimed under section 43-1180.

19 25. The amount of any deduction that is claimed in computing Arizona  
20 gross income and that represents a donation of a school site for which a  
21 credit is claimed under section 43-1181.

22 Sec. 10. Previous tax credit carry forward

23 The repeal of section 43-1076, Arizona Revised Statutes, pursuant to  
24 section 6 of this act does not affect any tax credit carry forward that  
25 accrued under section 43-1076, Arizona Revised Statutes, before the taxable  
26 years beginning on or after January 1, 2003.

27 Sec. 11. Retroactivity

28 Section 6 of this act, relating to the repeal of section 43-1076,  
29 Arizona Revised Statutes, applies retroactively to taxable years beginning  
30 from and after December 31, 2002.

31 Sec. 12. Requirements for enactment; two-thirds vote

32 Pursuant to article IX, section 22, Constitution of Arizona, this act  
33 is effective only on the affirmative vote of at least two-thirds of the  
34 members of each house of the legislature and is effective immediately on the  
35 signature of the governor or, if the governor vetoes this act, on the  
36 subsequent affirmative vote of at least three-fourths of the members of each  
37 house of the legislature.

APPROVED BY THE GOVERNOR APRIL 30, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2003.

Passed the House February 10, 2003,

by the following vote: 45 Ayes,

11 Nays, 3 Not Voting  
*Article IX, Section 22*  
*1 Vacancy*

Jake Flake  
Speaker of the House

Norman L. Moore  
Chief Clerk of the House

Passed the Senate April 10, 2003,

by the following vote: 20 Ayes,

8 Nays, 2 Not Voting  
*with Article IX, Section 22*

Kelli Bennett  
President of the Senate

Charmie Bellington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

*[Signature]*  
Secretary to the Governor

Approved this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

*[Signature]*  
Governor of Arizona

H.B. 2058

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this 1 day of May, 2003,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

*[Signature]*  
Secretary of State

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

April 24, 2003,

by the following vote: 40 Ayes,

17 Nays, 3 Not Voting  
Article IX, Section 22

Jake Elabe  
Speaker of the House  
Norman L. Moore  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
24 day of April, 2003,

at 11:08 o'clock A M.

Sandra Ramirez  
Secretary to the Governor

Approved this 30 day of

April, 2003,

at 4:30 o'clock P. M.

Jt. Nagle  
Governor of Arizona

H.B. 2058

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this 1 day of May, 2003,

at 3:16 o'clock P M.

James K. Brewer  
Secretary of State