

107TH CONGRESS  
1ST SESSION

# H. R. 2267

To amend the Internal Revenue Code of 1986 to encourage energy production.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 21, 2001

Mr. LARGENT introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to encourage energy production.

1       *Be it enacted by the Senate and House of Representa-  
2 tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Domestic Energy Enhancement and Security Act of  
6       2001”.

7       (b) AMENDMENT OF 1986 CODE.—Except as other-  
8       wise expressly provided, whenever in this Act an amend-  
9       ment or repeal is expressed in terms of an amendment  
10      to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-  
2 sion of the Internal Revenue Code of 1986.

3 **SEC. 2. PHASEOUT OF CERTAIN MINIMUM TAX PREF-  
4 ERENCE RELATING TO ENERGY PRODUC-  
5 TION.**

6 (a) ENERGY PREFERENCES FOR INTEGRATED OIL  
7 COMPANIES.—Section 56 (relating to alternative min-  
8 imum taxable income) is amended by adding at the end  
9 the following new subsection:

10 “(h) ADJUSTMENT BASED ON ENERGY PREF-  
11 ERENCE.—

12 “(1) IN GENERAL.—In computing the alter-  
13 native minimum taxable income of any taxpayer for  
14 any taxable year beginning after December 31,  
15 2001, there shall be allowed as a deduction an  
16 amount equal to the alternative tax energy pref-  
17 erence deduction.

18 “(2) PHASEOUT OF DEDUCTION AS OIL PRICES  
19 INCREASE.—The amount of the deduction under  
20 paragraph (1) (determined without regard to this  
21 paragraph) shall be reduced (but not below zero) by  
22 the amount which bears the same ratio to such  
23 amount as—

24 “(A) the amount by which the reference  
25 price for the calendar year preceding the cal-

1 endar year in which the taxable year begins ex-  
2 ceeds \$15, bears to  
3 “(B) \$3.

4 For purposes of this paragraph, the reference price  
5 for any calendar year shall be determined under sec-  
6 tion 29(d)(2)(C), and, in the case of any taxable  
7 year beginning in a calendar year after 2002, the  
8 \$15 amount under subparagraph (A) shall be ad-  
9 justed at the same time and in the same manner as  
10 under section 43(b)(3) by substituting ‘2001’ for  
11 ‘1990’.

12 “(3) ALTERNATIVE TAX ENERGY PREFERENCE  
13 DEDUCTION.—For purposes of paragraph (1), the  
14 term ‘alternative tax energy preference deduction’  
15 means an amount equal to the sum of—

16 “(A) the intangible drilling cost preference,  
17 and

18 “(B) the depletion preference.

19 “(4) INTANGIBLE DRILLING COST PREF-  
20 ERENCE.—For purposes of this subsection, the term  
21 ‘intangible drilling cost preference’ means the  
22 amount by which alternative minimum taxable in-  
23 come would be reduced if it were computed without  
24 regard to section 57(a)(2).

1                 “(5) DEPLETION PREFERENCE.—For purposes  
2         of this subsection, the term ‘depletion preference’  
3         means the amount by which alternative minimum  
4         taxable income would be reduced if it were computed  
5         without regard to section 57(a)(1).

6                 “(6) ALTERNATIVE MINIMUM TAXABLE IN-  
7         COME.—For purposes of paragraphs (1), (4), and  
8         (5), alternative minimum taxable income shall be de-  
9         termined without regard to the deduction allowable  
10       under this subsection and the alternative tax net op-  
11       erating loss deduction under subsection (a)(4).

12                “(7) REGULATIONS.—The Secretary may by  
13         regulation provide for appropriate adjustments in  
14         computing alternative minimum taxable income or  
15         adjusted current earnings for any taxable year fol-  
16         lowing a taxable year for which a deduction was al-  
17         lowed under this subsection to ensure that no double  
18         benefit is allowed by reason of such deduction.”

19                (b) REPEAL OF LIMIT ON REDUCTION FOR INDE-  
20         PENDENT PRODUCERS.—Subparagraph (E) of section  
21         57(a)(2) (relating to exception for independent producers)  
22         is amended to read as follows:

23                “(E) EXCEPTION FOR INDEPENDENT PRO-  
24         DUCERS.—In the case of any oil or gas well,  
25         this paragraph shall not apply to any taxpayer

1 which is not an integrated oil company (as de-  
2 fined in section 291(b)(4)).”

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to taxable years beginning after  
5 December 31, 2001.

## 6 SEC. 3. DEPRECIATION ADJUSTMENT NOT TO APPLY TO

## 7 OIL AND GAS ASSETS.

8           (a) DEPRECIATION ADJUSTMENTS.—Subparagraph  
9 (B) of section 56(a)(1) (relating to depreciation adjust-  
10 ments) is amended to read as follows:

11                   “(B) EXCEPTIONS.—This paragraph shall  
12                   not apply to—

19 (b) EFFECTIVE DATE.—The amendment made by  
20 this section shall apply to property placed in service in  
21 taxable years beginning after December 31, 2001.

1   **SEC. 4. REPEAL CERTAIN ADJUSTMENTS BASED ON AD-**  
2                   **JUSTED CURRENT EARNINGS RELATING TO**  
3                   **LIFO INVENTORIES, INTANGIBLE DRILLING**  
4                   **AND DEVELOPMENT COST, AND OIL AND GAS**  
5                   **PERCENTAGE DEPLETION.**

6       (a) INTANGIBLE DRILLING COSTS.—Clause (i) of  
7   section 56(g)(4)(D) is amended by striking the second  
8   sentence and inserting “In the case of any oil or gas well,  
9   this clause shall not apply in the case of amounts paid  
10   or incurred in taxable years beginning after December 31,  
11   2001.”

12     (b) LIFO INVENTORY ADJUSTMENT.—

13       (1) IN GENERAL.—Subparagraph (D) of section  
14   56(g)(4) is amended by striking clause (iii) and by  
15   redesignating clause (iv) as clause (iii).

16       (2) EFFECTIVE DATE.—The amendment made  
17   by paragraph (1) shall apply to taxable years begin-  
18   ning after December 31, 2001.

19       (c) DEPLETION.—Clause (ii) of section 56(g)(4)(F)  
20   is amended to read as follows:

21                   “(ii) EXCEPTION FOR OIL AND GAS  
22                   WELLS.—In the case of any taxable year  
23                   beginning after December 31, 2001, clause  
24                   (i) (and subparagraph (C)(i)) shall not  
25                   apply to any deduction for depletion com-  
26                   puted in accordance with section 613A.”

1 **SEC. 5. ENHANCED OIL RECOVERY CREDIT AND CREDIT**  
2 **FOR PRODUCING FUEL FROM A NONCONVEN-**  
3 **TIONAL SOURCE ALLOWED AGAINST MIN-**  
4 **IMUM TAX.**

5 (a) **ENHANCED OIL RECOVERY CREDIT ALLOWED**  
6 **AGAINST REGULAR AND MINIMUM TAX.—**

7 (1) **CREDIT ALLOWED AGAINST MINIMUM**  
8 **TAX.**—Subsection (c) of section 38 (relating to limi-  
9 tation based on amount of tax) is amended by redes-  
10 ignating paragraph (3) as paragraph (4) and by in-  
11 serting after paragraph (2) the following new para-  
12 graph:

13 “(3) **SPECIAL RULES FOR ENHANCED OIL RE-**  
14 **COVERY CREDIT.**—

15 “(A) **IN GENERAL.**—In the case of the en-  
16 hanced oil recovery credit—

17 “(i) this section and section 39 shall  
18 be applied separately with respect to the  
19 credit, and

20 “(ii) in applying paragraph (1) to the  
21 credit—

22 “(I) subparagraphs (A) and (B)  
23 thereof shall not apply, and

24 “(II) the limitation under para-  
25 graph (1) (as modified by subclause  
26 (I)) shall be reduced by the credit al-

4                             “(B) ENHANCED OIL RECOVERY CRED-  
5                             IT.—For purposes of this subsection, the term  
6                             ‘enhanced oil recovery credit’ means the credit  
7                             allowable under subsection (a) by reason of sec-  
8                             tion 43(a).”

13 (b) CREDIT FOR PRODUCING FUEL FROM A NON-  
14 CONVENTIONAL SOURCE.—

15 (1) ALLOWING CREDIT AGAINST MINIMUM  
16 TAX.—Section 29(b)(6) is amended to read as fol-  
17 lows:

18               “(6) APPLICATION WITH OTHER CREDITS.—  
19       The credit allowed by subsection (a) for any taxable  
20       year shall not exceed—

21                   “(A) the regular tax for the taxable year  
22                   and the tax imposed by section 55, reduced by  
23                   “(B) the sum of the credits allowable  
24                   under subpart A and section 27.”

25 (2) CONFORMING AMENDMENTS —

6 (B) Section 55(c)(2) is amended by strik-  
7 ing “29(b)(6),”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to taxable years beginning after  
10 December 31, 2001.

11 SEC. 6. ENHANCED OIL RECOVERY CREDIT EXTENDED TO  
12 CERTAIN NONTERTIARY RECOVERY METH-  
13 ODS.

14 (a) PURPOSE.—The purpose of this section is to ex-  
15 tend the productive lives of existing domestic oil and gas  
16 wells in order to recover the 75 percent of the oil and gas  
17 that is not recoverable using primary oil and gas recovery  
18 techniques.

19 (b) IN GENERAL.—Clause (i) of section 43(c)(2)(A)  
20 (defining qualified enhanced oil recovery project) is  
21 amended to read as follows:

1                             “(I) one or more tertiary recov-  
2                             ery methods (as defined in section  
3                             193(b)(3)) which can reasonably be  
4                             expected to result in more than an in-  
5                             significant increase in the amount of  
6                             crude oil which will ultimately be re-  
7                             covered, or  
8                             “(II) one or more qualified non-  
9                             tertiary recovery methods which are  
10                            required to recover oil with tradition-  
11                            ally immobile characteristics or from  
12                            formations which have proven to be  
13                            uneconomical or noncommercial under  
14                            conventional recovery methods.”.

15                            (c) QUALIFIED NONTERTIARY RECOVERY METH-  
16                            ODS.—Section 43(c)(2) is amended by adding at the end  
17                            the following new subparagraphs:

18                            “(C) QUALIFIED NONTERTIARY RECOVERY  
19                            METHOD.—For purposes of this paragraph—  
20                            “(i) IN GENERAL.—The term ‘quali-  
21                            fied nontertiary recovery method’ means  
22                            any recovery method described in clause  
23                            (ii), (iii), or (iv), or any combination there-  
24                            of.

1                             “(ii) ENHANCED GRAVITY DRAINAGE  
2                             METHODS.—The methods described in this  
3                             clause are as follows:

4                             “(I) HORIZONTAL DRILLING.—  
5                             The drilling of horizontal, rather than  
6                             vertical, wells to penetrate any hydro-  
7                             carbon-bearing formation which has  
8                             an average in situ calculated perme-  
9                             ability to fluid flow of not more than  
10                             12 millidarcies and which has been  
11                             demonstrated by use of a vertical  
12                             wellbore to be uneconomical unless  
13                             drilled with lateral horizontal lengths  
14                             in excess of 1,000 feet.

15                             “(II) GRAVITY DRAINAGE.—The  
16                             production of oil by gravity flow from  
17                             drainholes that are drilled from a  
18                             shaft or tunnel dug within or below  
19                             the oil-bearing zone.

20                             “(iii) MARGINALLY ECONOMIC RES-  
21                             ERVOIR REPRESSURIZATION METHODS.—  
22                             The methods described in this clause are  
23                             as follows, except that this clause shall  
24                             only apply to the first 1,000,000 barrels  
25                             produced in any project:

1                             “(I) CYCLIC GAS INJECTION.—

2                             The increase or maintenance of pres-  
3                             sure by injection of hydrocarbon gas  
4                             into the reservoir from which it was  
5                             originally produced.

6                             “(II) FLOODING.—The injection  
7                             of water into an oil reservoir to dis-  
8                             place oil from the reservoir rock and  
9                             into the bore of a producing well.

10                           “(iv) OTHER METHODS.—Any method  
11                             used to recover—

12                             “(I) oil having an average labora-  
13                             tory measured air permeability of not  
14                             more than 100 millidarcies when aver-  
15                             aged over the productive interval  
16                             being completed or an in situ cal-  
17                             culated permeability to fluid flow of  
18                             not more than 12 millidarcies, or

19                             “(II) oil defined by the Depart-  
20                             ment of Energy as being immobile.

21                             “(D) AUTHORITY TO ADD OTHER NONTER-  
22                             TIARY RECOVERY METHODS.—The Secretary  
23                             shall provide procedures under which—

24                             “(i) the Secretary may treat methods  
25                             not described in clause (ii), (iii), or (iv) of

1 subparagraph (C) as qualified nontertiary  
2 recovery methods, and

7 The Secretary may only specify methods as  
8 qualified nontertiary recovery methods under  
9 this subparagraph if the Secretary determines  
10 that such specification is consistent with the  
11 purposes of subparagraph (C) and will result in  
12 greater production of oil and natural gas.”

13 (d) CONFORMING AMENDMENT.—Clause (iii) of sec-  
14 tion 43(c)(2)(A) is amended to read as follows:

1       (e) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years ending after De-  
3 cember 31, 2001.

4 **SEC. 7. 10-YEAR CARRYBACK FOR PERCENTAGE DEPLE-**  
5 **TION FOR OIL AND GAS PROPERTY.**

6       (a) IN GENERAL.—Paragraph (1) of section 613A(d)  
7 (relating to limitations on percentage depletion in case of  
8 oil and gas wells) is amended to read as follows:

9               “(1) LIMITATION BASED ON TAXABLE IN-  
10 COME.—

11               “(A) IN GENERAL.—The deduction for the  
12 taxable year attributable to the application of  
13 subsection (c) shall not exceed so much of the  
14 taxpayer’s taxable income for the year as the  
15 taxpayer elects computed without regard to—

16               “(i) any depletion on production from  
17 an oil or gas property which is subject to  
18 the provisions of subsection (c),

19               “(ii) any net operating loss carryback  
20 to the taxable year under section 172,

21               “(iii) any capital loss carryback to the  
22 taxable year under section 1212, and

23               “(iv) in the case of a trust, any dis-  
24 tributions to its beneficiary, except in the  
25 case of any trust where any beneficiary of

such trust is a member of the family (as defined in section 267(c)(4)) of a settlor who created inter vivos and testamentary trusts for members of the family and such settlor died within the last six days of the fifth month in 1970, and the law in the jurisdiction in which such trust was created requires all or a portion of the gross or net proceeds of any royalty or other interest in oil, gas, or other mineral representing any percentage depletion allowance to be allocated to the principal of the trust.

13                   “(B)                   CARRYBACKS                   AND  
14                   CARRYFORWARDS.—

1                             “(II) the taxable year following  
2                             the unused depletion year, subject to  
3                             the application of subparagraph (A)  
4                             to such taxable year.

5                             “(ii) ELECTION TO WAIVE  
6                             CARRYBACK.—Any taxpayer entitled to a  
7                             carryback period under this subparagraph  
8                             may elect to relinquish such carryback for  
9                             any of the taxable years to which it would  
10                            apply. Such election made in any taxable  
11                            year may be revised in the succeeding tax-  
12                            able year in such manner as the Secretary  
13                            may prescribe.

14                             “(C) ALLOCATION OF DISALLOWED  
15                             AMOUNTS.—For purposes of basis adjustments  
16                             and determining whether cost depletion exceeds  
17                             percentage depletion with respect to the produc-  
18                             tion from a property, any amount disallowed as  
19                             a deduction on the application of this para-  
20                             graph shall be allocated to the respective prop-  
21                             erties from which the oil or gas was produced  
22                             in proportion to the percentage depletion other-  
23                             wise allowable to such properties under sub-  
24                             section (c).”

1       (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2001, and to any taxable year beginning  
4 on or before such date to the extent necessary to apply  
5 section 613A(d)(1) of the Internal Revenue Code of 1986  
6 (as added by subsection (a)).

7 SEC. 8. NET INCOME LIMITATION ON PERCENTAGE DEPLE-  
8 TION REPEALED FOR OIL AND GAS PROP-  
9 ERTIES.

10 (a) IN GENERAL.—Section 613(a) (relating to per-  
11 centage depletion) is amended by striking the second sen-  
12 tence and inserting: “Except in the case of oil and gas  
13 properties, such allowance shall not exceed 50 percent of  
14 the taxpayer’s taxable income from the property (com-  
15 puted without allowances for depletion).”

16 (b) CONFORMING AMENDMENTS.—

21 (2) Section 613A(c)(6) (relating to oil and nat-  
22 ural gas produced from marginal properties) is  
23 amended by striking subparagraph (H).

1        (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2001.

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