

107TH CONGRESS
1ST SESSION

H. R. 2267

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 21, 2001

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

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 **ERENCES 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—

13 “(i) property described in paragraph
14 (1), (2), (3), or (4) of section 168(f), or

15 “(ii) property used in the active con-
16 duct of the trade or business of exploring
17 for, extracting, developing, or gathering
18 crude oil or natural gas.”

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-

1 lowed under subsection (a) for the
2 taxable year (other than the enhanced
3 oil recovery credit).

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).”

9 (2) CONFORMING AMENDMENT.—Subclause (II)
10 of section 38(c)(2)(A)(ii) is amended by inserting
11 “and the enhanced oil recovery credit” after “em-
12 ployer zone employment credit”.

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.—

(A) Section 53(d)(1)(B)(iii) is amended by inserting “as in effect on the date of the enactment of the Domestic Energy Enhancement and Security Act of 2001,” after “29(b)(6)(B),”.

(B) Section 55(c)(2) is amended by striking “29(b)(6),”.

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

SEC. 6. ENHANCED OIL RECOVERY CREDIT EXTENDED TO CERTAIN NONTERTIARY RECOVERY METHODS.

(a) PURPOSE.—The purpose of this section is to extend the productive lives of existing domestic oil and gas wells in order to recover the 75 percent of the oil and gas that is not recoverable using primary oil and gas recovery techniques.

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

“(i) which involves the application (in accordance with sound engineering principles) of—

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

3 “(ii) a taxpayer may request the Sec-
4 retary to treat any method not so de-
5 scribed as a qualified nontertiary recovery
6 method.

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:

15 “(iii) with respect to which—

16 “(I) in the case of a tertiary re-
17 covery method, the first injection of
18 liquids, gases, or other matter com-
19 mences after December 31, 1990, and

20 “(II) in the case of a qualified
21 nontertiary recovery method, the im-
22 plementation of the method begins
23 after December 31, 2001.”

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.

“(B) CARRYBACKS AND
CARRYFORWARDS.—

“(i) IN GENERAL.—If an amount is disallowed as a deduction for the taxable year (in this subparagraph referred to as the ‘unused depletion year’) by reason of application of subparagraph (A), the disallowed amount shall be treated as an amount allowable as a deduction under subsection (c) for—

“(I) any of the 10 taxable years preceding the unused depletion year, and

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.—

17 (1) Section 613A(c)(7) (relating to special
 18 rules) is amended by striking subparagraph (C) and
 19 redesignating subparagraph (D) as subparagraph
 20 (C).

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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