

**AMENDMENT TO H.R. 3463**  
**OFFERED BY MR. MCGOVERN OF**  
**MASSACHUSETTS**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “End Big Oil Tax Sub-  
3 sides Act of 2011”.

**4 SEC. 2. REPEAL OF FOSSIL FUEL SUBSIDIES FOR LARGE**  
**5 OIL COMPANIES.**

6       (a) AMORTIZATION OF GEOLOGICAL AND GEO-  
7 PHYSICAL EXPENDITURES.—

8           (1) IN GENERAL.—Subparagraph (A) of section  
9 167(h)(5) of the Internal Revenue Code of 1986 is  
10 amended by striking “major integrated oil company”  
11 and inserting “covered large oil company”.

12           (2) COVERED LARGE OIL COMPANY.—Para-  
13 graph (5) of section 167(h) of such Act is amended  
14 by redesignating subparagraph (B) as subparagraph  
15 (C) and by inserting after subparagraph (A) the fol-  
16 lowing new subparagraph:

17                   “(B) COVERED LARGE OIL COMPANY.—

18           For purposes of this paragraph, the term ‘cov-

1           ered large oil company’ means a taxpayer  
2           which—

3                   “(i) is a major integrated oil com-  
4                   pany, or

5                   “(ii) has gross receipts in excess of  
6                   \$50,000,000 for the taxable year.

7           For purposes of clause (ii), all persons treated  
8           as a single employer under subsections (a) and  
9           (b) of section 52 shall be treated as 1 person.”.

10          (3) CONFORMING AMENDMENT.—The heading  
11          for paragraph (5) of section 167(h) of such Code is  
12          amended by inserting “AND OTHER LARGE TAX-  
13          PAYERS”.

14          (4) EFFECTIVE DATE.—The amendments made  
15          by this subsection shall apply to amounts paid or in-  
16          curred in taxable years beginning after December  
17          31, 2011.

18          (b) PRODUCING OIL AND GAS FROM MARGINAL  
19          WELLS.—

20                (1) IN GENERAL.—Section 45I of the Internal  
21          Revenue Code of 1986 is amended by adding at the  
22          end the following new subsection:

23                “(e) EXCEPTION FOR TAXPAYER WHO IS NOT  
24          SMALL, INDEPENDENT OIL AND GAS COMPANY.—

1           “(1) IN GENERAL.—Subsection (a) shall not  
2           apply to any taxpayer which is not a small, inde-  
3           pendent oil and gas company for the taxable year.

4           “(2) AGGREGATION RULE.—For purposes of  
5           paragraph (1), all persons treated as a single em-  
6           ployer under subsections (a) and (b) of section 52  
7           shall be treated as 1 person.”.

8           (2) EFFECTIVE DATE.—The amendment made  
9           by paragraph (1) shall apply to credits determined  
10          for taxable years beginning after December 31,  
11          2011.

12          (c) ENHANCED OIL RECOVERY CREDIT.—

13                 (1) IN GENERAL.—Section 43 of the Internal  
14          Revenue Code of 1986 is amended by adding at the  
15          end the following new subsection:

16          “(f) EXCEPTION FOR TAXPAYER WHO IS NOT  
17          SMALL, INDEPENDENT OIL AND GAS COMPANY.—

18                 “(1) IN GENERAL.—Subsection (a) shall not  
19                 apply to any taxpayer which is not a small, inde-  
20                 pendent oil and gas company for the taxable year.

21                 “(2) AGGREGATION RULE.—For purposes of  
22                 paragraph (1), all persons treated as a single em-  
23                 ployer under subsections (a) and (b) of section 52  
24                 shall be treated as 1 person.”.

1           (2) EFFECTIVE DATE.—The amendments made  
2           by this subsection shall apply to amounts paid or in-  
3           curred in taxable years beginning after December  
4           31, 2011.

5           (d) INTANGIBLE DRILLING AND DEVELOPMENT  
6 COSTS IN THE CASE OF OIL AND GAS WELLS.—

7           (1) IN GENERAL.—Subsection (c) of section  
8           263 of the Internal Revenue Code of 1986 is amend-  
9           ed by adding at the end the following new sentence:  
10          “This subsection shall not apply to amounts paid or  
11          incurred by a taxpayer in any taxable year in which  
12          such taxpayer is not a small, independent oil and  
13          gas company, determined by deeming all persons  
14          treated as a single employer under subsections (a)  
15          and (b) of section 52 as 1 person.”.

16          (2) EFFECTIVE DATE.—The amendment made  
17          by this subsection shall apply to amounts paid or in-  
18          curred in taxable years beginning after December  
19          31, 2011.

20          (e) PERCENTAGE DEPLETION.—

21          (1) IN GENERAL.—Section 613A of the Internal  
22          Revenue Code of 1986 is amended by adding at the  
23          end the following new subsection:

24          “(f) EXCEPTION FOR TAXPAYER WHO IS NOT  
25 SMALL, INDEPENDENT OIL AND GAS COMPANY.—

1           “(1) IN GENERAL.—This section and section  
2           611 shall not apply to any taxpayer which is not a  
3           small, independent oil and gas company for the tax-  
4           able year.

5           “(2) AGGREGATION RULE.—For purposes of  
6           paragraph (1), all persons treated as a single em-  
7           ployer under subsections (a) and (b) of section 52  
8           shall be treated as 1 person.”.

9           (2) CONFORMING AMENDMENT.—Section  
10          613A(c)(1) of such Code is amended by striking  
11          “subsection (d)” and inserting “subsections (d) and  
12          (f)”.

13          (3) EFFECTIVE DATE.—The amendment made  
14          by this subsection shall apply to taxable years begin-  
15          ning after December 31, 2011.

16          (f) TERTIARY INJECTANTS.—

17                 (1) IN GENERAL.—Section 193 of the Internal  
18                 Revenue Code of 1986 is amended by adding at the  
19                 end the following new subsection:

20                 “(d) EXCEPTION FOR TAXPAYER WHO IS NOT  
21                 SMALL, INDEPENDENT OIL AND GAS COMPANY.—

22                         “(1) IN GENERAL.—Subsection (a) shall not  
23                         apply to any taxpayer which is not a small, inde-  
24                         pendent oil and gas company for the taxable year.

1           “(2) EXCEPTION FOR QUALIFIED CARBON DI-  
2           OXIDE DISPOSED IN SECURE GEOLOGICAL STOR-  
3           AGE.—Paragraph (1) shall not apply in the case of  
4           any qualified tertiary injectant expense paid or in-  
5           curred for any tertiary injectant is qualified carbon  
6           dioxide (as defined in section 45Q(b)) which is dis-  
7           posed of by the taxpayer in secure geological storage  
8           (as defined by section 45Q(d)).

9           “(3) AGGREGATION RULE.—For purposes of  
10          paragraph (1), all persons treated as a single em-  
11          ployer under subsections (a) and (b) of section 52  
12          shall be treated as 1 person.”.

13          (2) EFFECTIVE DATE.—The amendment made  
14          by this subsection shall apply to expenses incurred  
15          after December 31, 2011.

16          (g) PASSIVE ACTIVITY LOSSES AND CREDITS LIM-  
17          ITED.—Paragraph (3) of section 469(c) of the Internal  
18          Revenue Code of 1986 is amended by adding at the end  
19          the following:

20                       “(C) EXCEPTION FOR TAXPAYER WHO IS  
21                       NOT SMALL, INDEPENDENT OIL AND GAS COM-  
22                       PANY.—

23                               “(i) IN GENERAL.—Subparagraph (A)  
24                               shall not apply to any taxpayer which is

1 not a small, independent oil and gas com-  
2 pany for the taxable year.

3 “(ii) AGGREGATION RULE.—For pur-  
4 poses of clause (i), all persons treated as  
5 a single employer under subsections (a)  
6 and (b) of section 52 shall be treated as 1  
7 person.”.

8 (h) INCOME ATTRIBUTABLE TO DOMESTIC PRODUC-  
9 TION ACTIVITIES.—

10 (1) IN GENERAL.—Section 199 of the Internal  
11 Revenue Code of 1986 is amended by adding at the  
12 end the following new subsection:

13 “(e) EXCEPTION FOR TAXPAYER WHO IS NOT  
14 SMALL, INDEPENDENT OIL AND GAS COMPANY.—Sub-  
15 section (a) shall not apply to the income derived from the  
16 production, transportation, or distribution of oil, natural  
17 gas, or any primary product (within the meaning of sub-  
18 section (d)(9)) thereof by any taxpayer which for the tax-  
19 able year is an oil and gas company which is not a small,  
20 independent oil and gas company.”.

21 (2) EFFECTIVE DATE.—The amendment made  
22 by this subsection shall apply to taxable years begin-  
23 ning after December 31, 2011.

24 (i) PROHIBITION ON USING LAST-IN, FIRST-OUT AC-  
25 COUNTING FOR MAJOR INTEGRATED OIL COMPANIES.—

1           (1) IN GENERAL.—Section 472 of the Internal  
2           Revenue Code of 1986 is amended by adding at the  
3           end the following new subsection:

4           “(h) MAJOR INTEGRATED OIL COMPANIES.—Not-  
5           withstanding any other provision of this section, a major  
6           integrated oil company (as defined in section 167(h)) may  
7           not use the method provided in subsection (b) in  
8           inventorying of any goods.”.

9           (2) EFFECTIVE DATE AND SPECIAL RULE.—

10           (A) IN GENERAL.—The amendment made  
11           by paragraph (1) shall apply to taxable years  
12           beginning after December 31, 2011.

13           (B) CHANGE IN METHOD OF ACCOUNT-  
14           ING.—In the case of any taxpayer required by  
15           the amendment made by this subsection to  
16           change its method of accounting for its first  
17           taxable year beginning after the date of the en-  
18           actment of this Act—

19                   (i) such change shall be treated as ini-  
20                   tiated by the taxpayer,

21                   (ii) such change shall be treated as  
22                   made with the consent of the Secretary of  
23                   the Treasury, and

24                   (iii) the net amount of the adjust-  
25                   ments required to be taken into account by

1 the taxpayer under section 481 of the In-  
2 ternal Revenue Code of 1986 shall be  
3 taken into account ratably over a period  
4 (not greater than 8 taxable years) begin-  
5 ning with such first taxable year.

6 (j) MODIFICATIONS OF FOREIGN TAX CREDIT RULES  
7 APPLICABLE TO DUAL CAPACITY TAXPAYERS.—

8 (1) IN GENERAL.—Section 901 of the Internal  
9 Revenue Code of 1986 is amended by redesignating  
10 subsection (n) as subsection (o) and by inserting  
11 after subsection (m) the following new subsection:

12 “(n) SPECIAL RULES RELATING TO DUAL CAPACITY  
13 TAXPAYERS.—

14 “(1) GENERAL RULE.—Notwithstanding any  
15 other provision of this chapter, any amount paid or  
16 accrued by a dual capacity taxpayer to a foreign  
17 country or possession of the United States for any  
18 period with respect to combined foreign oil and gas  
19 income (as defined in section 907(b)(1)) shall not be  
20 considered a tax to the extent such amount exceeds  
21 the amount (determined in accordance with regula-  
22 tions) which would have been required to be paid if  
23 the taxpayer were not a dual capacity taxpayer.

24 “(2) DUAL CAPACITY TAXPAYER.—For pur-  
25 poses of this subsection, the term ‘dual capacity tax-

1 payer' means, with respect to any foreign country or  
2 possession of the United States, a person who—

3 “(A) is subject to a levy of such country or  
4 possession, and

5 “(B) receives (or will receive) directly or  
6 indirectly a specific economic benefit (as deter-  
7 mined in accordance with regulations) from  
8 such country or possession.”.

9 (2) EFFECTIVE DATE.—

10 (A) IN GENERAL.—The amendments made  
11 by this subsection shall apply to taxes paid or  
12 accrued in taxable years beginning after De-  
13 cember 31, 2011.

14 (B) CONTRARY TREATY OBLIGATIONS  
15 UPHELD.—The amendments made by this sub-  
16 section shall not apply to the extent contrary to  
17 any treaty obligation of the United States.

Amend the title so as to read: “A bill to amend the  
Internal Revenue Code of 1986 to repeal fossil fuel sub-  
sidies for large oil companies, and for other purposes.”.

