

**AMENDMENT TO H.R. 910, AS REPORTED**  
**OFFERED BY MR. MCGOVERN OF**  
**MASSACHUSETTS**

At the end of the bill, add the following new section:

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

3 (a) **SHORT TITLE.**—This section may be cited as the  
4 “End Big Oil Tax Subsidies Act of 2011”.

5 (b) **AMORTIZATION OF GEOLOGICAL AND GEO-**  
6 **PHYSICAL EXPENDITURES.**—

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

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

16 “(B) **COVERED LARGE OIL COMPANY.**—  
17 For purposes of this paragraph, the term ‘cov-  
18 ered large oil company’ means a taxpayer  
19 which—

1                   “(i) is a major integrated oil com-  
2                   pany, or

3                   “(ii) has gross receipts in excess of  
4                   \$50,000,000 for the taxable year.

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

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

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

16                  (c) PRODUCING OIL AND GAS FROM MARGINAL  
17                  WELLS.—

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

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

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

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

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

9           (d) ENHANCED OIL RECOVERY CREDIT.—

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

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

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

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

22           (2) EFFECTIVE DATE.—The amendments made  
23 by this subsection shall apply to amounts paid or in-  
24 curred in taxable years beginning after December  
25 31, 2011.

1 (e) INTANGIBLE DRILLING AND DEVELOPMENT  
2 COSTS IN THE CASE OF OIL AND GAS WELLS.—

3 (1) IN GENERAL.—Subsection (c) of section  
4 263 of the Internal Revenue Code of 1986 is amend-  
5 ed by adding at the end the following new sentence:  
6 “This subsection shall not apply to amounts paid or  
7 incurred by a taxpayer in any taxable year in which  
8 such taxpayer is not a small, independent oil and  
9 gas company, determined by deeming all persons  
10 treated as a single employer under subsections (a)  
11 and (b) of section 52 as 1 person.”.

12 (2) EFFECTIVE DATE.—The amendment made  
13 by this subsection shall apply to amounts paid or in-  
14 curred in taxable years beginning after December  
15 31, 2011.

16 (f) PERCENTAGE DEPLETION.—

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

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

22 “(1) IN GENERAL.—This section and section  
23 611 shall not apply to any taxpayer which is not a  
24 small, independent oil and gas company for the tax-  
25 able year.

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

5           (2) CONFORMING AMENDMENT.—Section  
6 613A(c)(1) of such Code is amended by striking  
7 “subsection (d)” and inserting “subsections (d) and  
8 (f)”.

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

12           (g) TERTIARY INJECTANTS.—

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

16           “(d) 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) EXCEPTION FOR QUALIFIED CARBON DI-  
22 OXIDE DISPOSED IN SECURE GEOLOGICAL STOR-  
23 AGE.—Paragraph (1) shall not apply in the case of  
24 any qualified tertiary injectant expense paid or in-  
25 curred for any tertiary injectant is qualified carbon

1 dioxide (as defined in section 45Q(b)) which is dis-  
2 posed of by the taxpayer in secure geological storage  
3 (as defined by section 45Q(d)).

4 “(3) 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 this subsection shall apply to expenses incurred  
10 after December 31, 2011.

11 (h) PASSIVE ACTIVITY LOSSES AND CREDITS LIM-  
12 ITED.—Paragraph (3) of section 469(c) of the Internal  
13 Revenue Code of 1986 is amended by adding at the end  
14 the following:

15 “(C) EXCEPTION FOR TAXPAYER WHO IS  
16 NOT SMALL, INDEPENDENT OIL AND GAS COM-  
17 PANY.—

18 “(i) IN GENERAL.—Subparagraph (A)  
19 shall not apply to any taxpayer which is  
20 not a small, independent oil and gas com-  
21 pany for the taxable year.

22 “(ii) AGGREGATION RULE.—For pur-  
23 poses of clause (i), all persons treated as  
24 a single employer under subsections (a)

1                   and (b) of section 52 shall be treated as 1  
2                   person.”.

3           (i) INCOME ATTRIBUTABLE TO DOMESTIC PRODUC-  
4 TION ACTIVITIES.—

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

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

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

19           (j) PROHIBITION ON USING LAST-IN, FIRST-OUT AC-  
20 COUNTING FOR MAJOR INTEGRATED OIL COMPANIES.—

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

24           “(h) MAJOR INTEGRATED OIL COMPANIES.—Not-  
25 withstanding any other provision of this section, a major

1 integrated oil company (as defined in section 167(h)) may  
2 not use the method provided in subsection (b) in  
3 inventorying of any goods.”.

4 (2) EFFECTIVE DATE AND SPECIAL RULE.—

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

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

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

16 (ii) such change shall be treated as  
17 made with the consent of the Secretary of  
18 the Treasury, and

19 (iii) the net amount of the adjust-  
20 ments required to be taken into account by  
21 the taxpayer under section 481 of the In-  
22 ternal Revenue Code of 1986 shall be  
23 taken into account ratably over a period  
24 (not greater than 8 taxable years) begin-  
25 ning with such first taxable year.



1 (k) MODIFICATIONS OF FOREIGN TAX CREDIT  
2 RULES APPLICABLE TO DUAL CAPACITY TAXPAYERS.—

3 (1) IN GENERAL.—Section 901 of the Internal  
4 Revenue Code of 1986 is amended by redesignating  
5 subsection (n) as subsection (o) and by inserting  
6 after subsection (m) the following new subsection:

7 “(n) SPECIAL RULES RELATING TO DUAL CAPACITY  
8 TAXPAYERS.—

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

19 “(2) DUAL CAPACITY TAXPAYER.—For pur-  
20 poses of this subsection, the term ‘dual capacity tax-  
21 payer’ means, with respect to any foreign country or  
22 possession of the United States, a person who—

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

1           “(B) receives (or will receive) directly or  
2 indirectly a specific economic benefit (as deter-  
3 mined in accordance with regulations) from  
4 such country or possession.”.

5           (2) EFFECTIVE DATE.—

6           (A) IN GENERAL.—The amendments made  
7 by this subsection shall apply to taxes paid or  
8 accrued in taxable years beginning after De-  
9 cember 31, 2011.

10           (B) CONTRARY TREATY OBLIGATIONS  
11 UPHELD.—The amendments made by this sub-  
12 section shall not apply to the extent contrary to  
13 any treaty obligation of the United States.

