AMENDMENT TO H.R. 1231, AS REPORTED
OFFERED BY MR. MCGOVERN OF MASSACHUSETTS

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

SEC. ___. REPEAL OF FOSSIL FUEL SUBSIDIES FOR LARGE OIL COMPANIES.

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

(b) AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.—

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

(2) COVERED LARGE OIL COMPANY.—Paragraph (5) of section 167(h) of such Act is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

“(B) COVERED LARGE OIL COMPANY.—For purposes of this paragraph, the term ‘covered large oil company’ means a taxpayer which—
“(i) is a major integrated oil company, or

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

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

(3) CONFORMING AMENDMENT.—The heading for paragraph (5) of section 167(h) of such Code is amended by inserting “AND OTHER LARGE TAXPAYERS”.

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

(e) PRODUCING OIL AND GAS FROM MARGINAL WELLS.—

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

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

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

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

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

(d) ENHANCED OIL RECOVERY CREDIT.—

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

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

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

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

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred in taxable years beginning after December 31, 2011.
(e) Intangible Drilling and Development Costs in the Case of Oil and Gas Wells.—

(1) In general.—Subsection (c) of section 263 of the Internal Revenue Code of 1986 is amended by adding at the end the following new sentence: “This subsection shall not apply to amounts paid or incurred by a taxpayer in any taxable year in which such taxpayer is not a small, independent oil and gas company, determined by deeming all persons treated as a single employer under subsections (a) and (b) of section 52 as 1 person.”.

(2) Effective date.—The amendment made by this subsection shall apply to amounts paid or incurred in taxable years beginning after December 31, 2011.

(f) Percentage Depletion.—

(1) In general.—Section 613A of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(f) Exception for Taxpayer Who Is Not Small, Independent Oil and Gas Company.—

“(1) In general.—This section and section 611 shall not apply to any taxpayer which is not a small, independent oil and gas company for the taxable year.
“(2) AGGREGATION RULE.—For purposes of paragraph (1), all persons treated as a single employer under subsections (a) and (b) of section 52 shall be treated as 1 person.”.

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

(3) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2011.

(g) TERTIARY INJECTANTS.—

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

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

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

“(2) EXCEPTION FOR QUALIFIED CARBON DIOXIDE DISPOSED IN SECURE GEOLOGICAL STORAGE.—Paragraph (1) shall not apply in the case of any qualified tertiary injectant expense paid or incurred for any tertiary injectant is qualified carbon
dioxide (as defined in section 45Q(b)) which is dis-
posed of by the taxpayer in secure geological storage
(as defined by section 45Q(d)).

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

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

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

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

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

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

(i) INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.—

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

“(e) EXCEPTION FOR TAXPAYER WHO IS NOT SMALL, INDEPENDENT OIL AND GAS COMPANY.—Subsection (a) shall not apply to the income derived from the production, transportation, or distribution of oil, natural gas, or any primary product (within the meaning of subsection (d)(9)) thereof by any taxpayer which for the taxable year is an oil and gas company which is not a small, independent oil and gas company.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2011.

(j) PROHIBITION ON USING LAST-IN, FIRST-OUT ACCOUNTING FOR MAJOR INTEGRATED OIL COMPANIES.—

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

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

(2) EFFECTIVE DATE AND SPECIAL RULE.—

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

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

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

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

(iii) the net amount of the adjust-
ments required to be taken into account by
the taxpayer under section 481 of the In-
ternal Revenue Code of 1986 shall be
taken into account ratably over a period
(not greater than 8 taxable years) begin-
ning with such first taxable year.
(k) Modifications of Foreign Tax Credit

Rules Applicable to Dual Capacity Taxpayers.—

(1) In general.—Section 901 of the Internal Revenue Code of 1986 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

“(n) Special Rules Relating to Dual Capacity Taxpayers.—

“(1) General rule.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer to a foreign country or possession of the United States for any period with respect to combined foreign oil and gas income (as defined in section 907(b)(1)) shall not be considered a tax to the extent such amount exceeds the amount (determined in accordance with regulations) which would have been required to be paid if the taxpayer were not a dual capacity taxpayer.

“(2) Dual capacity taxpayer.—For purposes of this subsection, the term ‘dual capacity taxpayer’ means, with respect to any foreign country or possession of the United States, a person who—

“(A) is subject to a levy of such country or possession, and
“(B) receives (or will receive) directly or indirectly a specific economic benefit (as determined in accordance with regulations) from such country or possession.”.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to taxes paid or accrued in taxable years beginning after December 31, 2011.

(B) CONTRARY TREATY OBLIGATIONS UPHELD.—The amendments made by this subsection shall not apply to the extent contrary to any treaty obligation of the United States.