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112TH CONGRESS
1ST SESSION

# H. R. 851

To amend the Internal Revenue Code of 1986 to extend certain renewable fuel tax incentives and to repeal fossil fuel subsidies for large oil companies.

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IN THE HOUSE OF REPRESENTATIVES

MARCH 1, 2011

Mr. BRALEY of Iowa 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 extend certain renewable fuel tax incentives and to repeal fossil fuel subsidies for large oil companies.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

(a) SHORT TITLE.—This Act may be cited as the "Clean Energy Jobs Act of 2011".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.

TITLE I—RENEWABLE FUELS

Sec. 101. Extension of biodiesel and renewable diesel incentives.
Sec. 102. Extension of income tax credit for alcohol used as fuel.

Sec. 103. Extension of excise tax credit for alcohol used as fuel.
Sec. 104. Extension of additional duties on ethanol.

TITLE II—FOSSIL FUELS

Sec. 201. Amortization of geological and geophysical expenditures.
Sec. 202. Producing oil and gas from marginal wells.
Sec. 203. Enhanced oil recovery credit.
Sec. 204. Intangible drilling and development costs in the case of oil and gas wells.
Sec. 205. Percentage depletion.
Sec. 206. Tertiary injectants.
Sec. 207. Passive activity losses and credits limited.
Sec. 208. Income attributable to domestic production activities.

TITLE III—INCREASED REVENUES TO REDUCE FEDERAL BUDGET DEFICIT

Sec. 301. Increased revenues to reduce Federal budget deficit.

# TITLE I—RENEWABLE FUELS

## SEC. 101. EXTENSION OF BIODIESEL AND RENEWABLE DIESEL INCENTIVES.

(a) CREDITS FOR BIODIESEL AND RENEWABLE DIESEL USED AS FUEL.—Subsection (g) of section 40A of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2011'' and inserting ''December 31, 2016''.

(b) EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR BIODIESEL AND RENEWABLE DIESEL FUEL MIXTURES.—

(1) Paragraph (6) of section 6426(c) of such Code is amended by striking ''December 31, 2011'' and inserting ''December 31, 2016''.

(2) Subparagraph (B) of section 6427(e)(6) is amended by striking ''December 31, 2011'' and inserting ''December 31, 2016''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2011.

**SEC. 102. EXTENSION OF INCOME TAX CREDIT FOR ALCOHOL USED AS FUEL.**

(a) IN GENERAL.—Paragraph (1) of section 40(e) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''December 31, 2011'' in subparagraph (A) and inserting ''December 31, 2016'', and

(2) by striking ''January 1, 2012'' in subparagraph (B) and inserting ''January 1, 2017''.

(b) CELLULOSIC BIOFUEL.—Subparagraph (H) of section 40(b)(6) of such Code is amended by striking ''January 1, 2013'' and inserting ''January 1, 2017''.

(c) REDUCED AMOUNT FOR ETHANOL BLENDERS.—Paragraphs (1) and (2) of section 40(h) of such Code are both amended by striking ''2011'' and inserting ''2016''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 103. EXTENSION OF EXCISE TAX CREDIT FOR ALCOHOL USED AS FUEL.**

(a) IN GENERAL.—Paragraph (6) of section 6426(b) of the Internal Revenue Code of 1986 is amended by strik-

ing ''December 31, 2011'' and inserting ''December 31, 2016''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

**SEC. 104. EXTENSION OF ADDITIONAL DUTIES ON ETHANOL.**

Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States are each amended in the effective period column by striking ''1/1/2012'' and inserting ''1/1/2017''.

# TITLE II—FOSSIL FUELS

**SEC. 201. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.**

(a) 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''.

(b) 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 'cov-

ered 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.".

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

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

**SEC. 202. PRODUCING OIL AND GAS FROM MARGINAL WELLS.**

(a) 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.".

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

**SEC. 203. ENHANCED OIL RECOVERY CREDIT.**

(a) 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.".

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

**SEC. 204. INTANGIBLE DRILLING AND DEVELOPMENT COSTS IN THE CASE OF OIL AND GAS WELLS.**

(a) 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.''.

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

**SEC. 205. PERCENTAGE DEPLETION.**

(a) 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 em-

ployer under subsections (a) and (b) of section 52 shall be treated as 1 person.''.

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

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

**SEC. 206. TERTIARY INJECTANTS.**

(a) 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 disposed 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 employer under subsections (a) and (b) of section 52 shall be treated as 1 person.".

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

**SEC. 207. PASSIVE ACTIVITY LOSSES AND CREDITS LIMITED.**

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 COMPANY.—

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

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

**SEC. 208. INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.**

(a) 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.".

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

# TITLE III—INCREASED REVENUES TO REDUCE FEDERAL BUDGET DEFICIT

**SEC. 301. INCREASED REVENUES TO REDUCE FEDERAL BUDGET DEFICIT.**

Any increase in revenues by reason of the amendments made by this Act shall be applied to reduce the Federal budget deficit, or, for any fiscal year for which there is no Federal budget deficit, to reduce the Federal debt.

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