

configured (with the required tools and equipment) to a specific patient in accordance with a prescription. The provider qualification designation for the category shall reflect the following, in accordance with subparagraph (D):

“(I) The category of care involves moderate to high complexity with substantial clinical risk.

“(II) The category of care requires a practitioner who either—

“(aa) satisfies any of the education requirements described in clause (i)(III), except that for purposes of this subclause such clause shall be applied by substituting the term ‘orthotics’ each place the term ‘prosthetics’ is used; or

“(bb) is certified or licensed in orthotics to ensure the appropriate provision of orthotic care within the practitioner’s normal scope of practice.

“(iv) CUSTOM FITTED LOW ORTHOTICS CATEGORY.—The category of orthotics and prosthetics care described in this clause is a category for prefabricated orthotics that are manufactured with no specific patient in mind, but that are appropriately sized and adjusted to a specific patient in accordance with a prescription. The provider qualification designation for the category shall reflect the following:

“(I) The category of care involves a low level of complexity and low clinical risk.

“(II) The category of care requires a supplier that is certified or licensed within a limited scope of practice to ensure appropriate provision of orthotic care. The supplier’s education and training shall ensure that basic clinical knowledge and technical expertise is available to confirm successful fit and device compliance with the prescription.

“(v) OFF-THE-SHELF.—The category of orthotic care described in this clause is described in section 1847(a)(2)(C). The provider qualification designation for the category shall reflect that no formal credentialing, clinical education, or technical training is required to dispense such items.

“(D) CARE BASED ON SOUND CLINICAL JUDGMENT AND TECHNICAL EXPERTISE.—Care described in clauses (i), (ii), and (iii) of subparagraph (C) shall be based on sound clinical judgment and technical expertise based on the practitioner’s education and clinical training, in order to allow the practitioner to determine—

“(i) with respect to care described in clause (i) or (ii) of subparagraph (C), the device parameters and design, fabrication process, and functional purpose specific to the needs of the patient to maximize optimal clinical outcomes; and

“(ii) with respect to care described in clause (iii) of such subparagraph, the appropriate device relative to the diagnosis and specific to the needs of the patient to maximize optimal clinical outcomes.”

SEC. 5. CONSULTATION.

In implementing the provisions of, and amendments made by, this Act, the Secretary of Health and Human Services shall consult with appropriate experts in orthotics and prosthetics, including practitioners that furnish items within the categories of orthotic and prosthetic care described in section 1834(h)(5)(C) of the Social Security Act, as added by section 4.

SEC. 6. REPORTS.

(a) REPORT ON ENFORCING NEW LICENSING AND ACCREDITATION REQUIREMENTS.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the steps taken by the Department of Health and Human Services to ensure that the State licensure and accredi-

tation requirements under section 1834(h)(1)(F) of the Social Security Act, as amended by section 3, are enforced. Such report shall include a determination of the extent to which payments for orthotics and prosthetics under the Medicare program under title XVIII of such Act are made only to those providers of services and suppliers that meet the relevant accreditation and licensure requirements under such section and a determination of whether additional steps are needed.

(b) REPORT ON FRAUD AND ABUSE.—Not later than 30 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the effect of the requirements under subsection (a)(20)(B)(ii) of section 1834 of the Social Security Act (42 U.S.C. 1395m), as added by section 2, and subsection (h)(1)(F) of such section, as amended by section 3, on the occurrence of fraud and abuse under the Medicare program under title XVIII of such Act, with respect to orthotics and prosthetics for which payment is made under such program.

SEC. 7. REDUCTION IN MEDICARE SPENDING.

(a) PROJECTION OF CUMULATIVE EFFECT ON SPENDING.—Not later than December 31, 2013, the Secretary of Health and Human Services (in this section referred to as the “Secretary”), acting through the Chief Actuary of the Centers for Medicare & Medicaid Services (in this section referred to as the “Chief Actuary”), shall submit to Congress, and have published in the Federal Register, a projection of the effect on cumulative Federal spending under part B of title XVIII of the Social Security Act for the period of years 2013 through 2017 as a result of the implementation of the provisions of, and amendments made by, this Act.

(b) STRENGTHENING STANDARDS APPLICABLE IF SAVINGS NOT ACHIEVED.—

(1) IN GENERAL.—Subject to paragraph (2), if the Chief Actuary projects under subsection (a) that the implementation of the provisions of, and amendments made by, this Act will not result in a cumulative reduction in spending under such part of at least \$250,000,000 for the period of years 2013 through 2017 (using a 2012 baseline), the Secretary shall, in accordance with the Chief Actuary’s projection, issue an interim final regulation (to take effect for 2014 and subsequent years) with a period for public comment on such regulation after the date of publication to strengthen the licensure, accreditation, and quality standards applicable to suppliers of orthotics and prosthetics under title XVIII of the Social Security Act, including such standards described in subsections (a)(20) and (h)(1)(F) of section 1834 of such Act (42 U.S.C. 1395m), as amended by this Act, in order to produce such cumulative reduction by December 31, 2017.

(2) EXCEPTION.—The interim final regulation issued under paragraph (1) shall not apply to a qualified physical therapist or qualified occupational therapist (as described in section 1834(h)(1)(F)(iii) of the Social Security Act (42 U.S.C. 1395m(h)(1)(F)(iii))).

SEC. 8. NO EFFECT ON PAYMENT BASIS FOR ORTHOTICS AND PROSTHETICS OR COMPETITIVE BIDDING PROGRAMS.

Nothing in the provisions of, or amendments made by, this Act shall have any effect on—

(1) the determination of the payment basis for orthotics and prosthetics under section 1834(h) of the Social Security Act (42 U.S.C. 1395m(h)); or

(2) the implementation of competitive acquisition programs under section 1847 of such Act (42 U.S.C. 1395w 3), including such implementation with respect to off-the-shelf

orthotics described in subsection (a)(2)(C) of that section, that are included in a competitive acquisition program in a competitive acquisition area under that section.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1709. Mr. BENNET (for himself and Mr. MORAN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table.

SA 1710. Mr. MENENDEZ (for himself and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1711. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1712. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1713. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1714. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1715. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1716. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1717. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1718. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1719. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1720. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1721. Mr. AKAKA (for himself, Ms. MURKOWSKI, Mr. INOUE, and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1722. Mr. LIEBERMAN (for himself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1723. Mr. NELSON of Florida (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1724. Mr. BEGICH submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1725. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1726. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1727. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1728. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1729. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1730. Mr. REID proposed an amendment to the bill S. 1813, supra.

SA 1731. Mr. MANCHIN (for himself and Mr. BLUMENTHAL) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1732. Mr. MANCHIN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1733. Mrs. MURRAY (for herself, Ms. MURKOWSKI, Ms. CANTWELL, Mr. BEGICH, Mrs. GILLIBRAND, and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1734. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1735. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1709. Mr. BENNET (for himself and Mr. MORAN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In division D, on page 728, between lines 17 and 18, insert the following:

SEC. _____. EXTENSION OF WIND ENERGY CREDIT.

Paragraph (1) of section 45(d) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2013” and inserting “January 1, 2014”.

SEC. _____. COST OFFSET FOR EXTENSION OF WIND ENERGY CREDIT, AND DEFICIT REDUCTION, RESULTING FROM DELAY IN APPLICATION OF WORLD-WIDE ALLOCATION OF INTEREST.

(a) IN GENERAL.—Paragraphs (5)(D) and (6) of section 864(f) of the Internal Revenue Code of 1986 are each amended by striking “December 31, 2020” and inserting “December 31, 2021”.

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

SA 1710. Mr. MENENDEZ (for himself and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following:

DIVISION ____—CLOSING BIG OIL TAX LOOPHOLES

SEC. ____0001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the “Close Big Oil Tax Loopholes Act”.

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

DIVISION ____—CLOSING BIG OIL TAX LOOPHOLES

Sec. ____0001. Short title; table of contents.

TITLE I—CLOSE BIG OIL TAX LOOPHOLES

Sec. ____0101. Modifications of foreign tax credit rules applicable to major integrated oil companies which are dual capacity taxpayers.

Sec. ____0102. Limitation on section 199 deduction attributable to oil, natural gas, or primary products thereof.

Sec. ____0103. Limitation on deduction for intangible drilling and development costs.

Sec. ____0104. Limitation on percentage depletion allowance for oil and gas wells.

Sec. ____0105. Limitation on deduction for tertiary injectants.

TITLE II—OUTER CONTINENTAL SHELF OIL AND NATURAL GAS

Sec. ____0201. Repeal of outer Continental Shelf deep water and deep gas royalty relief.

TITLE III—MISCELLANEOUS

Sec. ____0301. Deficit reduction.

Sec. ____0302. Budgetary effects.

TITLE I—CLOSE BIG OIL TAX LOOPHOLES

SEC. ____0101. MODIFICATIONS OF FOREIGN TAX CREDIT RULES APPLICABLE TO MAJOR INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.

(a) 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 MAJOR INTEGRATED OIL COMPANIES WHICH ARE DUAL CAPACITY TAXPAYERS.—

“(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, any amount paid or accrued by a dual capacity taxpayer which is a major integrated oil company (as defined in section 167(h)(5)(B)) to a foreign country or possession of the United States for any period shall not be considered a tax—

“(A) if, for such period, the foreign country or possession does not impose a generally applicable income tax, or

“(B) to the extent such amount exceeds the amount (determined in accordance with regulations) which—

“(i) is paid by such dual capacity taxpayer pursuant to the generally applicable income tax imposed by the country or possession, or

“(ii) would be paid if the generally applicable income tax imposed by the country or possession were applicable to such dual capacity taxpayer.

Nothing in this paragraph shall be construed to imply the proper treatment of any such amount not in excess of the amount determined under subparagraph (B).

“(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.

“(3) GENERALLY APPLICABLE INCOME TAX.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘generally applicable income tax’ means an income tax (or a series of income taxes) which is gen-

erally imposed under the laws of a foreign country or possession on income derived from the conduct of a trade or business within such country or possession.

“(B) EXCEPTIONS.—Such term shall not include a tax unless it has substantial application, by its terms and in practice, to—

“(i) persons who are not dual capacity taxpayers, and

“(ii) persons who are citizens or residents of the foreign country or possession.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after the date of the enactment of this Act.

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

SEC. ____0102. LIMITATION ON SECTION 199 DEDUCTION ATTRIBUTABLE TO OIL, NATURAL GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION.—Paragraph (4) of section 199(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(E) SPECIAL RULE FOR CERTAIN OIL AND GAS INCOME.—In the case of any taxpayer who is a major integrated oil company (as defined in section 167(h)(5)(B)) for the taxable year, the term ‘domestic production gross receipts’ shall not include gross receipts from the production, transportation, or distribution of oil, natural gas, or any primary product (within the meaning of subsection (d)(9)) thereof.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2012.

SEC. ____0103. LIMITATION ON DEDUCTION FOR INTANGIBLE DRILLING AND DEVELOPMENT COSTS.

(a) IN GENERAL.—Section 263(c) 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 a major integrated oil company (as defined in section 167(h)(5)(B)).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2012.

SEC. ____0104. LIMITATION ON PERCENTAGE DEPLETION ALLOWANCE FOR OIL AND GAS WELLS.

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

“(f) APPLICATION WITH RESPECT TO MAJOR INTEGRATED OIL COMPANIES.—In the case of any taxable year in which the taxpayer is a major integrated oil company (as defined in section 167(h)(5)(B)), the allowance for percentage depletion shall be zero.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2012.

SEC. ____0105. LIMITATION ON DEDUCTION FOR 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) APPLICATION WITH RESPECT TO MAJOR INTEGRATED OIL COMPANIES.—This section shall not apply to amounts paid or incurred by a taxpayer in any taxable year in which such taxpayer is a major integrated oil company (as defined in section 167(h)(5)(B)).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2012.