

106TH CONGRESS
2D SESSION

S. 3035

To amend title XI of the Social Security Act to create an independent and nonpartisan commission to assess the health care needs of the uninsured and to monitor the financial stability of the Nation's health care safety net.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 12, 2000

Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. JEFFORDS, Mr. ROCKEFELLER, and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XI of the Social Security Act to create an independent and nonpartisan commission to assess the health care needs of the uninsured and to monitor the financial stability of the Nation's health care safety net.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Health Care Safety
5 Net Oversight Act of 2000”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress makes the following find-
3 ings:

4 (1) America’s core health care safety net is
5 made up of providers that deliver a significant level
6 of health care and other related services to unin-
7 sured individuals, to beneficiaries under the med-
8 icaid program under title XIX of the Social Security
9 Act, and to other vulnerable populations.

10 (2) Thousands of providers render uncompen-
11 sated care to uninsured and underinsured individ-
12 uals.

13 (3) There are currently 44,000,000 uninsured
14 individuals in the Nation, and an equal number of
15 low-income underinsured individuals (including med-
16 icaid beneficiaries) who depend on the core health
17 care safety net.

18 (b) PURPOSE.—The purpose of this Act is to create
19 an independent and nonpartisan commission to assess the
20 health care needs of the uninsured and to monitor the in-
21 frastructure, effectiveness, and financial stability of the
22 Nation’s core health care safety net.

1 **SEC. 3. SAFETY NET ORGANIZATIONS AND PATIENT ADVI-**
 2 **SORY COMMISSION.**

3 (a) IN GENERAL.—Title XI of the Social Security Act
 4 (42 U.S.C. 1320 et seq.) is amended by adding at the end
 5 the following new part:

6 “PART D—SAFETY NET ORGANIZATIONS AND PATIENT
 7 ADVISORY COMMISSION

8 “SAFETY NET ORGANIZATIONS AND PATIENT ADVISORY
 9 COMMISSION

10 “SEC. 1181. (a) ESTABLISHMENT.—There is estab-
 11 lished the Safety Net Organizations and Patient Advisory
 12 Commission (in this section referred to as the ‘Commis-
 13 sion’).

14 “(b) STUDY OF HEALTH CARE SAFETY NET PRO-
 15 GRAMS AND REPORTING REQUIREMENTS.—

16 “(1) STUDY.—The Commission shall study the
 17 health care safety net programs by—

18 “(A) monitoring each health care safety
 19 net program to document and analyze the ef-
 20 fects of changes in these programs on the core
 21 health care safety net;

22 “(B) evaluating the impact of the Emer-
 23 gency Medical Treatment and Labor Act, the
 24 Balanced Budget Act of 1997, the Medicare,
 25 Medicaid, and SCHIP Balanced Budget Refine-
 26 ment Act of 1999, and other forces on the ca-

1 capacity of the core health care safety net to con-
2 tinue their roles in the core health care safety
3 net system to care for uninsured individuals,
4 medicaid beneficiaries, and other vulnerable
5 populations;

6 “(C) monitoring existing data sets to as-
7 sess the status of the core health care safety
8 net and health outcomes for vulnerable popu-
9 lations;

10 “(D) wherever possible, linking and inte-
11 grating existing data systems to enhance the
12 ability of the core health care safety net to
13 track changes in the status of the core health
14 care safety net and health outcomes for vulner-
15 able populations;

16 “(E) supporting the development of new
17 data systems where existing data are insuffi-
18 cient or inadequate;

19 “(F) developing criteria and indicators of
20 impending core health care safety net failure;

21 “(G) establishing an early-warning system
22 to identify impending failures of core health
23 care safety net systems and providers;

24 “(H) providing accurate and timely infor-
25 mation to Federal, State, and local policy mak-

1 ers on the indicators that may lead to the fail-
2 ure of the core health care safety net and an es-
3 timate of the projected consequences of such
4 failures and the impact of such a failure on the
5 community;

6 “(I) monitoring and providing oversight for
7 the transition of individuals receiving supple-
8 mental security income, medicaid, or SCHIP
9 benefits who enroll with a managed care entity
10 (as defined in section 1932(a)(1)(B)), including
11 the review of—

12 “(i) the degree to which health plans
13 have the capacity (including case manage-
14 ment and management information system
15 infrastructure) to provide quality managed
16 care services to such an individual;

17 “(ii) the degree to which these plans
18 may be overburdened by adverse selection;
19 and

20 “(iii) the degree to which emergency
21 departments are used by enrollees of these
22 plans; and

23 “(J) identifying and disseminating the best
24 practices for more effective application of the
25 lessons that have been learned.

1 “(2) REPORTS.—

2 “(A) ANNUAL REPORTS.—Not later than
3 June 1 of each year (beginning with 2002), the
4 Commission shall submit to the appropriate
5 committees of Congress a report on the health
6 care needs of the uninsured and the financial
7 and infrastructure stability of the Nation’s core
8 health care safety net based on the review con-
9 ducted under paragraph (1).

10 “(B) AGENDA AND ADDITIONAL RE-
11 VIEWS.—

12 “(i) AGENDA.—The Chair of the
13 Commission shall consult periodically with
14 the Chairpersons and Ranking Minority
15 Members of the appropriate committees of
16 Congress regarding the Commission’s
17 agenda and progress toward achieving the
18 agenda.

19 “(ii) ADDITIONAL REVIEWS.—The
20 Commission may conduct additional re-
21 views, and submit additional reports to the
22 appropriate committees of Congress, from
23 time to time on such topics relating to the
24 health care safety net programs as may be
25 requested the Commission.

1 “(C) AVAILABILITY OF REPORTS.—The
 2 Commission shall transmit to the Comptroller
 3 General and the Secretary a copy of each report
 4 submitted under this subsection and shall make
 5 such reports available to the public.

6 “(3) DEFINITIONS.—In this section:

7 “(A) APPROPRIATE COMMITTEES OF CON-
 8 GRESS.—The term ‘appropriate committees of
 9 Congress’ means the Committees on Ways and
 10 Means and Commerce of the House of Rep-
 11 resentatives and the Committee on Finance of
 12 the Senate.

13 “(B) CORE HEALTH CARE SAFETY NET.—
 14 The term ‘core health care safety net’ means
 15 any health care provider that—

16 “(i) by legal mandate or explicitly
 17 adopted mission, offers access to health
 18 care services to patients, regardless of the
 19 ability of such patient to pay for such serv-
 20 ices; and

21 “(ii) has a case mix that is substan-
 22 tially comprised of patients who are unin-
 23 sured, covered under the medicaid pro-
 24 gram, covered under any other public

1 health care program, or are otherwise vul-
 2 nerable populations.

3 Such term includes each disproportionate share
 4 hospital, federally qualified health centers, other
 5 Federal, State, and locally supported clinic,
 6 rural health clinic, local health department, and
 7 provider covered under the Emergency Medical
 8 Treatment and Labor Act.

9 “(C) HEALTH CARE SAFETY NET PRO-
 10 GRAMS.—The term ‘health care safety net pro-
 11 grams’ includes the following:

12 “(i) MEDICAID.—The medicaid pro-
 13 gram under title XIX.

14 “(ii) SCHIP.—The State children’s
 15 health insurance program under title XXI.

16 “(iii) MATERNAL AND CHILD HEALTH
 17 SERVICES BLOCK GRANT PROGRAM.—The
 18 maternal and child health services block
 19 grant program under title V.

20 “(iv) FQHC PROGRAMS.—Each feder-
 21 ally funded program under which a health
 22 center (as defined in section 330(1) of the
 23 Public Health Service Act), a Federally
 24 qualified health center (as defined in sec-
 25 tion 1861(aa)(4)), or a Federally-qualified

1 health center (as defined in section
2 1905(l)(2)(B)) receives funds.

3 “(v) RHC PROGRAMS.—Each feder-
4 ally funded program under which a rural
5 health clinic (as defined in section
6 1861(aa)(4) or 1905(l)(1)) receives funds.

7 “(vi) DSH PAYMENT PLANS.—Each
8 federally funded program under which a
9 disproportionate share hospital receives
10 funds.

11 “(vii) EMERGENCY MEDICAL TREAT-
12 MENT AND LABOR ACT.—All care provided
13 under section 1867 for the uninsured,
14 underinsured, beneficiaries under title
15 XIX, and other vulnerable individuals.

16 “(viii) OTHER HEALTH CARE SAFETY
17 NET PROGRAMS.—Such term also includes
18 any other health care program that the
19 Commission determines to be appropriate.

20 “(D) VULNERABLE POPULATIONS.—The
21 term ‘vulnerable populations’ includes unin-
22 sured individuals, low-income individuals, farm
23 workers, homeless individuals, individuals with
24 disabilities, individuals with HIV or AIDS, and

1 such other individuals as the Commission may
2 designate.

3 “(c) MEMBERSHIP.—

4 “(1) NUMBER AND APPOINTMENT.—The Com-
5 mission shall be composed of 17 members appointed
6 by the Comptroller General of the United States (in
7 this section referred to as the ‘Comptroller Gen-
8 eral’), in consultation with the committees of juris-
9 diction in the House of Representatives and the Sen-
10 ate.

11 “(2) QUALIFICATIONS.—

12 “(A) IN GENERAL.—The membership of
13 the Commission shall include individuals with
14 national recognition for their expertise in health
15 finance and economics, health care safety net
16 research and program management, actuarial
17 science, health facility management, health
18 plans and integrated delivery systems, reim-
19 bursement of health facilities, allopathic and os-
20 teopathic medicine (including emergency medi-
21 cine), and other providers of health services,
22 and other related fields, who provide a mix of
23 different professionals, broad geographic rep-
24 resentation, and a balance between urban and
25 rural representatives.

1 “(B) INCLUSION.—The membership of the
2 Commission shall include health professionals,
3 employers, third-party payers, individuals
4 skilled in the conduct and interpretation of bio-
5 medical, health services, and health economics
6 research and expertise in outcomes and effec-
7 tiveness research and technology assessment.
8 Such membership shall also include recipients
9 of care from core health care safety net and in-
10 dividuals who provide and manage the delivery
11 of care by the core health care safety net.

12 “(C) MAJORITY NONPROVIDERS.—Individ-
13 uals who are directly involved in the provision,
14 or management of the delivery, of items and
15 services covered under the health care safety
16 net programs shall not constitute a majority of
17 the membership of the Commission.

18 “(D) ETHICAL DISCLOSURE.—The Comp-
19 troller General shall establish a system for pub-
20 lic disclosure by members of the Commission of
21 financial and other potential conflicts of interest
22 relating to such members.

23 “(3) TERMS.—

24 “(A) IN GENERAL.—The terms of mem-
25 bers of the Commission shall be for 3 years ex-

cept that the Comptroller General shall designate staggered terms for the members first appointed.

“(B) VACANCIES.—

“(i) IN GENERAL.—A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

“(ii) APPOINTMENT.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member’s predecessor was appointed shall be appointed only for the remainder of that term.

“(iii) TERM.—A member may serve after the expiration of that member’s term until a successor has taken office.

“(4) COMPENSATION.—

“(A) IN GENERAL.—While serving on the business of the Commission (including travel time), a member of the Commission—

“(i) shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Sched-

1 ule under section 5315 of title 5, United
2 States Code; and

3 “(ii) while so serving away from home
4 and the member’s regular place of busi-
5 ness, a member may be allowed travel ex-
6 penses, as authorized by the Commission.

7 “(B) OTHER PERSONNEL.—For purposes
8 of pay (other than pay of members of the Com-
9 mission) and employment benefits, rights, and
10 privileges, all personnel of the Commission shall
11 be treated as if they were employees of the
12 United States Senate.

13 “(5) CHAIR; VICE CHAIR.—The Comptroller
14 General shall designate a member of the Commis-
15 sion, at the time of appointment of the member as
16 Chair and a member as Vice Chair for that term of
17 appointment, except that in the case of vacancy of
18 the Chair or Vice Chair, the Comptroller General
19 may designate another member for the remainder of
20 that member’s term.

21 “(6) MEETINGS.—The Commission shall meet
22 at the call of the Chair or upon the written request
23 of a majority of its members.

24 “(d) DIRECTOR AND STAFF; EXPERTS AND CON-
25 SULTANTS.—Subject to such review as the Comptroller

1 General deems necessary to ensure the efficient adminis-
2 tration of the Commission, the Commission may—

3 “(1) employ and fix the compensation of an Ex-
4 ecutive Director (subject to the approval of the
5 Comptroller General) and such other personnel as
6 may be necessary to carry out its review of health
7 care safety net programs and reporting requirements
8 (without regard to the provisions of title 5, United
9 States Code, governing appointments in the competi-
10 tive service);

11 “(2) seek such assistance and support as may
12 be required in the performance of its review of
13 health care safety net programs and reporting re-
14 quirements from appropriate Federal departments
15 and agencies;

16 “(3) enter into contracts or make other ar-
17 rangements, as may be necessary for the conduct of
18 the work of the Commission (without regard to sec-
19 tion 3709 of the Revised Statutes (41 U.S.C. 5));

20 “(4) make advance, progress, and other pay-
21 ments which relate to the work of the Commission;

22 “(5) provide transportation and subsistence for
23 persons serving without compensation; and

1 “(6) prescribe such rules and regulations as it
2 deems necessary with respect to the internal organi-
3 zation and operation of the Commission.

4 “(e) POWERS.—

5 “(1) OBTAINING OFFICIAL DATA.—

6 “(A) IN GENERAL.—The Commission may
7 secure directly from any department or agency
8 of the United States information necessary to
9 enable it to carry out this section.

10 “(B) REQUEST OF CHAIR.—Upon request
11 of the Chair, the head of that department or
12 agency shall furnish that information to the
13 Commission on an agreed upon schedule.

14 “(2) DATA COLLECTION.—In order to carry out
15 its functions, the Commission shall—

16 “(A) use existing information, both pub-
17 lished and unpublished, where possible, collected
18 and assessed either by its own staff or under
19 other arrangements made in accordance with
20 this section;

21 “(B) carry out, or award grants or con-
22 tracts for, original research and experimen-
23 tation, where existing information is inad-
24 equate; and

1 “(C) adopt procedures allowing any inter-
2 ested party to submit information for the Com-
3 mission’s use in making reports and rec-
4 ommendations.

5 “(3) ACCESS OF GAO TO INFORMATION.—The
6 Comptroller General shall have unrestricted access
7 to all deliberations, records, and nonproprietary data
8 of the Commission, immediately upon request.

9 “(4) PERIODIC AUDIT.—The Commission shall
10 be subject to periodic audit by the Comptroller Gen-
11 eral.

12 “(f) APPLICATION OF FACA.—Section 14 of the
13 Federal Advisory Committee Act does not apply to the
14 Commission.

15 “(g) AUTHORIZATION OF APPROPRIATIONS.—

16 “(1) REQUEST FOR APPROPRIATIONS.—The
17 Commission shall submit requests for appropriations
18 in the same manner as the Comptroller General sub-
19 mits requests for appropriations, but amounts ap-
20 propriated for the Commission shall be separate
21 from amounts appropriated for the Comptroller Gen-
22 eral.

23 “(2) AUTHORIZATION.—There are authorized to
24 be appropriated such sums as may be necessary to
25 carry out the provisions of this section.”.

1 (b) EFFECTIVE DATE.—The Comptroller General of
2 the United States shall appoint the initial members of the
3 Safety Net Organizations and Patient Advisory Commis-
4 sion established under subsection (a) not later than June
5 1, 2001.

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