

108TH CONGRESS
1ST SESSION

S. 732

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

MARCH 27, 2003

Mr. BAUCUS (for himself, Mr. HATCH, Mr. ROCKEFELLER, and Mr. JEFFORDS) 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 2003”.

1 **SEC. 2. 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 hereby
 11 established the Safety Net Organizations and Patient Ad-
 12 visory Commission (in this section referred to as the ‘Com-
 13 mission’).

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

16 “(1) REVIEW.—The Commission shall conduct
 17 an ongoing review of the health care safety net pro-
 18 grams (as described in paragraph (3)(C)) by—

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

23 “(B) evaluating the impact of the Emer-
 24 gency Medical Treatment and Labor Act, the
 25 Health Insurance Portability and Accountability
 26 Act of 1996, the Balanced Budget Act of 1997,

1 the Medicare, Medicaid, and SCHIP Balanced
2 Budget Refinement Act of 1999, the Medicare,
3 Medicaid, and SCHIP Benefits Protection and
4 Improvement Act of 2000, and other forces on
5 the capacity of the core health care safety net
6 to continue their roles in the core health care
7 safety net system to care for uninsured individ-
8 uals, medicaid beneficiaries, and other vulner-
9 able populations;

10 “(C) monitoring existing data sets to as-
11 sess the status of the core health care safety
12 net and health outcomes for vulnerable popu-
13 lations;

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

20 “(E) supporting the development of new
21 data systems where existing data are insuffi-
22 cient or inadequate;

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

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

4 “(H) providing accurate and timely infor-
5 mation to Federal, State, and local policy-
6 makers on the indicators that may lead to the
7 failure of the core health care safety net and an
8 estimate of the projected consequences of such
9 failures and the impact of such a failure on the
10 community;

11 “(I) monitoring and providing oversight for
12 the transition of individuals receiving supple-
13 mental security income benefits, medical assist-
14 ance under title XIX, or child health assistance
15 under title XXI who enroll with a managed care
16 entity (as defined in section 1932(a)(1)(B)), in-
17 cluding the review of—

18 “(i) the degree to which health plans
19 have the capacity (including case manage-
20 ment and management information system
21 infrastructure) to provide quality managed
22 care services to such an individual;

23 “(ii) the degree to which these plans
24 may be overburdened by adverse selection;
25 and

1 “(iii) the degree to which emergency
2 departments are used by enrollees of these
3 plans; and

4 “(J) identifying and disseminating the best
5 practices for more effective application of the
6 lessons that have been learned.

7 “(2) REPORTS.—

8 “(A) ANNUAL REPORTS.—Not later than
9 January 1 of each year (beginning with 2005),
10 the Commission shall, based on the review con-
11 ducted under paragraph (1), submit to the ap-
12 propriate committees of Congress a report on—

13 “(i) the health care needs of the unin-
14 sured; and

15 “(ii) the financial and infrastructure
16 stability of the Nation’s core health care
17 safety net.

18 “(B) AGENDA AND ADDITIONAL RE-
19 VIEWS.—

20 “(i) AGENDA.—The Chair of the
21 Commission shall consult periodically with
22 the Chairpersons and Ranking Minority
23 Members of the appropriate committees of
24 Congress regarding the Commission’s

1 agenda and progress toward achieving the
2 agenda.

3 “(ii) ADDITIONAL REVIEWS.—The
4 Commission shall conduct additional re-
5 views and submit additional reports to the
6 appropriate committees of Congress on
7 topics relating to the health care safety net
8 programs under the following cir-
9 cumstances:

10 “(I) If requested by the Chair-
11 persons or Ranking Minority Members
12 of such committees.

13 “(II) If the Commission deems
14 such additional reviews and reports
15 appropriate.

16 “(C) AVAILABILITY OF REPORTS.—The
17 Commission shall transmit to the Comptroller
18 General and the Secretary a copy of each report
19 submitted under this subsection and shall make
20 such reports available to the public.

21 “(3) DEFINITIONS.—In this section:

22 “(A) APPROPRIATE COMMITTEES OF CON-
23 GRESS.—The term ‘appropriate committees of
24 Congress’ means the Committees on Ways and
25 Means and Energy and Commerce of the House

of Representatives and the Committees on Finance and Health, Education, Labor, and Pensions of the Senate.

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

“(i) by legal mandate or explicitly adopted mission, offers access to health care services to patients, regardless of the ability of the patient to pay for such services; and

“(ii) has a case mix that is substantially comprised of patients who are uninsured, covered under the medicaid program, covered under any other public health care program, or are otherwise vulnerable populations.

Such term includes disproportionate share hospitals, Federally qualified health centers, other Federal, State, and locally supported clinics, rural health clinics, local health departments, and providers covered under the Emergency Medical Treatment and Labor Act.

“(C) HEALTH CARE SAFETY NET PROGRAMS.—The term ‘health care safety net programs’ includes the following:

“(i) MEDICAID.—The medicaid program under title XIX.

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

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

“(iv) FQHC PROGRAMS.—Each federally funded program under which a health center (as defined in section 330(1) of the Public Health Service Act), a Federally qualified health center (as defined in section 1861(aa)(4)), or a Federally-qualified health center (as defined in section 1905(l)(2)(B)) receives funds.

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

“(vi) DSH PAYMENT PROGRAMS.—Each federally funded program under

1 which a disproportionate share hospital re-
2 ceives funds.

3 “(vii) EMERGENCY MEDICAL TREAT-
4 MENT AND ACTIVE LABOR ACT.—All care
5 provided under section 1867 for the unin-
6 sured, underinsured, beneficiaries under
7 title XIX, and other vulnerable individuals.

8 “(viii) OTHER HEALTH CARE SAFETY
9 NET PROGRAMS.—Such term also includes
10 any other health care program that the
11 Commission determines to be appropriate.

12 “(D) VULNERABLE POPULATIONS.—The
13 term ‘vulnerable populations’ includes unin-
14 sured and underinsured individuals, low-income
15 individuals, farm workers, homeless individuals,
16 individuals with disabilities, individuals with
17 HIV or AIDS, and such other individuals as the
18 Commission may designate.

19 “(c) MEMBERSHIP.—

20 “(1) NUMBER AND APPOINTMENT.—The Com-
21 mission shall be composed of 13 members appointed
22 by the Comptroller General of the United States (in
23 this section referred to as the ‘Comptroller Gen-
24 eral’), in consultation with the appropriate commit-
25 tees of Congress.

1 “(2) QUALIFICATIONS.—

2 “(A) IN GENERAL.—The membership of
3 the Commission shall include individuals with
4 national recognition for their expertise in health
5 finance and economics, health care safety net
6 research and program management, actuarial
7 science, health facility management, health
8 plans and integrated delivery systems, reim-
9 bursement of health facilities, allopathic and os-
10 teopathic medicine (including emergency medi-
11 cine), and other providers of health services,
12 and other related fields, who provide a mix of
13 different professionals, broad geographic rep-
14 resentation, and a balance between urban and
15 rural representatives.

16 “(B) INCLUSION.—The membership of the
17 Commission shall include health professionals,
18 employers, third-party payers, individuals
19 skilled in the conduct and interpretation of bio-
20 medical, health services, and health economics
21 research and expertise in outcomes and effec-
22 tiveness research and technology assessment.
23 Such membership shall also include recipients
24 of care from core health care safety net and in-

dividuals who provide and manage the delivery of care by the core health care safety net.

“(C) MAJORITY NONPROVIDERS.—Individuals who are directly involved in the provision, or management of the delivery, of items and services covered under the health care safety net programs shall not constitute a majority of the membership of the Commission.

“(D) ETHICAL DISCLOSURE.—The Comptroller General shall establish a system for public disclosure by members of the Commission of financial and other potential conflicts of interest relating to such members.

“(3) TERMS.—

“(A) IN GENERAL.—The terms of members of the Commission shall be for 3 years except that of the members first appointed, the Comptroller General shall designate—

“(i) four to serve a term of 1 year;

“(ii) four to serve a term of 2 years;

and

“(iii) five to serve a term of 3 years.

“(B) VACANCIES.—

“(i) IN GENERAL.—A vacancy in the Commission shall be filled in the same

1 manner in which the original appointment
2 was made.

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

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

12 “(4) COMPENSATION.—

13 “(A) MEMBERS.—While serving on the
14 business of the Commission (including travel
15 time), a member of the Commission—

16 “(i) shall be entitled to compensation
17 at the per diem equivalent of the rate pro-
18 vided for level IV of the Executive Sched-
19 ule under section 5315 of title 5, United
20 States Code; and

21 “(ii) while so serving away from home
22 and the member’s regular place of busi-
23 ness, may be allowed travel expenses, as
24 authorized by the Commission.

1 “(B) TREATMENT.—For purposes of pay
 2 (other than pay of members of the Commission)
 3 and employment benefits, rights, and privileges,
 4 all personnel of the Commission shall be treated
 5 as if they were employees of the United States
 6 Senate.

7 “(5) CHAIR; VICE CHAIR.—The Comptroller
 8 General shall designate a member of the Commis-
 9 sion, at the time of appointment of the member as
 10 Chair and a member as Vice Chair for that term of
 11 appointment, except that in the case of vacancy of
 12 the Chair or Vice Chair, the Comptroller General
 13 may designate another member for the remainder of
 14 that member’s term.

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

18 “(d) DIRECTOR AND STAFF; EXPERTS AND CON-
 19 SULTANTS.—Subject to such review as the Comptroller
 20 General determines necessary to ensure the efficient ad-
 21 ministration of the Commission, the Commission may—

22 “(1) employ and fix the compensation of an Ex-
 23 ecutive Director (subject to the approval of the
 24 Comptroller General) and such other personnel as
 25 may be necessary to carry out the duties of the

1 Commission under this section (without regard to
2 the provisions of title 5, United States Code, gov-
3 erning appointments in the competitive service);

4 “(2) seek such assistance and support as may
5 be required in the performance of the duties of the
6 Commission under this section from appropriate
7 Federal departments and agencies;

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

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

14 “(5) provide transportation and subsistence for
15 persons serving without compensation; and

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

19 “(e) POWERS.—

20 “(1) OBTAINING OFFICIAL DATA.—

21 “(A) IN GENERAL.—The Commission may
22 secure directly from any department or agency
23 of the United States information necessary for
24 the Commission to carry the duties under this
25 section.

1 “(B) REQUEST OF CHAIR.—Upon request
2 of the Chair, the head of that department or
3 agency shall furnish that information to the
4 Commission on an agreed upon schedule.

5 “(2) DATA COLLECTION.—In order to carry out
6 the duties of the Commission under this section, the
7 Commission shall—

8 “(A) use existing information, both pub-
9 lished and unpublished, where possible, collected
10 and assessed either by the staff of the Commis-
11 sion or under other arrangements made in ac-
12 cordance with this section;

13 “(B) carry out, or award grants or con-
14 tracts for, original research and experimen-
15 tation, where existing information is inad-
16 equate; and

17 “(C) adopt procedures allowing any inter-
18 ested party to submit information for the Com-
19 mission’s use in making reports and rec-
20 ommendations.

21 “(3) ACCESS OF GAO TO INFORMATION.—The
22 Comptroller General shall have unrestricted access
23 to all deliberations, records, and nonproprietary data
24 that pertains to the work of the Commission, imme-
25 diately upon request. The expense of providing such

1 information shall be borne by the General Account-
2 ing Office.

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

6 “(f) APPLICATION OF FACA.—Section 14 of the
7 Federal Advisory Committee Act (5 U.S.C. App.) does not
8 apply to the Commission.

9 “(g) AUTHORIZATION OF APPROPRIATIONS.—

10 “(1) REQUEST FOR APPROPRIATIONS.—The
11 Commission shall submit requests for appropriations
12 in the same manner as the Comptroller General sub-
13 mits requests for appropriations, but amounts ap-
14 propriated for the Commission shall be separate
15 from amounts appropriated for the Comptroller Gen-
16 eral.

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

20 (b) EFFECTIVE DATE.—The Comptroller General of
21 the United States shall appoint the initial members of the
22 Safety Net Organizations and Patient Advisory Commis-
23 sion established under subsection (a) not later than Janu-
24 ary 1, 2004.

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