

By: Representative Scott

To: Rules

HOUSE RESOLUTION NO. 23

1 A RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO
2 REINSTATE THE MEDICARE PRESCRIPTION DRUG, IMPROVEMENT AND
3 MODERNIZATION ACT OF 2003, REVOKING ANY MEDICARE PROVISION WHICH
4 PRECLUDES STATES FROM NOT BEING ABLE TO PURCHASE, AND PROVIDE FOR
5 ITS ELDERLY AND DISABLED CITIZENS.

6 WHEREAS, on December 8, 2003, the President signed into law
7 the Medicare Prescription Drug, Improvement, and Modernization Act
8 of 2003 (P.L. 108-173, hereafter the "act"); and

9 WHEREAS, under the act, a drug benefit will be made
10 available to Medicare beneficiaries starting in 2006, which will
11 be delivered through private risk-bearing entities under contract
12 with the United States Department of Health and Human Services;
13 and

14 WHEREAS, the act also provides for an interim prescription
15 drug discount program to be made available starting in June, 2004,
16 and continuing through the end of 2005; and

17 WHEREAS, the act provides for premium, deductible, and
18 other cost-sharing subsidies for beneficiaries who are dually
19 eligible for Medicare and Medicaid, or have incomes below 150
20 percent of the federal poverty level; and

21 WHEREAS, under the act, low-income beneficiaries must meet
22 an asset limit in order to qualify for the drug coverage
23 subsidies; and

24 WHEREAS, beneficiaries with incomes below 135 percent of
25 the federal poverty level who do not have Medicaid coverage do not
26 have to pay any enrollment fee to enroll in a drug discount card
27 plan and will receive up to a \$600.00 credit in 2004 and another
28 \$600.00 credit in 2005 towards the cost of drug purchases; and

29 WHEREAS, in order to receive the \$600.00 subsidy for a drug
30 discount card, beneficiaries cannot be receiving or be eligible
31 for any other drug coverage; and

32 WHEREAS, under the act, beneficiaries may not change
33 prescription drug discount cards once they have enrolled in the
34 drug plans, except for a one-time change at the start of 2005; and

35 WHEREAS, under the act, sponsors of discount cards will be
36 able to charge enrollees up to a \$30.00 annual enrollment fee and
37 will be free to make changes in the discounts available to
38 enrollees and in the drugs covered by the cards simply by posting
39 the changes on the Internet; and

40 WHEREAS, to enroll in the drug plans established through
41 the act in 2006, beneficiaries will be required to pay an annual
42 premium equal to an estimated \$420.00 and an annual deductible
43 equal to \$250.00, after which the plans will cover 75 percent of
44 the cost of covered drugs up to an initial \$2,250.00 coverage
45 limit, none of the cost of drugs between the \$2,250.00 coverage
46 limit and a \$5,100.00 upper limit, and most of the cost of drug
47 expenditures above the \$5,100.00 cap; and

48 WHEREAS, no expenditures by third-party coverage sources
49 may be used to satisfy the coverage gap under the act, referred to
50 as the "doughnut hole," requiring beneficiaries to pay their own
51 out-of-pocket funds to meet the catastrophic coverage cap under
52 the bill; and

53 WHEREAS, only expenditures for drugs that are covered by a
54 drug plan's formulary may be used to satisfy the coverage gap
55 under the act; and

56 WHEREAS, according to the Congressional Budget Office, by
57 indexing premiums, deductible, and other cost sharing limits for
58 beneficiaries to increases in the cost of drugs under the drug
59 program created by the act, the indexing provisions in the act
60 will result in premiums increasing to \$696.00, deductibles
61 increasing to \$445.00, the initial coverage limit increasing to

62 \$4,000.00, and the out-of-pocket spending cap increasing to
63 \$6,400,00 in 2013; and

64 WHEREAS, the act precludes the United States Department of
65 Health and Human Services from negotiating with drug manufacturers
66 and wholesalers the costs of drugs to be made available under the
67 new drug benefit and instead relies on individual sponsors of the
68 drug discount cards, the prescription drug plans and Medicare
69 Advantage managed care plans providing prescription drug coverage
70 to negotiate the rates for drugs; and

71 WHEREAS, individual sponsors of drug discount cards and
72 prescription drug plans and Medicare Advantage managed care plans
73 are unlikely to receive the same low prices the federal government
74 would get by negotiating collectively for beneficiaries, as
75 evidenced by highly successful federal purchasing programs such as
76 the Veterans Administration; and

77 WHEREAS, the act makes importation of drugs by wholesalers
78 and individuals legal only if the Secretary of the United States
79 Department of Health and Human Services certifies that the
80 importation poses no additional risk to the public's health and
81 safety, and the current Secretary of Health and Human Services has
82 stated that he cannot make the certification; and

83 WHEREAS, as of January 1, 2006, states will no longer be
84 able to receive federal Medicaid matching funds to cover
85 prescription drugs for dual eligible beneficiaries, including
86 funds to help meet cost-sharing requirements or to cover drugs not
87 covered under the new drug benefit due to a plan's formulary, with
88 the result that drug coverage for dual eligible beneficiaries will
89 likely be reduced as a result of the act; and

90 WHEREAS, under the act, states must make financial
91 maintenance of effort payments to the federal government for the
92 cost of coverage for dual eligible beneficiaries which are the
93 product of three elements: (1) a "take back" factor, which is set
94 at 90 percent for 2006 and phased down to 75 percent in 2015; (2)

95 the number of dual eligibles; and (3) the per capita level of
96 spending by state Medicaid programs in 2003, trended forward
97 through 2006 by a growth factor; and

98 WHEREAS, as a result of the financial maintenance of effort
99 requirements in the act, states including California will
100 experience little fiscal relief from the assumption of
101 prescription drug coverage for the dual eligible population by the
102 Medicare program; and

103 WHEREAS, in 2004, the act has resulted in potential
104 problems of patient access to cancer treatment in doctor's
105 offices, because the payment amounts for 2004 for some drugs are
106 lower than the price at which physicians can purchase them; and

107 WHEREAS, for 2005 and later years, the act reduces the
108 payments for cancer treatment drugs and administration services
109 further relative to their 2004 levels, with no mechanism for
110 adjustments to ensure that the payment levels are not lower than
111 the prices at which physicians can purchase them; and

112 WHEREAS, under the act, \$900,000,000.00 million is
113 appropriated to the federal Centers for Medicare and Medicaid
114 Services for administration of the act, including funds to educate
115 beneficiaries about their options; however, no funds are
116 specifically allocated for the Health Insurance Counseling and
117 Advocacy Program, the primary entity responsible for direct
118 one-on-one unbiased counseling regarding Medicare benefits; and

119 WHEREAS, as a result of the provisions of the act,
120 beneficiaries face limited protection from the rising costs of
121 prescription drugs:

122 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
123 REPRESENTATIVES OF THE STATE OF MISSISSIPPI, That we memorialize
124 the Congress and President of the United States to enact and sign
125 into law revisions to the Medicare Prescription Drug, Improvement,
126 and Modernization Act of 2003, to eliminate or significantly
127 reduce state maintenance of effort payments to the federal

128 government for the costs of drug coverage for dual eligible
129 beneficiaries; and to require that a portion of the funds
130 appropriated to the Centers for Medicare and Medicaid Services be
131 allocated to the state Health Insurance, Counseling and Advocacy
132 Program to ensure that Mississippi's Medicare beneficiaries
133 receive the necessary counseling and assistance to understand all
134 of their health coverage options.

135 BE IT FURTHER RESOLVED, That copies of this resolution be
136 transmitted to the President of the United States, Members of the
137 United States Congress, the Governor of the State of Mississippi
138 and to the members of the Capitol Press Corps.