

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 123

To amend part D of title XVIII of the Social Security Act to provide for negotiation of fair prices for Medicare prescription drugs.

---

IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2005

Mr. FEINGOLD introduced the following bill; which was read twice and referred to the Committee on Finance

---

## A BILL

To amend part D of title XVIII of the Social Security Act to provide for negotiation of fair prices for Medicare prescription drugs.

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 “Efficiency in Govern-  
5 ment Health Care Spending Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) Prohibiting the Federal Government from  
9 negotiating prescription drug prices with manufac-

1       turers fails to take advantage of the purchasing  
2       power of the Medicare program.

3           (2) Negotiating prescription drug prices can re-  
4       duce the costs of prescription drugs for both the  
5       Medicare program and taxpayers.

6           (3) A 2002 study by the inspector general of  
7       the Department of Health and Human Services  
8       found that—

9           (A) both the Medicare program and the  
10       beneficiaries of the Medicare program contin-  
11       ually pay too much for medical equipment and  
12       medical supplies; and

13           (B) if the Medicare program paid the same  
14       prices for 16 health care supplies as the De-  
15       partment of Veterans Affairs, which directly ne-  
16       gotiates prices with manufacturers, pays for  
17       those supplies, the Federal Government could  
18       save \$958,000,000 each year.

19 **SEC. 3. SENSE OF THE SENATE REGARDING THE USE OF**  
20 **AUTHORITY TO NEGOTIATE PRICES FOR**  
21 **MEDICARE PRESCRIPTION DRUGS.**

22       It is the sense of the Senate that the Secretary of  
23       Health and Human Services should exercise the authority  
24       under section 1860D–11(i)(1) of the Social Security Act  
25       (42 U.S.C. 1395w–111(i)(1)), as amended by section 4,

1 so as to assure an affordable medicare drug benefit for  
2 medicare beneficiaries and taxpayers.

3 **SEC. 4. NEGOTIATING FAIR PRICES FOR MEDICARE PRE-**  
4 **SCRIPTION DRUGS.**

5 (a) NEGOTIATION.—Section 1860D–11 of the Social  
6 Security Act (42 U.S.C. 1395w–111) is amended by strik-  
7 ing subsection (i) (relating to noninterference) and by in-  
8 serting the following:

9 “(i) AUTHORITY TO NEGOTIATE; NO NATIONAL FOR-  
10 MULARY.—

11 “(1) AUTHORITY TO NEGOTIATE PRICES WITH  
12 MANUFACTURERS.—In order to ensure that bene-  
13 ficiaries enrolled under prescription drug plans and  
14 MA–PD plans pay the lowest possible price, the Sec-  
15 retary shall have authority similar to that of other  
16 Federal entities that purchase prescription drugs in  
17 bulk to negotiate contracts with manufacturers of  
18 covered part D drugs, consistent with the require-  
19 ments and in furtherance of the goals of providing  
20 quality care and containing costs under this part.

21 “(2) NO NATIONAL FORMULARY.—In order to  
22 promote competition under this part and in carrying  
23 out this part, the Secretary may not require a par-  
24 ticular formulary for covered part D drugs.

1       (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall take effect as if included in the enact-  
3 ment of section 101(a) of the Medicare Prescription Drug,  
4 Improvement, and Modernization Act of 2003 (Public Law  
5 108–173; 117 Stat. 2071).

○