

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

SPONSOR McSorley DATE TYPED 2/25/05 HB \_\_\_\_\_

SHORT TITLE Prescription Drug Ethical Marketing Act SB 824

ANALYST Medina

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	\$25.0			Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regulation and Licensing Department (RLD)

Pharmacy Board

### SUMMARY

#### Synopsis of Bill

Senate Bill 824 enacts the Prescription Drug Ethical Marketing Act and appropriates \$25.0 from the general fund to the Office of the Attorney General for the purpose of developing and implementing the provisions of the Act. The Act requires drug manufacturers to report annually to the Attorney General on their pharmaceutical marketing activities. The Act also requires the Attorney General to facilitate the reporting and in turn issue its own annual report to the Legislature and the general public. The Attorney General is also authorized by the Act to take action to investigate and enforce the Act.

#### Significant Issues

The Regulation and Licensing Department contends that because a significant amount of prescription drug manufacturers' promotional activities are in television and radio advertisements, the information required to be reported by this Act are not easily reportable. RLD is also uncertain whether or not continuing education programs provided to health care providers in the state could potentially be considered promotional (marketing) activities. According to RLD, many pharmacists obtain their required continuing education from drug manufacturer-sponsored pro-

grams that are usually live or available on the Internet.

### **FISCAL IMPLICATIONS**

The appropriation of \$25.0 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2006 shall revert to the general fund.

The Act authorizes but does not mandate that the Attorney General assess a filing fee to support the administrative cost of implementing the Act (i.e. processing the forms and collecting information from the manufacturers). However, the bill does not mandate a fee nor a cap for a fee.

### Continuing Appropriations

The LFC FY06 appropriation recommendation is balanced between revenues and expenditures and any increase in recurring funding must be offset by reductions in other areas of the recommendation. The Legislature must consider all priorities and funding requirements to find revenue to support this legislation.

**DXM/yr**