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# S.3518 (Fernandez) / A.895 (Gallagher)

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<b>BILL</b> S.3518 (Fernandez) / A.895 (Gallagher)
<b>SUBJECT</b> Patent Settlement Notification
<b>DATE</b> January 08, 2024
<b>OPPOSE</b>

The Business Council opposes S.3518 (Fernandez) / A.895 (Gallagher), which requires pharmaceutical manufacturers to provide notice of certain patent settlement agreements to the attorney general, even though those agreements are subject to significant federal oversight by the Federal Trade Commission.

In 2003, Congress mandated pharmaceutical companies to submit to the FTC certain agreements between manufacturers of new drugs and generic products. Expanded in 2018, the FTC's has broad powers to review these agreements. This legislation inserts the New York State Attorney General into a process which is already overseen by the FTC and federal courts.

This legislation may have unintended consequences and potentially delay the entry of generic products to market. Patent settlements were created to resolve patent disputes. Most often, patent settlements lead to the introduction of generic drugs and biosimilar products into the market earlier than they would have had they been forced to wait until the end of a patent term. This benefits consumers with the earlier introduction of generics and the lower prices that come with them. However, this bill could discourage patent settlements which would result in drawn out and costly litigation and lead to a delay in generics being brought to market, counter to the intent of the bill.

It is likely that enactment of this bill would have unintended consequences and harm consumers by delaying the entry of generics to market. For these reasons, The Business Council opposes S.3518 (Fernandez) / A.895 (Gallagher).