Amend **HB 2292**, on third reading, by striking page 81, line 22 through page 83, line 17 and substituting the following and relettering accordingly:

(c) For purposes of this section, the term "supplemental rebates" shall mean cash rebates paid by a pharmaceutical manufacturer to the State on the basis of quarterly Medicaid utilization data relating to such manufacturer's products, pursuant to a State supplemental rebate agreement negotiated with such manufacturer and approved by the federal government under Section 1927 of the federal Social Security Act.

(d) The commission may enter into a written agreement with a manufacturer to accept certain program benefits in lieu of supplemental rebates, as such term is defined herein, only if:

(1) the program benefit yields savings that are at least equal to the amount the manufacturer would have provided under a state supplemental rebate agreement during the current biennium as determined by such written agreement;

(2) the manufacturer posts a performance bond guaranteeing savings to the state. If the savings are not achieved in accordance with the written agreement, the manufacturer will forfeit the bond to the state less any savings that were achieved; and

(3) the program benefit is in addition to other program benefits currently offered by the manufacturer to recipients of medical assistance or related programs.

(e) For the purposes of this section, a program benefit may mean disease management programs authorized under this title, drug product donation programs, drug utilization control programs, prescriber and beneficiary counseling and education, fraud and abuse initiatives, and other services or administrative investments with guaranteed savings to a program operated by a health and human service agency.

(f) Other than as required to satisfy the provisions of this section, such program investments shall be deemed an alternative to, and not the equivalent of, supplemental rebates and shall be treated in the State's submissions to the federal government (including, as appropriate, waiver requests and quarterly Medicaid

claims) so as to maximize the availability of federal matching payments.

(g) Agreements by the commission to accept program benefits as defined by this section:

(1) may not prohibit the commission from entering into similar agreements related to different drug classes with other entities;

(2) shall be limited to a time period expressly determined by the commission; and

(3) may only cover products that have received approval by the Federal Drug Administration at the time of the agreement, and new products approved after the agreement may be incorporated only under an amendment to the agreement.

(h) For the purposes of this section, the commission may consider a monetary contribution or donation to the arrangements described in subsection (b) for the purpose of offsetting expenditures to other state healthcare programs, but which funding shall not be used to offset expenditures for covered outpatient drugs as defined by 42 USC Section 1396(k)(5) under the vendor drug program. An arrangement under this subsection may not yield less than the amount the state would have benefitted under a supplemental rebate. The commission may consider an arrangement under this section as satisfying the requirements related to Section 531.072(b)."