Substitute the following for Amendment No. 9 by Wohlgemuth:

Section 2.09. On page 66, between lines 12 and 13, add new subsections (b), (c), (d), (e), and (f) to read as follows and reletter accordingly:

(b) 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.

(c) 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 cash supplemental rebate during the current biennium;

2) the manufacturer annually guarantees and posts a performance bond in the amount of the anticipated savings, as described in subdivision (1), prior to entering into the agreement, with a guarantee that the manufacturer will forfeit the bond to the state if the anticipated savings are not achieved for that year; 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.

(d) For the purposes of this section, a program benefit means is a disease management programs authorized under this title, a 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.

(e) 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.

(f) 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;

(3) shall be determined by the commission to provide anticipated savings to the state in an amount at least equal to the amount the manufacturer would have provided under a cash supplemental rebate during the current biennium;

(4) 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."

Amend proposed **CSHB 2292**, in Section 2.09 of the bill, in proposed Sec. 531.070, Government Code by adding a new subsection (3) on page 67, line 11 to read as follows:

(3) Other program benefits as specified in subsection (b).

Amend proposed **CSHB 2292**, in Section 2.11 of the bill, in proposed Sec. 531.072, Government Code by adding a new subsection (4) on page 69, line 3 to read as follows:

(4) "Program benefit offerings solely or in conjunction with rebates and other pricing information."

Amend proposed **CSHB 2292**, in Section 2.13 of the bill, in proposed Sec. 531.074(h), Government Code on page 73, line 4, by striking "~~of~~" and inserting the following between "cost-effectiveness" and "a":

"and any program benefit associated with"