

**First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO**

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 21-0210.01 Jason Gelender x4330

**HOUSE BILL 21-1237**

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**A BILL FOR AN ACT**

101 **CONCERNING THE CREATION OF A COMPETITIVE PHARMACY BENEFITS**  
102 **MANAGER MARKETPLACE.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The department of personnel (department) is required to contract for the services of a pharmacy benefit manager (PBM) for group benefit plans provided pursuant to the "State Employees Group Benefits Act" (state employee group benefits plans) and to procure a technology platform with the required capabilities for conducting a PBM reverse auction and the related services of a technology platform operator.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

SENATE  
3rd Reading Unamended  
May 18, 2021

SENATE  
2nd Reading Unamended  
May 17, 2021

HOUSE  
3rd Reading Unamended  
May 4, 2021

HOUSE  
Amended 2nd Reading  
April 30, 2021

The department is required to repurpose the technology platform used to conduct the reverse auction over the duration of the PBM services contract to perform reviews of all invoiced PBM prescription drug claims, and to identify all deviations from the specific terms of the PBM services contract. The department is required to reconcile the electronically adjudicated pharmacy claims with PBM invoices to ensure that state payments do not exceed the terms specified in any PBM services contract.

Each PBM reverse auction is required to be completed and the PBM services contract awarded to the winning PBM within a specified timeline.

The department may perform a market check for providing PBM services during the term of the current PBM services contract to ensure continuing competitiveness of incumbent prescription drug pricing over the life of a PBM services contract.

To ensure that the department does not incur additional expenditures associated with the requirements of the bill, the department is required to implement a no-pay option that obligates the winning PBM to pay the cost of the technology platform and related technology platform operator services by assessing a per-prescription fee and requiring the PBM to pay these fees to the technology operator over the duration of the PBM services contract.

The bill allows other health plans to use the processes and procedures established in the bill individually, collectively, or as a joint purchasing group with the state employee group benefits plans.

After completion of the first state employees group benefits plans PBM reverse auction, self-funded private sector employer or multi-employer health plans have the option to participate in a joint purchasing pool with state employees for conduct of subsequent PBM reverse auctions.

The state employees group benefits plans and any self-funded public or private sector health plans that opt to participate with the state employees group benefits plans in a joint PBM reverse auction purchasing pool shall retain full autonomy over determination of their respective prescription drug formularies and pharmacy benefit designs and shall not be required to adopt a common prescription drug formulary or common prescription pharmacy benefit design.

Any PBM providing services to the department or a self-funded public or private sector employee health plan is required to provide the department and the plan access to complete pharmacy claims data necessary to conduct the reverse auction and carry out their administrative and management duties.

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1 *Be it enacted by the General Assembly of the State of Colorado:*



1 (3) "GNC" MEANS GUARANTEED NET COST.

2 (4) "MARKET CHECK" MEANS A TECHNOLOGY-DRIVEN  
3 EVALUATION OF AN INCUMBENT PBM'S PRESCRIPTION DRUG PRICING  
4 BASED ON BENCHMARK COMPARATORS DERIVED FROM PBM REVERSE  
5 AUCTION PROCESSES CONDUCTED IN THE UNITED STATES OVER THE  
6 PREVIOUS TWELVE MONTHS.

7 (5) "NADAC" MEANS NATIONAL AVERAGE DRUG ACQUISITION  
8 COST.

9 (6) "NIST" MEANS NATIONAL INSTITUTE OF STANDARDS AND  
10 TECHNOLOGY.

11 (7) "PARTICIPANT BIDDING AGREEMENT" MEANS AN ONLINE  
12 AGREEMENT THAT DETAILS COMMON DEFINITIONS, PRESCRIPTION DRUG  
13 CLASSIFICATIONS, RULES, DATA ACCESS AND USE RIGHTS, AND OTHER  
14 OPTIMAL CONTRACT TERMS BENEFITTING THE STATE THAT ALL PBM  
15 BIDDERS MUST ACCEPT AS A PREREQUISITE FOR PARTICIPATION IN A PBM  
16 REVERSE AUCTION.

17 (8) "PHARMACY BENEFIT MANAGER" OR "PBM" MEANS A PERSON,  
18 BUSINESS, OR OTHER ENTITY THAT, PURSUANT TO A CONTRACT WITH A  
19 HEALTH CARE SERVICE PLAN, MANAGES, IN WHOLE OR THROUGH A  
20 COORDINATION OF SERVICE PROVIDERS, THE PRESCRIPTION DRUG  
21 COVERAGE PROVIDED BY THE HEALTH CARE SERVICE PLAN, INCLUDING,  
22 BUT NOT LIMITED TO, THE PROCESSING AND PAYMENT OF CLAIMS FOR  
23 PRESCRIPTION DRUGS, THE PERFORMANCE OF DRUG UTILIZATION REVIEW,  
24 THE PROCESSING OF PRIOR AUTHORIZATION REQUESTS FOR SPECIFIED  
25 DRUGS, THE ADJUDICATION OF APPEALS OR GRIEVANCES RELATED TO  
26 PRESCRIPTION DRUG COVERAGE, CONTRACTING WITH NETWORK  
27 PHARMACIES, AND CONTROLLING THE COST OF COVERED PRESCRIPTION

1 DRUGS.

2 (9) "PBM REVERSE AUCTION" MEANS AN AUTOMATED,  
3 TRANSPARENT, AND DYNAMICALLY COMPETITIVE BIDDING PROCESS  
4 CONDUCTED ONLINE THAT STARTS WITH AN OPENING ROUND OF BIDS AND  
5 ALLOWS QUALIFIED PBM BIDDERS TO COUNTER-OFFER A LOWER PRICE FOR  
6 AS MANY ROUNDS OF BIDDING AS DETERMINED BY THE DEPARTMENT FOR  
7 A MULTIPLE HEALTH PLAN PRESCRIPTION DRUG PURCHASING GROUP.

8 (10) "PRICE" MEANS THE PROJECTED COST OF A PBM OFFER OR BID  
9 FOR PROVIDING PRESCRIPTION DRUG BENEFITS PURSUANT TO THIS PART 12,  
10 TO ENABLE DIRECT COMPARISON OF THE COMPARABLY CALCULATED COSTS  
11 OF COMPETING PBM PROPOSALS OVER THE DURATION OF THE PBM  
12 SERVICES CONTRACT.

13 (11) "REAL-TIME" MEANS WITHIN NO MORE THAN ONE HOUR.

14 (12) "SELF-FUNDED PRIVATE SECTOR HEALTH PLAN" MEANS ANY  
15 SELF-FUNDED PRIVATE SECTOR EMPLOYER OR MULTI-EMPLOYER HEALTH  
16 PLAN.

17 (13) "SELF-FUNDED PUBLIC SECTOR HEALTH PLAN" MEANS ANY  
18 GROUP BENEFIT PLAN PROVIDED PURSUANT TO THE "STATE EMPLOYEES  
19 GROUP BENEFITS ACT", PART 6 OF THIS ARTICLE 50; ANY STATE-FUNDED  
20 HEALTH PLAN OR SELF-FUNDED COUNTY, MUNICIPAL, OR OTHER LOCAL  
21 GOVERNMENT EMPLOYEE HEALTH PLAN; AND ANY PUBLIC SCHOOL  
22 EMPLOYEE HEALTH PLAN, HEALTH PLAN OF THE UNIVERSITY OF  
23 COLORADO, COLORADO PUBLIC FOUR-YEAR COLLEGE, OR COLORADO  
24 COMMUNITY COLLEGE SYSTEM.

25 (14) "SOC 2" MEANS SERVICE ORGANIZATION CONTROL 2.

26 **24-50-1204. Competitive pharmacy benefit manager - contract**  
27 **- requirements.** (1) CONSISTENT WITH THE "PROCUREMENT CODE",

1 ARTICLES 101 TO 112 OF THIS TITLE 24, AND NOTWITHSTANDING ANY  
2 OTHER PROVISION OF LAW, THE DEPARTMENT SHALL ENTER INTO A  
3 CONTRACT FOR THE SERVICES OF A PHARMACY BENEFIT MANAGER FOR THE  
4 ADMINISTRATION OF BENEFITS UNDER THE "STATE EMPLOYEES GROUP  
5 BENEFITS ACT", PART 6 OF THIS ARTICLE 50, IN A TRANSPARENT, ONLINE,  
6 AND DYNAMICALLY COMPETITIVE PROCESS AND IN THE MANNER SPECIFIED  
7 IN THIS SECTION.

8 (2) PRIOR TO NOVEMBER 1, 2022, THE DEPARTMENT SHALL  
9 PROCURE, THROUGH THE SOLICITATION OF PROPOSALS FROM QUALIFIED  
10 PROFESSIONAL SERVICES VENDORS, THE FOLLOWING PRODUCTS AND  
11 SERVICES BASED ON PRICE, CAPABILITIES, AND OTHER FACTORS DEEMED  
12 RELEVANT BY THE DEPARTMENT:

13 (a) A TECHNOLOGY PLATFORM WITH THE REQUIRED CAPABILITIES  
14 FOR CONDUCTING A PBM REVERSE AUCTION. THE DEPARTMENT SHALL  
15 ENSURE THAT THE TECHNOLOGY PLATFORM POSSESSES, AT A MINIMUM,  
16 THE CAPACITY TO:

17 (I) CONDUCT AN AUTOMATED, ONLINE, REVERSE AUCTION OF PBM  
18 SERVICES USING A SOFTWARE APPLICATION AND HIGH-PERFORMANCE  
19 DATA INFRASTRUCTURE TO INTAKE, CLEANSE, AND NORMALIZE PBM DATA  
20 WITH DEVELOPMENT METHODS AND INFORMATION SECURITY STANDARDS  
21 THAT HAVE BEEN VALIDATED BY RECEIVING SOC 2 AND NIST  
22 CERTIFICATION OR SUCCESSOR INFORMATION TECHNOLOGY SECURITY  
23 CERTIFICATIONS, AS IDENTIFIED BY THE OFFICE OF INFORMATION  
24 TECHNOLOGY;

25 (II) AUTOMATE REPRICING OF DIVERSE AND COMPLEX PBM  
26 PRESCRIPTION DRUG PRICING PROPOSALS TO ENABLE DIRECT COMPARISON  
27 OF THE COMPARABLY CALCULATED COSTS TO THE STATE OF PBM BIDS

1 USING ONE HUNDRED PERCENT OF ANNUAL PRESCRIPTION DRUG CLAIMS  
2 DATA AVAILABLE FOR STATE-FUNDED HEALTH PLANS OR A MULTIPLE  
3 HEALTH PLAN PRESCRIPTION DRUG PURCHASING GROUP AND USING  
4 CODE-BASED CLASSIFICATION OF DRUGS FROM NATIONALLY ACCEPTED  
5 DRUG SOURCES;

6 (III) SIMULTANEOUSLY EVALUATE, IN REAL-TIME, DIVERSE AND  
7 COMPLEX MULTIPLE PROPOSALS FROM FULL SERVICE PBMs, INCLUDING  
8 AWP, GNC, AND NADAC PRICING MODELS, AS WELL AS PROPOSALS  
9 FROM PHARMACY BENEFIT ADMINISTRATORS AND SPECIALTY DRUG AND  
10 REBATE CARVE OUT SERVICE PROVIDERS;

11 (IV) PRODUCE AN AUTOMATED REPORT AND ANALYSIS OF PBM  
12 BIDS, INCLUDING THE RANKING OF PBM BIDS BASED ON THE COMPARATIVE  
13 COSTS AND QUALITATIVE ASPECTS OF THE BIDS WITHIN A ONE-HOUR  
14 PERIOD FOLLOWING THE CLOSE OF EACH ROUND OF REVERSE AUCTION  
15 BIDDING; AND

16 (V) PERFORM REAL-TIME, ELECTRONIC, LINE-BY-LINE,  
17 CLAIM-BY-CLAIM REVIEW OF ONE HUNDRED PERCENT OF INVOICED PBM  
18 PRESCRIPTION DRUG CLAIMS, AND IDENTIFY ALL DEVIATIONS FROM THE  
19 SPECIFIC TERMS OF THE PBM SERVICES CONTRACT RESULTING FROM THE  
20 RESERVE AUCTION PROCESS; AND

21 (b) RELATED SERVICES FROM THE OPERATOR OF THE TECHNOLOGY  
22 PLATFORM IDENTIFIED IN SUBSECTION (2)(a) OF THIS SECTION, WHICH  
23 SHALL INCLUDE, AT A MINIMUM:

24 (I) EVALUATION OF THE QUALIFICATIONS OF PBM BIDDERS;

25 (II) ONLINE AUTOMATED REVERSE AUCTION SERVICES TO SUPPORT  
26 THE DEPARTMENT IN COMPARING THE PRICING FOR THE PBM  
27 PROCUREMENT; AND

1 (III) RELATED PROFESSIONAL SERVICES.

2

3 (3) THE DEPARTMENT SHALL NOT AWARD A CONTRACT FOR  
4 PROCUREMENT OF THE TECHNOLOGY PLATFORM AND TECHNOLOGY  
5 OPERATOR SERVICES TO A VENDOR THAT IS A PBM OR A VENDOR THAT IS  
6 MANAGED BY OR A SUBSIDIARY OR AFFILIATE OF A PBM.

7 (4) THE VENDOR AWARDED THE CONTRACT BY THE DEPARTMENT  
8 SHALL NOT OUTSOURCE ANY PART OF THE PBM REVERSE AUCTION OR THE  
9 AUTOMATED, REAL-TIME, ELECTRONIC, LINE-BY-LINE, CLAIM-BY-CLAIM  
10 REVIEW OF INVOICED PBM PRESCRIPTION DRUG CLAIMS.

11 (5) WITH TECHNICAL ASSISTANCE AND SUPPORT PROVIDED BY THE  
12 TECHNOLOGY PLATFORM OPERATOR, THE DEPARTMENT SHALL SPECIFY THE  
13 TERMS OF THE PARTICIPANT BIDDING AGREEMENT. THE TERMS OF THE  
14 PARTICIPANT BIDDING AGREEMENT SHALL NOT BE MODIFIED EXCEPT BY  
15 SPECIFIC CONSENT OF THE DEPARTMENT.

16 (6) (a) THE TECHNOLOGY PLATFORM USED TO CONDUCT THE  
17 REVERSE AUCTION SHALL BE REPURPOSED OVER THE DURATION OF THE  
18 PBM SERVICES CONTRACT AS AN AUTOMATED PHARMACY CLAIMS  
19 ADJUDICATION ENGINE TO PERFORM REAL-TIME, ELECTRONIC,  
20 LINE-BY-LINE, CLAIM-BY-CLAIM REVIEW OF ONE HUNDRED PERCENT OF  
21 INVOICED PBM PRESCRIPTION DRUG CLAIMS, AND IDENTIFY ALL  
22 DEVIATIONS FROM THE SPECIFIC TERMS OF THE PBM SERVICES CONTRACT.

23 (b) THE DEPARTMENT SHALL RECONCILE THE ELECTRONICALLY  
24 ADJUDICATED PHARMACY CLAIMS, AS DESCRIBED IN SUBSECTION (6)(a) OF  
25 THIS SECTION, WITH PBM INVOICES ON A MONTHLY OR QUARTERLY BASIS  
26 TO ENSURE THAT STATE PAYMENTS SHALL NOT EXCEED THE TERMS  
27 SPECIFIED IN ANY PBM SERVICES CONTRACT.



1 (c) IF FOLLOWING STATE PAYMENT TO THE PBM ON THE BASIS OF  
2 SUCH RECONCILIATION, THE PBM ASSERTS THAT THE DEPARTMENT OR ITS  
3 AUTHORIZED REPRESENTATIVE HAS UNDERPAID ON THE AMOUNT OWED,  
4 THE PBM MAY SEEK RESOLUTION THROUGH A MUTUALLY ACCEPTABLE  
5 DISPUTE RESOLUTION PROCESS, WHICH THE PARTIES SHALL HAVE AGREED  
6 TO PREVIOUSLY IN THE TERMS OF THEIR CONTRACT.

7 (7) (a) THE FIRST PBM REVERSE AUCTION SHALL BE COMPLETED  
8 AND THE PBM SERVICES CONTRACT SHALL BE AWARDED TO THE WINNING  
9 PBM WITH AN EFFECTIVE DATE OF JULY 1, 2023. SUBSEQUENT  
10 CONTRACTS MUST BE AWARDED NO LATER THAN THREE MONTHS PRIOR TO  
11 TERMINATION OR EXPIRATION OF THE CURRENT PBM SERVICES CONTRACT  
12 FOR A COVERED GROUP, SUCH AS THE STATE EMPLOYEES BENEFITS GROUP,  
13 THAT INCLUDES ONLY ACTIVE EMPLOYEES AND DEPENDENTS, BUT DOES  
14 NOT INCLUDE RETIREE PARTICIPANTS IN A MEDICARE PART D EMPLOYER  
15 GROUP WAIVER PROGRAM PURSUANT TO THE "MEDICARE PRESCRIPTION  
16 DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003", PUB.L.  
17 108-173.

18 (b) IN THE EVENT AN ELIGIBLE COVERED GROUP THAT INCLUDES  
19 RETIREE PARTICIPANTS IN A PART D EMPLOYER GROUP WAIVER PROGRAM  
20 PURSUANT TO THE "MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND  
21 MODERNIZATION ACT OF 2003", PUB.L. 108-173, OPTS TO USE THE  
22 PROCESSES AND PROCEDURES SET FORTH IN THIS PART 12, THE RELEVANT  
23 PBM REVERSE AUCTION SHALL BE COMPLETED AND THE PBM SERVICES  
24 CONTRACT SHALL BE AWARDED TO THE WINNING PBM NO LATER THAN SIX  
25 MONTHS PRIOR TO TERMINATION OR EXPIRATION OF THE PBM SERVICES  
26 CONTRACT CURRENTLY COVERING THE RETIREE EMPLOYER GROUP WAIVER  
27 PROGRAM PARTICIPANTS.

1           (8) THE DEPARTMENT MAY PERFORM A MARKET CHECK FOR  
2 PROVIDING PBM SERVICES DURING THE TERM OF THE CURRENT PBM  
3 SERVICES CONTRACT, WHICH SHALL BE A TECHNOLOGY-DRIVEN  
4 EVALUATION OF THE INCUMBENT PBM'S PRESCRIPTION DRUG PRICING  
5 BASED ON BENCHMARK COMPARATORS DERIVED FROM PBM REVERSE  
6 AUCTION PROCESSES CONDUCTED IN THE UNITED STATES OVER THE  
7 PREVIOUS TWELVE MONTHS IN ORDER TO ENSURE CONTINUING  
8 COMPETITIVENESS OF INCUMBENT PRESCRIPTION DRUG PRICING OVER THE  
9 LIFE OF A PBM SERVICES CONTRACT.

10           (9) TO ENSURE THAT THE DEPARTMENT DOES NOT INCUR  
11 ADDITIONAL EXPENDITURES ASSOCIATED WITH CONDUCT OF THE PBM  
12 REVERSE AUCTION, ONGOING ELECTRONIC REVIEW AND VALIDATIONS OF  
13 PBM CLAIMS, AND OPTIONAL PERIODIC MARKET CHECKS, THE  
14 DEPARTMENT SHALL IMPLEMENT A NO-PAY OPTION THAT OBLIGATES THE  
15 WINNING PBM, RATHER THAN THE STATE, TO PAY THE COST OF THE  
16 TECHNOLOGY PLATFORM AND RELATED TECHNOLOGY PLATFORM  
17 OPERATOR SERVICES BY ASSESSING THE PBM A PER-PRESCRIPTION FEE IN  
18 AN AMOUNT AGREED TO BY THE DEPARTMENT AND THE TECHNOLOGY  
19 OPERATOR AND REQUIRING THE PBM TO PAY THESE FEES TO THE  
20 TECHNOLOGY OPERATOR OVER THE DURATION OF THE PBM SERVICES  
21 CONTRACT. THE OBLIGATION OF THE WINNING PBM TO PAY THE  
22 PER-PRESCRIPTION FEES SHALL BE INCORPORATED AS A TERM OF THE  
23 PARTICIPANT BIDDING AGREEMENT AND THE PBM SERVICES CONTRACT  
24 AWARDED TO THE PBM REVERSE AUCTION WINNER.

25           (10)(a) THE PROCESSES AND PROCEDURES SET FORTH IN THIS PART  
26 12 APPLY TO GROUP BENEFIT PLANS PROVIDED PURSUANT TO THE "STATE  
27 EMPLOYEES GROUP BENEFITS ACT", PART 6 OF THIS ARTICLE 50. THIS

1 PART 12 SHALL NOT APPLY IN THE CASE OF A NONPROFIT,  
2 NONGOVERNMENTAL HEALTH MAINTENANCE ORGANIZATION WITH  
3 RESPECT TO MANAGED CARE PLANS THAT PROVIDE A MAJORITY OF  
4 COVERED PROFESSIONAL SERVICES THROUGH A SINGLE CONTRACTED  
5 MEDICAL GROUP.

6 (b) ANY OTHER SELF-FUNDED PUBLIC SECTOR HEALTH PLAN MAY  
7 USE THE PROCESSES AND PROCEDURES SET FORTH IN THIS PART 12  
8 INDIVIDUALLY, COLLECTIVELY, OR AS A JOINT PURCHASING GROUP WITH  
9 THE GROUP BENEFIT PLANS PROVIDED PURSUANT TO THE "STATE  
10 EMPLOYEES GROUP BENEFITS ACT", PART 6 OF THIS ARTICLE 50.

11 (c) (I) AFTER COMPLETION OF THE FIRST PBM REVERSE AUCTION,  
12 SELF-FUNDED PRIVATE SECTOR HEALTH PLANS WITH SUBSTANTIAL  
13 PARTICIPATION BY COLORADO EMPLOYEES AND THEIR DEPENDENTS SHALL  
14 HAVE THE OPTION TO PARTICIPATE IN A JOINT PURCHASING POOL WITH  
15 STATE EMPLOYEES FOR SUBSEQUENT PBM REVERSE AUCTIONS.

16 (II) THE GROUP BENEFIT PLANS PROVIDED PURSUANT TO THE  
17 "STATE EMPLOYEES GROUP BENEFITS ACT", PART 6 OF THIS ARTICLE 50,  
18 AND ANY SELF-FUNDED PUBLIC SECTOR HEALTH PLANS OR SELF-FUNDED  
19 PRIVATE SECTOR HEALTH PLANS THAT OPT TO PARTICIPATE WITH THE  
20 STATE EMPLOYEES GROUP BENEFITS PLAN IN A JOINT PBM REVERSE  
21 AUCTION PURCHASING POOL SHALL RETAIN FULL AUTONOMY OVER  
22 DETERMINATION OF THEIR RESPECTIVE PRESCRIPTION DRUG FORMULARIES  
23 AND PHARMACY BENEFIT DESIGNS AND SHALL NOT BE REQUIRED TO ADOPT  
24 A COMMON PRESCRIPTION DRUG FORMULARY OR COMMON PRESCRIPTION  
25 PHARMACY BENEFIT DESIGN. ANY SUCH ENTITY OR PURCHASING GROUP  
26 SHALL AGREE, BEFORE PARTICIPATING IN THE PBM REVERSE AUCTION, TO  
27 ACCEPT THE PRESCRIPTION DRUG PRICING PLAN THAT IS SELECTED

1 THROUGH THE PBM REVERSE AUCTION PROCESS.

2 (III) ANY PBM PROVIDING SERVICES TO THE DEPARTMENT, TO  
3 SELF-FUNDED PUBLIC SECTOR HEALTH PLANS, OR TO SELF-FUNDED  
4 PRIVATE SECTOR HEALTH PLANS AS DESCRIBED IN THIS SECTION SHALL  
5 PROVIDE THE DEPARTMENT AND THE PLAN ACCESS TO COMPLETE  
6 PHARMACY CLAIMS DATA NECESSARY TO CONDUCT THE REVERSE AUCTION  
7 AND CARRY OUT THEIR ADMINISTRATIVE AND MANAGEMENT DUTIES.

8 (11) NOTWITHSTANDING SECTION 24-50-1204 (1), THE  
9 DEPARTMENT MAY ELECT TO VACATE THE OUTCOME OF A PBM REVERSE  
10 AUCTION IF THE LOWEST COST PBM BID IS NOT LESS THAN THE PROJECTED  
11 COST TREND FOR THE INCUMBENT PBM CONTRACT AS VERIFIED BY THE  
12 DEPARTMENT. THE DEPARTMENT MAY UTILIZE A CONSULTANT TO MAKE  
13 THE VERIFICATION. THE COST TREND SHALL BE PROJECTED BY THE  
14 TECHNOLOGY PLATFORM OPERATOR USING INDUSTRY-RECOGNIZED DATA  
15 SOURCES AND IS SUBJECT TO REVIEW AND APPROVAL BY THE DEPARTMENT  
16 IN ADVANCE OF THE REVERSE AUCTION. METHODOLOGY MUST BE APPLIED  
17 CONSISTENTLY IN PROJECTION OF COST AND SAVINGS TO THE STATE WITH  
18 REGARD TO THE INCUMBENT PBM CONTRACT AND COMPETING PBM  
19 REVERSE AUCTION BIDS.

20 **SECTION 2. Safety clause.** The general assembly hereby finds,  
21 determines, and declares that this act is necessary for the immediate  
22 preservation of the public peace, health, or safety.