To amend and reenact R.S. 38:2271(A)(1) and (2)(b) and the introductory paragraph of 2271(C) and R.S. 39:1556(10)(a) and (50), 1600(D)(1) and (3), 1621(B), and 1648(C), and to enact R.S. 39:1600.1, R.S. 42:802(B)(12), and R.S. 46:450.7(C), relative to state procurement through the reverse auction process; to provide for the use of reverse auction technology in the procurement of consulting services by state and local governments; to provide for the definition of consulting service; to provide for the procurement of pharmacy benefit manager services through reverse auction; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 38:2271(A)(1) and (2)(b) and the introductory paragraph of 2271(C) are hereby amended and reenacted to read as follows:

§2271. Purchase of materials, supplies, or equipment, or consulting services by certain political subdivisions using certain auction methods

A.(1) The bidding provisions of this Chapter shall not apply when a political subdivision purchases materials, supplies, or equipment, or consulting services using a reverse auction as authorized by, and in the manner provided in, this Part. A political subdivision may use reverse auction only with the determination by its procurement officer that the best interests of the political subdivision would be served and that electronic online bidding is more advantageous than other procurement methods provided in this Chapter.

(2) For the purposes of this Part:
(b) "Reverse auction" means a competitive online solicitation process on the Internet for equipment, supplies, and other materials or consulting services in which vendors compete against each other online in real time in an open and interactive environment.

C. Adequate public notice for the purchases of materials, supplies, or equipment, or consulting services by a political subdivision using a reverse auction shall be given as follows:

Section 2. R.S. 39:1556(10)(a) and (50), 1600(D)(1) and (3), 1621(B), and 1648(C) are hereby amended and reenacted and R.S. 39:1600.1 is hereby enacted to read as follows: §1556. Definitions

As used in this Chapter, the words defined in this Section shall have the meanings set forth below, unless the context in which they are used clearly requires a different meaning or a different definition is prescribed for a particular Part or provision:

(10)(a) "Consulting service" means work, other than professional, personal, or social service, rendered by either individuals or firms who possess specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis, or advice in formulating or implementing programs or services, or improvements in programs or services, including but not limited to such areas as management, personnel, finance, accounting, planning, information technology, pharmacy benefit managers, and advertising contracts, except for printing associated therewith.

(50) "Reverse auction" means a competitive online solicitation process on the Internet for materials, supplies, services, products, or consulting services in which vendors compete against each other online in real time in an open
§1600. Other procurement methods

D. Reverse auction.

(1) Notwithstanding the provisions of Subpart A of this Part, with the approval of the state chief procurement officer that the best interests of the state would be served, a reverse auction may be utilized for the acquisition of materials, supplies, services of any type, products, or equipment, or consulting services of any monetary amount, including small purchases.

(3) Adequate public notice for the purchase of materials, supplies, services, or equipment, or consulting services using a reverse auction shall be given. The advertisement or notice shall conform to the requirements for public notice of sealed bidding or small purchases as applicable, pursuant respectively to R.S. 39:1594 or 1596, such that the extent, timing, location, form, and duration of public notice activities for the reverse auction process shall be fully consistent with the public notice activities required for a sealed bid or small purchase of equivalent value.

§1600.1. Procurement of pharmacy benefit manager services by reverse auction

A. This Section shall be known and may be cited as the "Louisiana Competitive Pharmacy Benefit Managers Marketplace Act".

B. The legislature finds and declares that it is the intent of this Section to optimize prescription drug savings by the state through:

(1) Development of a dynamically competitive reverse auction process for state health plan selection of pharmacy benefit managers.

(2) Electronic review and validation of pharmacy benefit manager claims as the foundation for reconciling pharmacy bills.

(3) Technology-driven evaluation of incumbent pharmacy benefit manager prescription drug pricing based on benchmark comparatives derived
from pharmacy benefit manager reverse auction processes conducted in the

United States over the previous twelve months.

C. For purposes of this Section, the following definitions shall apply:

(1) "AWP" means average wholesale price.

(2) "GNC" means guaranteed net cost.

(3) "NADAC" means national average drug acquisition cost.

(4) "NIST" means national institute of standards and technology.

(5) "Participant bidding agreement" means an online agreement that
details common definitions, prescription drug classifications, rules, data access
and use rights, and other optimal contract terms benefiting the state that all
pharmacy benefit manager bidders must accept as a prerequisite for
participation in a pharmacy benefit manager reverse auction.

(6) "Pharmacy benefit manager" or "PBM" means any person or
business who administers the prescription drug or device program of one or
more health plans on behalf of a third party in accordance with a pharmacy
benefit program. This term includes any agent or representative of a pharmacy
benefit manager hired or contracted by the pharmacy benefit manager to assist
in the administering of the drug program and any wholly or partially owned or
controlled subsidiary of a pharmacy benefit manager.

(7) "PBM reverse auction" means an automated, transparent, and
dynamically competitive bidding process conducted online that starts with an
opening round of bids and allows qualified pharmacy benefit manager bidders
to counter-offer a lower price for as many rounds of bidding as determined by
the purchaser for a multiple health plan prescription drug purchasing group.
Except to the extent clearly provided by this Section, any pharmacy benefit
manager reverse auction shall be conducted in accordance with R.S. 39:1600(D)
and its corresponding regulations.

(8) "Price" means the projected cost of a pharmacy benefit manager's
offer or bid for providing prescription drug benefits pursuant to this Section,
to enable direct comparison of the comparably calculated costs of competing
pharmacy benefit manager proposals over the duration of the pharmacy benefit manager services contract.

(9) "Real-time" means within no more than one hour.

(10) "Self-funded private sector health plan" means any self-funded private sector employer or multi-employer health plan.

(11) "Self-funded public sector health plan" means any group benefit plan provided pursuant to R.S. 42:801 et seq., any state-funded health plan or self-funded parish, municipal, or other local government employee health plan, and any public school employee health plan, health plan of the Louisiana State University System, any Louisiana public four-year college, or any Louisiana community college system.

(12) "Soc 2" means service organization control 2.

D. Contracts for pharmacy benefit manager services obtained through reverse auction shall comply with the following:

(1) Notwithstanding any provision of law to the contrary, the division of administration may procure the services of a pharmacy benefit manager for the administration of benefits under R.S. 42:801 et seq., in a transparent, online, and dynamically competitive process and in the manner specified in this Section.

(2) The division of administration may procure the following products and services as needed to implement this Section in accordance with this Chapter.

(a) A technology platform with required capabilities for conducting a PBM reverse auction that shall, at a minimum, possess the capacity to:

(i) Conduct an automated, online, reverse auction of PBM services using a software application and high-performance data infrastructure to intake, cleanse, and normalize PBM data with development methods and information security standards that have been validated by receiving Soc 2 and NIST certification.

(ii) Automate repricing of diverse and complex PBM prescription drug coding.
pricing proposals to enable direct comparison of the comparably calculated
costs to the state of PBM bids using one hundred percent of annual prescription
drug claims data available for state-funded health plans or a multiple health
plan prescription drug purchasing group and using code-based classification of
drugs from nationally accepted drug sources.

(iii) Simultaneously evaluate, in real-time, diverse and complex multiple
proposals from full service PBMs, including AWP, GNC, and NADAC pricing
models, as well as proposals from pharmacy benefit administrators and
specialty drug and rebate carve out service providers.

(iv) Produce an automated report and analysis of PBM bids, including
the ranking of PBM bids based on the comparative costs and qualitative aspects
of the bids within a one-hour period following the close of each round of reverse
auction bidding.

(v) Perform real-time, electronic, line-by-line, claim-by-claim review of
one hundred percent of invoiced PBM prescription drug claims, and identify all
deviations from the specific terms of the PBM services contract resulting from
the reserve auction process.

(b) Related services from the provider of the technology platform
identified in Subparagraph (a) of this Paragraph, which shall include, at a
minimum, the following capabilities:

(i) Evaluation of the qualifications of PBM bidders.

(ii) Online automated reverse auction services to support the division of
administration in comparing the pricing for the PBM procurement.

(iii) Related professional services as necessary.

(3) If the division of administration exercises the authority provided for
in this Section, it shall procure the technology platform and related technology
provider no later than four months in advance of the date scheduled for
completion of the PBM reverse auction.

(4) The division of administration shall not award a contract for
procurement of the technology platform and technology provider services to a
vendor that is a PBM or a vendor that is managed by or a subsidiary or affiliate
of a PBM.

(5) The vendor awarded the contract by the division of administration
shall not outsource any part of the PBM reverse auction or the automated,
real-time, electronic, line-by-line, claim-by-claim review of invoiced PBM
prescription drug claims.

(6) With technical assistance and support provided by the technology
platform provider, the division of administration shall specify the terms of the
participant bidding agreement which shall not be modified except by specific
consent of the division of administration.

(7)(a) The technology platform used to conduct the reverse auction shall
be repurposed over the duration of the PBM services contract as an automated
pharmacy claims adjudication engine to perform real-time, electronic,
line-by-line, claim-by-claim review of one hundred percent of invoiced PBM
prescription drug claims, and identify all deviations from the specific terms of
the PBM services contract.

(b) The division of administration shall reconcile the electronically
adjudicated pharmacy claims, as described in Subparagraph (a) of this
Paragraph, with PBM invoices on a monthly or quarterly basis to ensure that
state payments shall not exceed the terms specified in any PBM services
contract.

(c) If, following state payment to the PBM on the basis of such
reconciliation, the PBM asserts that the division of administration has
underpaid on the amount owed, the PBM may seek resolution through a
mutually acceptable dispute resolution process, which the parties shall have
agreed to previously in the terms of their contract.

(8) Each PBM reverse auction shall be scheduled to be completed and the
PBM services contract shall be scheduled to be awarded to the winning PBM no
later than six months prior to termination or expiration of the existing PBM
services contract. The Joint Legislative Committee on the Budget shall be given
notice of the dates of the PBM reverse auction and the termination of the existing PBM services contract. This Paragraph shall not be construed to alter the effect of Part 6 of this Chapter.

(9) The division of administration may perform a market check for providing PBM services during the term of the existing PBM services contract, which shall be a technology-driven evaluation of the incumbent PBM's prescription drug pricing based on benchmark comparators derived from PBM reverse auction processes conducted in the United States over the previous twelve months in order to ensure continuing competitiveness of incumbent prescription drug pricing over the life of a PBM services contract.

(10) The division of administration shall implement a no-pay option that obligates the winning PBM, rather than the state, to pay the cost of the technology platform and related technology platform provider services by assessing the PBM a per-prescription fee in an amount agreed to by the division of administration and the technology provider and requiring the PBM to pay these fees to the technology provider over the duration of the PBM services contract. The obligation of the winning PBM to pay the per-prescription fees would then be incorporated as a term of the participant bidding agreement and the PBM services contract awarded to the PBM reverse auction winner.

(11)(a) The processes and procedures set forth in this part apply to group benefit plans provided pursuant to R.S. 42:801 et seq., if the division of administration elects to exercise its authority to conduct a PBM reverse auction in accordance with this Section. This Section shall not apply in the case of a nonprofit, nongovernmental health maintenance organization with respect to managed care plans that provide a majority of covered professional services through a single contracted medical group.

(b) Any other self-funded public sector health plan may use the processes and procedures set forth in this Section individually, collectively, or as a joint purchasing group with the group benefit plans provided pursuant to R.S. 42:801 et seq.
(c)(i) After completion of the first PBM reverse auction, self-funded private sector health plans with substantial participation by Louisiana employees and their dependents shall have the option, upon approval by the division of administration, to participate in a joint purchasing pool with state employees for subsequent PBM reverse auctions in accordance with rules promulgated by the division of administration.

(ii) The group benefit plans provided pursuant to R.S. 42:801 et seq., and any self-funded public sector health plans or self-funded private sector health plans that opt to participate with the state employees group benefits plan 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 such entity or purchasing group shall agree, before participating in the PBM reverse auction, to accept the prescription drug pricing plan that is selected through the PBM reverse auction process.

(iii) Any PBM providing services to the division of administration, to self-funded public sector health plans, or to self-funded private sector health plans as described in this Section shall provide the division of administration and the plan access to complete pharmacy claims data necessary to conduct the reverse auction and carry out their administrative and management duties.

E. The Joint Legislative Committee on the Budget shall review and approve any proposed contract to implement the PBM reverse auction provided for in this Section.

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§1621. Consulting service contracts

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B. Contracts for consulting services which have a total maximum amount of compensation of seventy-five thousand dollars or more for a twelve-month period shall be awarded through a request for proposal or reverse auction process under
rules and regulations issued by the office of state procurement. Service requirements shall not be artificially divided so as to exempt contracts from the request for proposal process.

§1648. Medicaid contracts or subcontracts for pharmacy benefit manager services

C.(1) After August 1, 2018, any subsequent requests for proposal issued by the Louisiana Department of Health for Medicaid managed care organization services that include the provision of pharmacy or pharmacy benefit manager services shall include the provisions of Subsection A of this Section.

(2) The Louisiana Department of Health may procure and negotiate pharmacy benefit manager contracts through the use of a reverse auction pursuant to R.S. 39:1600(D), R.S. 39:1600.1, and the requirements of this Section.

(12) To procure and negotiate pharmacy benefit manager contracts through the use of a reverse auction pursuant to R.S. 39:1600(D) and R.S. 39:1600.1 when it has been determined by the division of administration to be in the best interest of the state.

C. The Louisiana Department of Health may procure and negotiate pharmacy benefit manager contracts through the use of a reverse auction

Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.
pursuant to R.S. 39:1600(D), R.S. 39:1600.1, and the requirements of this Section.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: ____________

Coding: Words which are struck through are deletions from existing law; words in boldface type and underscored are additions.