

COMMONWEALTH OF PENNSYLVANIA  
**Legislative Journal**

SUNDAY, JUNE 29, 2008

SESSION OF 2008 192ND OF THE GENERAL ASSEMBLY

No. 49

**SENATE**

SUNDAY, June 29, 2008

The Senate met at 5 p.m., Eastern Daylight Saving Time.

The PRESIDENT (Lieutenant Governor Catherine Baker Knoll) in the Chair.

**PRAYER**

The following prayer was offered by the Secretary of the Senate, Hon. MARK R. CORRIGAN:

Let us pray.

All glory and praise to You, dear Lord, for the beauty of this new day and this evening. We are thankful that our State is governed by those who have been elected by the people. To remember that, at this time, is especially fitting as they struggle with the budgetary issues at hand. As they individually and collectively seek to discharge their responsibilities, guide and direct them. In the decisions they will make on our behalf, open to them the inspiration of Your will, and by Your spirit, counsel them to accomplish goals which will be pleasing in Your sight. Amen.

**PLEDGE OF ALLEGIANCE**

(The Pledge of Allegiance was recited by those assembled.)

**HOUSE MESSAGES**

**HOUSE CONCURS IN SENATE BILLS**

The Clerk of the House of Representatives returned to the Senate **SB 1344**, **SB 1345**, **SB 1347**, **SB 1349** and **SB 1351**, with the information the House has passed the same without amendments.

**SENATE BILL RETURNED WITH AMENDMENT**

The Clerk of the House of Representatives returned to the Senate **SB 1348**, with the information the House has passed the same with amendment in which the concurrence of the Senate is requested.

The PRESIDENT. Pursuant to Senate Rule XIV, section 6, this bill will be referred to the Committee on Rules and Executive Nominations.

**HOUSE BILLS FOR CONCURRENCE**

The Clerk of the House of Representatives presented to the Senate the following bills for concurrence, which were referred to the committees indicated:

June 29, 2008

**HB 983** -- Committee on Local Government.

**HB 1086** -- Committee on Finance.

**HB 1596** and **2499** -- Committee on Consumer Protection and Professional Licensure.

**HB 1768** -- Committee on Labor and Industry.

**HB 2294** and **2580** -- Committee on Banking and Insurance.

**HB 2306**, **2483** and **2511** -- Committee on State Government.

**HB 2458** -- Committee on Appropriations.

**HB 2537** -- Committee on Communications and Technology.

**LEGISLATIVE LEAVES**

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Madam President, I request temporary Capitol leaves for Senator Punt, Senator Pippy, and Senator Gordner, and a legislative leave for Senator Tomlinson.

The PRESIDENT. Senator Pileggi requests temporary Capitol leaves for Senator Punt, Senator Pippy, and Senator Gordner, and a legislative leave for Senator Tomlinson.

The Chair recognizes the gentleman from Berks, Senator O'Pake.

Senator O'PAKE. Madam President, I request a legislative leave for Senator Connie Williams.

The PRESIDENT. Senator O'Pake requests a legislative leave for Senator Connie Williams.

Without objection, the leaves will be granted.

**CALENDAR**

**HB 1199 CALLED UP OUT OF ORDER**

**HB 1199 (Pr. No. 4033)** -- Without objection, the bill was called up out of order, from page 6 of the Second Consideration Calendar, by Senator PILEGGI, as a Special Order of Business.

**BILL REREFERRED**

**HB 1199 (Pr. No. 4033)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of October 10, 1975 (P.L.383, No.110), known as the Physical Therapy Practice Act, further providing for definitions, for State Board of Physical Therapy and its powers and duties, for training and license required and exceptions, for application for license, for qualifications for license and examinations, for renewal of license and for reporting of multiple licensure; providing for continuing education; further providing for practice of physical therapy, for physical therapy assistant, education and examination, scope of duties and registration and for supportive personnel; repealing provisions relating to Athletic Trainer Advisory Committee and certification of athletic trainers and certification renewal, revocation and suspension; and further providing for refusal or suspension or revocation of license, for automatic suspension, for temporary suspension, for subpoenas, reports and surrender of license, for penalties and injunctive relief and for impaired professional.

On the question,  
Will the Senate agree to the bill on second consideration?

Senator PILEGGI. Madam President, I move that House Bill No. 1199 be rereferred to the Committee on Appropriations.

On the question,  
Will the Senate agree to the motion?

The yeas and nays were required by Senator PILEGGI and were as follows, viz:

YEA-50

Armstrong	Fontana	O'Pake	Tartaglione
Baker	Fumo	Orie	Tomlinson
Boscola	Gordner	Piccola	Vance
Browne	Greenleaf	Pileggi	Washington
Brubaker	Hughes	Pippy	Waugh
Corman	Kasunic	Punt	White, Donald
Costa	Kitchen	Rafferty	White, Mary Jo
Dinniman	LaValle	Regola	Williams, Anthony H.
Earll	Logan	Rhoades	Williams, Constance
Eichelberger	Madigan	Robbins	Wonderling
Erickson	Mclhinney	Scarnati	Wozniak
Ferlo	Mellow	Stack	
Folmer	Musto	Stout	

NAY-0

A majority of the Senators having voted "aye," the question was determined in the affirmative.

The PRESIDENT. The bill will be rereferred to the Committee on Appropriations.

RECESS

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Madam President, I request a recess of the Senate for the purpose, first, of a meeting of the Committee on Rules and Executive Nominations to be held in the Rules room, to be followed by a Republican caucus to be held in the Majority Caucus Room.

The PRESIDENT. The Chair recognizes the gentleman from Berks, Senator O'Pake.

Senator O'PAKE. Madam President, I ask the Democrats to report to our caucus room after the meeting of the Committee on Rules and Executive Nominations.

The PRESIDENT. For purposes of a meeting of the Committee on Rules and Executive Nominations, to be followed by Republican and Democratic caucuses, without objection, the Senate stands in recess.

AFTER RECESS

The PRESIDENT. The time of recess having expired, the Senate will come to order.

CONSIDERATION OF CALENDAR RESUMED

BILL ON CONCURRENCE IN HOUSE AMENDMENTS

SENATE CONCURS IN HOUSE AMENDMENTS

SB 1147 (Pr. No. 2159) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing, in child protective services, for definitions, for immunity from liability, for release of information in confidential reports, for studies of data in records, for investigating performance of county agencies, for citizen review panels, for child abuse services and for reporting; and providing for report on child abuse and criminal history information requirements.

On the question,  
Will the Senate concur in the amendments made by the House to Senate Bill No. 1147?

Senator ORIE. Madam President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 1147.

On the question,  
Will the Senate agree to the motion?

The PRESIDENT. The Chair recognizes the gentlewoman from Philadelphia, Senator Washington.

Senator WASHINGTON. Madam President, today marks an important step in our efforts to prevent child abuse. Madam President, today also marks the important work and collaboration in this General Assembly by our Members who are committed to keeping our children safe, and when we fail, we make sure of what we can do the next time to prevent the abuse from happening in the future. This is truly a work in progress, spanning almost 10 years.

I would like to thank all the dedicated individuals and groups who have contributed to this legislation, with particular thanks to Representative True; former Representative Blaum, chairman of the House Committee on Judiciary; former Representative Corrigan; Representative Marsico; Members of the House Committee on Judiciary and their staffs; and Members here in the Senate, Senator Vance and many, many others, who helped make this a reality.

Senate Bill No. 1147 has the support of the Pennsylvania County Children and Youth Agencies, the County Commissioners Association of Pennsylvania, the Pennsylvania Department of Public Welfare, the Pennsylvania District Attorneys Association, and over 30 child advocacy groups from across the State, ranging

from Juvenile Law Center, the American Academy of Pediatrics, the Pennsylvania Coalition Against Rape, the Pennsylvania Council of Churches, the Philadelphia Children's Commission, also the Support Center for Child Advocates, and the Pennsylvania Coalition Against Domestic Violence, to name a few.

Senate Bill No. 1147 creates uniform standards for county Children and Youth Services agencies in responding to, reviewing, and reporting on child fatalities and near fatalities resulting from child abuse. County fatality and near fatality review teams mandated by this bill will be convened by county Children and Youth Services agencies soon after a child abuse related fatality or near fatality occurs.

These teams will play a major part in building objective expertise and transparency of the facts of each tragic case so that our communities and the State can learn from the cases and take immediate steps to prevent future harm to our children. The Department of Public Welfare will also review each team's report and issue an analysis of each case. This is a very important step in protecting our children from child abuse.

Thank you, Madam President. I ask for a positive vote.

And the question recurring,  
Will the Senate agree to the motion?

The yeas and nays were required by Senator ORIE and were as follows, viz:

YEA-50

Armstrong	Fontana	O'Pake	Tartaglione
Baker	Fumo	Orie	Tomlinson
Boscola	Gordner	Piccola	Vance
Browne	Greenleaf	Pileggi	Washington
Brubaker	Hughes	Pippy	Waugh
Corman	Kasunic	Punt	White, Donald
Costa	Kitchen	Rafferty	White, Mary Jo
Dinniman	LaValle	Regola	Williams, Anthony H.
Earll	Logan	Rhoades	Williams, Constance
Eichelberger	Madigan	Robbins	Wonderling
Erickson	McIlhinney	Scarnati	Wozniak
Ferlo	Mellow	Stack	
Folmer	Musto	Stout	

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate inform the House of Representatives accordingly.

**LEGISLATIVE LEAVES CANCELLED**

The PRESIDENT. Senator Pippy and Senator Gordner have returned, and their temporary Capitol leaves are cancelled.

**CONSIDERATION OF CALENDAR RESUMED**

**THIRD CONSIDERATION CALENDAR**

**BILL REREPORTED FROM COMMITTEE  
AS AMENDED ON THIRD CONSIDERATION  
AND FINAL PASSAGE**

**HB 1150 (Pr. No. 4110)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, in preliminary provisions, further providing for effect of act on existing laws; in life insurance, further providing for additional investment authority for subsidiaries; in casualty insurance, providing for autism spectrum disorders coverage and for colorectal cancer screenings coverage; in insurance holding companies, further providing for definitions, for acquisition of control of or merger with domestic insurer, for acquisitions involving insurers not otherwise covered and for standards and management of an insurer within a holding company system; providing for committee review; establishing the Insurance Restructuring Restricted Receipt Account; providing for community health reinvestment; and making a related repeal.

Considered the third time and agreed to,  
And the amendments made thereto having been printed as required by the Constitution,

On the question,  
Shall the bill pass finally?

POINT OF ORDER

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Wonderling.

Senator WONDERLING. Madam President, I rise to ask for a ruling from the Chair on an issue that may confront the Senate momentarily.

As you are aware, House Bill No. 1150, which is before us, contains language that is related to the proposed consolidation of Independence Blue Cross and Highmark. In fact, in part, this language would give the Pennsylvania Department of Insurance and the General Assembly powers over consolidations including not-for-profit healthcare insurers. The department already has this authority concerning for-profit companies.

Madam President, I want to disclose any possible, potential conflict. I am a board member of Keystone Health Plan East, which is a subsidiary of Independence Blue Cross, and I do receive compensation for my board service. Knowing all this, am I permitted to vote on legislation that may impact the consolidation or be impacted by the consolidation or any other related issues? More specifically, Madam President, am I permitted to vote on House Bill No. 1150 at this time?

The PRESIDENT. Senator Wonderling, the Chair finds that there is nothing particularly personal about this bill at this time. Yes, you are permitted to vote. You are a member of a class. We have ruled on this before, and yes, you are entitled to vote.

And the question recurring,  
Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentleman from Indiana, Senator Don White.

Senator D. WHITE. Madam President, it is with great pleasure that I rise today to ask for an affirmative vote on House Bill No. 1150, which addresses the issue of insurance coverage for autism services and colorectal cancer screenings. This bill also

would grant the Department of Insurance essential oversight powers over the proposed merger of Highmark and Independence Blue Cross, the largest merger of its kind in our history.

These three issues have been considered at length by the Senate Committee on Banking and Insurance and its Members over the course of several public hearings and meetings with interested groups and individuals over the last couple of years. This has been a very long and complex process, but I believe by working together, we have reached a consensus on a package that will not only meet the concerns of the legislature and the administration, but will provide basic safeguards and vital services for the people of Pennsylvania.

I believe the insurance requirements proposed for the coverage of autism services and colorectal screenings will provide essential benefits for families across the Commonwealth without placing a potential burden on the employers. The advocates for those who will benefit from this coverage have indicated to this committee that these services will save lives through their early detection of colorectal cancer and significantly improve the quality of life of families of autistic children. The public hearings we held earlier this year made it quite clear that we could and should move Pennsylvania forward on these fronts.

On the issue of the Blues merger, anyone who has followed the proceedings of the Committee on Banking and Insurance is well aware of our concerns about insuring that this merger is thoroughly and extensively monitored by the appropriate State government entities to protect the rights of healthcare practitioners and the people of Pennsylvania who rely on those services. We have a basic responsibility to insure that any such merger not result in a monopolized market that degrades the accessibility and affordability of healthcare in Pennsylvania. Those concerns, I believe, are addressed in House Bill No. 1150.

Make no mistake, Madam President. Gaining appropriate oversight over the proposed merger is not the last step, but rather just the first. I assure this Chamber and the people of Pennsylvania that I will diligently follow the proceedings of this merger to insure that, if approved, the healthcare consumer and the system which they are served by are appropriately protected.

In closing, Madam President, I want to thank and express my deepest appreciation to all the people, especially the staffs of an awful lot of my colleagues, who worked so hard to put this package together. This certainly has not been a quick or easy fix. Such issues are too deep and too broad for that to have taken place. And in fact, there have been many, many bumps in the road that have brought us to where we are today. I want to particularly thank Senator Orié, Senator Stack, and Senator Tomlinson for their efforts on the very important issues contained in House Bill No. 1150. I truly ask for an affirmative vote on House Bill No. 1150.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Stack.

Senator STACK. Madam President, I also rise in support of House Bill No. 1150. I want to say that House Bill No. 1150 is a good bill, but like most of the bills we pass in the Senate, there is a give-and-take, there are negotiations, and that is how we come up with a good product.

This bill will require insurers to cover colon cancer screenings for Pennsylvanians aged 50 or older, or people younger than 50 who are at a high risk of developing colon cancer. The screening will be based on established medical practices and American Cancer Society standards. Some people like this portion of the bill, and others do not.

This legislation also addresses the proposed merger of Independence Blue Cross and Highmark. It gives the Department of Insurance the authority to review the company's nonprofit lines of business. This is the bulk of their business. It will allow the Insurance Commissioner to take an in-depth look at the merger and all lines of business. It also sets up some standards for community health reinvestment spending. Some people like this part of the bill, and of course, some do not. This legislation also makes changes to admitted investment caps and corporate governance for domestic insurers.

The final portion of this bill is the autism insurance mandate. This bill was considered and negotiated extensively over the last 2 months, and in particular over the last month. I want to thank, in particular, Senator Don White and Senator Orié and, of course, their staffs, for all the work they did in support of this bill. I also want to thank, in particular, Matt Franchak from my staff. Everyone was relentless in trying to get a good bill done, and I really believe everyone was very open-minded to new ideas. I also want to thank Autism Speaks, other autism advocates, and the administration for all their hard work.

While I am thanking everyone, I also want to make it clear, and I have already said it, that this bill is not perfect. Everyone does not get everything that they wanted. The administration does not support this bill and has written that some advocates have concerns. We have heard from Secretary Richman. She has big concerns, and she does not support the bill. This bill is supported by Autism Speaks, the largest autism advocacy group in the nation, and they have said that this bill is the most generous autism insurance coverage bill in the nation.

I know people have concerns, Madam President, but here is the bottom line. Children with autism, under age 21, in families that receive insurance coverage through large groups, will receive \$36,000 in autism service coverage. If the children exceed this cap, DPW will provide the coverage. Also, DPW will continue to provide autism service coverage to children who do not receive insurance coverage through their parents' insurance policy.

This bill would build the autism service provider network. It provides for insurance coverage of critical autism services, such as applied behavioral analysis, and licensed behavior specialists. These are the people who understand and work frequently with children with autism. It will insure that people who provide the bulk of the autism treatment services are licensed and meet the education and experience standards.

Now, I know some people have concerns about insurers denying autism service insurance claims. We have that concern in many areas, Madam President. We have tried to address these issues through two areas. First, the bill provides for an internal and an external expedited insurance denial review process. The internal review process will be 48 hours. That is fast. Then it goes to the Department of Insurance for an external review,

which we think is going to be very quick, inside of a week. So it insures quick resolution of any autism claim denials.

Finally, this legislation requires insurers to report to the Department of Insurance on the implementation of this plan. This will insure that we get a full picture of the implementation and any problems that might arise. With the report, the General Assembly and the Department of Insurance can correct any problems promptly. The bottom line is that this bill does many good things for many people, many people who have previously not had their voices heard and are being heard today.

I wholeheartedly encourage my colleagues to support this bill. And once again, I thank my colleagues, Senator White and Senator Orié, for all their hard work.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentlewoman from Allegheny, Senator Orié.

Senator ORIE. Madam President, today, Pennsylvania is embarking on a tremendous milestone for families and children with autism. With strong bipartisan support for this pending passage of House Bill No. 1150, Pennsylvania will become a national model, a gold standard for treatment of families and children with autism.

Madam President, as co-chair of the Legislative Autism Caucus, I strongly endorse this legislation and ask my colleagues in the Senate to join me in passing this landmark legislation for families and children with autism. This would not be possible without the tremendous bipartisan support and leadership both by Senator Don White and Senator Stack. I commend both of these individuals for their outstanding dedication, compassion, and commitment to this issue. I also thank the administration, the Secretary of Public Welfare, and the Secretary of Education, who also participated in so many of these stakeholder meetings that were held over the last few months. I would also like to thank the co-chair of the Legislative Autism Caucus, Speaker O'Brien.

Ten years ago, when I was first elected to the House, Speaker O'Brien, then Representative O'Brien, engaged me in work with autism, and since that period, both of us have formed the Legislative Autism Caucus together and have worked closely on these issues that, from the bottom of my heart, I care so deeply about. I thank Speaker O'Brien for his unwavering dedication and support for families and children with autism.

Lastly, I would like to thank Eric Settle and Autism Speaks for coming to Pennsylvania and, quite frankly, crossing the United States to insure that not just Pennsylvania but every State in the country enact this legislation. And right now, every State in the country has a model to follow with Pennsylvania.

Madam President, let me share with you, briefly, some of what House Bill No. 1150 covers. It enhances services to children with autism. In addition to that, Madam President, parents of autistic children who have private health insurance subject to this mandate will receive the most attractive benefit package of any State in the country. Insurers will be required to cover \$36,000 of services annually until the child reaches age 21. Moreover, the maximum will be increased annually based on the CPI inflation index. In addition, it will insure that providers are held to appropriate standards of licensure and qualifications to insure the most beneficial outcomes of services.

House Bill No. 1150 provides families with assurances that treatment will not be interrupted by limiting an insurer's ability to review treatment plans on a 6-month interval. Families who exhaust the insurance benefit will be eligible for Medical Assistance to insure that necessary services continue. This legislation takes effect immediately, and insurers have a maximum of 1 year to establish networks and begin providing services.

House Bill No. 1150 is a tremendous bill, Madam President. I guess the best way to paraphrase this is to go back to 9 months ago when Speaker O'Brien and I joined with Autism Speaks in the Rotunda and did a press conference to get this legislation passed in Pennsylvania. At that press conference, we all said how important it was for Pennsylvania to take this step. Madam President, I have never been more proud of Pennsylvania than I am right now for what we are doing for families and children with autism.

Madam President, I would like to paraphrase, if I may, a letter written from Autism Speaks, which I believe encapsulates the importance of this landmark legislation, the importance of the passage of this landmark legislation. It states, (*Reading:*)

To the Members of the Pennsylvania Senate and House of Representatives:

We write today to reiterate our support for HB 1150 which we expect will be voted upon this evening by the Pennsylvania Senate.

Friday night, the Pennsylvania Senate Appropriations Committee passed the autism insurance reform bill, 26-0.... The vote was unanimous, with the Democrats enthusiastically joining the GOP majority, and the bill now moving forward....

The Pennsylvania bill ends discrimination for individuals with autism, and provides them the same medical necessity standards as afforded individuals with cancer, diabetes, and the common cold, allowing individuals with autism to be treated as all others are in the private insurance market. Individuals with autism deserve the same quality of care that all individuals with chronic and severe health conditions receive....

We call upon all Senators to vote for HB 1150 today and we ask all House Members to ensure that Pennsylvania does not lose this opportunity to enact—and I repeat, Madam President—to enact the strongest bill in the nation to help the children of Pennsylvania and their families who are impacted by autism.

The letter is signed by Elizabeth Emken, Vice President of Government Relations, Autism Speaks.

In conclusion, Madam President, as co-chair of the Legislative Autism Caucus, it is inconceivable to me to hear or see anyone who would try to stop this landmark legislation. It is a gold standard of care, it is a model for the country, and as I indicated, Madam President, I have never been more proud of Pennsylvania than I am this evening. And, Madam President, I ask all my colleagues to join me in an affirmative vote for this landmark legislation.

The PRESIDENT. Thank you, Senator Orié. The Chair appreciates your very meaningful comments.

The Chair recognizes the gentleman from Chester, Senator Dinniman.

Senator DINNIMAN. Madam President, I am very proud to vote for this, but I wonder if I may interrogate the sponsor of this bill, Senator White.

The PRESIDENT. He indicates he will.

Senator DINNIMAN. Madam President, I am sure all of us respect Estelle Richman. There has been no greater person who

has fought for service to autism than Secretary Richman. She wrote in a letter that the current version of House Bill No. 1150, which we are about to vote on today, is not in the best interest of Pennsylvania children living with autism spectrum disorders and their families. If this bill that is before the Senate becomes law, families will have to jump through hoops and will be worse off than under the current system. I wonder if Senator White would at least make a public response, because if the Secretary of Public Welfare writes to the Senate, we have some obligation to ask the question and to hear the answer to the question.

Senator D. WHITE. Madam President, to my distinguished colleague, Senator Dinniman, there are currently 14 States, counting Pennsylvania, assuming we move forward with this bill, that have provided protection for families with autistic children. Of those 14, Autism Speaks, which is dealing with this issue on a national basis, has said that Pennsylvania just instituted the number-one - the best of all the other States - reform and mental health availability for autistic children.

Now, figures do not lie, but liars figure. So I do not place a lot of emphasis on that, but I do say this: talking to people who administer other health concerns in this Commonwealth, whether you are talking about drug and alcohol abuse or whether you are talking about mental health issues, nobody has the freedom and the appeal process that this autistic mandate has. None.

Senator DINNIMAN. Madam President, why does the gentleman feel she wrote the letter to us, then?

Senator D. WHITE. Madam President, I will let Senator Orié answer that.

The PRESIDENT. The Chair recognizes the gentlewoman from Allegheny, Senator Orié.

Senator ORIE. Madam President, I think one of the concerns was that she wanted to include "medically necessary" underneath the definition or in the definition section. No other State in the country has done that. As a matter of fact, New Orleans, which just passed legislation that was modeled after Pennsylvania's, removed that language as well. They just do not provide that.

What we did in consultation with Speaker O'Brien and in consultation with the Secretary was put in an immediate appeal process. They have an expedited appeal process. Within 48 hours, any family with a child with autism gets an appeal. They not only get the appeal, but unlike any other, whether it be mental illness, whether it be alcohol or drug abuse, unlike any, it will go from the appeal, and if they lose that appeal, it goes directly to the Department of Insurance, not the Department of Health, the Department of Insurance, where DPW has the ability to train these individuals to deal with these appeals.

As co-chair of the Legislative Autism Caucus, I would never agree to anything that did not have protections in place. Those protections were met, those protections were agreed to, and those protections are in place.

Senator DINNIMAN. Madam President, if Secretary Richman was concerned with the words "medically necessary," which would mean automatic treatment--and there would not be any reason to have an appeal, because if it is medically necessary, it is necessary--why did the insurers or the caucus or, ultimately, the bill not want to include that language?

Senator ORIE. Madam President, not even the medical reform act that we passed includes that language. It is not included any-

where, nor has any State adopted that language. So for Pennsylvania to do that, I believe, would be something that would immediately be challenged. So we did what every other State did. It is the right thing to do, but we went one step further. What we did with this legislation is put in an expedited appeal. No other State has that. No other State went to those lengths. I cannot answer for what the Secretary of Public Welfare wrote. I can tell you that as co-chair of the Legislative Autism Caucus, this is the strongest, most protective bill for children with autism in the country.

Senator DINNIMAN. Madam President, I certainly want to join in voting for the bill, but I just simply wanted to get some questions asked. The last question I have is that I have received, and perhaps some other Senators, too, a number of letters today from local leaders in the autism community who believe that Autism Speaks is a national group and is not speaking for the Pennsylvania autistic community. Almost all of our counties have very strong parents' groups that speak out for autism, and I was wondering, not wondering, but I want to know, were the Pennsylvania autistic organizations, on the county level, were they also asked their opinion, and why is the sentiment being expressed to us that Autism Speaks is speaking on a national agenda and not necessarily speaking for Pennsylvania?

Senator ORIE. Madam President, all I can answer is that 9 months ago when we did this press conference, Autism Speaks, which is an accumulation of every autism group in the country and in the State, came together as one voice for this legislation and worked as one voice. But not only did we work with Autism Speaks, we worked with the co-chair of the Legislative Autism Caucus, the Speaker himself, in drafting this language.

Senator DINNIMAN. Madam President, if the gentlewoman did that, why is the Speaker currently expressing reservations about this bill?

Senator ORIE. Madam President, I cannot answer his whys. I can only state that this is the strongest, most protective bill in the country.

Senator DINNIMAN. Madam President, I appreciate the passion and the positive way in which Senator Orié and Senator White have answered this. I did not rise to oppose it, because I will support it, but I did rise because these questions had to be asked, and I am sure they will continue to be asked once it gets to the House, since the Speaker still has some questions in this regard. And I thank all who were involved in this work, and I am especially happy about the colorectal testing and that we now have greater supervision over this merger, which I know Senator White has felt so strongly about. Thank you so much.

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Greenleaf.

Senator GREENLEAF. Madam President, I rise to ask a question of Senator White in regard to Section 1403.2, which deals with the Insurance Restructuring Restricted Receipt Account. It is a long name, but what it basically does is, there are significant savings through this merger process that have been alleged by the parties, and a portion of those moneys were to be used for the benefit of the Commonwealth of Pennsylvania. And the section that particularly needs clarification is where the bill states that all net economic benefits which are to be paid to the Commonwealth would be placed into the account. There is also a portion of these

moneys that was going to be used for the policyholders and reducing their costs.

And so the question here is, was it the intention of the sponsor of the legislation, or at least Senator White, who has worked on this bill so diligently, along with Senator Orié and Senator Stack, and I congratulate them for their efforts and for their work, but can we be assured that there is no intention that all the financial benefits derived from the merger of the consolidation will be used to finance State programs, and may we assume that the policyholders will benefit from any consolidation or merger as promised by the filings that Highmark and Independence Blue Cross have submitted to the Pennsylvania Department of Insurance?

The PRESIDENT. Will you agree to more questions, Senator? Senator D. WHITE. Yes, Madam President.

The PRESIDENT. He indicates he will.

Senator D. WHITE. Madam President, the answer to Senator Greenleaf's questions, and I believe there are two questions, are both "yes." The companies involved in the merger have already pledged that they will freeze administrative fees for their customers for 2 years and also return prescription drug savings, i.e., rebates, that they negotiate through the pharmaceutical companies to their policyholders also.

The PRESIDENT. Thank you, Senator White.

The Chair recognizes the gentleman from Philadelphia, Senator Anthony Williams.

Senator A.H. WILLIAMS. Madam President, the issue, as framed by the previous speaker, the questions that were raised with regard to the consideration in the area of autism, are ones that I want to speak to.

During the course of the week, I was very reluctant to support the legislation. The sponsors certainly speak with a great deal of integrity, have done a great deal of work, and, frankly, have spent exhaustive hours on a piece of legislation that truly is bipartisan in terms of effort. But I was greatly concerned about the area of this autistic conversation. I draw attention to Members of the Senate who were at one point concerned, and specifically, the questions which were raised do have answers. They all have done an outstanding job of responding to those issues.

On page 17, and I know everybody does not have the bill, but on page 17, specifically, when we are talking about this issue of "medically necessary," Pennsylvania has gone further than, I guess, any other State. They may not use the term "medically necessary," but they have specific language that speaks to applied behavioral analysis.

It says, "'Applied behavioral analysis' means the design, implementation and evaluation of environmental modification, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior...." I draw attention to the fact that we actually have language now that says one can get better in a condition in which many people have questioned whether one can be improved. But it also goes further: "...or to prevent loss of attained skill or function, including the use of direct observation, measurement and functional analysis of the relations between environment and behavior."

That means, for those of us who are trying to figure this out, that you may have the ability to get better, but you also have the ability to say, this child can no longer get worse. Those are significant words that, frankly, no one else in this country actually

has. That means those families who, frankly, have been holding onto the edge of their seats, questioning whether they would be able to apply, because the debate was, yes, we are actually going to have a \$36,000 area of insurance, but would anybody actually ever get to use that, and therefore, would this population of parents be deserted? This language speaks directly to that.

You cannot arbitrarily make up what applied behavioral analysis is. There are actually words that speak to it. It means that we finally have said, for the record, that a child can no longer be a hindrance to a family and cannot fall below a certain level, and therefore, you can go to your insurance company and use it. That is beyond major, and for those who are concerned about it, and I certainly was one, this language brings me great relief. And certainly, to the Members of the House, there should be no more debate as to whether you qualify a child as "medically necessary," because the language speaks to the condition of the child in medical terms.

It also defines the behavior specialist who will analyze the child, and it gives the specific language, again, about improvement and decline. Those things give great protection to those who are worried about whether they can actually use the insurance or whether an insurance company can arbitrarily or capriciously apply standards. They can no longer. There is specific language that talks about that and, ultimately, the expedited process of the hearing.

What was not mentioned is that during that process of review, rather than what has traditionally happened--and that is one loses the protection of insurance--the insurance continues through that process of appeal. That is also extraordinary. With all due respect to anyone who has been involved in this, the steps that have been made are not minor ones. These are major steps. And while we certainly want a perfect bill, we do not want perfection to claim those measurements that will go light-years beyond where we currently are in Pennsylvania.

So I tip my hat to the Members of the Senate and the Members of the House who have invested many, many hours to protect that population of Pennsylvania that, frankly, has been unprotected. And I salute them publicly, and for those who happen to be looking at the Senate in suspicious terms, we come with open hands. There are no agendas but to protect those who have been afflicted by a condition that is beyond their own control and those families who have been victims of that. I honor them for the work, and I appreciate the work that they both have done, specifically Senator White and Senator Orié, and also to my chairman, Senator Stack, and his staff for the countless hours they have all put into this, the public hearings and the experts who were brought before us. I want to thank them on behalf of those families.

The PRESIDENT. Do you want to respond, Senator?

Senator D. WHITE. If I may, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Indiana, Senator Don White.

Senator D. WHITE. Madam President, I thank Senator Williams very much for his comments. I think it needs to be said that the language to which the gentleman was referring was part of the last 2 days of negotiation. It was something that Speaker O'Brien insisted upon. And actually, with our last meeting, when I asked him if this could get this done, he said "yes." And that is

why I am rather surprised at his opposition, because Senator Orié was there to witness, along with many staff members. But thank you very much for bringing that out. I think this is unique, and as I mentioned earlier, this does not happen with any other health malady that we have in Pennsylvania. Whether it is mental health or drug and alcohol abuse, we do not have the language that we have in this bill.

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Madam President, I wonder if the chairman of the Committee on Banking and Insurance would submit himself to interrogation for one brief question.

Senator D. WHITE. Yes, Madam President.

The PRESIDENT. He indicates he will.

Senator CORMAN. Madam President, this bill has a section dealing with the community health reinvestment activity. Under my reading of it, there is a section under community health reinvestment that defines the community health reinvestment for Pennsylvania Blues plans for the first time. The definition expressly excludes the administrative costs associated with the State healthcare programs. My question, Madam President, to the chairman: is it the chairman's intent that the underwriting and medical losses associated with administering the Children's Health Insurance Program, adultBasic, and other State programs could not be considered a community health reinvestment activity?

Senator D. WHITE. Madam President, in response, the answer is no. The activities that Senator Corman just described would be eligible to be counted as community health reinvestment activity.

Senator CORMAN. Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Rafferty.

Senator RAFFERTY. Madam President, this is a very good bill, and I congratulate Senator Don White and Senator Stack. I especially want to congratulate Senator Orié, whose heart and soul has been in autism and for caring for and benefitting those young people throughout the Commonwealth of Pennsylvania with autism. Since that is a question of the bill that is under a little scrutiny right now, I can tell you that she has had the passion for children with autism in the Commonwealth of Pennsylvania, and that is her true belief, that this piece of legislation--and I concur with her--will benefit all those families and the children with autism.

I also want to recognize Eric Settle from Autism Speaks. Eric is another one whose heart is in this business. He cares very deeply for the children with autism and for all people in Pennsylvania with autism and has kept this as his primary focus for this piece of legislation.

There are no ancillary motives with either his or Senator Orié's portion in this legislation. There are no ulterior motives. It is strictly to benefit those with autism in the Commonwealth of Pennsylvania, to make sure that they are cared for and benefitted. And this piece of legislation addresses that more than adequately and will go a long way in helping those with autism and their families in this Commonwealth.

Madam President, thank you very much.

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentlewoman from Allegheny, Senator Orié.

Senator ORIE. Madam President, I request temporary Capitol leaves for Senator Armstrong, Senator Pileggi, Senator Scarnati, and Senator Piccola.

The PRESIDENT. Senator Orié requests temporary Capitol leaves for Senator Armstrong, Senator Pileggi, Senator Scarnati, and Senator Piccola. Without objection, the leaves will be granted.

And the question recurring,  
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-49

Armstrong	Fumo	Orie	Tomlinson
Baker	Gordner	Piccola	Vance
Boscola	Greenleaf	Pileggi	Washington
Browne	Hughes	Pippy	Waugh
Brubaker	Kasunic	Punt	White, Donald
Corman	Kitchen	Rafferty	White, Mary Jo
Costa	LaValle	Regola	Williams, Anthony H.
Dinniman	Logan	Rhoades	Williams, Constance
Earll	Madigan	Robbins	Wonderling
Erickson	McIlhinney	Scarnati	Wozniak
Ferlo	Mellow	Stack	
Folmer	Musto	Stout	
Fontana	O'Pake	Tartaglione	

NAY-1

Eichelberger

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

PREFERRED APPROPRIATION BILL OVER IN ORDER

**SB 1510** -- Without objection, the bill was passed over in its order at the request of Senator ORIE.

BILLS OVER IN ORDER

**HB 7, SB 903, HB 1067, SB 1134, SB 1247 and SB 1276** -- Without objection, the bills were passed over in their order at the request of Senator ORIE.

BILL LAID ON THE TABLE

**HB 1329 (Pr. No. 3192)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, providing for



optional notice of ordinance or decision and procedural validity challenges; further providing for ordinance provisions and for jurisdiction of the zoning hearing board and the court of common pleas in challenges to the validity of an ordinance for procedural defects in the process of enactment; and providing for time for appeal and procedural defects of decisions.

Upon motion of Senator ORIE, and agreed to by voice vote, the bill was laid on the table.

**HB 1329 TAKEN FROM THE TABLE**

Senator ORIE. Madam President, I move that House Bill No. 1329, Printer's No. 3192, be taken from the table and placed on the Calendar.

The motion was agreed to by voice vote.

The PRESIDENT. The bill will be placed on the Calendar.

**BILL LAID ON THE TABLE**

**HB 1330 (Pr. No. 3193)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for appeals generally and for appeals from ordinances, resolutions, maps, etc.

Upon motion of Senator ORIE, and agreed to by voice vote, the bill was laid on the table.

**HB 1330 TAKEN FROM THE TABLE**

Senator ORIE. Madam President, I move that House Bill No. 1330, Printer's No. 3193, be taken from the table and placed on the Calendar.

The motion was agreed to by voice vote.

The PRESIDENT. The bill will be placed on the Calendar.

**BILL OVER IN ORDER**

**SB 1421** -- Without objection, the bill was passed over in its order at the request of Senator ORIE.

**BILL AMENDED**

**SB 1499 (Pr. No. 2216)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, further providing for State-owned vehicle use.

On the question,

Will the Senate agree to the bill on third consideration?

Senator FOLMER offered the following amendment No. A8243:

Amend Sec. 1 (Sec. 1502-B), page 2, line 19, by inserting after "month": on average

On the question,

Will the Senate agree to the amendment?

It was agreed to.

Without objection, the bill, as amended, was passed over in its order at the request of Senator ORIE.

**BILL ON THIRD CONSIDERATION AND FINAL PASSAGE**

**SB 1511 (Pr. No. 2256)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, further providing for establishment of county boards and expenses.

Considered the third time and agreed to,

On the question,

Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

**YEA-50**

Armstrong	Fontana	O'Pake	Tartaglione
Baker	Fumo	Orie	Tomlinson
Boscola	Gordner	Piccola	Vance
Browne	Greenleaf	Pileggi	Washington
Brubaker	Hughes	Pippy	Waugh
Corman	Kasunic	Punt	White, Donald
Costa	Kitchen	Rafferty	White, Mary Jo
Dinniman	LaValle	Regola	Williams, Anthony H.
Earll	Logan	Rhoades	Williams, Constance
Eichelberger	Madigan	Robbins	Wonderling
Erickson	Mellhinney	Scarnati	Wozniak
Ferlo	Mellow	Stack	
Folmer	Musto	Stout	

**NAY-0**

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

**BILLS OVER IN ORDER**

**HB 1612, HB 2158, HB 2295 and HB 2302** -- Without objection, the bills were passed over in their order at the request of Senator ORIE.

**BILL ON THIRD CONSIDERATION AND FINAL PASSAGE**

**HB 2428 (Pr. No. 3875)** -- The Senate proceeded to consideration of the bill, entitled:

An Act regulating the amount of property insurance coverage required by certain lenders.

Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-50

Armstrong	Fontana	O'Pake	Tartaglione
Baker	Fumo	Orie	Tomlinson
Boscola	Gordner	Piccola	Vance
Browne	Greenleaf	Pileggi	Washington
Brubaker	Hughes	Pippy	Waugh
Corman	Kasunic	Punt	White, Donald
Costa	Kitchen	Rafferty	White, Mary Jo
Dinniman	LaValle	Regola	Williams, Anthony H.
Earll	Logan	Rhoades	Williams, Constance
Eichelberger	Madigan	Robbins	Wonderling
Erickson	McIlhinney	Scarnati	Wozniak
Ferlo	Mellow	Stack	
Folmer	Musto	Stout	

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same without amendments.

SECOND CONSIDERATION CALENDAR

BILLS ON SECOND CONSIDERATION  
REREPORTED FROM COMMITTEE AS  
AMENDED OVER IN ORDER

HB 5, HB 1804 and HB 2088 -- Without objection, the bills were passed over in their order at the request of Senator ORIE.

BILLS OVER IN ORDER

SB 26, HB 69, HB 221, SB 346, SB 858, SB 884, HB 1280, SB 1449, SB 1488 and SB 1496 -- Without objection, the bills were passed over in their order at the request of Senator ORIE.

BILL ON SECOND CONSIDERATION

SB 1497 (Pr. No. 2212) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, in public assistance, adding definitions; and further providing for established drug regimens.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

HB 1674 and HB 1786 -- Without objection, the bills were passed over in their order at the request of Senator ORIE.

REPORT FROM COMMITTEE ON RULES  
AND EXECUTIVE NOMINATIONS

Senator ROBBINS, from the Committee on Rules and Executive Nominations, reported the following nominations made by His Excellency, the Governor of the Commonwealth, which were read by the Clerk as follows:

MEMBER OF THE PENNSYLVANIA  
FISH AND BOAT COMMISSION

June 17, 2008

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Norman Gavlick, MBA, CPRW (District 7), 388 N. Maple Avenue, Kingston 18704, Luzerne County, Twentieth Senatorial District, for appointment as a member of the Pennsylvania Fish and Boat Commission, to serve until June 4, 2009, or until his successor is appointed and qualified, but not longer than six months beyond that period, vice Frederick Osifat, Tresckow, deceased.

EDWARD G. RENDELL  
Governor

JUDGE, COMMONWEALTH COURT  
OF PENNSYLVANIA

June 20, 2008

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, The Honorable Johnny J. Butler, 7808 Caversham Drive, Elkins Park 19027, Montgomery County, Fourth Senatorial District, for appointment as Judge of the Commonwealth Court of Pennsylvania, to serve until the first Monday of January 2010, vice The Honorable James Gardner Colins, resigned.

EDWARD G. RENDELL  
Governor

JUDGE, SUPERIOR COURT OF PENNSYLVANIA

June 20, 2008

To the Honorable, the Senate  
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, The Honorable John M. Cleland, 446 Greendale Road, Kane 16735, McKean County, Twenty-fifth Senatorial District, for appointment as Judge of the Superior Court of Pennsylvania, to serve until the first Monday of January 2010, vice The Honorable Debra Todd, elected to the Supreme Court.

EDWARD G. RENDELL  
Governor

