

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

WEDNESDAY, JUNE 4, 2008

SESSION OF 2008

192D OF THE GENERAL ASSEMBLY

No. 37

HOUSE OF REPRESENTATIVES

The House convened at 9:30 a.m., e.d.t.

THE SPEAKER (DENNIS M. O'BRIEN)
PRESIDING

PRAYER

HON. JERRY A. STERN, member of the House of Representatives, offered the following prayer:

May we bow our heads.

Our dear Heavenly Father, who art in heaven, we hallow Your precious name and ask for Your guidance in our lives.

Thank You for giving us this day to celebrate life and liberty in a free nation. Bless our Commonwealth and our leaders. Be with Governor Rendell and grant him wisdom and guidance as he works with the Senate and House in preparing the legislation that impacts every Pennsylvania resident. Allow patience to be our virtue as the days may seemingly grow longer during this season of legislative process.

We pray for glad hearts that will demonstrate our trust and faith in You. Be with those assembled here this morning and keep them, O Lord, and grant them safe travels this day.

We pray a special blessing and ask for safety for our troops that are protecting our freedoms around the world. We pray for President Bush and members of our Congress and Senate in Washington. Give wisdom to the Supreme Court Justices.

May we, as the Scripture verse on the Apotheosis of Pennsylvania behind me states, "Remember the days of old, consider the years of many generations: ask thy father, and he will show thee; thy elders, and they will tell thee."

As we represent those who have entrusted us with our positions, may we remember that our government is of the people, by the people, and for the people of this great Commonwealth, and all governments and leaders are established and removed by You alone. May we seek righteousness, for we know that righteousness exalts a nation.

Blessed is this day that the Lord has made. We pray for Your blessing, God, on our General Assembly, our families, those who serve and our fellow laborers with us here in Harrisburg, and for those who visit us each day. Help us to be faithful servants of Pennsylvania.

We pray all these things in the name of Your son. Amen.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by members and visitors.)

JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, approval of the Journal of Tuesday, June 3, 2008, will be postponed until printed. The Chair hears no objection.

LEAVES OF ABSENCE

The SPEAKER. The Chair turns to leaves of absence. The Chair recognizes the majority whip, who requests that Representative LEACH from Montgomery County be placed on leave. The Chair sees no objection. The leave will be granted.

The Chair recognizes the minority whip, who requests that Representative GODSHALL from Montgomery County be placed on leave. The Chair sees no objection. This leave will also be granted.

Members will report to the floor.

MASTER ROLL CALL

The SPEAKER. The Chair is about to take the master roll. Members will proceed to vote.

The following roll call was recorded:

PRESENT—201

Adolph	Freeman	Marshall	Ross
Argall	Gabig	Marsico	Rubley
Baker	Galloway	McCall	Sabatina
Barrar	Geist	McGeehan	Sainato
Bastian	George	McI. Smith	Samuelson
Bear	Gerber	McIlhattan	Santoni
Belfanti	Gergely	Melio	Saylor
Benninghoff	Gibbons	Mensch	Scavello
Bennington	Gillespie	Metcalfe	Schroder
Beyer	Gingrich	Micozzie	Seip
Biancucci	Goodman	Millard	Shapiro
Bishop	Grell	Miller	Shimkus
Blackwell	Grucela	Milne	Siptroth
Boback	Haluska	Moul	Smith, K.
Boyd	Hanna	Moyer	Smith, M.
Brennan	Harhai	Mundy	Smith, S.
Brooks	Harhart	Murt	Solobay
Buxton	Harkins	Mustio	Sonney
Caltagirone	Harper	Myers	Staback
Cappelli	Harris	Nailor	Stairs
Carroll	Helm	Nickol	Steil
Casorio	Hennessey	O'Brien, M.	Stern
Causer	Hershey	O'Neill	Stevenson
Civera	Hess	Oliver	Sturla
Clymer	Hickernell	Pallone	Surra
Cohen	Hornaman	Parker	Swanger
Conklin	Hutchinson	Pashinski	Tangretti

Costa	James	Payne	Taylor, J.
Cox	Josephs	Payton	Taylor, R.
Creighton	Kauffman	Peifer	Thomas
Cruz	Keller, M.K.	Perry	True
Curry	Keller, W.	Perzel	Turzai
Cutler	Kenney	Petrarca	Vereb
Daley	Kessler	Petri	Vitali
Dally	Killion	Petrone	Vulakovich
DeLuca	King	Phillips	Wagner
Denlinger	Kirkland	Pickett	Walko
DePasquale	Kortz	Preston	Wansacz
Dermody	Kotik	Pyle	Waters
DeWeese	Kula	Quigley	Watson
DiGirolamo	Lentz	Quinn	Wheatley
Donatucci	Levdansky	Ramaley	White
Eachus	Longietti	Rapp	Williams
Ellis	Mackereth	Raymond	Wojnaroski
Evans, D.	Maher	Readshaw	Yewcic
Evans, J.	Mahoney	Reed	Youngblood
Everett	Major	Reichley	Yudichak
Fabrizio	Manderino	Roe	
Fairchild	Mann	Rock	O'Brien, D.,
Fleck	Mantz	Roebuck	Speaker
Frankel	Markosek	Rohrer	

ADDITIONS—0

NOT VOTING—0

EXCUSED—2

Godshall	Leach
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LEAVES ADDED—3

Gergely	Quinn	Watson
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LEAVES CANCELED—2

Quinn	Watson
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The SPEAKER. A quorum being present, the House will proceed to conduct business.

**BILLS REPORTED FROM COMMITTEE,
CONSIDERED FIRST TIME, AND
RECOMMITTED TO COMMITTEE ON RULES**

HB 2571, PN 3823

By Rep. FREEMAN

An Act providing for municipal service grants and for powers and duties of the Department of Community and Economic Development; and making an appropriation.

LOCAL GOVERNMENT.

HB 2573, PN 3825

By Rep. FREEMAN

An Act amending the act of May 21, 1943 (P.L.571, No.254), known as The Fourth to Eighth Class and Selective County Assessment Law, further providing for removal permits, transfer of ownership certificates and tax lien certificates of mobilehomes and trailers; and imposing a penalty.

LOCAL GOVERNMENT.

HB 2574, PN 3826

By Rep. FREEMAN

An Act amending the act of May 22, 1933 (P.L.853, No.155), known as The General County Assessment Law, further providing for removal and transfer of ownership certificates and for removal permits; providing for lien certificate; and imposing a penalty.

LOCAL GOVERNMENT.

**HOUSE RESOLUTION
INTRODUCED AND REFERRED**

No. 773 By Representatives PETRI, CLYMER, COHEN, EVERETT, FRANKEL, GEIST, KOTIK, KULA, MELIO, MICOZZIE, MURT, REICHLEY, SCAVELLO, SEIP, SIPTROTH, THOMAS, TRUE, VULAKOVICH, WATERS and J. WHITE

A Resolution directing the Legislative Budget and Finance Committee to conduct a study concerning the cost-benefit analysis of increasing mental health coverage in specific regards to eating disorders.

Referred to Committee on HEALTH AND HUMAN SERVICES, June 4, 2008.

**HOUSE BILLS
INTRODUCED AND REFERRED**

No. 2453 By Representatives MAJOR, EVERETT, PICKETT, WANSACZ, PEIFER, BAKER, BEYER, BOBACK, BOYD, CAPPELLI, CREIGHTON, CUTLER, ELLIS, FLECK, GEORGE, GINGRICH, GRELL, HALUSKA, HARHART, HERSHEY, MARSHALL, MENSCH, MILLARD, R. MILLER, PHILLIPS, RUBLEY, SCAVELLO, SIPTROTH, K. SMITH, SOLOBAY, J. WHITE and YOUNGBLOOD

An Act amending the act of July 25, 1961 (P.L.825, No.359), known as the Oil and Gas Conservation Law, further providing for definitions and for applicability, exclusions and construction.

Referred to Committee on ENVIRONMENTAL RESOURCES AND ENERGY, June 4, 2008.

No. 2526 By Representatives R. TAYLOR, LENTZ, BELFANTI, BRENNAN, BOBACK, CONKLIN, CURRY, DePASQUALE, FRANKEL, GEORGE, GIBBONS, GOODMAN, GRUCELA, HARHAI, HARKINS, HORNAMAN, KORTZ, KOTIK, LEACH, MAHONEY, MANN, McCALL, McILHATTAN, MELIO, MOYER, MURT, ROCK, SAYLOR, SCAVELLO, SHAPIRO, SIPTROTH, M. SMITH, SOLOBAY, SURRA, J. TAYLOR, WANSACZ, J. WHITE, YOUNGBLOOD, BEYER, HENNESSEY, HERSHEY, D. O'BRIEN and GEIST

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for registration.

Referred to Committee on JUDICIARY, June 4, 2008.

No. 2529 By Representatives R. TAYLOR, LENTZ, BELFANTI, BRENNAN, BOBACK, CONKLIN, CURRY, DePASQUALE, FRANKEL, GEORGE, GIBBONS,

GOODMAN, GRUCELA, HARHAI, HARKINS, HORNAMAN, KORTZ, KOTIK, LEACH, MAHONEY, MANN, McCALL, McILHATTAN, MELIO, MOYER, MURT, ROCK, SAYLOR, SCAVELLO, SHAPIRO, SIPTROTH, M. SMITH, SOLOBAY, SURRA, J. TAYLOR, WANSACZ, J. WHITE, YOUNGBLOOD, BEYER, HENNESSEY, HERSHEY, D. O'BRIEN and GEIST

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for the use of polygraph tests.

Referred to Committee on JUDICIARY, June 4, 2008.

No. 2530 By Representatives R. TAYLOR, LENTZ, BELFANTI, BRENNAN, BOBACK, CONKLIN, CURRY, DePASQUALE, FRANKEL, GEORGE, GIBBONS, GOODMAN, GRUCELA, HARHAI, HARKINS, HORNAMAN, KORTZ, KOTIK, LEACH, MAHONEY, MANN, McCALL, McILHATTAN, MELIO, MOYER, MURT, ROCK, SAYLOR, SCAVELLO, SHAPIRO, SIPTROTH, M. SMITH, SOLOBAY, SURRA, J. TAYLOR, WANSACZ, J. WHITE, YOUNGBLOOD, BEYER, HENNESSEY, HERSHEY, D. O'BRIEN and GEIST

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for restriction on residency.

Referred to Committee on JUDICIARY, June 4, 2008.

No. 2531 By Representatives R. TAYLOR, LENTZ, BELFANTI, BRENNAN, BOBACK, CONKLIN, CURRY, DePASQUALE, FRANKEL, GEORGE, GIBBONS, GOODMAN, GRUCELA, HARHAI, HARKINS, HORNAMAN, KORTZ, KOTIK, LEACH, MAHONEY, MANN, McCALL, McILHATTAN, MELIO, MOYER, MURT, ROCK, SAYLOR, SCAVELLO, SHAPIRO, SIPTROTH, M. SMITH, SOLOBAY, SURRA, J. TAYLOR, WANSACZ, J. WHITE, YOUNGBLOOD, BEYER, HENNESSEY, HERSHEY, D. O'BRIEN and GEIST

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for the offense of loitering and prowling.

Referred to Committee on JUDICIARY, June 4, 2008.

No. 2579 By Representatives PASHINSKI, DERMODY, BELFANTI, BIANCUCCI, BRENNAN, CALTAGIRONE, CARROLL, CASORIO, COHEN, CONKLIN, FABRIZIO, FREEMAN, GEORGE, GRUCELA, HARKINS, HORNAMAN, JAMES, KING, KORTZ, KOTIK, LEVDANSKY, LONGIETTI, MANDERINO, MANN, MARKOSEK, McILVAINE SMITH, MELIO, MENSCH, R. MILLER, PAYTON, PEIFER, PETRONE, READSHAW, SAYLOR, SCAVELLO, SEIP, SHIMKUS, SIPTROTH, K. SMITH, STERN, VITALI, WANSACZ, WATERS and YUDICHAK

An Act amending the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law, further providing for funds appropriated to municipalities.

Referred to Committee on TRANSPORTATION, June 4, 2008.

No. 2580 By Representatives CAPPELLI, DeLUCA, BIANCUCCI and MICOZZIE

An Act requiring health insurance policies issued by professional health services plan corporations to reimburse for occupational therapy services provided by licensed occupational therapists.

Referred to Committee on INSURANCE, June 4, 2008.

No. 2581 By Representatives BISHOP, JAMES, FRANKEL, HARKINS, PARKER, JOSEPHS, YOUNGBLOOD, HENNESSEY and THOMAS

An Act establishing standards for strip searches and body cavity searches; providing for conduct of strip searches and body cavity searches, for reports, for civil and criminal immunity and for duties of the Secretary of Corrections and the Attorney General.

Referred to Committee on JUDICIARY, June 4, 2008.

No. 2582 By Representatives BISHOP, MANN, HERSHEY, MUNDY, GRUCELA, ROCK, JAMES, THOMAS, HENNESSEY, KULA, MELIO and SIPTROTH

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in juvenile matters, further providing for disposition of dependent child.

Referred to Committee on CHILDREN AND YOUTH, June 4, 2008.

No. 2583 By Representatives MARSHALL, BELFANTI, BEYER, BRENNAN, CALTAGIRONE, CAPPELLI, CLYMER, DENLINGER, J. EVANS, FRANKEL, GEORGE, GINGRICH, GOODMAN, HARKINS, HENNESSEY, HUTCHINSON, KENNEY, KULA, MANN, MILNE, MOYER, MURT, PICKETT, PYLE, READSHAW, REICHLEY, ROCK, SAYLOR, SCAVELLO, SIPTROTH, SONNEY, STERN, J. TAYLOR, THOMAS, VULAKOVICH, WATSON, YOUNGBLOOD and BEAR

An Act amending the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, further providing for public assistance eligibility.

Referred to Committee on HEALTH AND HUMAN SERVICES, June 4, 2008.

No. 2584 By Representatives FREEMAN, ADOLPH, BELFANTI, BRENNAN, CALTAGIRONE, CASORIO, FABRIZIO, GEIST, GEORGE, HARHAI, HENNESSEY, HORNAMAN, JAMES, KULA, LEACH, LENTZ, MANN, McILHATTAN, McILVAINE SMITH, MILNE, MUNDY, MURT, NAILOR, M. O'BRIEN, O'NEILL, PALLONE, PASHINSKI, PETRARCA, PETRONE, QUINN, RAYMOND, READSHAW, SCAVELLO, SHIMKUS, SIPTROTH, K. SMITH, SOLOBAY, WOJNAROSKI and YOUNGBLOOD

An Act amending the act of May 29, 1956 (1955 P.L.1804, No.600), referred to as the Municipal Police Pension Law, further providing for payment.

Referred to Committee on FINANCE, June 4, 2008.

No. 2585 By Representatives BRENNAN, BELFANTI, BENNINGTON, BIANCUCCI, BOYD, CALTAGIRONE, CAPPELLI, CASORIO, DALLY, DePASQUALE, FRANKEL, FREEMAN, GEIST, GEORGE, GOODMAN, GRUCELA, HARHAI, HARKINS, HENNESSEY, HORNAMAN, KENNEY, KING, KORTZ, KOTIK, LONGIETTI, MAHONEY, MANN, McCALL, McGEEHAN, McILVAINE SMITH, MELIO, MENSCH, MUNDY, MUSTIO, PALLONE, PRESTON, PYLE, RAMALEY, READSHAW, REICHLEY, SABATINA, SAINATO, SAMUELSON, SANTONI, SCAVELLO, SEIP, SIPTROTH, K. SMITH, SURRA, SWANGER, VULAKOVICH, WAGNER, WANSACZ, WATERS, J. WHITE, WOJNAROSKI, YOUNGBLOOD and YUDICHAK

An Act amending the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law, further defining "income."

Referred to Committee on AGING AND OLDER ADULT SERVICES, June 4, 2008.

No. 2586 By Representatives McGEEHAN, BISHOP, BRENNAN, CALTAGIRONE, CASORIO, DALEY, DeLUCA, FRANKEL, FREEMAN, GIBBONS, GOODMAN, HORNAMAN, JAMES, JOSEPHS, MAHONEY, McCALL, M. O'BRIEN, PASHINSKI, RAMALEY, SIPTROTH, SONNEY, WAGNER, WALKO and J. WHITE

An Act amending the act of December 7, 1990 (P.L.639, No.165), known as the Hazardous Material Emergency Planning and Response Act, further providing for facility and vehicle inspection and testing and for enforcement.

Referred to Committee on VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, June 4, 2008.

No. 2587 By Representatives DePASQUALE, BENNINGTON, BOBACK, CALTAGIRONE, CARROLL, COHEN, CONKLIN, COSTA, CURRY, DALEY, DERMODY, DeWEESE, EACHUS, FRANKEL, FREEMAN, GALLOWAY, GERBER, GIBBONS, GOODMAN, HARHAI, HENNESSEY, HERSHEY, HORNAMAN, JOSEPHS, KENNEY, KESSLER, KILLION, KING, KORTZ, KOTIK, KULA, LEACH, LENTZ, LONGIETTI, McCALL, McGEEHAN, McILHATTAN, McILVAINE SMITH, MELIO, MENSCH, MILNE, MOYER, MUNDY, MURT, MYERS, NAILOR, M. O'BRIEN, OLIVER, PALLONE, PASHINSKI, PAYTON, PETRARCA, PETRI, READSHAW, REICHLEY, ROCK, RUBLEY, SABATINA, SAINATO, SANTONI, SCAVELLO, SHAPIRO, SIPTROTH, K. SMITH, M. SMITH, STURLA, SURRA, R. TAYLOR, VITALI, WAGNER, WALKO, WANSACZ, WHEATLEY, J. WHITE, BRENNAN and YOUNGBLOOD

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, excluding the purchase price of hybrid vehicles and fuel-efficient vehicles from the sales and use tax.

Referred to Committee on FINANCE, June 4, 2008.

No. 2588 By Representatives DePASQUALE, BENNINGTON, BOBACK, CALTAGIRONE, CARROLL, COHEN, CONKLIN, COSTA, CURRY, DALEY, DERMODY, DeWEESE, EACHUS, FRANKEL, FREEMAN,

GALLOWAY, GERBER, GIBBONS, GOODMAN, HARHAI, HENNESSEY, HERSHEY, HORNAMAN, JOSEPHS, KENNEY, KESSLER, KILLION, KING, KORTZ, KOTIK, KULA, LEACH, LENTZ, LONGIETTI, MANDERINO, McCALL, McGEEHAN, McILHATTAN, McILVAINE SMITH, MELIO, MENSCH, MILNE, MOYER, MUNDY, MURT, MYERS, NAILOR, M. O'BRIEN, OLIVER, PALLONE, PASHINSKI, PAYNE, PAYTON, PETRARCA, PETRI, READSHAW, REICHLEY, ROCK, RUBLEY, SABATINA, SAINATO, SANTONI, SCAVELLO, SHAPIRO, SIPTROTH, K. SMITH, M. SMITH, STURLA, SURRA, R. TAYLOR, VITALI, WAGNER, WALKO, WANSACZ, WHEATLEY, J. WHITE, BRENNAN and YOUNGBLOOD

An Act amending the act of November 29, 2004 (P.L.1376, No.178), known as the Alternative Fuels Incentive Act, further providing for the Alternative Fuels Incentive Fund.

Referred to Committee on ENVIRONMENTAL RESOURCES AND ENERGY, June 4, 2008.

SENATE BILL FOR CONCURRENCE

The clerk of the Senate, being introduced, presented the following bill for concurrence:

SB 1028, PN 1328

Referred to Committee on LOCAL GOVERNMENT, June 4, 2008.

BILL SIGNED BY SPEAKER

Bill numbered and entitled as follows having been prepared for presentation to the Governor, and the same being correct, the title was publicly read as follows:

SB 880, PN 1570

An Act amending Title 30 (Fish) of the Pennsylvania Consolidated Statutes, providing for vouchers for licenses and permits.

Whereupon, the Speaker, in the presence of the House, signed the same.

CALENDAR

REPORT OF COMMITTEE OF CONFERENCE

Mr. DeWEESE called up for consideration the following report of the committee of conference on **SB 246, PN 2099**, entitled:

An Act regulating smoking in this Commonwealth; imposing powers and duties on the Department of Health and local boards of health; providing penalties; preempting local action; and making a related repeal.

On the question,

Will the House adopt the report of the committee of conference?

PARLIAMENTARY INQUIRY

The SPEAKER. Representative Samuelson.

Mr. SAMUELSON. Thank you, Mr. Speaker.

A parliamentary inquiry.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. SAMUELSON. The matter before the House is a conference committee report. Is there a 24-hour rule that we should wait 24 hours before acting on a conference committee report?

The SPEAKER. The gentleman is correct. The Chair, as we have done in the past, will begin the debate but is very aware of the 24-hour rule.

Mr. SAMUELSON. And members of the House saw this conference report at 5 o'clock yesterday. Technically, what was the start time on the 24-hour rule?

The SPEAKER. It is 24 hours prior to adoption. That does not preclude us from debating the issue in advance.

Mr. SAMUELSON. I guess my question is, we saw the bill at 5 o'clock yesterday afternoon. What time are you saying was the official start time for the 24 hours?

The SPEAKER. 12:16; it was posted at 12:16 yesterday.

Mr. SAMUELSON. Thank you.

PARLIAMENTARY INQUIRY

The SPEAKER. Representative Hutchinson.

Mr. HUTCHINSON. Mr. Speaker, on a different matter, but a parliamentary inquiry.

It is my understanding that the Education Committee is still in the committee meeting.

The SPEAKER. The gentleman will suspend.

The gentleman may approach the rostrum. That issue is not before the House. The issue before the House is, will the House adopt the report at hand. That motion is not before the House at this point.

BILL PASSED OVER TEMPORARILY

The SPEAKER. This bill will be over temporarily.

The House will be at ease.

(Conference held at Speaker's podium.)

The SPEAKER. The House will come to order.

BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 2313**, **PN 3348**, entitled:

A Supplement to the act of April 1, 1863 (P.L.213, No.227), entitled "An act to accept the grant of Public Lands, by the United States, to the several states, for the endowment of Agricultural Colleges," making appropriations for carrying the same into effect; and providing for a basis for payments of such appropriations, for a method of accounting for the funds appropriated and for certain fiscal information disclosure.

On the question,

Will the House agree to the bill on second consideration?

Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2314**, **PN 3349**, entitled:

An Act making an appropriation to the Fox Chase Institute for Cancer Research, Philadelphia, for the operation and maintenance of the cancer research program.

On the question,

Will the House agree to the bill on second consideration?

Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2315**, **PN 3350**, entitled:

A Supplement to the act of July 28, 1966 (3rd Sp.Sess., P.L.87, No.3), entitled "An act providing for the establishment and operation of the University of Pittsburgh as an instrumentality of the Commonwealth to serve as a State-related university in the higher education system of the Commonwealth; providing for change of name; providing for the composition of the board of trustees; terms of trustees, and the power and duties of such trustees; authorizing appropriations in amounts to be fixed annually by the General Assembly; providing for the auditing of accounts of expenditures from said appropriations; providing for public support and capital improvements; authorizing the issuance of bonds exempt from taxation within the Commonwealth; requiring the chancellor to make an annual report of the operations of the University of Pittsburgh," making appropriations for carrying the same into effect; providing for a basis for payments of such appropriations, for a method of accounting for the funds appropriated and for certain fiscal information disclosure.

On the question,

Will the House agree to the bill on second consideration?

Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2316**, **PN 3351**, entitled:

An Act making appropriations to the Wistar Institute, Philadelphia, for operation and maintenance expenses and for AIDS research.

On the question,

Will the House agree to the bill on second consideration?

Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2317**, **PN 3352**, entitled:

A Supplement to the act of November 30, 1965 (P.L.843, No.355), known as the Temple University-Commonwealth Act, making appropriations for carrying the same into effect; providing for a basis for payments of such appropriations; and providing a method of accounting for the funds appropriated and for certain fiscal information disclosure.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

LEAVES OF ABSENCE

The SPEAKER. The Chair recognizes the minority whip, who requests that Representative WATSON and Representative QUINN of Bucks County be placed on leave. The Chair sees no objection. These leaves will be granted.

BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 2318, PN 3353**, entitled:

An Act making an appropriation to the Central Penn Oncology Group.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2319, PN 3354**, entitled:

An Act making an appropriation to Lancaster Cleft Palate for outpatient-inpatient treatment.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2320, PN 3355**, entitled:

A Supplement to the act of July 7, 1972 (P.L.743, No.176), known as the Lincoln University-Commonwealth Act, making an appropriation for carrying the same into effect; providing for a basis for payments of the appropriation; and providing a method of accounting for the funds appropriated and for certain fiscal information disclosure.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2321, PN 3356**, entitled:

An Act making an appropriation to the Burn Foundation, Philadelphia, for outpatient and inpatient treatment.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2322, PN 3357**, entitled:

An Act making an appropriation to The Children's Institute, Pittsburgh, for treatment and rehabilitation of certain persons with disabling diseases.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

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The House proceeded to second consideration of **HB 2323, PN 3358**, entitled:

An Act making an appropriation to the Trustees of Drexel University, Philadelphia.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

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The House proceeded to second consideration of **HB 2324, PN 3359**, entitled:

An Act making an appropriation to The Children's Hospital of Philadelphia for comprehensive patient care and general maintenance and operation of the hospital.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

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The House proceeded to second consideration of **HB 2325, PN 3360**, entitled:

An Act making an appropriation to the Beacon Lodge Camp.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2326, PN 3835**, entitled:

An Act making appropriations to the Trustees of the University of Pennsylvania.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2327, PN 3362**, entitled:

An Act making appropriations to the Carnegie Museums of Pittsburgh for operations and maintenance expenses and the purchase of apparatus, supplies and equipment.

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

Mr. **FLECK** offered the following amendment No. **A07260**:

Amend Title, page 1, line 1, by striking out "appropriations" and inserting

an appropriation

Amend Title, page 1, line 3, by removing the period after "equipment" and inserting

for the Carnegie Museum of Natural History.

Amend Sec. 2, page 1, lines 11 through 14, by striking out all of said lines

Amend Sec. 3, page 1, line 15, by striking out "3" and inserting
2

Amend Sec. 3, page 1, line 16, by striking out "sections 1 and 2" and inserting

section 1

Amend Sec. 4, page 2, line 1, by striking out "4" and inserting
3

Amend Sec. 5, page 2, line 7, by striking out "5" and inserting
4

On the question,
Will the House agree to the amendment?

The **SPEAKER**. The Chair recognizes Representative Fleck.
Mr. **FLECK**. Thank you, Mr. Speaker.

Mr. Speaker, I have always considered myself to be pro-education, and there is no doubt that our museums within the Commonwealth are a tremendous educational resource. However, I, like many, were very offended by the Carnegie Science Center in their decision to bring "BODIES...The Exhibition" to the Science Center. There is no doubt that viewing cadavers can be educational. However, I do not feel that we should violate someone's human rights in that quest. There are many of these cadaver shows throughout the world. For instance, the Franklin Institute brought the "BODY WORLDS" exhibit within the past few years. That exhibit is different. The exhibit that Carnegie chose has been and continues to be very controversial, simply because they are using unclaimed bodies, primarily from China. These bodies are being shipped here, more chances than not, under the auspices of body teaching models, and for the most part because of their labeling, they have managed to circumvent some of our most basic custom inspection requirements. In America you cannot ship produce or meats without clearing it through customs, nor can you ship human remains without inspection. We need to be sure there is no contamination that would pose a health risk, but what sort of health risk would body teaching models pose?

Mr. Speaker, may I have some order?

The **SPEAKER**. The gentleman is correct.

The members will please take their seats. The gentleman is entitled to be heard.

Mr. **FLECK**. In the past few months, in the last year or so, the New York Times, NPR (National Public Radio), ABC, "20/20," and numerous other sources have investigated this particular company that has made hundreds of millions of dollars off these body exhibits. Many feel these are executed political prisoners from China, a country that is notorious for its human rights violations, not to mention all the tainted goods that we have received in the past year alone. This is China we are talking about. The Carnegie Science Center knew this particular company was very controversial, and yet all they saw were dollar signs because these shows are very profitable. To their credit, they did form an ethics committee who met with the company, but they bought it hook, line, and sinker. They said, trust us; we have seen the paperwork. But they have never produced, nor released, a single shred of evidence to the public, even after repeated requests from the Post-Gazette and other media sources.

Ironically, this past February the Attorney General of New York, Andrew Cuomo, subpoenaed this very same company for proof as to who were these bodies, how were they obtained, what did they die of? Last week Cuomo stated, the company, "...despite repeated denials...had no way of knowing the true source of their human exhibits and no meaningful documentation to support their claims that the bodies had been donated for such a use." He goes on to say that this company has made millions of dollars in the U.S. off of plastinated human bodies, "...the remains of individuals that may have been tortured and executed in China." Last week the State of New York reached a settlement with Premier Exhibitions, the company in question, that anyone who attended one of these shows in New York was entitled to a full refund.

In conclusion, HB 2327 is worded as such that the Carnegie Science Center and the Carnegie Museum of Natural History will be appropriated \$508,000 from the Commonwealth to be split equally, roughly \$254,000 each. My amendment removes the Carnegie Science Center from the appropriation without affecting the Museum of Natural History. Two hundred and fifty-four thousand dollars is a drop in the bucket for the Science Center, not to mention they have made a great deal of money off this exhibit. In other words, it is not going to affect them much, other than I feel we need to send a clear message that this is unacceptable.

A few months ago we made a big deal about—

The **SPEAKER**. The gentleman will suspend.

The noise level is entirely too loud. The member is entitled to be heard. Conferences in the well of the House, in the middle aisles, and side aisles will break up immediately.

Representative Fleck.

Mr. **FLECK**. Thank you, Mr. Speaker.

Mr. Speaker, a few months ago we made a big deal about divesting in Darfur simply because of their human rights violations. That was appropriate action. Again, I do not think the Commonwealth should be enabling companies to make money at the expense of someone's human rights. We have numerous laws on the books against the desecration of tombstones. We spend millions of dollars on the Tomb of the Unknown Soldier. We should not be so trivial about life even in death.

If someone wants to donate their body for commercial exploitation, then that is their choice, but the bodies that were on display at the Carnegie Science Center were all unclaimed. That right was taken from them. They were stripped of their

dignity – butchered, quartered, dissected against their will. None of them agreed to do that.

Again, if you want to donate your body for one of these exhibits for commercial profit, that is your choice. You know, I have legislation out there that does concern these exhibits. It does not close them down, but it makes sure it knows where these bodies have come from, and many of them are coming from un reputable sources in China.

Thank you, Mr. Speaker.

The SPEAKER. Representative Evans.

Mr. D. EVANS. Mr. Speaker, I do not question the intent of the gentleman and what he is attempting to do, but where I probably would disagree with him is choosing to do it on this particular initiative. What I would think would probably be the proper way is to try to work through either some form of a resolution or something of this House that this House go on record and not be in support of this kind of behavior.

I do not think that this amendment accomplishes what he wants it to accomplish, because this has to go through the Senate and it will not get to stay on here.

So I would ask members of the House on both sides of the aisle to vote "no" on this particular amendment. I do not want to minimize the substance of what he is saying, but he understands that this is all a part of the budget process. I understand what he is saying. He made a very good point. I heard his point. The great thing would be is that you have made your point.

I would like to withdraw this amendment, but that is your right to do it; you have got a right to do it, but I would hope you would understand that this is just something that is not appropriate at this time, not for this particular initiative, because there are all kinds of issues that people could bring up and they are very legitimate issues. I do not want to mean that I am minimizing what you say. I am not minimizing what you say. I am just saying to you at this particular point I do not believe that this amendment will be proper, and I would ask that members on both sides of the aisle vote against this amendment.

Thank you, Mr. Speaker.

The SPEAKER. Representative Samuelson.

Mr. SAMUELSON. Thank you, Mr. Speaker.

Reading the gentleman's amendment, which, as I understand it, the net effect of it would be to cut this appropriation in half; instead of the two different appropriations in this nonpreferred bill, it would be reduced to one, and I think that is moving in the right direction. As you know, I have been an opponent of these nonpreferred appropriations because I think we have an unfair process.

If any of you went to the East Wing Rotunda today, you may have noticed the Coalition of Independent Museums of Pennsylvania having displays, trying to give us information about the many wonderful museums we have in Pennsylvania. What the folks down in the rotunda may not realize is that on the floor of the House today we are considering bills to give nine of those museums a special appropriation. But one time I asked the question, how many museums do we have in Pennsylvania? One thousand four hundred museums. We have a rich history in this State, and we have 1,400 museums. Who are we to single out nine of these museums for a special deal, a special appropriation?

I think, and I have advocated this on the House floor for years, that what we should do is we should take this money that is in these bills for these nine museums, put it into a fund, and

let all museums in Pennsylvania compete for this funding. We need a fair process; we need an open process.

So the gentleman seeks to cut this appropriation in half today. I think he is not going far enough. And on final passage of this bill, I will be a "no" vote because I advocate a fairer process that treats all museums equally, but I do note that the net effect of his bill is cutting this appropriation in half, and that is a start.

Thank you, Mr. Speaker.

The SPEAKER. Representative Stevenson.

Mr. STEVENSON. Thank you, Mr. Speaker.

I rise to support this amendment introduced by the Representative.

There are very few opportunities we have to affect the nonpreferred appropriations or to get the attention of some of the folks who receive these appropriations year after year.

This is a display at the Carnegie Museum which I think deserves our attention. It certainly is one which, as the Representative has indicated, is very questionable in terms of the human rights violations that have occurred here. These are bodies which were not donated by the people themselves but rather came from unknown sources. There are many questions about this exhibit and the way it was designed, set up, and brought to this country.

For these reasons I support the amendment as drafted and would ask for the members' support. Thank you.

The SPEAKER. Representative Beyer.

Mrs. BEYER. Thank you, Mr. Speaker.

I rise in support of the Fleck amendment. In fact, I agree with Representative Samuelson that the amendment does not go far enough. I agree with Representative Samuelson's comments related to a pool of money for our museums, but most importantly, in this instance and what Representative Fleck is referring to is in fact a bill that he has which prohibits the use of these bodies in exhibit. I have an amendment to Representative Fleck's bill that disallows any entity in the State of Pennsylvania that accepts public moneys, prohibits them from displaying these "BODIES" exhibits.

Representative Fleck is absolutely correct, and I ask my colleagues to join us in support of this amendment.

Thank you, Mr. Speaker.

The SPEAKER. Representative Roae.

Mr. ROAE. Thank you, Mr. Speaker.

I stand to support the Fleck amendment. One follow-up comment from Representative Samuelson: The State budget already has an item in it to help museums. Under the Historical and Museum Commission section of the State budget, there is a line item called "Museum assistance grants" that is proposed to be funded at \$3,835,000. I agree that all the museums in this State should be on equal footing when they are trying to get State funding. There should not be nine museums that get special treatment and all the other museums have to compete for the \$3,835,000.

I am filing an amendment to the budget that is basically going to take away all the funding for those nine museums – that total is \$2,744,000 – and put that money in the museum assistance grant program. That way, all the museums would have fair treatment. So if the budget bill is ever voted out of committee and we have a chance to amend the budget bill, I will be working on that amendment. Thank you.

The SPEAKER. Representative Rapp.

Ms. RAPP. Thank you, Mr. Speaker.

I rise to support the Fleck amendment. I have many concerns, the same concerns as the former speakers regarding this exhibit, and my concerns over human rights violations. I have heard from constituents and families that many schoolchildren and other members of the public have gone to these exhibits not knowing that this "BODIES" exhibit was actually real people, and due to the fact that there is a lot of controversy revolving around the origination of these bodies, I think we should be sending a strong message in the form of what really matters to these exhibitors' dollars.

I fully support this amendment, and I am asking that my colleagues would consider supporting this amendment as well.

The SPEAKER. Representative Thomas.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, I rise to ask my colleagues on both sides of the aisle for a moment of reflection – for a moment of reflection.

Representative Fleck has a good proposal; Representative Samuelson has raised some good concerns, but, Mr. Speaker, the overarching question that we must reflect on is, why now? Why now do we bring up these issues when the first Monday in February the Governor made his proposal to the General Assembly— Mr. Speaker, may I have some quiet?

The SPEAKER. The gentleman is correct. Members will please take their seats. Conversations and conferences will recess to the anterooms. The noise level is entirely too loud.

The gentleman is in order.

Mr. THOMAS. Thank you, Mr. Speaker.

Mr. Speaker, the Governor presented his budget the first Monday in February. Between February and a couple of weeks ago, we have had a series of public hearings. We have had meetings before the Appropriations Committee. We have had a substantive conversation on the budget and many of the items in the budget.

While I have not participated in all of the conversation, I think I have participated in enough to know that to raise the question as to why this is the first time I am coming face to face with the Fleck proposal and while this is not the first time that Representative Samuelson has raised his concerns and offered a good proposal, this is the first time during this budget conversation that I have heard his proposal and his concerns, and I am concerned with why, between February and now, we have not fleshed some of this stuff out.

Mr. Speaker, we have people all across Pennsylvania that are waiting for us to take care of the people's business, and, Mr. Speaker, I rise to ask Representative Fleck to ask Representative Samuelson and to ask anybody else that has a concern with HB 2327 that you withdraw your concerns temporarily, move the agenda, and we all agree that by the time, by the time we get ready to put the period on all of this, these concerns will be taken up and addressed, because I am confident that the Appropriations chair on the minority side and the Appropriations chair on the majority side, I am confident that their doors are open, and because their doors are open, there is an opportunity to address these concerns before we put a period on the budget process.

So I ask you two distinguished members and all other distinguished members similarly situated to reflect, step back, let us move this forward, and then let us sit down and address these concerns that you have. Thank you, Mr. Speaker.

The SPEAKER. Representative Metcalfe.

Again the Chair will ask members to take their conferences to the anteroom. The noise level again is rising to an intolerable level.

Representative Metcalfe.

Mr. METCALFE. Thank you, Mr. Speaker.

Mr. Speaker, a couple of the questions that were raised earlier, one by the Democratic Appropriations chairman questioning that this would not be the right way to go about sending a message that the General Assembly, the taxpayers in general, do not support their tax money being used for these types of displays where it is so unclear and where the potential is so great that the bodies that are being displayed could be the bodies of those who have been persecuted politically, persecuted because they were Christians, persecuted because they may have been students, like in 1989. How soon do we forget Tiananmen Square and the images of those Chinese students, the students standing there opposing the tank, of the hundreds that were reportedly killed by Chinese military because they were protesting unarmed in their nation?

Mr. Speaker, my answer to the Appropriations chairman on his questioning whether or not this is the appropriate method and what the appropriate method is with a resolution to express our sentiments on this issue, my answer is, Mr. Chairman, put your money where your mouth is. If you oppose this type of activity, then let us send a message that cannot be sent any clearer, as all of us know, than in the pocketbook. Let us defund this appropriation and send a very clear message.

Mr. Speaker, one of the former speakers asked, why now? Why now? Why not in February? Well, Mr. Speaker, this has become an issue that has had more light shined on it in very recent weeks. The sponsor of this amendment has also sponsored legislation to go after these types of displays to try and ensure that the bodies are bodies of people who actually approved of their body being used in a scientific way rather than having the potential exist for these bodies to be the bodies of individuals who may have been put to death in their own nation for no crime at all other than living in a nation that has been known for its oppression of its people and for its flagrant abuse of human rights and for its abuse of humanity.

Mr. Speaker, as you consider voting for or against this, I would ask that the members— Mr. Speaker, I am hearing laughing in the General Assembly. I am hearing a lot of conversation. I mean, this is a serious issue, Mr. Speaker.

The SPEAKER. The gentleman will suspend.

The Chair will again ask members to take their conversations off the floor. The Sergeants at Arms will clear the aisles. The Sergeants at Arms will clear the aisles.

The conversations are still rising to an intolerable level as the Speaker is challenging the members to be quiet.

Representative Metcalfe.

Mr. METCALFE. Mr. Speaker, I know we cast many votes at certain times of the year, especially during the nonpreferreds. We will see dozens of votes run during this budget time on nonpreferreds. But each vote is a representation of the 60,000 or so individuals that you represent, each of us represent across the State, ultimately representing over 12 million, almost 13 million people, Mr. Speaker. Mr. Speaker, the taxpayers' money is being given to groups that are allowing for these displays; in this particular amendment, one particular group that allowed this display to occur, Mr. Speaker, and that is why the timing of this amendment.

Mr. Speaker, I think 1989 was not that long ago. I know that the pictures that still live in our memory of what happened in Tiananmen Square to those students and to those individuals in China who were put to death by their government for protesting peacefully, Mr. Speaker, those are the types of individuals that very well could be on display in these exhibits, are individuals who have committed no crime but have been put to death by the tyrants in charge of their nation, such as China.

Mr. Speaker, I think it is very important that we send a clear message that tax dollars should not benefit this type of an exhibit or any organization that is willing to look the other way and allow this type of exhibit. Thank you, Mr. Speaker.

The SPEAKER. Representative Evans.

Mr. D. EVANS. Mr. Speaker, sometimes I wonder if this is a rerun, and the reason I wonder sometimes if this is a rerun is because I do not know—I really do not know the maker of the amendment. I mean, I do not know him personally; we have never spent any time, and he seems like a very, very honorable person and I do not question his intent. I want you to be clear: I do not question his intent.

In my view, if you really want to deal with this the way—and I will commit on this floor if you want to deal with this—is the way we deal with it is we sit with the museum, the people who run the museum, and we have a discussion with them. That is what we do if we are serious about dealing with it. This only deals with the appropriation for the running of the museum.

Now, you know, we can do what we are doing here, but I can promise you, at the end, this amendment is not going to be in here. Now, I am going to say that again: I understand that there will be some people who will want to be defiant. I understand some people will want to, you know, like, we are not going to take this; we are going to prove a point. And I recognize you got a vote, and that is a right, but at the end of the day I am going to work with your leadership; I am going to work with the Senate leadership; I am going to work with the Governor.

I already said to the gentleman who is the maker of the amendment that I am willing, that I am willing, that I am willing to sit with, to sit with the museum. I just do not think this is the way it should be conducted. Now, he has a right to offer his amendment; he has a right to do it, but the question is, are you more interested in the amendment and a vote in that process or are you more interested in trying to resolve the issue? That is the question. If you are more interested in solving the issue, the way you do it, in my view, is that we get Carnegie Mellon; we sit with them; we have a discussion with them. That is the way we should handle the process.

In my view, I do not think you should handle the process, and I am just one member. I am not diminishing anybody's vote; I am not questioning anybody's vote, but the fact of the matter is, fairness is fairness around all of these particular museums, and if you are not going to have that kind of policy for all the museums, then why would you pick this particular museum?

The second thing I want to say to somebody who is on my side of the aisle, and I have said this to him before, there is a process, and we do hold all of these entities accountable. We hold them all accountable. There is a way to hold them accountable. We are in the midst of a budget process. We are trying to get this resolved. We want to finish by June 30.

Now, I do not want to, I do not want to diminish what the gentleman is attempting to do here with this amendment. I want you to be clear: I am not trying to diminish it. I am not trying to say it is not a worthy cause. I am not trying to say anything that

has been said. And when the gentleman said, put my money where my mouth is, it is not my money. It is not my money. It is not my money; it is the taxpayers' money. This organization is a very important organization to the Commonwealth of Pennsylvania.

So I am just asking, just one time, that we rise above the kind of typical parochial things that we do and we recognize that we should allow this particular museum to receive their appropriations. I am not trying to diminish what the gentleman is offering. I want you to be clear: I am not trying to diminish that. He has a legitimate point. There is a way to do it.

I will commit today, we will get the museum people in and we will sit down and have a discussion, or anybody else you want to. I do not want to just single out this particular museum. So I am just saying to you that what I am sensing on this floor is like a feeling like, well, we have got a chance to send a message. Well, I think— You know, there are a lot of people watching us on TV and others watching how we conduct ourselves. Civility, I think, is very important. I listened to you; I am asking that you listen to me. Even if you disagree with me, I am asking that you listen. I listened. I did not make one single sound when you spoke.

The SPEAKER. The gentleman will suspend.

Members will, again, refrain from calling things out. Members, if they have important conversations, will please adjourn to the anteroom. This is a very important debate. All members are entitled to be heard.

Representative Evans.

Mr. D. EVANS. Thank you, Mr. Speaker.

So, Mr. Speaker, to the maker of the amendment, I take you serious. Anybody who has known me, on both sides of the aisle, when I take you serious, I take your issue serious. I will be more than glad, at least from my perspective, we can have this discussion. I personally do not think that you will ultimately send a message that you want to send with this amendment. I do not personally think you will achieve the objective that you want to achieve.

I think, in my view, and I think I got just a little bit more experience around here. I have been through this before. People have different experiences with these different organizations. I am not saying it is not legitimate. I am just saying that I do not believe that this amendment is appropriate with this operating aspect of this museum, and I would hope, and it is your judgment, because you got a right to put this on the floor. That is why I have asked people to be "no" on this particular amendment. I just do not think this is the appropriate time for it. I am not saying your issue is not appropriate; I am just saying I do not think the way we are handling it is the appropriate way.

So I would ask members on both sides of the aisle if they would vote "no" on this particular amendment. Thank you, Mr. Speaker.

The SPEAKER. The Chair recognizes the minority leader, Representative Smith.

Mr. S. SMITH. Thank you, Mr. Speaker.

Mr. Speaker, I absolutely disagree with what the previous speaker just said. Perhaps it has been a long time since he was in the rank-and-file world of this legislative body. And as the majority chairman of the Appropriations Committee, if he had a similar feeling to the gentleman from Huntingdon County, he could hold this bill up in Appropriations, and the people from this particular museum or from any entity of which we had a

question would be in his office in a heartbeat to say, what is the concern you have, Mr. Chairman?

Now, the fact is, there are a few of us in this legislative body that you all have put into positions of extra authority to help move and negotiate budget and budget-related bills. But for the majority of you, if for some reason I or the majority leader or the majority Appropriations chairman do not agree with your position, you do not have that leverage of controlling the bill in the Appropriations Committee. This is the gentleman's only real opportunity to air out this issue.

And while we might from time to time say we are sending a message, the fact is, Mr. Speaker, sometimes that is the reality of what we have to do, whether it is as a rank-and-file member, sometimes it is the minority party, whoever is the minority party at the time. The fact is, Mr. Speaker, that what this amendment is saying is that this legislative body has concerns with how this particular museum operated or has handled a certain display that they have carried out.

This is the gentleman's opportunity, and if you agree that this display is questionable and that someone from the museum does need to come in to this legislative body and say, we want to maintain our relationship with the taxpayers of Pennsylvania, we are a respected institution in this Commonwealth – and clearly, in this case, that is the fact – if they want to maintain that upstanding relationship and maintain the support of this legislature, then we do need to sit down and discuss those problems.

The fact is, Mr. Speaker, this is the opportunity the gentleman has to make that case. What he is asking for is just what the Appropriations chairman suggested, that they would come in and discuss this, and that if they are refusing to discuss the problems and trying to iron out those problems, then maybe their appropriation should be in jeopardy. That is how this process works. Let us not be naive. Let us not be idealistic.

I do not think there are many members here that would not think that the Carnegie is not an outstanding organization, institution, and something that we all support. They provide a lot of educational value to our communities. But when there is a question about how they are handling a certain aspect of their operation, and it is offensive to some people in this legislature on behalf of many people in this Commonwealth, this is the point from which that message should be sent.

Quite frankly, Mr. Speaker, the option would exist. This bill – I mean, I know we have tons of legislation to deal with over the next 3 weeks – this bill could be held over. If we were serious about saying, let us bring them in and talk about this and see what can be resolved, this legislation could be held over and we would not even have to consider this amendment. However, given that that is not the case, that the bill is running, the gentleman has his opportunity, I think that the question before each of you is, do you share the concerns that have been raised relative to how this display that has been raised in question, do you share those concerns? It is not that you are against the Carnegie; it is that you are concerned or offended by how this matter has been handled.

This is the opportunity to say, stop; come in; we can resolve this perhaps, but this is the point in time where the gentleman has his chance to get his say in this process. And for every member of this legislature, your day will come when you will want to be able to say, stop; I need to be able to talk to these people; this is wrong and it needs to be corrected. Maybe it is a misunderstanding, maybe it is a flat-out disagreement of

philosophy, but if you agree with the gentleman that this display is questionable in how it has been handled, then your support of his amendment will in fact convey that message to the Carnegie.

It is not a matter of delaying the process, Mr. Speaker; it is a matter of working within the process. I would urge the members to consider that on that fact, and if in fact you do believe that this display has questions, as I do, then you would support the gentleman's amendment. But I certainly, Mr. Speaker, would not criticize this from a tactical perspective. It is his opportunity to demonstrate his commitment to the positions that he has held, and I would urge the members to view it in that light.

Thank you, Mr. Speaker.

The SPEAKER. Representative Evans.

Mr. D. EVANS. Mr. Speaker, the Republican leader did a very good job in terms of doing his job, kind of being in opposition. I offered, and I am willing to offer again— I am saying it publicly; first time I have heard of this issue; never has it been brought to my attention – never asked me. I never heard this before. No one has ever asked. I am making a commitment here, because this is only on second consideration, only on second consideration. I am making the commitment publicly that we can get the museum to come in; we can sit down and have the discussion – if it is about that, in having a discussion with the museum. If it is about proving a point, there is nothing I can do. There is nothing I can do if people want to say, oh, we want a victory. There is nothing I can do about that. But if it is about sitting and having a discussion, I say right now, I can assure you I can get these people up here today, tomorrow, whenever you want, or we can get them up here, you can get them up here. If it is about that, I am willing to do that.

So I have offered that as an olive branch. I have offered that as an olive branch, first and foremost. The second part I have said is that this amendment, we do not need it. Now, if it is about solving and addressing the issue, that is one thing, or if it is about thumping the chest and saying, we prove a point, there is nothing I can do about it. There is nothing I can do about that. One of my colleagues went over just a minute ago and asked that question. He asked, is there a bill? Do you want us to address the bill? I think my colleagues came back to me and told me they did not want to address the bill. That is what was told to me, at least by my colleague.

So I am trying to figure out, what is it? Is it that you really want to do something about this issue, or is it really that you want to get political points? Which one is it? I understand you want to get political points, because it is an election year. I understand that, too. I may not agree with that—

PARLIAMENTARY INQUIRY

Mr. S. SMITH. Mr. Speaker? Mr. Speaker, point of parliamentary inquiry.

The SPEAKER. For what purpose does the gentleman, Mr. Smith, rise?

Mr. S. SMITH. A point of parliamentary inquiry.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. S. SMITH. I believe the Speaker was impugning the purpose for this amendment by injecting that he was scoring political points. I do not believe that that is a proper form of debate. I would ask the Speaker to—

The SPEAKER. The Chair will ask all members to observe the decorum of the House. The Chair will also remind members that on all appropriations bills, including nonpreferreds, there is a 5-minute rule for members. Latitude is extended to the leadership, the sponsors of an amendment. The makers of a debatable motion shall be entitled to be recognized twice. All other members are recognized once.

The gentleman, Representative Evans, may proceed.

Mr. D. EVANS. Thank you, Mr. Speaker.

Mr. Speaker, I said from the beginning on this issue that I do not know the speaker, the maker of the amendment, and I have no idea about this particular issue. I am hearing about it for the first time. It has never been brought to my attention. If anybody knows, and I know members on that side, as long as I have been chairman of the Appropriations Committee, if you bring an issue to me and if there is something that I can do about the issue, I try to address the issue.

If you want to bring it to the floor and have a vote up or down, I respect that, too, because that is your right. But I am not clear on what the objective is. So I am saying publicly in front of all of you that I am willing to try to help solve this. I do not believe, if this amendment should be successful, that you will ultimately accomplish your objective. Now, that is just my opinion. I do not believe that you will accomplish your objective.

So my point is that if you want to try to accomplish a certain objective, we are willing – we, this side; I can say it – we are willing to work with you. I just do not think this amendment is the way to go. Ultimately, members will decide on the floor, somewhere down the line. You know, we will – let me say something to you – we will get this nonpreferred through. I want you to be clear. We will get this nonpreferred through. Now, it is only a question of when we are going to get this nonpreferred. It will either be now, it will be later, or it will be sometime when we are going to get this nonpreferred.

Carnegie, Carnegie Museum of Pittsburgh will get their money. It is only a question of when. So I am only saying to you, I understand; you got this point about this amendment now, but I have been here too long, and so has the Republican leader, and he knows full well, even though he said all those words to you, he knows full well that Carnegie Mellon, Carnegie Mellon Museum is going to get their money. He knows it and I know it. So it is only a question of when they are going to get their money.

So yes, we can go through this. We spent an hour, 45 minutes, debating this amendment. I put an offer on the table. Obviously, nobody has picked up on my offer I put on the table. I respect if you do not want my offer. If you just want to vote "yes" or "no," do it. But remember what I said today: They will get their money. So let us be very clear about that; I want you to understand that: They are going to get their money. They deserve this money. They are taxpayers in this State, in Pennsylvania, and the fact of the matter is, it will be done.

So I understand what we are going through, so I am willing, I am willing – I am going to go on record – you tell me you want to do this the way you want to do it, and I am putting an offer out to you. I am prepared to do it the way you want to do it. I would much prefer to sit with Carnegie Mellon Museum. We can do it; I will do it with you. That is all I ask. I ask you to either withdraw the amendment or basically say that we will go along to offer it.

So I am offering this publicly, very open, very transparent to you, that we can work this out. I do not know what else to say to you. I just say "no" to this amendment, and I am willing to work with you. I am willing – for whatever that is worth, Mr. Speaker. So I will be "no" on this amendment.

Mr. S. SMITH. Mr. Speaker?

The SPEAKER. Representative Smith.

Mr. S. SMITH. Mr. Speaker, that argument is astonishing to me. On the one hand, the gentleman says that it is the taxpayers' money. On the next minute he says, it is Carnegie's money and they are getting it; it is their money. A few minutes later, Mr. Speaker, the gentleman says that he is willing to work with you to try to do this, but he wants you to give up his leverage. He wants to give up your opportunity on the floor to speak out and we will work on it later.

Mr. Speaker, I would argue that if the gentleman is serious about trying to resolve this issue in the most responsible manner, we would just simply go over this bill and allow – this is Wednesday; we will be back here on Monday – allow the people to get together. Maybe it can be resolved; maybe it cannot. I do not know that for sure. Maybe it can and maybe it cannot. I am under the understanding that it has not really been vetted out in that vein, is what the gentleman said.

So, Mr. Speaker, it is a simple process. If the majority Appropriations chairman really wants to work with the gentleman, he simply holds over this bill, allows us still on second consideration, because it may be it is unresolvable and we will just have to have a vote straight up on whether they get money or not get money.

I would remind the gentleman, Mr. Speaker, that last year – I forget the exact nonpreferred, but I think it was related to an art school – the nonpreferred appropriation came up on third consideration and it was defeated by this House, and it was defeated over the issue that a gentleman from Westmoreland County brought to the floor. It had to do with whether or not they would allow homeschoolers to participate in this school, that there was some exception. And I do not remember all the details, but it had to do with homeschoolers and it had to do with a nonpreferred. I believe it was an arts education-type university. The nonpreferred was denied. They came in and met. A few days later, the vote was reconsidered and the legislature ultimately approved to give that institution some of its State taxpayers' dollars.

So, Mr. Speaker, you can go a couple of different processes here, but certainly the easiest one is to say we have a problem. There is a legitimate concern that has been raised. Go over this legislation and allow them to meet. It may or may not be resolved. I am not promising that. I do not know enough about the issue to say whether it is something that can be resolved. But that is the process, Mr. Speaker. That is what the gentleman is really trying to do. You have to get their attention, because somewhere along the line, the money does get their attention. But hold the bill over, Mr. Speaker, and allow that process to take place. You want to move forward with the vote, and then tomorrow there is no leverage left. There is no opportunity for the gentleman to even get someone's attention.

So, Mr. Speaker, I would throw that out as the option that the majority has, is to simply go over this legislation temporarily, for a couple of days, allow these people to meet, now that they recognize the level of sincerity and the level of interest there is over the controversy. So that would be my suggestion, Mr. Speaker.

AMENDMENT PASSED OVER TEMPORARILY

The SPEAKER. This amendment will be over temporarily.

**NORTHERN LEHIGH HIGH SCHOOL
HONORS AMERICAN GOVERNMENT CLASS
INTRODUCED**

The SPEAKER. The Chair recognizes Representative Harhart for an introduction.

Mrs. HARHART. Thank you, Mr. Speaker.

Today I feel very honored and I want to introduce and welcome the Northern Lehigh High School honors American government class and their teacher, Jon DeFrain, who is sitting to the left, along with the assistant principal, Don Allen, of the Northern Lehigh School District.

This selective class studies the functions and services of the American democratic system. The students recently participated in a controversial debate of the issues dealing with law, religion, and State government professionals, including myself. And believe me, these young students asked tough questions, and they are very knowledgeable about the issues of today.

So I am glad to recognize them, and I would like you to welcome them, because this is a great group of students. The students are sitting at the back of the House floor here, and as I said, their teacher and assistant principal are in the front. So give them a nice warm welcome. Thank you.

CONSIDERATION OF HB 2327 CONTINUED

**CONSIDERATION OF
AMENDMENT A07260 CONTINUED**

The SPEAKER. The Chair returns to amendment A07260 and recognizes Representative Dermody on the amendment.

Mr. DERMODY. Thank you, Mr. Speaker.

Mr. Speaker, I agree with the Republican leader when he says that the Carnegie Museums are two of the finest institutions in this country, and I think it is wrong for us to be here today punishing these fine institutions at this time in this amendment.

I understand that the sponsor of this amendment has legislation introduced on this issue. I am not trying to minimize this issue in any way whatsoever; however, it should be discussed in legislation. It can be, and I understand they just received a commitment that it will be. So for us to take away the money and the ability of these fine institutions to operate, for them to serve the people of Pennsylvania, particularly western Pennsylvania, and we are being singled out here today in this amendment, is simply wrong.

We ought to vote this amendment down and take care of this issue in the legislation and the bill that the sponsor of this amendment has introduced. Thank you, Mr. Speaker.

The SPEAKER. Representative Frankel.

Mr. FRANKEL. Mr. Speaker, let me join my colleague from Allegheny County in asking my colleagues to vote this amendment down.

As has been previously stated, the Carnegie Museums are not just a premier cultural institution in western Pennsylvania but one with a national reputation. In addition, they do enormous

outreach and education in our community, and to punish them in this way, I think, is unconscionable.

The exhibit that was at question here is something that has traveled throughout the country. There are legitimate ethical concerns, and the maker of this amendment has another piece of legislation, which I, in fact, am a cosponsor of and will work with him to get considered in the Judiciary Committee and then bring to the floor. That is the appropriate way to do this.

But to penalize this great institution that does great outreach, great education, is an economic driver, a tourism attraction for western Pennsylvania, is wrong. We should not treat it in this manner. We should vote this amendment down and deal with the substance of the maker's concerns in his piece of legislation, which I, again, am an enthusiastic cosponsor of.

So I ask my colleagues to vote "no" on this. Thank you.

The SPEAKER. Representative Petrone.

Mr. PETRONE. Thank you very much, Mr. Speaker.

Mr. Speaker, I rise to oppose this amendment, and I think everybody here should. The reasons are very simple.

With this amendment, we are impeding access to science, to education, and to history. When we remove funds from agencies like this that do this kind of thing, what is next?

Let me ask you, how many of you here saw the King Tut exhibit? Put up your hands in this room. Did you travel to see King Tut? It has been all over the country. You should have done it. How about the Ice Man that they found that was frozen in the ice in the Alps for 5,000 years; anybody interested in that? You should be. I think the young people in the back of this room should be interested.

I think by impeding and taking funds away from these kinds of museums that do this service of education is a very dangerous situation. And by the way, how many of you get the National Geographic? Do you think you ought to get rid of them? Do you want to go throw them in the garbage? Look what they have been doing for centuries to educate our young people with these kinds of things.

It is wrong to go down this road to consider cutting funding for any of these organizations. They are the backbone of our educational process, and if we start messing with them, we are going to have to start messing with a lot of other agencies.

I would like to ask the young people sitting in the back of this room, do you think by seeing these kinds of things that you might be encouraged to continue on to want to study science, pathology, things like that? What do you think? Are you afraid of seeing these things? Yes; the young people in the back of this room. I am not sure what grade you are in; should we cut funds to deny access to these exhibits? What do you think? No? Yes?

You are in school; you are going to be going on to better things. Come on—

The SPEAKER. Representative, I do not believe that the students are standing for interrogation.

Mr. PETRONE. Okay. I think I am making my point. I think most of the young people here would be opposed to cutting funds that could be used for educational processes that might encourage you to want to go on to be doctors or scientists or pathologists or someone else. You would be opposed to that, and we all should be opposed to it.

Thank you very much.

The SPEAKER. Representative Dally.

Mr. DALLY. Thank you, Mr. Speaker.

The SPEAKER. The gentleman will suspend.

The Chair will remind members to please hold their conversations to a minimum.

Representative Dally.

Mr. DALLY. Will the Democratic Appropriations chairman please stand for interrogation?

Mr. Speaker, I will forgo with the interrogation.

The SPEAKER. The gentleman is wise.

Mr. DALLY. Mr. Speaker, I rise just to correct a few misstatements that I think were made earlier in terms of this appropriation and the fact that we have had since February to review it. That may indeed be the case. It was indeed presented in the Governor's budget. However, there have never been any hearings held on most of the nonpreferreds we are going to consider today, and that is part of the problem with this process, is because this is the first opportunity that members have to ask questions about nonpreferred appropriations.

The amendment offered by the gentleman is indeed appropriate and it gives members the opportunity to have input in the process. It certainly does not surprise me that the Democratic Appropriations chair is taking the position that he is, because he has done the same thing with our General Fund budget.

One of the most important things we do and probably the only constitutional obligation we have as a General Assembly is to pass a budget, and the gentleman from Philadelphia will not allow that budget to come out on the floor so the rank-and-file members, all 203 of us, can offer amendments to that budget.

He also has the audacity to say that he alone is going to decide whether a nonpreferred gets funded or not, and I would like to direct his attention to our House rule 34 on nonpreferred appropriations, and what that House rule says is that two-thirds of all members must vote for a nonpreferred appropriation. So what the gentleman from Philadelphia is telling us is that he controls two-thirds of the votes on this floor, and I say he better check his math, because I do not think he does.

I ask the members to support the Fleck amendment and also to continue to offer amendments and question nonpreferred appropriations. That is our role as members, and this oftentimes is the only opportunity you have to do it. And I also ask the members to be very wary of the budget process, because what they are trying to do is negotiate a budget behind closed doors and not give the rank-and-file members their opportunity to provide input into the process. That is wrong. This General Assembly has done it differently in the past, and our courts have said that is the wrong way to pass a budget.

Once again, "yes" on the Fleck amendment.

The SPEAKER. Representative Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, I rise to join Representative Evans and the Allegheny County members in supporting the Carnegie Museum.

This amendment is, as has been said, the wrong way to deal with the problem. As has been said, the Carnegie Museum is an excellent museum. I know that as a Philadelphian. People all over the State know that. People all over the State go there.

Doing what Mr. Fleck wants to do is a waste of public focus. I do not believe the public wants us to be spending our time as a State legislature determining what exhibits are in what museums. If the problem can be dealt with comprehensively, as Representative Frankel said, that may be different, but I do not think the public wants us, on a museum,

on an exhibit-by-exhibit basis, to be passing our judgment and involving ourselves in what museums are going to be doing.

Secondly, I think there is an important issue of intellectual freedom for the people who run the museums. I do not think the public wants us to be taking away their intellectual freedom and their ability to make decisions of things that are clearly within their province as museum directors.

Third, while we can give or not give money as we see fit, there is just one way that we can involve the courts in whether we have a legal right to take money away. The only way our ability to take money away can be legally challenged is if we do it for freedom of expression. Mayor Giuliani had several cases in New York State in which he tried to take money away from offending museums, and he lost them all. The courts, the Federal courts, repeatedly ruled he could not take money away because he disagreed with the way they express themselves.

If we somehow win on this, and I think Mr. Evans is right that this will not be the final version of the bill, but if somehow it is, all that would happen is that we would get ourselves enmeshed in very expensive and time-consuming and wasteful litigation.

For all these reasons I join my colleagues in urging a "no" vote on the Fleck amendment.

The SPEAKER. Representative Yewcic.

Mr. YEWIC. Thank you, Mr. Speaker.

I think as we all know, a vote on the appropriations bill is one of the most important votes we make as a member. It shows our priorities, and my priority is not to fund some grotesque display from Beijing utilizing State tax dollars. To me, it is not a question of education, science, or history; it is a question of moral decency and conscience.

I support the Fleck amendment. Thank you, Mr. Speaker.

The SPEAKER. Representative Stern. The gentleman waives off.

Representative Pallone. The gentleman waives off.

Representative Clymer.

Mr. CLYMER. Thank you, Mr. Speaker.

Mr. Speaker, the issue here is not one about the high quality and the expertise and the professionalism about the Carnegie Mellon institute. The issue is our respect for our fellow man, for humanity at large.

And, Mr. Speaker—

The SPEAKER. If the gentleman will suspend.

The noise level on the floor, again, is entirely too loud. The gentleman cannot be heard. Conferences will break up.

Will the gentleman speak closer to the microphone; perhaps that will help.

Mr. CLYMER. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

Mr. CLYMER. Mr. Speaker, as I had said just a moment ago, the issue here is not about the professionalism, the expertise, or the science that we receive from Carnegie Mellon institute for the work that they do; the issue is about how we respect and treat our fellow man. It is about humanity, about mankind.

Mr. Speaker, I cannot, for the life of me, understand why someone would not rise up in support of this amendment. This amendment, Mr. Speaker, tells us what we are as a society, how we respect people in other lands, and for this exhibit, this exhibit of Chinese people, to come here in this country to be put on display in such a way I think is just the wrong direction for us to go.

And as I said at the outset, I support this amendment and would urge my colleagues to do likewise. Thank you, Mr. Speaker.

The SPEAKER. Representative Payton. Representative Payton? The gentleman waives off.

Are there any members seeking recognition before Representative Petri?

Mr. PETRI. Thank you, Mr. Speaker.

I think many of us have missed the important issue today. The important issue for me is, as a rank-and-file member, one of my colleagues has alerted me to an issue. I do not know whether my colleague is correct or not that there is a problem, but I certainly have been warned that there might be. We are here to safeguard the people's money, and if there is any question at all, prudence, caution dictates, absolutely dictates, that we go over this bill until such time as his questions and your questions can be answered. If we do not support our colleague as rank-and-file members, we have no voice at all in this chamber.

This is an issue about whether rank-and-file members are going to have the right on this floor to challenge and question appropriations. And let me tell you members, this has precedence. I remember not too long ago when there was a question about the appropriateness of the Parking Authority. One of our colleagues asked for a meeting in Appropriations. And surprise, surprise, within 1 day, the Parking Authority came before the Appropriations Committee to swear and testify and answer the questions. That is the way this process is supposed to work.

So if you do not support Representative Fleck, you are saying you do not care about your vote and you do not care about your importance in this chamber. I care about our importance. I think it is highly important, and we should support the Representative until we have the answers. Thank you.

The SPEAKER. Representative Wagner.

Ms. WAGNER. Thank you, Mr. Speaker.

I rise to oppose the Fleck amendment. I am very proud to have the Carnegie Science Center in my district. It is most certainly a premier institution that I and, I believe, all of us members should be supporting. Prior to hosting the "BODIES" exhibit, everyone here should know that the Carnegie Science Center did their due diligence. They had an advisory committee of community members who reviewed all legal and moral issues. That documentation coming from that advisory committee led the Diocese of Pittsburgh to issue a lengthy statement in support of the exhibit, saying, quote, "It can provide worthwhile and effective opportunities to promote learning and explore issues in the natural sciences, morality and spirituality."

I believe the Fleck amendment is misplaced in the context of this appropriation bill, and I urge members to vote "no" on the Fleck amendment. Thank you.

The SPEAKER. Is there any member seeking recognition before the Chair recognizes the prime sponsor of the amendment?

LEAVES OF ABSENCE CANCELED

The SPEAKER. The Chair recognizes the presence of Representative Watson and Representative Marguerite Quinn on the floor. Their names will be added to the master roll.

CONSIDERATION OF HB 2327 CONTINUED

The SPEAKER. The Chair recognizes Representative Fleck for the second time.

Mr. FLECK. Thank you, Mr. Speaker.

Mr. Speaker, this is a very big human rights issue, which is why I introduced legislation—

The SPEAKER. If the gentleman will suspend.

The Chair will call the attention of the members to the gentleman while he is speaking, and all conversations will cease. The gentleman is in order.

Mr. FLECK. Thank you, Mr. Speaker.

Mr. Speaker, in light of all these human rights violations and currently within the Commonwealth we have more laws on the books for taxidermy than we do have on human remains being shipped into this country. I do not want it to seem as though I am picking specifically on all museums that have shown "BODIES" exhibits. As I said, the Franklin Institute had "BODY WORLDS." You see their bodies. You see all ages. You see all genders.

This other exhibit that was at Carnegie, you see people, Chinese cadavers in their twenties and thirties, with no paperwork, who did not consent to donate their body for public display. The Chinese are very superstitious. They want to go to the afterlife with all their body parts intact, which is why I introduced legislation for this.

AMENDMENT WITHDRAWN

Mr. FLECK. I have the commitment of the Judiciary chair, who has promised me that he will run my bill this month prior to the budget. I will withdraw my amendment, but I will not support the bill on third consideration. Thank you.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the bill on second consideration?

Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2328, PN 3836**, entitled:

An Act making appropriations to the Philadelphia Health and Education Corporation for the Colleges of Medicine, Public Health, Nursing and Health Professions and for continuation of pediatric services.

On the question,

Will the House agree to the bill on second consideration?

Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2329, PN 3364**, entitled:

An Act making an appropriation to the Franklin Institute Science Museum for maintenance expenses.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2330, PN 3365**, entitled:

An Act making an appropriation to the Academy of Natural Sciences for maintenance expenses.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2331, PN 3837**, entitled:

An Act making appropriations to the Thomas Jefferson University, Philadelphia.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2332, PN 3367**, entitled:

An Act making an appropriation to the African-American Museum in Philadelphia for operating expenses.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2333, PN 3368**, entitled:

An Act making an appropriation to the Everhart Museum in Scranton for operating expenses.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2334, PN 3369**, entitled:

An Act making an appropriation to the Philadelphia College of Osteopathic Medicine, Philadelphia.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2335, PN 3370**, entitled:

An Act making an appropriation to the Mercer Museum in Doylestown, Pennsylvania, for operating expenses.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2336, PN 3371**, entitled:

An Act making an appropriation to the Whitaker Center for Science and the Arts in Harrisburg, Pennsylvania, for operating expenses.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2337, PN 3372**, entitled:

An Act making an appropriation to the Pennsylvania College of Optometry, Philadelphia.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2338, PN 3373**, entitled:

An Act making an appropriation to the University of the Arts, Philadelphia, for instruction and student aid.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2339, PN 3374**, entitled:

An Act making appropriations to the Trustees of the Berean Training and Industrial School at Philadelphia for operation and maintenance expenses.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2340, PN 3375**, entitled:

An Act making an appropriation to the Johnson Technical Institute of Scranton for operation and maintenance expenses.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2341, PN 3376**, entitled:

An Act making an appropriation to the Williamson Free School of Mechanical Trades in Delaware County for operation and maintenance expenses.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2342, PN 3377**, entitled:

An Act making an appropriation to the Lake Erie College of Osteopathic Medicine, Erie.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2428, PN 3604**, entitled:

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

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

Mr. **FRANKEL** offered the following amendment No. **A07105**:

Amend Sec. 2, page 2, line 6, by inserting after "insurance" where it appears the second time
covering owner-occupied private residential properties

On the question,
Will the House agree to the amendment?

The **SPEAKER**. The Chair recognizes Representative Frankel on the amendment.

Mr. **FRANKEL**. Mr. Speaker, this just makes a technical change to the bill. It does nothing to the substance. Thank you.

On the question recurring,
Will the House agree to the amendment?

(Members proceeded to vote.)

VOTE STRICKEN

The **SPEAKER**. The clerk will strike the vote.

BILL PASSED OVER TEMPORARILY

The **SPEAKER**. This bill will be over temporarily.

ALTOONA AREA HIGH SCHOOL TRACK AND FIELD CHAMPIONS PRESENTED

The **SPEAKER**. The Chair asks Representative Geist to come to the podium for an introduction.

Mr. **GEIST**. Thank you very much, Mr. Speaker.

Today it certainly is an honor for me to introduce and welcome to the floor of the House this year's State track champions from Altoona High School. And I know that winning a State championship in track is very, very difficult, but I am really proud of these young men behind me.

To my left, say hello to athletic director Vince Nedimyer. And Vince has the pleasure of being the athletic director and also in his past of beating up Bill DeWeese many times at Wake Forest when Bill was trying to make the football team down there. Also standing to our left is Mike Adams, who has done a fantastic job as the head coach at Altoona High. The assistant coaches, when I call their names, they can stand up with the kids in the back: Steve Rhodes, Bill Reimer, Tom Musselman, Lars Steward, Rob Veloz, Rob Wahl, Ron Johnston, Tom Palfey, and Brian Camberg.

Also seated in the back are the other members of the track team. There are 50 of them who made their way down to Harrisburg today. Why do you fellows not stand up. And I would ask you to give them a round of applause.

Now, we had eight fellows who went to States and all eight of them medaled, which is something that is very, very rare. Let me tell you a little bit about the athletes and their achievements. Aaron Nadolsky, silver medal 200-meter dash, 4 by 100 meter, and placed fourth in the 400 meter. Brady Gehret, 4 by 100, fourth place; 4 by 400, sixth place. Tyler Futrell, 4 by 100, fourth place; 4 by 400, sixth place. D.J. Geene, 4 by 100, fourth place. Troy Floyd, 110-meter high hurdles, eighth place; 4 by 400, sixth place. Terry Bookhamer, sixth place in the discus. Neal Huynh, bronze medal javelin, seventh place discus. Travis Hammaker, bronze medal pole vault. And Jared George, gold medal pole vault.

And when you look at these guys, they are fine, fine athletes. Behind me accepting the citations on behalf of the team are Neal Huynh, Jared George, Troy Floyd, Tyler Futrell, and Aaron Nadolsky. And let me tell you something, I am very, very proud of these young guys and their achievements. Winning a State title in track is one heavy load to carry, and, Mike, it is a big challenge for you next year.

Thank you all very, very much.

GUESTS INTRODUCED

The SPEAKER. The Chair recognizes, as the guest of Representative Babette Josephs and the members of the State Government Committee, the Honorable Bill Bradbury, the Secretary of State of Oregon. Joining Mr. Bradbury, all the way from the State Capitol in Salem, is his Chief of Communications, Don Hamilton. Gentlemen, would you please wave and be recognized.

STATEMENT BY MAJORITY LEADER

Mr. DeWEESE. Mr. Speaker?

The SPEAKER. Representative DeWeese.

Mr. DeWEESE. Just 30 seconds.

Vincent Nedimyer, the distinguished coach, was my classmate at Wake Forest. I weighed 140 pounds; he weighed 240 pounds. During the magnificent muscularity of his youth, he was a preeminent gridiron star for the Demon Deacons, and I welcome my former classmate to the hall of the House.

The SPEAKER. 140 pounds; boy, how times change.

BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 2454, PN 3616**, entitled:

An Act making appropriations from the Professional Licensure Augmentation Account and from restricted revenue accounts within the General Fund to the Department of State for use by the Bureau of Professional and Occupational Affairs in support of the professional licensure boards assigned thereto.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2455, PN 3617**, entitled:

An Act making an appropriation from the Public School Employees' Retirement Fund to provide for expenses of the Public School Employees' Retirement Board for the fiscal year July 1, 2008, to June 30, 2009, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2008.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2456, PN 3618**, entitled:

An Act making an appropriation from the State Employees' Retirement Fund to provide for expenses of the State Employees' Retirement Board for the fiscal year July 1, 2008, to June 30, 2009, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2008.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

STATEMENT BY MS. JOSEPHS

The SPEAKER. For what purpose does the gentlelady, Representative Babette Josephs, rise?

Ms. JOSEPHS. Mr. Speaker, just a point of personal privilege to say something about the Secretary of State from Oregon.

Mr. Bradbury is here all the way from Oregon because the State Government Committee is having a hearing, soon I hope, 12:30, G-50. We want to look at what Oregon does, and no other State, I believe, does, which is universal vote by mail. Anybody is welcome to come and listen to that hearing.

Thank you, Mr. Speaker.

ANNOUNCEMENT BY MAJORITY LEADER

The SPEAKER. The Chair recognizes Representative DeWeese.

Mr. DeWEESE. Thank you. Just a scheduling matter, Mr. Speaker.

The nonpreferred bill that will be forthcoming should be the last nonpreferred, and then we will go immediately to the smoking ban dialogue. We do have, as has been announced previously from this microphone, a charity event later this afternoon, and we will try to keep our, at least on this side of the aisle, we will try to keep our debate concise and focused. But with one more on the nonpreferred calendar, and then the smoking ban, and then that would conclude our voting calendar for the day.

Thank you, Mr. Speaker.

BILL ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 2458, PN 3620**, entitled:

An Act making appropriations from the restricted revenue accounts within the State Gaming Fund and from the State Gaming Fund to the Pennsylvania Gaming Control Board, the Department of Revenue, the Pennsylvania State Police and the Attorney General for the fiscal year beginning July 1, 2008, to June 30, 2009, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2008.

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

Mr. REICHLEY offered the following amendment No. **A07262**:

Amend Bill, page 2, lines 27 through 30; page 3, lines 1 through 5, by striking out all of said lines on said pages

Amend Sec. 502, page 3, line 6, by striking out "502" and inserting

305

Amend Sec. 503, page 3, lines 17 through 20, by striking out all of said lines

On the question,
Will the House agree to the amendment?

The SPEAKER. The Chair recognizes Representative Reichley on the amendment.

Mr. REICHLEY. Thank you, Mr. Speaker.

This is a nonpreferred appropriation bill which would allow for the operating expenses of the Gaming Control Board to come strictly from an assessment based upon the operating gaming facilities rather than from the property tax relief reserve account, which is accumulated from revenue which comes back to the State, and the total figure would be – excuse me, Mr. Speaker – \$25.5 million. Again, this is coming from the operating facilities.

Thank you, Mr. Speaker.

The SPEAKER. Representative Evans.

Mr. D. EVANS. Mr. Speaker, the gentleman is attempting to create a new assessment relating to the gaming entities. In my view, Mr. Speaker, I think that that would be a mistake in the direction that he is suggesting at this particular point.

What I would say we should support, Mr. Speaker, is what we did in this current year, which was propose currently that it was a loan. Basically, by him expressing that this is an assessment already added on top of the assessment of the gaming entities, in my view, I think that this would not be good policy, and I will be "no" on this amendment.

Thank you, Mr. Speaker.

The SPEAKER. Is there anyone seeking recognition on the amendment?

Representative Clymer.

Mr. CLYMER. Thank you, Mr. Speaker.

Mr. Speaker, very briefly, I stand in support of the Reichley amendment, and the issue can be focused in this direction: Who should be paying for the expenses for the Pennsylvania Gaming Control Board, for the Department of Revenue, for the Pennsylvania State Police, and for the Attorney General? And it is our understanding that the casinos in the past and in the future are assessed accordingly to meet those expenses, and my understanding is that the Reichley amendment would continue in that direction. We would not be involved in loanmaking to provide the funding for those agencies that I just listed.

Mr. Speaker, as we all know, the seven casinos that are online, six of them are exceeding their expectations in generating revenue. In fact, there are several of the casinos that have already petitioned the Pennsylvania Gaming Control Board that they need additional slot machines. So their net terminal revenues have been extraordinary.

Now, if we have these casinos that are doing so well and making millions and millions of dollars for themselves, then would it not seem logical and reasonable that they should be assessed for the dollars that are necessary to provide for those agencies that I just mentioned? And I stand in support of the Reichley amendment.

Thank you, Mr. Speaker.

The SPEAKER. Representative Civera.

Mr. CIVERA. Thank you, Mr. Speaker.

I will be very brief. Mr. Speaker, this is a no-brainer. This is something that gives back the responsibilities to the owners of the casinos.

Now, we have seen the revenues increase in the last year, what the casinos are doing. I believe that Representative Reichley's amendment puts it in its proper perspective, that they

are responsible, and I would hope that you would support this amendment. Thank you.

The SPEAKER. Are there any members seeking recognition before the Chair recognizes the prime sponsor of the amendment?

Seeing none, Representative Reichley is recognized for the second time.

Mr. REICHLEY. Mr. Speaker, I would request to be able to speak last. I see the Democratic chairman of Appropriations is standing, so I would defer to him, if I may then be recognized.

The SPEAKER. The Chair apologizes. The Chair did not see the gentleman seeking recognition. Representative Evans.

Mr. D. EVANS. Mr. Speaker, we already in current law have an assessment. This would just double the assessment in terms of the gaming entities in the Commonwealth of Pennsylvania. This situation has already been worked out in the current budget. I think it would be a mistake to do this, Mr. Speaker. It would ultimately affect our competitiveness as the Commonwealth of Pennsylvania by adding this additional assessment on these entities. What we have told them from the beginning, we are now changing the rules in midstream, Mr. Speaker.

So I would ask that we would be "no" on this amendment.

The SPEAKER. Is there any other member seeking recognition before the Chair recognizes the prime sponsor of the amendment?

Representative Reichley, for the second time.

Mr. REICHLEY. Thank you, Mr. Speaker.

Mr. Speaker, I think it is important to clarify a couple of the statements made by the Democratic majority Appropriations chair.

First off, this is not a new assessment, not a new assessment. The Democratic chairman of Appropriations just mentioned about how this would be in existence with current law. Current law states – now, understand this very carefully – current law states that the operating expenses for the Gaming Control Board are to come from an assessment on operating facilities. This amendment would put this budgetary situation in compliance with current law. What you would be voting for if you vote against my amendment is a bailout of the casinos. You would have them avoid paying the assessment, which they, under current law, are supposed to pay.

So if you want to go home to your constituents and say, you know what, I took a chance that there is not going to be a sufficient balance in the Property Tax Relief Fund, and instead I bailed out the casino owners for having to pay their obligated amount under current law to pay for the operating expenses of the Gaming Board, go ahead; vote against the amendment. If you want to do the bailout for the casinos, that is your choice. If you want to risk property tax relief for the homeowners in your district, go ahead; that is your choice. But if you want to make sure that there is a sufficient balance in the Property Tax Relief Fund, this amendment is the way to do it.

We have heard lots of statements made in this House over the last few months about how important it is to guarantee property tax relief for all the homeowners in Pennsylvania. No matter how minimal from one district to another that might be, we all want to stand behind property tax relief this coming August. This is a way to ensure that you are not giving a cut of that money to the casinos to avoid paying for the operating expenses of the Gaming Control Board. The much maligned Gaming Control Board should get the money from the facilities

they are supposed to be supervising, not from the Property Tax Relief Fund.

So I am asking that the members look carefully at how they are going to vote in the interest of their constituents. Do not bail out casinos from avoiding what they are supposed to be paying under operating expenses for the Gaming Control Board under current law. Look to ensure the sanctity, the survivability, the solvency of the Property Tax Relief Fund.

And this is not, as, Mr. Speaker, he just mentioned, somehow doubling the assessment. Right now under law, the facilities would be paying perhaps 1 1/2 percent. We do not know the exact percentage right now because a lot of that will depend on the amount of revenue coming in for the board, but this at least puts the burden of paying for a board which is overseeing gaming, puts the burden for paying for that board on the facilities that are operating.

So again, tell everybody in your home districts where you really put the values, what you are valuing, where you want to show your support – for property tax relief for homeowners or for bailing out the casinos so they do not have to pay the charge that they are rightfully supposed to be paying to operate the Gaming Control Board.

Thank you very much, Mr. Speaker.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—106

Adolph	Geist	Mensch	Raymond
Argall	Gillespie	Metcalf	Reed
Baker	Gingrich	Micozzie	Reichley
Barrar	Grell	Millard	Roae
Bastian	Haluska	Miller	Rock
Bear	Harhart	Milne	Rohrer
Benninghoff	Harper	Moul	Ross
Beyer	Harris	Moyer	Rubley
Boback	Helm	Murt	Saylor
Boyd	Hennessey	Mustio	Scavello
Brooks	Hershey	Nailor	Schroder
Cappelli	Hess	Nickol	Smith, S.
Causar	Hickernell	O'Brien, M.	Sonney
Civera	Hornaman	O'Neill	Stairs
Clymer	Hutchinson	Payne	Steil
Cox	Kauffman	Peifer	Stern
Creighton	Keller, M.K.	Perry	Stevenson
Cutler	Kenney	Perzel	Swanger
Dally	Kessler	Petrarca	Taylor, J.
Denlinger	Killion	Petri	Taylor, R.
DiGirolamo	Mackereth	Phillips	True
Ellis	Maher	Pickett	Turzai
Evans, J.	Major	Pyle	Vereb
Everett	Mantz	Quigley	Vulakovich
Fairchild	Marshall	Quinn	Watson
Fleck	Marsico	Rapp	Yewcic
Gabig	McIlhattan		

NAYS—95

Belfanti	Freeman	Mann	Shimkus
Bennington	Galloway	Markosek	Siptroth
Biancucci	George	McCall	Smith, K.
Bishop	Gerber	McGeehan	Smith, M.
Blackwell	Gergely	McI. Smith	Solobay
Brennan	Gibbons	Melio	Staback
Buxton	Goodman	Mundy	Sturla
Caltagirone	Grucela	Myers	Surra

Carroll	Hanna	Oliver	Tangretti
Casorio	Harhai	Pallone	Thomas
Cohen	Harkins	Parker	Vitali
Conklin	James	Pashinski	Wagner
Costa	Josephs	Payton	Walko
Cruz	Keller, W.	Petrone	Wansacz
Curry	King	Preston	Waters
Daley	Kirkland	Ramaley	Wheatley
DeLuca	Kortz	Readshaw	White
DePasquale	Kotik	Roebuck	Williams
Dermody	Kula	Sabatina	Wojnaroski
DeWeese	Lentz	Sainato	Youngblood
Donatucci	Levdansky	Samuelson	Yudichak
Eachus	Longietti	Santoni	
Evans, D.	Mahoney	Seip	O'Brien, D.,
Fabrizio	Manderino	Shapiro	Speaker
Frankel			

NOT VOTING—0

EXCUSED—2

Godshall

Leach

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

ANNOUNCEMENT BY SPEAKER

The SPEAKER. The Chair would like to extend best wishes to Representative Cohen and Representative Vitali, who are celebrating their birthdays today.

The Chair would also recognize the distinguished chairman of the House Insurance Committee and apologize that the Chair was remiss in not recognizing his birthday yesterday. So the Chair takes this opportunity to extend best wishes today. Representative DeLuca, happy birthday.

CONSIDERATION OF HB 2458 CONTINUED

On the question,

Will the House agree to the bill on second consideration as amended?

Mr. CIVERA offered the following amendment No. **A07263:**

Amend Sec. 503, page 3, lines 19 and 20, by striking out all of said lines and inserting
of \$25,511,000 shall constitute a loan and shall be repaid in the manner set forth in section 1720-I of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code. The board shall defer assessing slot machine licensees for repayment until such time as 11 slot machine licenses have been issued and 11 licensed gaming entities have commenced the operation of slot machines.

Amend Bill, page 3, by inserting between lines 22 and 23

Section 701. Transfers prohibited.—There is no authority for the State Treasurer, the Secretary of the Budget, the Secretary of Revenue or the Pennsylvania Gaming Control Board to transfer any money within or between the appropriations in Part III or Part V.

Amend Sec. 701, page 3, line 23, by striking out "701" and inserting

On the question,
Will the House agree to the amendment?

BILL PASSED OVER TEMPORARILY

The SPEAKER. This bill will be over temporarily.

BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 2457, PN 3619**, entitled:

An Act making appropriations from the Workmen's Compensation Administration Fund to the Department of Labor and Industry and the Department of Community and Economic Development to provide for the expenses of administering the Workers' Compensation Act, The Pennsylvania Occupational Disease Act and the Office of Small Business Advocate for the fiscal year July 1, 2008, to June 30, 2009, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2008.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2459, PN 3621**, entitled:

An Act making an appropriation from a restricted revenue account within the General Fund to the Office of Consumer Advocate in the Office of Attorney General.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2460, PN 3622**, entitled:

An Act making an appropriation from a restricted revenue account within the General Fund to the Office of Small Business Advocate in the Department of Community and Economic Development.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **HB 2461, PN 3623**, entitled:

An Act making an appropriation from a restricted revenue account within the General Fund and from Federal augmentation funds to the Pennsylvania Public Utility Commission.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

CONSIDERATION OF HB 2458 CONTINUED

BILL PASSED OVER

The SPEAKER. The Chair returns to HB 2458. This bill will be over for today.

**BILLS REPORTED FROM COMMITTEES,
CONSIDERED FIRST TIME, AND
RECOMMITTED TO COMMITTEE ON RULES**

HB 488, PN 544

By Rep. LEVDANSKY

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, further providing for exclusions from sales tax and for exemption certificates.

FINANCE.

HB 1397, PN 1744

By Rep. LEVDANSKY

An Act amending the act of June 22, 2001 (P.L.374, No.24), known as the Optional Occupation Tax Elimination Act, further providing for definitions, for earned income tax rate limits, for resolution required and for binding referendum; providing for applicability of income tax on personal income; and making a related repeal.

FINANCE.

HB 1737, PN 2315

By Rep. LEVDANSKY

An Act prohibiting any municipal pension or retirement system in a city of the first class from denying certain benefits to surviving spouses of firefighters or certain employees upon a subsequent remarriage of the surviving spouse; and making related repeals.

FINANCE.

HB 2449, PN 3613

By Rep. ROEBUCK

An Act amending the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, providing for basic education funding for student achievement and for accountability to Commonwealth taxpayers.

EDUCATION.

**RESOLUTIONS REPORTED
FROM COMMITTEE**

HR 169, PN 3863 (Amended)

By Rep. LEVDANSKY

A Resolution directing the Legislative Budget and Finance Committee to study the feasibility of a local property tax freeze and the gradual elimination of local property taxes for senior citizens; to perform a cost analysis of such a freeze and reduction; to determine the consequences of such a freeze and reduction on local taxing bodies and on the Commonwealth; and to make recommendations on alternative financing methods for school districts.

FINANCE.

HR 408, PN 2501

By Rep. LEVDANSKY

A Resolution directing the Legislative Budget and Finance Committee to conduct a study of the State Lottery relating to its ability to continue to support programs and services for older Pennsylvanians.

FINANCE.

HR 459, PN 3864 (Amended) By Rep. LEVDANSKY

A Resolution directing the Legislative Budget and Finance Committee to study the fiscal impact of tax-exempt properties on the finances of municipalities and school districts; to review the policies of other states in addressing the burden of limited tax bases as a result of tax-exempt properties; and to make recommendations on ways to assist tax authorities with a high concentration of tax-exempt properties.

FINANCE.

The SPEAKER. These resolutions will be placed on the active calendar.

CONSIDERATION OF SB 246 CONTINUED

On the question recurring,

Will the House adopt the report of the committee of conference?

The SPEAKER. Representative Vitali.

Mr. VITALI. I have some interrogation questions for the appropriate person.

The SPEAKER. If the gentleman will indicate whom he is asking to seek for interrogation.

Mr. VITALI. Maybe that person could self-select.

The SPEAKER. Would the gentleman state that again.

Mr. VITALI. I think whoever feels they might be the appropriate person on this issue to deal with those questions. Representative Gerber, perhaps, or whoever—

The SPEAKER. Representative Gerber indicates he will stand for interrogation. Representative Vitali is in order and may proceed.

Mr. VITALI. Thank you.

First of all, I would just like to thank Representative Gerber for the great job he has done in taking this issue to where it is today. We would not be here without his great leadership. I just have a couple of minor questions, just to make sure I know what I am voting on.

I think I understand that smoking is not being forbidden in what we commonly think of as just a bar, a place where you just go to have a drink and maybe can get some bar food. What we think of as a bar, we are not permitting smoking there. That is correct. Am I correct in that?

Mr. GERBER. Yes.

Mr. VITALI. Okay. Now, as I was reading this, I think if I am reading this correctly, if you have a restaurant, what we commonly think of as a restaurant, but it has a bar attached to it and that bar that it has attached to it has a separate entrance and has a separate ventilating system and there are doors between the two that can close, the bar restaurant, we are not prohibiting smoking in the bar area of the restaurant if there is a separate entrance and if there are doors that close between the two places. So the bar part of a bar restaurant, under certain circumstances, we are not prohibiting smoking there. Is that also correct?

Mr. GERBER. Essentially, yes, but I think it is important to understand that that segregated area, the bar area in this scenario, would not be able to have food sales greater than 20 percent. So it would be separated as you described, have separate entrances, separate air systems, and also would not

have food sales over that percentage and would not allow people under 18 in that area.

Mr. VITALI. Right. Okay. It would be sort of essentially like almost the same restrictions as the bar-type thing that is stand-alone, but if you can meet those criteria in the restaurant portion of a bar – rather, the bar portion of a bar restaurant, the bar portion we are not prohibiting smoking there.

Mr. GERBER. That is right, and the purpose of that was for those places that are segregated that way but operate under one liquor license. We do not want to deprive that type of establishment from having to benefit from the liquor license in both the restaurant portion and the bar portion. So they are separated, separate air systems, 20 percent food or less, no kids under 18. All of that applies to the bar area that would have smoking.

Mr. VITALI. Okay. I just want to clarify the casino language, because as I read the bill, there is no real hardship requirement here. Essentially, you start out by allowing it in 25 percent of the gaming floor, and I am trying to read this language. It looks like it is saying if they look like they are losing any money, any money, by prohibiting smoking – not hardship, but any money – then you can start increasing until you get to 50 percent, but you cannot do more than 50 percent.

So as I am reading it, it looks like the real prohibition for casinos is, you can have smoking on 50 percent of the gaming floor. That is the actual prohibition, is it not, if I am reading this correctly? In other words, you start out at 25 percent, but if they can show they are losing any money at all, if there is any less revenues in the smoking prohibited section, then they can have smoking there, and that keeps expanding. I just want to understand that.

Mr. GERBER. I would agree with your interpretation.

Mr. VITALI. Okay. You would agree with that interpretation.

Mr. GERBER. Yes.

Mr. VITALI. Okay. Now, the other thing I am just not sure what it is, it looks like a fact scenario that is sort of – it looks like language that is designed for a specific thing, but I cannot figure out what the specific thing is, and maybe you could help me. It is on page 8, and it goes from lines 17 through 26, "A place where a fundraiser is conducted,..." and then there are four different criteria. What are we getting at with those lines? I mean, the last one says, cigars are sold, auctioned off, or given as prizes and cigars are featured at the event. Is there a specific event we are trying to kind of let in here? I am just trying to figure out what we are doing with that language.

Mr. GERBER. I cannot answer your question directly. That was not language that I worked to put into this legislation. I think you are right in assuming that there is an event or series of events that take place in the Commonwealth throughout the course of the year that some people are interested in preserving, but I cannot tell you the specific motivation behind it. But I would agree with your interpretation.

Mr. VITALI. Okay. I am just wondering if I could have just sort of a shorthand rule of what is this prohibiting from other municipalities. Well, let me say this: What is this preventing other municipalities from prohibiting that Philadelphia can prohibit? Now, I understand the casino part. Philadelphia can prohibit the casinos. But in what other ways is this bill limiting other municipalities?

Mr. GERBER. From a general standpoint, this prohibits municipalities and counties from enacting their own smoking

ban, but for the city of the first class, Philadelphia. So from a general standpoint, it prohibits them from enacting their own ban. If you are asking me from a specific standpoint whether it is the exemptions or some other area of the bill, how does this differ from Philadelphia and in what way is Philadelphia more restrictive, that is a very long answer, so if you could specify for me, that would probably be helpful.

Mr. VITALI. No, I will not beat a dead horse. I guess what I was trying to get the answer for was, let us say this is enacted, what things can Philadelphia prohibit or what areas can Philadelphia prohibit smoking in that other municipalities will no longer be able to permit smoking in, other than the casinos?

Mr. GERBER. The Philadelphia ban as it is prohibits smoking in almost all the same areas that this State law would prohibit smoking. So I do not know that any other counties or any other municipalities would be limited in prohibiting smoking in places where Philadelphia is already prohibiting smoking.

There is one very important point to this legislation, however, that I think you might be driving at. That is, even before we pass this legislation, right now, municipalities and counties have the right to prohibit smoking on municipal or county property, both indoor and outdoor. So for example, in my legislative district, I have teamed up with Tobacco-Free Kids, and we have been able to get our municipalities to pass ordinances that prohibit smoking in parks, not so much to protect people from secondhand smoke, but so that adults are setting a healthy example for kids out in recreational places.

This bill protects that right. That right will not be taken away from municipalities or counties if this becomes law. And that goes for Philadelphia, as well as for every other county and municipality in the Commonwealth. They still will have the ability to prohibit smoking in their properties and on their properties outdoors.

Mr. VITALI. Just out of curiosity, and I know this was not your idea, but what are the policy options for exempting long-term-care facilities and residential adult-care facilities from the smoking ban? What was the thinking?

Mr. GERBER. That was language that was in both the House version last year and the Senate version. It has been tweaked a bit, but the general policy behind it is that some of these treatment facilities deal with individuals who have a variety of problems, including addiction issues, and from a treatment standpoint, those types of institutions feel that it is important that they be able to allow their patients to smoke as part of their treatment. Even though we know smoking is bad, it is not as bad as some of the other problems from which those patients suffer.

So the public policy behind it is to enable the professional caregivers to continue to provide care in the manner in which they have been providing it up until now.

Mr. VITALI. Okay. That concludes my question. I just would like to commend you on your great leadership. I know that a lot of these exemptions we are talking about are not your idea, and you are an advocate for a very stringent bill, and you showed very good political acumen in negotiating and getting to this point. So I just want to tip my hat off to you. Thank you.

Mr. GERBER. Thank you, Mr. Speaker. Thank you.

The SPEAKER. Representative Clymer.

Mr. CLYMER. Thank you, Mr. Speaker.

Mr. Speaker, I will try to be brief with my comments, but I have some of the concerns that were expressed by my colleague from Delaware County and that deals with the

25 percent smoking availability at the casinos. It is obvious that the Pennsylvania casinos want 50 percent of the floor space; they want that to be dedicated to smoking because they really want to have an advantage over their competition in our neighboring States. That troubles me a little bit because one would think that the health and welfare of the employees would be as equally important as their economic advantage. Let me explain why I think that all the casinos can go up to 50 percent of the floor space in smoking.

As I understand the law, it says that the licensed facility may increase the designated smoking area of the gaming floor up to 50 percent if a report from the Department of Revenue shows that the gross terminal revenue in the designated smoking area equals or exceeds the gross terminal revenue in the designated nonsmoking area. So why would it not behoove the owners of the casino in the smoking area to put the higher dollar slot machines, such as the \$1, \$5, \$10, \$100, and then in the nonsmoking area, you put the smaller denominations, like the 1 cent, the 2 cents, the 5 cents, the 10 cents. After a period of time, it becomes quite obvious where the revenues are going to be the largest. It is going to be in the smoking areas. So then the Department of Revenue can say, we did the math; without doubt, the gross terminal revenues in the designated smoking area equal or exceed the gross terminal revenues in the designated nonsmoking area. So they can go to 50 percent on the gambling floor.

Mr. Speaker, we have to consider also that the American Heart Association, the American Cancer Association, and the American Lung Association have clearly documented, have clearly documented, that smoking and secondhand smoke is harmful to one's health, and so, again, I go back to my original comment that the employee's health and welfare should be primary for the casino owners in this very important issue.

Is it really fair to require small businesses who do not have the political clout to be under the nonsmoking ban? And I support the bill for as far as it goes, while we allow the casinos a free pass. This is just another example of casinos and their power and influence in the halls of government.

Now, this is a first step, and I do commend those who negotiated this bill for their dedication and their due diligence, but we need to do better. And when one considers that in due time casinos will have 50 percent of their gaming operation in smoking, thousands and thousands of patrons enter those casinos in a month, probably in less than a month, and what about the workers, the workers who are there 7/24/365? I mean, they are going to be impacted on the problems of secondary tobacco smoke as well.

So when you really focus in and you make a determination about nonsmoking establishments in Pennsylvania, the casinos have come out as well as anyone in this legislation, and to the detriment of the patrons and to the detriment of the employees. Mr. Speaker, I plan to introduce legislation sometime in the near future that will be zero tolerance for casinos, no smoking in casinos at all, but for now, there are some good qualities about this legislation.

Thank you, Mr. Speaker.

The SPEAKER. Representative Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker, and I will try to be brief. Along with Representative Gerber, I will be prepared to answer any interrogatories from my colleagues.

I would like to talk a bit about what this legislation is going to do, and number one, three of the four largest groups, the

antismoking groups who have been very vociferous on this bill for the past year – and I have been the brunt of many commercials and newspaper articles, radio spots and robocalls – all stood together last night and said they believe that this is a tough bill. In fact, in my opinion, it is about the fourth toughest bill of the 25 States that have enacted this legislation or similar legislation. Almost all have exceptions. Our exceptions were very far and few between.

Let me tell you where smoking is banned that is permitted as we are here debating: All diners; all privately owned pizza shops or corporately owned pizza shops and places like that, like doughnut shops and delis; all nightclubs, all nightclubs – no smoking, period. We will get into the issue of bingo in a bit. All large factories, no smoking; even small factories. The local tire shop where you go to get your tire changed and your oil changed, and all four employees are smokers, they will not be permitted to smoke in their workplace, even though they have very little contact with the public except when that person drops the car off for an emissions and radials. They will not be permitted. A machine shop will not be permitted.

All but a very few truck stops, and these are places where long-haul drivers drive through Maryland and New York, which do not allow smoking at any truck stops, but by Federal and State statute, they are required to stop after 6 hours of straight driving, and their long haul may be from Florida to Maine. They are presently stopping in Pennsylvania, sitting with some of their friends, and I know the argument is, well, they could smoke in their cab. Well, that is not what the law is there to protect them from, too many consecutive hours. It makes no sense for those folks to stop, have a coffee and a little camaraderie with their friends, but have to sit in their cab while doing it. So we narrowed it, at my behest, to allow just a very few truck stops, those that will allow no one under 18 to be permitted. They will be adult-only, full-service truck stops that must have existing shower facilities. That will eliminate about 80 percent of the truck stops that have the parking facility for 50 or 60 trucks, notwithstanding the fact that all of the Wendy's and the diners and the Burger Kings and all the other places that the people in this room or your constituents already have this stop when they pull off of almost any exit. So there, in my opinion, will be four or five truck stops in the entire Commonwealth that will meet that criteria, and it will be up to the truckers whether to go there or not. Again, they will be the ones that only have a shower facility, and that was the request of both the independent truckers and the teamsters, who are long-haul drivers.

The taverns. The bill that came over here limited the food sales to 20 percent in taverns. In my opinion, that was wholly unfair, and we tried on the House floor to bump that number up. One of the reasons for that is, to be entitled to Sunday sales, for many, many years, to be open on Sunday, for many, many years in this State, the Liquor Control Board required a tavern, a bar, to become a tavern, to increase their food sales to a minimum of 30 percent. So many of these entities spent tens of thousands of dollars and knocked out a pile of their chairs or a hunk of their bar or built an addition and put a kitchen on so that they could be open on Sundays. Now we are telling those facilities that in order to be an entity that is going to be permitted smoking on a limited basis, you need to cut your food sales down below 20 percent, close your kitchen up, you know, sell off the stainless steel and the stoves and what have you, totally unfair, but we went along with it, over my objections, because it was

not part of either the Senate or the House conference report, which was ramrodded through here and did not give many of us opportunities to get amendments in that we felt were noteworthy. However, the tavern industry will live with that. It is going to hurt a lot of them. It will cause many of them to go smoke-free. I am sure that will be fine by most of my colleagues.

And all in all, this entire package, I believe, in addition to those people that we are going to mandate to go smoke-free, that many of their competitors may do so on their own and the pendulum will continue the way it is going in this State and other States with a drop in smokers, vis-à-vis the new people that are smoking.

The outdoor sporting facilities are something new. I could have made that argument with Mr. Gerber that, wait a minute; we cannot revisit the issue of 30 percent for taverns but we can have a local municipality say, no smoking by Grandpa Jones, who wants to watch his kid play Little League football or baseball, even if he is outside of the perimeter of the bleachers or the concession areas or the restrooms. I do not believe it will be enforced, at least in my area, but it could be. One complaint from one person in a bleacher to the local police that someone is out in center field sitting on the back of their pickup truck, that individual would be able to be cited.

I could go on and on. Bowling alleys are out, unless they completely redesign themselves and have a restaurant facility, an enclosed restaurant facility. I do not see them doing that.

On the issue of casinos, by and large people need to remember that casinos in Atlantic City are forwarding 8 percent of their net profit to the taxpayers. So it is easy for Atlantic City Council, who gets a piece of that 8 percent, to invoke this ordinance, which I believe will be overturned shortly as unconstitutional. Here in Pennsylvania 53 percent of the casino revenues go directly to the taxpayers, both at the local level, the school district level, and the State level. This is a flowering industry. I do not have a casino. This is not my issue, but looking at it as a statewide perspective, as I have had to try to do with this entire piece of legislation, not what my district wants – and my editorials are still running against a smoking ban – but what the State wants. Again, keep in mind, 53 percent of that money and all of those in this room who want property tax relief, we should not hamstring this business.

The business itself – and I can tell you we had four votes for a 50-percent smoking area, four votes for that – we backed off, went back to 25 percent, and getting on to Representative Clymer, my good friend's argument, it will not be allowed. There will be regulations promulgated by the Gaming Board. You will not be able to put all the penny machines in the three-quarters of the area. By the way, the penny machines, you can put more money in than the dollar machines because some of them you can put 175 pennies in a pull. But the location of the machines will have to be fairly displaced across the floor, and by hardship, these casinos would have to prove that the amount of money taken in the 25-percent smokers' section exceeds all of that money generated in the three-quarters of the casino that prohibits smoking, and then and only then could they apply for an incremental increase to try and get up to 50 percent. Again, we had at one point four votes for no banning casinos, 50 percent start ban was another, and we went back to the 25 percent, but since we allowed Senator Greenleaf and Representative Miller and others to adjust the bill and go outside of the scope of the two pieces of legislation, we did not

really change that 25 percent. We just expanded on the definition.

Mr. Speaker, I believe I could go on and on with a number of places where you are allowed to smoke today, and as of the effective date of this act, you will not be.

In the area of private clubs, we, I think, are the only State that is going to proactively require all clubs in this State, within so many days of the effective date of the act, to have their officers vote as to whether or not that club who has allowed smoking for 75 or whatever years, and the club officers know what the bottom line is, what the gate is, they are going to be forced to make a vote as to whether or not to remain a smoking venue or not.

Clubs that cater to outside groups – birthday parties, any group like that – if they are in the club on a rental basis, on a rental basis, no one in that club can smoke. Full-time members cannot smoke if there is one person under 18 at that birthday party. So they will have to make their decision as whether they want to rent out to birthday parties or not.

Now, people can change clubs, such as country clubs. They can transfer from one VFW (Veterans of Foreign Wars) to another. There are venues – again, they were tough for me to swallow, but I am amenable to understanding that if the VFW in Shamokin goes smoke-free, I have the opportunity to transfer to the VFW in Mount Carmel. And so I still believe— The same thing with fire companies. You might be an A member of one fire company; you can always join as a B member of another.

So I said at the get-go I wanted there to be a comprehensive smoke ban, which I would support, but I do believe there should be a very limited number of places where people will be able to smoke, and no one who wants to smell secondhand smoke will have to ever be in the vicinity of that place. It will have to be well marked, and there will be far more places that will be smoke-free. There will be a migration of some people from some taverns to others, and that will probably be a good thing, but we have no one under 18 can be around smoke and there will only be a very few places that will be left, but it is fair to our firefighters and it is fair to our veterans.

And getting back to nursing homes, that nursing home person, they all have smoking rooms now, because it was never the intention of this General Assembly to ban smoking in one's home, and guess what? Once you get admitted to a long-term-care facility or a nursing home, that becomes your home, and it was not our intention. However, those individuals who are going to be permitted to smoke will have to be wheeled down or, if they are ambulatory, walked down to the smoking room, with no staff allowed in, and go in there and watch their favorite soap opera and have their one or two cigarettes and then go back to their room. So again, it was never the intention, I believe, of this General Assembly to tell people what to do in their own bedroom or their own house, and that is where we are. Now, of course, people that are in facilities that are efficiency apartments, they would be able to smoke in that apartment just as they do now, but nursing homes and long-term facilities are going to be protected to a degree.

With that, Mr. Speaker, I want to make some remarks on final passage. I am standing ready for any questions from any of my colleagues along with Representative Gerber and Representative Miller, I am sure. I want to thank both of them. It has been a long process, particularly since we had to discuss all of the caveats of this bill through staff and back and forth.

So we are happy that we can now talk again and we can join each other at one of the smoking restaurants sometime.

All right. Thank you all.

The SPEAKER. Representative DeLuca. Representative DeLuca is recognized.

Mr. DeLUCA. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose this conference report, and I do so because of the fact I believe that we have made some exemptions in here that certainly do not benefit the public health and welfare of this Commonwealth.

Let me just say the first thing. I was totally against not permitting the other 66 counties, and I am not talking about 2400 municipalities, from having the opportunity, the same opportunity they have in the city of the first class to protect their citizens from secondhand smoke. My constituents in Allegheny County, their health is just as important as the individuals who live in the first-class county, and I think that is wrong when we do not give the other 66 counties the same opportunity that the first-class counties have.

Secondly, as I look over this report, we have the tobacco establishments here that went from an 85-percent annual gross revenue to 75 percent, then all of a sudden we are down to 50 percent. Now, it is my understanding that I could have a tobacco shop that does 50 percent of business in tobacco and smoking and then I can also have, which is probably out of the question, but I could possibly have an ice cream parlor in there where people could come in. I can set up tables and they would be enjoying their ice cream while people are smoking. Or it could be food. It does not have to be ice cream.

So I think that when we do these types of things, I think it is certainly not a good way for us to protect the public in the Commonwealth of Pennsylvania.

The other thing, I disagree with my good friend, my colleague there, about the nursing home facilities. Even though these individuals are in nursing homes, they are in nursing homes because of their health, and certainly, wheeling them into a separate room so they can smoke does not, to me, provide good health to them and it also raises the health-care costs in our communities. There is no free lunch out there, Mr. Speaker. When we hear about the secondhand smoke, we pay for that when these individuals, God forbid, it affects their health, and we are trying to get health-care costs under control.

Now, I understand there should be some exemptions in here, but I think there are just too many exemptions in here, and I certainly cannot support a piece of legislation that does not give my citizens back in Allegheny County or any other county the opportunity, if they so desire, to have a stronger smoking ban than we are instituting here in the Commonwealth of Pennsylvania, and for those reasons, I will be voting against this conference report.

Thank you, Mr. Speaker.

The SPEAKER. Representative Wansacz.

Mr. WANSACZ. Thank you, Mr. Speaker.

Would the maker of the bill please stand for interrogation, please?

The SPEAKER. Representative Gerber indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. WANSACZ. Thank you.

First off, I would like to commend you. I know this was not an easy process of trying to work out a compromise, not easy in this chamber.

I have a question on a couple things, especially looking at the 10-year rule that we have in the bill. Under this bill now, would a group of people, let us say a group of 10 people wanted to get together and form a cigar club, that they wanted to have a private – they wanted to rent a place, a private facility, and they wanted to go there and not sell alcohol, not sell food, not sell tobacco, just a place that they can go and rent and be able to smoke, put a couple TVs in and be able to smoke cigars. Would they be able to do that under this legislation?

Mr. GERBER. The scenario that you lay out I think that would be permissible. If that is a privately owned facility and it is not a workplace and it is not a place to which the public is invited, then under those circumstances— Sorry; the staff was talking. If you are doing this out of your home or your own private facility, you can do it. If this is a club that would be open to the public and it has not been in existence for 10 years, then the answer would be no. So it is a very technical response, but if you are thinking about starting a new club, any type of club, the answer would be no if it has not been in existence for 10 years.

Mr. WANSACZ. Okay. So that would then preclude any group of people getting together, forming a club, and wanting to just be able to go and smoke cigars or pipes or cigarettes or whatever that they wanted to do.

Mr. GERBER. That is right.

Mr. WANSACZ. Okay. For clubs that are in existence— So that if these types of clubs have been in existence for 8 years, they are done?

Mr. GERBER. Yes.

Mr. WANSACZ. Okay. Now, with the tobacco shop arrangements, if there are cigar clubs out there that also sell tobacco, they are okay under this bill?

Mr. GERBER. Looking at the definition of "tobacco shop," which requires that sales of that facility, tobacco sales or tobacco-related sales of that facility be at least 50 percent of the gross annual revenue, then, yes, smoking is permitted. There are places like that in my legislative district, probably in yours as well, that also then will have a room within the building that club members use as a lounge and a smoking lounge. So long as the establishment meets those sales requirements, then, yes, smoking would be permitted.

Mr. WANSACZ. Okay. So if there is a tobacco shop and they charge a membership to also use a private room in this tobacco shop to access, to keep a locker – again, they do not sell alcohol, they do not sell food, so most of their business is going to be tobacco – they would be okay.

Mr. GERBER. That is the intent of the legislation; yes.

Mr. WANSACZ. So they would not have to meet the 10-year requirement?

Mr. GERBER. That is the intent of the legislation; yes.

Mr. WANSACZ. So if somebody wanted to open up a club in the future, they would have to go and get a tobacco license, and then if they wanted to keep it private, to get into a room, they would have to then go ahead and— They would have to keep the tobacco shop open to the public, I would assume. So they would have to meet all the rules then of being handicap accessible, open to the public, doing so much percentage of their food, getting a cigarette license, and things like that.

Mr. GERBER. I am not aware of there being any licensing for tobacco shops and there may be. So long as this establishment meets the criteria for tobacco shop under the

definition of this legislation, then, yes, they would be permitted to have smoking.

Mr. WANSACZ. Well, to open a tobacco shop or whatever, you do need a license. You would have to apply to the State to be able to get I believe it is a cigarette license to be able to sell tobacco, just like any bar that has to do it, any convenience store. They have to have a cigarette license, that they have to apply for it currently.

Mr. GERBER. Whatever licensing requirements are in place now would continue to be in place.

Mr. WANSACZ. Okay. So that would have to be then open to the— What I am trying— So that would have to be open to the general public.

What if people were to – and I know I am just trying to get some different scenarios – what if people were to form this club, get a tobacco shop license and say, we are selling no alcohol, no food; we are going to sell – obviously, 100 percent of our product will be tobacco – and then have a private – and we want to open it 2 hours a day to the public, or maybe not 2 hours a day; maybe an hour every week, would that be permissible underneath this law?

Mr. GERBER. I do not know that I can answer that very technical scenario. If you look at the definition of "Tobacco shop," "A business establishment whose sales of tobacco and tobacco related products, including cigars, pipe tobacco and smoking accessories, comprise of at least 50% of the gross annual sales," and it says then, "This term does not include a stand-alone kiosk or establishment comprised solely of cigarette vending machines," if you go with the first part of that definition, you have all your proper licensing from the State to sell the products you want to sell and at least 50 percent of your gross annual sales come from tobacco or tobacco-related products, then that place is allowed to have smoking.

Mr. WANSACZ. Okay.

Mr. GERBER. So whatever else they do in there, whether they have folks who come in who are members and want to watch TV or have a cigar or do whatever they do, it would be permitted. You would be allowed to have smoking in that type of establishment.

Mr. WANSACZ. So I guess then my question would have to be what you would have to do to be able to get a tobacco license, and that, I am sure, you are not the expert.

Mr. GERBER. That is not contained in this legislation, and I would not be equipped to answer that now.

Mr. WANSACZ. Okay.

Thank you. Thank you. My interrogation is done.

Mr. GERBER. Thank you.

Mr. WANSACZ. I would just like to speak on the bill now.

I am not exactly sure how I feel about this bill. I do have some questions. I think they did a good job of coming to compromise legislation on the smoking ban. What concerns me is the fact that nobody would be able to form a club and get together. Say 10 guys wanted to get together and smoke cigars or a pipe or cigarettes or if they wanted to be able to go and rent a room, rent a place out, and they just wanted to fund it, I do not believe they would be able to do that under this legislation unless you have been in existence 10 years, and that is a concern of mine. The only way it looks like around that would be able to get a tobacco shop and you would have to open it up and be able to do that.

So I would like to listen to some more of the questioning and listen to some of the members on this before making up my

mind, but that is a huge concern of mine on this legislation. Thank you.

The SPEAKER. Representative Haluska.

Mr. HALUSKA. Thank you, Mr. Speaker.

May I interrogate the maker of the report, please?

The SPEAKER. Representative Gerber indicates he will stand for interrogation. The gentleman is in order and may proceed.

Mr. HALUSKA. Thank you, Mr. Speaker.

Coming out of the caucus yesterday, Mr. Speaker, I was a little confused on the bingo issue. If a volunteer fire company, emergency service, ambulance service has a bingo and it is open to the public, is smoking allowed in that premises?

Mr. BELFANTI. I will take this one, I guess. The main provisions of the bingo section are that bingo would be allowed for members only, whether it be fire company sponsored, church sponsored, veterans organization, on and on and on. Charitable, noncivic organizations would be allowed to, on their own, vote whether or not they want to continue being a bingo establishment with smoking or vote to go smoke-free.

Now, a member, just as I mentioned earlier, a member of an establishment such as a VFW can be a social member or a regular member. Therefore, individuals would be free to become members of a local VFW as a social member, a fire company as a social member, and would not be considered general public and would therefore be able to go to those few bingo facilities that will continue to allow smoking.

The caveat is, notwithstanding the right of anyone to join any organization, the law is very specific in that if the bingo callers, the bingo card sellers, the pizza sellers, the bingo players, if any of those people are under 18, it automatically takes away the ability of a members-only bingo from operating as a smoking facility.

Mr. HALUSKA. Okay. Thank you, Mr. Speaker.

The question, though, was, if I am a volunteer fire company, if I am an emergency services provider, like an ambulance or a rescue squad, and I have a bingo and open it to the public, not social members, not members, there will be no smoking, as I understand the writing in the bill.

Mr. BELFANTI. If it is an indoor bingo facility, you are correct. However, the cost of becoming a social member or a B member of any of those organizations is typically less than \$5 a year. You then have a card. You go to bingo 52 weeks a year at the West End Fire Company; you show your card and—I mean, we left a small, a small caveat there to try and help the bingo parlors out that have been incessant about this bill. They want to be able to do their own thing, and this is a compromise that we came to. Again, we came to a lot of compromises. Bingo parlors are, on their own, statewide going smoke-free.

Mr. HALUSKA. Right.

Mr. BELFANTI. In my area we have a bingo parlor that just built a second story because they are doing well, and they have one story where smokers are and the board is and the guy that mixes the balls, whatever he is called is, but in the basement, a finished basement, any nonsmoker goes down and watches the number on a TV monitor and marks their cards down there. So they are totally segregated, and that was one of the things that I wanted to see happen from the get-go on this.

So yes, are there far more restrictions on bingo? Yes. Are there ways for people who are not willing to sit for 3 hours without a cigarette, who are now moving away from the new nonsmoking bingo parlors and driving an extra 20 miles and

yelling at me about the \$4-per-gallon gas because their venue decided, opted to go nonsmoking? Well, they can migrate to the bingo parlors that are nonsmoking and the smokers can migrate the other way.

And I believe this will all work itself out in the wash over time, but we do allow under the right, the constitutional right of anyone in this room or any of your constituents, to join an organization at a very minimal price.

Now, if your bingo is at Fountain Hills Country Club and they do not have B members and the only way you get in the country club to play bingo is you have to join as an A member for \$5,000 a year, you are screwed. You know, that is all I can tell you.

Mr. HALUSKA. Okay. Thank you, Mr. Speaker.

But that still does not answer my question. My question was, if a fire company or a rescue service or an ambulance service holds a bingo, can the public attend that bingo, and if they do, can people smoke, and obviously the answer is no, but we are getting danced around here, but the answer is absolutely no. They have to either be a social member or they have to be some type of a member of that club.

Now, my next question is, church bingos. Are you allowed to smoke at church bingos?

Mr. BELFANTI. I have not danced around this issue one iota. I have explained it so that everyone would understand it. I opposed bingo being in the bill at all. One of the small compromises that I got was to allow the general public to become members. That is as far as I could go and get this bill out of committee, and I cannot give you a better answer than that. That is the answer.

Mr. HALUSKA. Okay.

Mr. BELFANTI. There is no better answer. The general public is not going to be permitted in a smoking bingo, and a person under the age of 18 is not going to be admitted to a bingo that allows the public.

In my opinion, the issue of church-run bingos, in my opinion, that will probably be settled by a court someday because I think it is a church-and-state-related issue that I do not believe the conferees addressed, and I believe the churches have done what they have always done. Fifty years before we had a legal Bingo Law in this State, the churches were running bingos. And go ahead and send the local gendarmes in to the basement of St. Joe's Lutheran Church and say everybody is under arrest in here because you are not members of this church. I do not see it happening.

I think we are raising such red herrings and red flags. You know, if people do not want to vote for this bill, do not vote for it for a good reason.

Tony DeLuca – I am sorry; you are still on interrogation, but before you are finished, or my next response, I want to respond to Tony. Go ahead.

Mr. HALUSKA. Thank you, Mr. Speaker.

Mr. Speaker, I have ended my interrogation. May I speak on the bill?

The SPEAKER. The gentleman is in order and may proceed.

Mr. HALUSKA. Thank you, Mr. Speaker.

Obviously, if you have a church bingo, you will be breaking the law if you allow people to smoke there, number one.

Obviously, if you are a fire company or an emergency rescue service or an ambulance and you have a bingo and they are not social members, which obviously emergency services and ambulance associations, I do not think they have social

members; fire companies and fire clubs do. So they are breaking the law.

And another part of this bill which I really do not care for, you are pitting the small tavern owners against the clubs. Obviously, we told the tavern owners some years ago, if you want a Sunday sales license, you must raise your food and beverage sales up to at least 30 percent – or your food sales up to 30 percent so that you qualify for a Sunday sales license. Now we are coming along and telling them, well, if you sell 30 percent of food to keep your Sunday sales license, guess what? You are not going to be able to smoke in your establishment.

I do not like those things about this bill. I think we are pitting one against the other. I think you have seen a lot of the bowling alleys, a lot of the restaurants go smoke-free. I really think this is a decision by the people that own their businesses and understand their clientele. If they do not want smoking in private clubs, businesses, taverns, and bars, that is up to the owners to make that decision and sacrifice one way or the other with their clientele.

I will oppose this bill. I think it is just a half-baked bill, and I really think it is something that is not going to do a whole lot of good.

Thank you, Mr. Speaker.

The SPEAKER. Representative Carroll. The gentleman waives off.

Representative Denlinger.

Mr. DENLINGER. Thank you, Mr. Speaker.

I would like to speak on the concurrence vote.

The SPEAKER. The gentleman is in order and may proceed.

Mr. DENLINGER. Thank you.

Mr. Speaker, I do not often speak on the floor, so I hope you will give me just a moment to express some views in regard to this legislation, and I am, I believe, the first and perhaps one of the few who will speak against passage of this legislation, SB 246.

I would like to begin with a quote by Supreme Court Justice Louis Brandeis, who, in the *Olmstead* case of 1928, a case where government reached into and violated the civil liberties of that citizen, he wrote in his opinion these words. Please consider these words carefully: "Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficial. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greater dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding."

Mr. Speaker, I rise and oppose this legislation on two points. The first point is a principle held by, unfortunately, too few, and that is the importance of limiting the power and the reach of government, truly seeking limited government. The question is this: Is prohibiting legal conduct on private property a proper function of this State government? Well, Mr. Speaker, for me, the answer to that is no; it is an absolute no. This represents a reach and an assault on private property rights such as this government has never engaged in in the past, and unfortunately, Mr. Speaker, the path of taking away freedom and liberty, it is a dangerous course that will end in a disaster not only in this State but all across our nation.

There are many things that I do not like in society. I am not a smoking advocate. I, frankly, think people should avoid the use of tobacco products, but my dislike of certain functions or certain practices in society is not the issue. There are many

things I do not like. I do not like the raunchy entertainment that goes over and poisons the minds of our young people, but, sir, to oppose that would be censorship, and censorship is a limitation on freedom in society. There are many things that we can stand up and say we do not like, and if we ran our government by polling data, unfortunately freedom would die a very quick and rapid death.

Secondly, Mr. Speaker, it is essential, if our goal is to protect liberty and society, that we protect minority rights. It is critical, Mr. Speaker. Smokers, of course, are out of favor in this society. Year over year, less and less people smoke; that is true, and most of us would say we do not care to be around that, but does it become easy to attack the practices of a minority just because 75 or 80 percent of the general public want to jump on the bandwagon, and where does that take us? What views next will be held as out of favor, and where do we go to reach in and regulate people's lives?

Mr. Speaker, I believe that we need to be opposed to this and we need to be opposed to it so that we can protect the views, the opinions, and the practices of those that are the minority in our society, and I stand here for them, and I stand for those beyond this issue whose views, whose practices, will be assaulted next, because, Mr. Speaker, it is a slippery slope that we go down. Ultimately, the defense of liberty happens vote after vote after vote, and on this one, Mr. Speaker, I encourage my friends, my colleagues, to stand on the side of freedom and on the side of liberty. It is critical for our future.

Thank you, Mr. Speaker.

The SPEAKER. Representative Frankel.

Mr. FRANKEL. Thank you, Mr. Speaker.

I want to, first of all, thank the members of the conference committee. I know this is arduous, very difficult, a lot of criticism, but I know they worked in good faith.

I want to especially recognize Representative Gerber, who has been an advocate for a very strong bill. I know he worked as well as he could in that environment that was, quite frankly, a conference committee that was weighted in favor of smoking advocates, but we got a compromise, and I know that that is why we are here. I mean, I understand that politics is the art of compromise and few of us were going to get our bill. Unfortunately, this bill is also being portrayed as kind of an even split between the Senate version and the House version, and I would argue that it is much more watered down than some of the advocates for this bill would like to expect. I mean, when we say that the bill is stronger than the Senate bill with respect to nightclubs, with respect to tobacco shops or cigar bars, that is great, but those are really nominal exposures.

Where it is weaker than the House bill is with respect to bars and taverns, with respect to casinos, with respect to smoking at nonprofit fundraiser events and tobacco. These are very serious exemptions and, from my point of view, considerably weaken this bill.

The issue that troubles me the most, however, and I could live with most of these exemptions, if in fact this legislation would allow local governments to do what we apparently are not prepared to do here in the General Assembly today, and that is to fully protect the health and welfare of citizens in their jurisdictions. That is the minimum that we should do. If we cannot come to an agreement on a strong bill here and others want to, such as in Allegheny County, we should give them the opportunity to do what we are not prepared to do. It is unconscionable to me to single out Philadelphia, to say that

Philadelphia is allowed to have a stronger version of a smoking ban and other municipalities and counties across Pennsylvania are prohibited from doing that.

I agree quite frequently with some of my colleagues who represent the conservative political view that there ought to be local control, that decisions ought to be made at the local level. We are preempting that from happening, and by the way, it is very clear that the tobacco lobby, their prime goal in this conference committee report was to preempt local governments, that the tobacco lobby wanted this more than anything else, and they got it.

We find ourselves ultimately with a bill that picks winners and losers. We know that smoking and secondhand smoke is the most pervasive public health problem facing our Commonwealth and our country, yet we fail, ultimately, to deal with it I think effectively in this bill.

Nevertheless, it is a compromise. It is moving the ball forward, and even though we are going to sell some Pennsylvanians you are entitled to clean air in your working environment, in these venues that you may attend, and others are going to tell you that you are not entitled to a clean air environment and you are subjected to breathing a known carcinogen, it still, it still is better than nothing. And while I have wrestled with this and realized that ultimately it was not going to be the version that I would have preferred, and it is disappointing, in good conscience I believe that we have to at least take the opportunity to improve the health and welfare of Pennsylvanians, and this bill, this compromise, this conference committee report, does do that, as flawed as it may be.

So I will, with great reluctance and disappointment in terms of not having a better piece of legislation in front of us, support this bill and hope to work with my colleagues who had a very strong sentiment in this House when we voted overwhelmingly to vote down exemption after exemption last summer. It was a great moment for this House when we did that, and hopefully we will be able to return at some point in time and there will be a greater consensus to work together to protect the health and welfare and the clean air for every single Pennsylvanian, which is what we ought to be doing today and we are not, but nevertheless, we are improving the quality of life and the health of Pennsylvanians in some respects.

So, Mr. Speaker, with reluctance, I urge a "yes" vote for the conference committee report.

The SPEAKER. Representative Murt.

Mr. MURT. Mr. Speaker, I also rise in support of the smoking ban legislation. Pennsylvanians have made their desire for this legislation clear, and they have waited a long time for it to come to fruition. While I believe the ban should be more stringent and restrictive than it is, I intend to support this legislation.

Mr. Speaker, just 2 years ago, in 2006, our United States Surgeon General released a report filled with empirical data and research on the health effects of secondhand smoke. This report very clearly documents that secondhand smoke is indeed harmful to people's health. According to this report, secondhand smoke exposure can cause heart disease and lung cancer in adults. It can even cause sudden infant death syndrome and respiratory problems in children.

Secondhand smoke is absolutely harmful to nonsmokers. Certain populations, including infants and children, pregnant women, older persons, and persons with preexisting respiratory

conditions and heart disease are particularly susceptible to its adverse effects.

Mr. Speaker, according to the Surgeon General, secondhand smoke has been found to contain more than 50 carcinogens and at least 250 chemicals that are known to be toxic or carcinogenic. Nonsmokers who are exposed to secondhand smoke are forced to inhale the toxins and carcinogens just like smokers.

Mr. Speaker, I conclude by saying philosophically I do not believe we should be seeking a legislative solution to every question. This issue, however, is one that loudly calls out for legislative action as the health of individuals who choose not to smoke is being endangered by those who choose to smoke in their presence. Therefore, Mr. Speaker, I will be voting for this legislation, and I urge my colleagues to do the same.

Thank you, Mr. Speaker.

The SPEAKER. Representative Schroder.

Mr. SCHRODER. Mr. Speaker, would either Representative Belfanti or Gerber stand for a brief interrogation?

The SPEAKER. Representative Gerber indicates he will stand for interrogation. Representative Schroder is in order and may proceed.

Mr. SCHRODER. Thank you, Mr. Speaker.

Mr. Speaker, as I read the conference report, I just have a question about violations and penalties as it is structured in the report. Now, page 11, the language there requires that "No Smoking" signs are required to be posted where smoking is regulated under this act. So as I read that, any place where smoking would be prohibited under this act is required to be posted with signage. Is that accurate?

Mr. GERBER. Yes, that is the intent of the language.

Mr. SCHRODER. Okay. Mr. Speaker? Mr. Speaker? Mr. Speaker?

The SPEAKER. The gentleman is correct. Members will take their seats. Every member is entitled to be heard. Conversations should be taken off the floor.

Representative Schroder.

Mr. SCHRODER. Okay. Thank you, Mr. Speaker.

Mr. Speaker, we have established that signs are required to be posted everywhere where smoking is prohibited under this act. Pages 12 through 13 go into the violation sections, and violations of the act include failure to post signs and permitting smoking in public places where smoking is prohibited. So the violations that I just mentioned – failure to post signs and permitting smoking where it is prohibited.

Then we get into administrative penalties and criminal penalties for those violations. It appears to me, Mr. Speaker, and this is the crux of the question where I am going, it appears to me that we have fines starting at \$250 in both the administrative and the criminal, and it appears to me that those fines apply to any and all violations under the act. So correct me if I am wrong, but it appears that the penalty for not posting signage is the same as the penalty for actually permitting the smoking to occur where it should not. Am I correct in that?

Mr. GERBER. Yes. On page 12, line 28, under the "Violations" section, it explicitly lists failure to post a sign as required by section 4 of the legislation as a violation. You are correct.

Mr. SCHRODER. Mr. Speaker, since we have established that there is no differentiation in the penalties for the mere failure to post a sign and for what I would consider to be the much more serious violation of this act, which would be

actually permitting the smoking, the harmful activity for going on, my question to you is, was there a reason why the conference committee made the penalties for those two violations to be the same or is there a public policy reason behind that?

Mr. GERBER. Mr. Speaker, that question was not specifically addressed at the conference committee, but I believe the theory behind requiring the signage and having it be part of the violation section if one fails to post it is because the failure to post a sign could lead to further violations. In other words, if you do not have a "No Smoking" sign up on a place, you are inviting people to smoke in a place where they should not be smoking, which would lead to even further signage. So I think the public policy behind it, the theory behind it, is to have clear demarcation so that smokers or nonsmokers know exactly what is expected of them in a certain location, and that is why it is contained within that section.

Mr. SCHRODER. Thank you for the explanation, Mr. Speaker.

Mr. Speaker, on the conference report.

The SPEAKER. The gentleman is in order and may proceed.

Mr. SCHRODER. Thank you.

Mr. Speaker, I certainly have no problem with the requirement of posting signage to clearly demark and delineate where smoking is to be prohibited. That makes a lot of sense. What does not make sense to me is having the exact same penalty for failure to post a sign, or if a sign gets stolen or falls down and it is not posted, to penalize the establishment the exact same amount for a sign violation as they would be penalized for a violation of actually allowing smoking, the real harmful activity, for taking place.

Mr. Speaker, I would just respectfully suggest that, since I understand, at least the buzz on this floor right now is that the Senate has voted to reject the conference committee report, that when the conferees go back to meet or if we start from ground zero, whatever the process is after this point, that we look at this issue and take into consideration the fairness of the violation and the penalty section as it relates to the posting of signs versus the more serious infraction of actually allowing smoking to take place.

Thank you, Mr. Speaker.

The SPEAKER. Representative Wagner.
Representative DePasquale.

PARLIAMENTARY INQUIRY

The SPEAKER. For what purpose does the gentleman, Representative Pallone, rise?

Mr. PALLONE. A point of parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state his point of parliamentary inquiry.

Mr. PALLONE. It is my understanding that SB 246 was just voted down in the Senate. Do we still have the authority to be able to take action on it?

The SPEAKER. Senate action has no effect on this chamber's process.

Mr. PALLONE. Thank you, Mr. Speaker.

The SPEAKER. Representative DePasquale.

Mr. DePASQUALE. Thank you, Mr. Speaker.

As someone who throughout my first term in the legislature has pushed for a strong statewide comprehensive smoking ban, I want to today announce that I will be a "yes" vote on SB 246. I believe this is the art of the compromise and that there are members who felt strongly on both sides of this and everybody in a sense gave a little bit, and I believe that this bill will be a big improvement for public health in Pennsylvania.

And I want to specifically commend the three House appointees to the conference committee. I want to commend Representative Gerber, who has pushed so hard for the statewide ban. I want to thank Representative Belfanti. I know this has been a tough issue for him and shows how a veteran lawmaker knows how to bring people together. And I would also thank Representative Ron Miller. In York County, he was actually subject to some unfair public criticism through the media on this, and I want to personally commend him for never wavering, always willing to listen to all sides on this, and trying to bring a compromise that the full House could pass, and I believe we are on the verge of that.

But I want to congratulate each of the three conferees from the House for doing what was incredibly difficult work over the last several months, and again, I will be a "yes" vote on SB 246. Thank you, Mr. Speaker.

The SPEAKER. Representative Melio.

Mr. MELIO. Thank you, Mr. Speaker.

Representative Chairman Babette Josephs told me to be brief, so I will.

My father had the dread disease of emphysema and my predecessor had lung cancer, and I have seen what this dread disease can do to people. And I wish there was a stronger ban and that we could be probably like the city of Philadelphia with this smoking ban. But I commend the conference committee for doing such a wonderful job, having a compromise, so I would support the bill.

Thank you, Mr. Speaker.

The SPEAKER. Representative Cohen.

Mr. COHEN. Mr. Speaker, I join in commendation of our conferees – Mike Gerber, Ron Miller, Bob Belfanti. All did a great job, and we owe them all our gratitude. But I also believe that this bill should be stronger if we cannot get it through the Senate and it is to be reopened. I certainly would favor removing the local preemption. I certainly would favor removing the ban on Philadelphia strengthening this bill.

There is a misconception among some people here that Philadelphia represents some sort of gold standard and that Philadelphia is getting this unique benefit. The fact of the matter, Mr. Speaker, is that this bill was a compromise within Philadelphia. It was not nearly as strong as the bill that initially passed city council. And the bill that initially passed city council and was vetoed by the mayor was not nearly as strong as the bill that was originally introduced. And my memory is that even the bill that was introduced was a compromise of various proposals, some of which were stronger.

So the current standard in Philadelphia is a somewhat watered-down version of what antismoking advocates in the city of Philadelphia had originally wanted, and this conference report limits Philadelphia's ability to further strengthen it and certainly the interests of those many, many hundreds of thousands or well over a million Philadelphians to strengthen the ability of local communities to act.

This issue of smoking regulation is the key reason why Michael Nutter was mayor of Philadelphia. Nutter was outspent two to one on election day. Election day operations have traditionally been vital in determining Philadelphia elections. Nutter had, by far, the smallest operation. He had no union support. Union support, of course, is generally very important to the Democratic Party in Philadelphia. There was not one single union that endorsed Mayor Nutter in the primary, and this issue helped elect him.

People feel very, very strongly, and he was helped by this issue by the fact that the bill had already been in effect and people could tell the difference between what it was like in a nonsmoking establishment and a smoking establishment. And all over the State of Pennsylvania, people are going to be getting that experience if this compromise conference report is enacted. And I am confident that, just as in Philadelphia support for this rose dramatically after it was enacted and people saw what the difference in air quality was, so across the State of Pennsylvania people are going to start realizing how much better the air is in nonsmoking establishments than smoking establishments.

I do not think this ends the issue, whatever the Senate does, if we pass it. I think this is a beginning, not an end point. This is a journey, not a destination. I again commend the conferees and I commend various members of the legislature, like Representative Josephs, Representative Frankel, Representative Mundy, for their very, very strong advocacy on this.

I urge support of the conference report.

The SPEAKER. Representative Seip.

Mr. SEIP. Thank you, Mr. Speaker.

Mr. Speaker, I rise to echo some of the comments made by my colleague from Cambria County and my colleague from Lancaster County. I think the people should have the right to make their own decision about their own business, and whatever is in the best interests of their business, they would know best.

My colleague from Lancaster County talked about people making choices that he may not want to make or choices that he did not agree with. As long as those choices are legal choices, then I believe those folks have the right to make them.

Mr. Speaker, I am very concerned about the regulation of legal activities. Some people, again, will make choices that others may not choose to make, but they still have the right to make them. And, Mr. Speaker, it seems to me that a lot of places are making the choice to go smoke-free on their own. Many businesses in my district have made a business decision to have smoke-free environments to conduct their own business.

And, Mr. Speaker, I want to remind all my colleagues who are so concerned about the health aspect of this and less concerned about the liberty aspect, my colleague from Chester County had put forth an amendment in the original bill to ban the possession, transportation, sale, or use of tobacco anywhere in this Commonwealth. If that is how dangerous this substance is, then I wish more of my colleagues would have supported that amendment.

Thank you, Mr. Speaker.

The SPEAKER. Representative Vitali.

Representative Maher. The gentleman waives off.

Representative King.

Mr. KING. Mr. Speaker, may I question the maker or one of the makers? May I question one of the makers, Mr. Speaker?

The SPEAKER. The gentleman, Representative Gerber, indicates he will stand for interrogation. Representative King is in order and may proceed.

Mr. KING. Thank you, Mr. Speaker.

Mr. Speaker, if an establishment, which I would refer to as a "tavern" or "small bar," during the day, during afternoon hours is open and it serves food and it also serves people under the age of 18, at night it is primarily a tavern or bar establishment, would there be smoking permitted in this establishment?

Mr. GERBER. To answer that question, we would need to know the percentage of food sales. It is all based on percentage of food sales. It is not based on time of day and who is present at what time. It is an issue of whether or not the establishment has 20 percent or less food sales in its combined gross sales. So it would depend on the food sales.

If the place that you are talking about sells more than 20-percent food annually, it would not matter what time of day, it would not be permitted to have smoking. If it wants to allow kids in, even if it does not have 20-percent food, no matter what time of day, it would not be allowed to have smoking.

Mr. KING. Thank you very much, Mr. Speaker.

If I may speak on the conference committee report?

The SPEAKER. The gentleman is in order and may proceed.

Mr. KING. I would like to express my sincere gratitude and thanks to my colleague from Montgomery County for his work on this conference report.

The constituents of my district live right between the city of the first class and the New Jersey border, and if they go to either side, if they go to Philadelphia or they go to New Jersey, they are going to be protected from secondhand smoke. Unfortunately, since they live in my county, since they live in Bucks County, they are not going to be protected to the same extent that both New Jersey and Philadelphia are giving to their residents.

Reluctantly, I believe that this is probably as good as we can do at this point, and I am going to support it. However, like my colleague from Allegheny, I hope that we can go further and do more, because the people of Bucks County and other counties around the State deserve freedom, deserve protection from secondhand smoke.

Thank you, Mr. Speaker.

The SPEAKER. Representative Shimkus.

Mr. SHIMKUS. Thank you, Mr. Speaker.

I would like to also question the maker of the bill, Mr. Belfanti, if he would answer a question for me, please?

Do I understand from comments that you have made that if this conference report is voted down, that it will be at least a year and a half before we can deal with this smoking-ban issue again?

Mr. BELFANTI. Yes. Under the rules of the General Assembly, once the conference report is voted "no," the issue becomes unreinventable, in my opinion, until the next legislative session.

And let me just say that if this bill goes up on the floor today or if it passes, I am going to quit taking two Valiums a day, and if it fails, I am going to quit taking two Valiums a day. But as far as I know, we would have to wait until the next legislative session to take any issue concerning a smoking ban until next session.

Mr. SHIMKUS. Thank you.

Mr. Speaker, I would like to also speak on the report.

The SPEAKER. The gentleman is in order and may proceed.

Mr. SHIMKUS. The specific reason that I asked that question, Mr. Speaker, is if indeed it is a year and a half, I have always believed that if something is part of your life every day,

we have the risk of making it commonplace or even ignoring it. And I do not know how many of us walk by that sign outside the cafeteria every single session day, every day we are here, and the sign says "Six A Day." Six people a day die of secondhand smoke, and now we are talking about a possible delay of a year and a half. I guess those six a day just do not count and we will just keep that sign up there as we walk in to get our coffee and our sandwich – six a day.

I mean, this bill is not strong enough for my taste. I have argued for a smoking ban from the beginning. The first hearing on the smoking ban that was introduced was held in West Scranton High School. You know, I want those kids, those students from West Scranton High School who were very aggressive in approaching the city of Scranton and pushing for a statewide smoking ban, to understand all the red tape and all the stuff that is going on here. Six a day; people are dying. These are high school kids who came forward and said, do something; we have got to do something, and here we are, still arguing. People have said, what is taking so long? And here we are, arguing again. And now, for technicalities or whatever, we may just throw this out and say, well, a year and a half, six a day.

You know, Jamie Kane from the Cancer Society in Lackawanna County, Tony DeLucia from the Lung Association, people who have been fighting this for years, I do not know what to say to them. We have the opportunity to at least have a beginning here, a start, to come up with some kind of a smoking ban, something that will protect lives. Maybe we will not save six a day; maybe we will save four a day, but those are four lives.

So I stand here from the very beginning urging you to do something to ban smoking in the Commonwealth of Pennsylvania, because regardless of what the opponents of this say, "Your right to smoke ends at the beginning of my nose," and that is a quote from Tony DeLucia from the Lung Association. And I believe we have a responsibility to do something, and every time you walk by that sign that says "Six A Day," I do not know how we can just ignore it.

Thank you, Mr. Speaker. I urge that we support this conference report.

The SPEAKER. Are there any other members seeking recognition?

Representative Taylor. Representative Rick Taylor.

Mr. R. TAYLOR. Thank you, Mr. Speaker.

I stand up today, first of all, to commend the committee. There was a lot of hard work, a lot of ground that needed to be traveled to get to that middle ground.

Now, I obviously think there are problems with it. I am very disappointed by this preemption language. I think communities should have that local control to decide what is best for them. But I also see the marketplace working. In my borough of Ambler, I see the Shanachie went smoke-free, and then across the street the Agave went smoke-free, and then down the street KC's Alley went smoke-free, so the market is working. But unfortunately, unfortunately, in my opinion, we are not doing enough to protect people. But with that said, the other alternative is to do nothing for our citizens of the Commonwealth of Pennsylvania.

So I am going to stand up and I am going to vote for it. Is it perfect? No; I will be the first to concede that. But is it better than nothing? At this point, I am going to have to say yes. So I am going to vote for this, and I encourage all my fellow Representatives to do so, too.

The SPEAKER. Is there any member seeking recognition?

Will the House adopt the report? On the question, those in favor of adopting the report will vote "aye"; those opposed, "nay."

On the question recurring,

Will the House adopt the report of the committee of conference?

The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—163

Adolph	Gerber	McCall	Ross
Argall	Gergely	McGeehan	Rubley
Baker	Gibbons	McI. Smith	Sabatina
Barrar	Gillespie	McIlhattan	Samuelson
Bear	Gingrich	Melio	Santoni
Belfanti	Grell	Mensch	Saylor
Benninghoff	Grucela	Micozzie	Scavello
Bennington	Hanna	Miller	Shapiro
Beyer	Harhai	Milne	Shimkus
Biancucci	Harhart	Moul	Siptroth
Bishop	Harkins	Moyer	Smith, K.
Blackwell	Harper	Mundy	Smith, M.
Boback	Harris	Murt	Solobay
Boyd	Helm	Myers	Sonney
Brennan	Hennessey	Nailor	Staback
Buxton	Hershey	Nickol	Stairs
Caltagirone	Hess	O'Brien, M.	Steil
Carroll	Hickernell	O'Neill	Stern
Civera	Hornaman	Oliver	Sturla
Clymer	James	Parker	Swanger
Cohen	Josephs	Pashinski	Tangretti
Conklin	Kauffman	Payne	Taylor, J.
Costa	Keller, M.K.	Payton	Taylor, R.
Cruz	Keller, W.	Peifer	Thomas
Curry	Kenney	Perry	True
Daley	Kessler	Perzel	Turzai
Dally	Killion	Petri	Vereb
DePasquale	King	Petrone	Vitali
Dermody	Kirkland	Phillips	Wagner
DeWeese	Kortz	Pickett	Wansacz
DiGirolamo	Kotik	Preston	Waters
Donatucci	Levdansky	Quigley	Watson
Eachus	Longietti	Quinn	Wheatley
Evans, D.	Mackereth	Ramaley	White
Evans, J.	Major	Raymond	Williams
Fabrizio	Manderino	Readshaw	Wojnaroski
Fleck	Mann	Reichley	Youngblood
Frankel	Mantz	Roae	Yudichak
Freeman	Markosek	Rock	
Galloway	Marshall	Roebuck	O'Brien, D., Speaker
Geist	Marsico	Rohrer	
George			

NAYS—38

Bastian	Ellis	Mahoney	Sainato
Brooks	Everett	Metcalfe	Schroder
Cappelli	Fairchild	Millard	Seip
Casorio	Gabig	Mustio	Smith, S.
Causar	Goodman	Pallone	Stevenson
Cox	Haluska	Petrarca	Surra
Creighton	Hutchinson	Pyle	Vulakovich
Cutler	Kula	Rapp	Walko
DeLuca	Lentz	Reed	Yewcic
Denlinger	Maier		

NOT VOTING—0

EXCUSED—2

Godshall

Leach

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the report of the committee of conference was adopted.

Ordered, That the clerk inform the Senate accordingly.

STATE GOVERNMENT COMMITTEE MEETING

The SPEAKER. For what purpose does the lady, Representative Josephs, rise?

Ms. JOSEPHS. Mr. Speaker, thank you. To make an announcement.

The SPEAKER. The gentlelady will make her announcement.

Ms. JOSEPHS. Thank you, Mr. Speaker.

A number of people have asked whether the hearing of the House State Government Committee that was originally scheduled for 12:30 is still on, and the answer is yes, it is. We have brought a speaker 3,000 miles across the country. You met him, the Secretary of the State of Oregon. I will have the hearing in the South Office Building, G-50. House State Government Committee, South Office Building, G-50, as soon as we are out of session here.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the lady.

The State Government Committee will meet in the South Office Building, room G-50, at the adjournment.

SUPPLEMENTAL CALENDAR A

RESOLUTION PURSUANT TO RULE 35

Mr. PETRONE called up **HR 772, PN 3843**, entitled:

A Resolution commemorating "D-Day," June 6, 1944.

On the question,

Will the House adopt the resolution?

The SPEAKER. Representative Petrone.

Mr. PETRONE. Thank you, Mr. Speaker.

On this day 64 years ago, June 6, 1944, one of the most significant days in the history of the world, our combined forces landed on D-day in Normandy – June 6, 1944.

We made a solemn pledge to honor those great Americans who gave their all on this day. Many of them were only 18 years old. They were first generations. They were from every ethnic background, from every city and village, every town in America. They gave their all to protect our freedom and liberty that we have to this day.

We should never forget this day, even though it was 64 years ago. And perhaps some of the names have been forgotten, but what they did should never be forgotten. We should always remember one thing: They gave away all their tomorrows for our today. Thank you.

LEAVE OF ABSENCE

The SPEAKER. The Chair recognizes the majority whip, who requests that Representative GERGELY be placed on leave. The Chair sees no objection. Leave will be granted.

CONSIDERATION OF HR 772 CONTINUED

On the question recurring,

Will the House adopt the resolution?

The following roll call was recorded:

YEAS—200

Adolph	Freeman	Marsico	Ross
Argall	Gabig	McCall	Rubley
Baker	Galloway	McGeehan	Sabatina
Barrar	Geist	McI. Smith	Sainato
Bastian	George	McIlhattan	Samuelson
Bear	Gerber	Melio	Santoni
Belfanti	Gibbons	Mensch	Saylor
Benninghoff	Gillespie	Metcalfe	Scavello
Bennington	Gingrich	Micozzie	Schroder
Beyer	Goodman	Millard	Seip
Biancucci	Grell	Miller	Shapiro
Bishop	Grucela	Milne	Shimkus
Blackwell	Haluska	Moul	Siptroth
Boback	Hanna	Moyer	Smith, K.
Boyd	Harhai	Mundy	Smith, M.
Brennan	Harhart	Murt	Smith, S.
Brooks	Harkins	Mustio	Solobay
Buxton	Harper	Myers	Sonney
Caltagirone	Harris	Nailor	Staback
Cappelli	Helm	Nickol	Stairs
Carroll	Hennessey	O'Brien, M.	Steil
Casorio	Hershey	O'Neill	Stern
Causar	Hess	Oliver	Stevenson
Civera	Hickernell	Pallone	Sturla
Clymer	Hornaman	Parker	Surra
Cohen	Hutchinson	Pashinski	Swanger
Conklin	James	Payne	Tangretti
Costa	Josephs	Payton	Taylor, J.
Cox	Kauffman	Peifer	Taylor, R.
Creighton	Keller, M.K.	Perry	Thomas
Cruz	Keller, W.	Perzel	True
Curry	Kenney	Petrarca	Turzai
Cutler	Kessler	Petri	Vereb
Daley	Killion	Petrone	Vitali
Dally	King	Phillips	Vulakovich
DeLuca	Kirkland	Pickett	Wagner
Denlinger	Kortz	Preston	Walko
DePasquale	Kotik	Pyle	Wansacz
Dermody	Kula	Quigley	Waters
DeWeese	Lentz	Quinn	Watson
DiGirolamo	Levdansky	Ramaley	Wheatley
Donatucci	Longietti	Rapp	White
Eachus	Mackereth	Raymond	Williams
Ellis	Maher	Readshaw	Wojnaroski
Evans, D.	Mahoney	Reed	Yewcic
Evans, J.	Major	Reichley	Youngblood
Everett	Manderino	Roae	Yudichak
Fabrizio	Mann	Rock	
Fairchild	Mantz	Roebuck	O'Brien, D., Speaker
Fleck	Markosek	Rohrer	
Frankel	Marshall		

NAYS—0

NOT VOTING—0

EXCUSED—3

Gergely Godshall Leach

The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

CALENDAR CONTINUED**BILLS ON SECOND CONSIDERATION**

The House proceeded to second consideration of **HB 2496, PN 3687**, entitled:

An Act authorizing the Department of General Services, with the approval of the Governor, to grant and convey to the Pennsylvania State Employees Credit Union, certain lands situate in Susquehanna Township, Dauphin County.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

* * *

The House proceeded to second consideration of **SB 1159, PN 1548**, entitled:

An Act designating Long Pond Road in Tunkhannock Township, Monroe County, from the intersection with SR 115 eastward to the intersection with Stony Hollow Road, as Dr. Joseph Mattioli and Dr. Rose Mattioli Drive.

On the question,
Will the House agree to the bill on second consideration?
Bill was agreed to.

**MOTION TO RECONSIDER
AMENDMENT A07262**

The SPEAKER. The Chair is in receipt of a motion to reconsider the vote by which amendment A07262 was passed to HB 2458, PN 3620, on the 4th day of June be reconsidered, by Representative McCall and Representative Evans.

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

MOTION PASSED OVER

The SPEAKER. This motion will be over for today.

RESOLUTIONS

Mr. DeWEESE called up **HR 281, PN 3457**, entitled:

A Concurrent Resolution directing the Joint State Government Commission to study the issue of workplace pay disparity, to reexamine existing Federal and State laws relating to that issue and to make recommendations to the General Assembly.

On the question,
Will the House adopt the resolution?

RESOLUTION TABLED

The SPEAKER. The Chair recognizes the majority leader, who moves that HR 281 be removed from the active calendar and placed on the tabled bill calendar.

On the question,
Will the House agree to the motion?
Motion was agreed to.

RESOLUTION REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority leader, who moves that HR 281 be removed from the tabled bill calendar and placed on the active calendar.

On the question,
Will the House agree to the motion?
Motion was agreed to.

* * *

Mr. DeWEESE called up **HR 627, PN 3329**, entitled:

A Resolution memorializing the Congress of the United States to budget and appropriate certain funding for the Low Income Home Energy Assistance Program.

On the question,
Will the House adopt the resolution?

RESOLUTION TABLED

The SPEAKER. The Chair recognizes the majority leader, who moves that HR 627 be removed from the active calendar and placed on the tabled bill calendar.

On the question,
Will the House agree to the motion?
Motion was agreed to.

RESOLUTION REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority leader, who moves that HR 627 be removed from the tabled bill calendar and placed on the active calendar.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILLS RECOMMITTED

The SPEAKER. The Chair recognizes the majority leader, who moves that the following bills be recommitted to the Committee on Appropriations:

HB 2313;
 HB 2314;
 HB 2315;
 HB 2316;
 HB 2317;
 HB 2318;
 HB 2319;
 HB 2320;
 HB 2321;
 HB 2322;
 HB 2323;
 HB 2324;
 HB 2325;
 HB 2326;
 HB 2327;
 HB 2328;
 HB 2329;
 HB 2330;
 HB 2331;
 HB 2332;
 HB 2333;
 HB 2334;
 HB 2335;
 HB 2336;
 HB 2337;
 HB 2338;
 HB 2339;
 HB 2340;
 HB 2341;
 HB 2342;
 HB 2454;
 HB 2455;
 HB 2456;
 HB 2457;
 HB 2459;
 HB 2460; and
 HB 2461.

On the question,
 Will the House agree to the motion?
 Motion was agreed to.

The SPEAKER. It is the intention of the Chair to recess regular session and go into special session at 1:35.

RECESS

The SPEAKER. Regular session is now in recess.

AFTER RECESS

The time of recess having expired, the House was called to order.

ANNOUNCEMENT BY MR. NAILOR

The SPEAKER. The Chair recognizes Representative Nailor. Mr. NAILOR. Thank you, Mr. Speaker.

Mr. Speaker, under rule 21, I will be calling up Discharge Resolution No. 3 on Tuesday, June 10, or any session day thereafter.

Thank you, Mr. Speaker.

APPROPRIATIONS COMMITTEE MEETING

The SPEAKER. Representative Keller.

Mr. W. KELLER. Thank you, Mr. Speaker.

I would like to announce an Appropriations Committee hearing in the majority caucus room immediately following session.

The SPEAKER. The Chair thanks the gentleman.

The Appropriations Committee will meet in the majority caucus room immediately after session.

GUESTS INTRODUCED

The SPEAKER. The Chair would like to recognize, as the guests of Representative Tim Hennessey and the Chester County delegation, the students from the Vincent Elementary School in Chester County. They are in the balcony. Would you please stand and be recognized.

SOUTH PARK HIGH SCHOOL GIRLS SOCCER CHAMPIONS INTRODUCED

The SPEAKER. The Chair recognizes Representative Levdansky for the purpose of an introduction.

Mr. LEVDANSKY. Thank you, Mr. Speaker.

Mr. Speaker, the largest community in my legislative district is South Park Township. They have a really good school district. They also pretty much excel in athletics.

In 2006, we had the State AA champs for boys in both football and in soccer. In 2007, the boys won the State soccer championship. This year, 2008, the boys have been joined by the girls soccer team at South Park High School, who are the 2008 State champions for soccer in the Commonwealth of Pennsylvania.

Let me tell you just real quickly, this team, this year, won 24 games, lost 1, and tied 2. Even more significant to me, they scored 129 goals. They gave up 9 goals in 27 games. These girls obviously know how to play defense on their soccer team. They have given up one goal every three games.

There are 22 young ladies on the team. We are joined by about half of them. The South Park School District finished their school year last week, so we have about half of the team here. The team's head coach is Shelly Thropp. She is also joined by her two assistants, Steve Jeran and Debbie Morgan.

This team is ranked No. 7 in the entire northeast United States. So this is a wonderful program led by really good coaches and are really good, enthusiastic, high-energy successful girls soccer team champs for 2007.

Join me in welcoming them, and give them a round of applause. They are in the rear of the floor of the House. Stand up, girls. Thank you.

ANNOUNCEMENT BY MAJORITY LEADER

The SPEAKER. Are there any further announcements?

Mr. DeWEESE. Mr. Speaker?

The SPEAKER. The Chair recognizes the majority leader, Representative DeWeese.

Mr. DeWEESE. There is a charity event, there is a charity event ongoing—

The SPEAKER. The House will come to order.

Representative DeWeese.

Mr. DeWEESE. There is a charity event in honor of our late coworker, Tommy McCormac, and one of the late government affairs officials, Bob Burgess, and we are a little bit behind in schedule. I think there are no more votes, and I wanted to make that announcement so that we could go ahead and raise \$100,000 for the Children's Hospital out at Hershey. This is an annual event.

I appreciate the debate that just took place, and I am happy that the smoking legislation was confronted by our House. It was not an easy vote for a variety of our members. Nevertheless, when you compare our action with the actions of our brothers and sisters in the other chamber, I think it reflects favorably upon us.

So I just wanted to make the announcement that there would be no further votes.

The SPEAKER. Are there any further announcements?

RECESS

The SPEAKER. This House will stand in recess until the call of the Chair.

AFTER RECESS

The time of recess having expired, the House was called to order.

THE SPEAKER PRO TEMPORE (MICHAEL P. MCGEEHAN) PRESIDING

BILLS AND RESOLUTIONS PASSED OVER

The SPEAKER pro tempore. Without objection, any remaining bills and resolutions on today's calendar will be passed over. The Chair hears no objection.

RECESS

The SPEAKER pro tempore. The House is in possession of the recess motion by the gentlelady, Mrs. Kula of Fayette County, who moves that this House do now recess until Monday, June 9, 2008, at 1 p.m., e.d.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 1:51 p.m., e.d.t., the House recessed.