

COMMONWEALTH OF PENNSYLVANIA

Legislative Journal

WEDNESDAY, JUNE 4, 2008

SESSION OF 2008 192ND OF THE GENERAL ASSEMBLY

No. 36

SENATE

WEDNESDAY, June 4, 2008

The Senate met at 10:30 a.m., Eastern Daylight Saving Time.

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

PRAYER

The Chaplain, the Very Reverend WILLIAM C. FORREY, of Saint Patrick's Catholic Church, Carlisle, offered the following prayer:

Let us pray.

O God, You are the source of all that exists. In You, there is no falsehood. Make us realistic in our faith. Free us from illusions about ourselves and our world of importance. Help this Senate, by our prayer this day, to build consistent priorities for the Commonwealth and legislate justice which will lead to greater prosperity, concord, and peace. Open our eyes to see the wonders of the world around us. Open our hearts to the needs of our brothers and sisters who seek the understanding and guidance of this legislative body. Together, enable us to read the signs of the times and respond with prudence, according to Your wisdom and provident love, both now and forever. We pray these things in Your holy name. Amen.

The PRESIDENT. The Chair thanks Father Forrey, who is the guest today of Senator Vance.

PLEDGE OF ALLEGIANCE

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

COMMUNICATIONS FROM THE GOVERNOR

NOMINATIONS REFERRED TO COMMITTEE

The PRESIDENT laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows and referred to the Committee on Rules and Executive Nominations:

MEMBER OF THE STATE HORSE RACING COMMISSION

June 4, 2008

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, John B. (Jeb) Hannum III, 545 Upland Road, Kennett Square 19348, Chester County, Nineteenth Senatorial District, for appointment as a member of the State Horse Racing Commission, to serve for a term of three years and until his successor is appointed and qualified, vice Larry Kent, Ardmore, resigned.

EDWARD G. RENDELL
Governor

MEMBER OF THE STATE HORSE RACING COMMISSION

June 4, 2008

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Corinne Raphael Sweeney, 112 Barnview Road, Kennett Square 19348, Chester County, Nineteenth Senatorial District, for appointment as a member of the State Horse Racing Commission, to serve for a term of three years and until her successor is appointed and qualified, vice F. Eugene Dixon, Jr., Lafayette Hill, deceased.

EDWARD G. RENDELL
Governor

MEMBER OF THE STATE HARNESS RACING COMMISSION

June 4, 2008

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, The Honorable Roy W. Wilt, 262 Leech Road, Greenville 16125, Mercer County, Fiftieth Senatorial District, for reappointment as a member of the State Harness Racing Commission, to serve for a term of three years and until his successor is appointed and qualified.

EDWARD G. RENDELL
Governor

RECALL COMMUNICATIONS REFERRED TO COMMITTEE

The PRESIDENT laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows and referred to the Committee on Rules and Executive Nominations:

MEMBER OF THE STATE HORSE
RACING COMMISSION

June 4, 2008

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated February 22, 2008, for the appointment of B.J. Clark, 611 East Darby Road, Havertown 19083, Delaware County, Seventeenth Senatorial District, as a member of the State Horse Racing Commission, to serve for a term of three years and until his successor is appointed and qualified, vice F. Eugene Dixon, Jr., Lafayette Hill, deceased.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

MEMBER OF THE STATE HORSE
RACING COMMISSION

June 4, 2008

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated April 15, 2008, for the appointment of Nina Tinari, 6401 Church Road, Philadelphia 19151, Philadelphia County, Seventh Senatorial District, as a member of the State Horse Racing Commission, to serve for a term of three years and until her successor is appointed and qualified, vice Larry Kent, Ardmore, resigned.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

HOUSE MESSAGES

**HOUSE CONCURS IN SENATE AMENDMENTS
TO HOUSE BILL**

The Clerk of the House of Representatives informed the Senate that the House has concurred in amendments made by the Senate to **HB 1281**.

**HOUSE CONCURS IN SENATE
CONCURRENT RESOLUTION**

The Clerk of the House of Representatives informed the Senate that the House has concurred in the resolution from the Senate, entitled:

Weekly recess.

BILL SIGNED

The PRESIDENT (Lieutenant Governor Catherine Baker Knoll) in the presence of the Senate signed the following bill:

HB 1281.

LEGISLATIVE LEAVES

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

Senator PILEGGI. Madam President, I request temporary Capitol leaves for Senator Armstrong and Senator Punt.

The PRESIDENT. Senator Pileggi requests temporary Capitol leaves for Senator Armstrong and Senator Punt.

The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, I request legislative leaves for Senator Fumo, Senator Tartaglione, Senator Washington, and Senator Connie Williams.

The PRESIDENT. Senator Mellow requests legislative leaves for Senator Fumo, Senator Tartaglione, Senator Washington, and Senator Connie Williams.

Without objection, the leaves will be granted.

**SPECIAL ORDER OF BUSINESS
JOURNALS APPROVED**

The PRESIDENT. The Journals of the Sessions of May 5, 2008, May 6, 2008, May 7, 2008, and May 8, 2008, are now in print.

The Clerk proceeded to read the Journals of the Sessions of May 5, 2008, May 6, 2008, May 7, 2008, and May 8, 2008.

Senator PILEGGI. Madam President, I move that further reading of the Journals be dispensed with and that the Journals be approved.

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

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

YEA-50

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

NAY-0

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

The PRESIDENT. The Journals are approved.

**SPECIAL ORDER OF BUSINESS
GUESTS OF SENATOR ROBERT WONDERLING
PRESENTED TO THE SENATE**

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

Senator WONDERLING. Madam President, I am sorry, I am chuckling because I just noticed you have your Stanley Cup Penguins hat in a place of prominence.

Indeed, Madam President, it is my honor today to introduce a young gentleman from Coopersburg, which is in the heart of my Senate district. Justin Simmons is spending time working in our Bucks County office this summer as one of our summer interns, and much like our Majority Leader, Justin is a Hawk. He will be graduating from Saint Joseph's University within the coming year with a degree in political science. Justin is very interested in public policy and politics and perhaps will continue his education with a master's in such, and also perhaps aspire someday to run for elected office.

So Madam President, I ask that you and the entire Senate body offer Justin a hearty welcome this morning.

The PRESIDENT. Will the Senate please welcome Justin Simmons. Please rise.

(Applause.)

GUESTS OF SENATOR ELISABETH J. BAKER PRESENTED TO THE SENATE

The PRESIDENT. The Chair recognizes the gentlewoman from Luzerne, Senator Baker.

Senator BAKER. Madam President, it is a privilege for me to introduce a family that is visiting from Luzerne County, Fred and Diane Lombardo. Fred is a respected pharmacist and businessman in Luzerne County, and he and his wife brought along their three grandchildren today, Joseph, Vincenzo, and Santino Gaudino. Please join me in welcoming the Lombardos and their three grandchildren from Luzerne County. Thank you.

The PRESIDENT. Fred and Diane Lombardo, Joseph, Vincenzo, and Santino, welcome.

(Applause.)

RECESS

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

Senator PILEGGI. Madam President, I request a recess of the Senate for the purpose of a brief meeting of the Republican Caucus in the Rules room.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, I request a Democratic caucus.

The PRESIDENT. For purposes of Republican and Democratic caucuses, without objection, the Senate stands in recess.

AFTER RECESS

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

CALENDAR

REPORT OF COMMITTEE OF CONFERENCE

REPORT DEFEATED

SB 246 (Pr. No. 2099) -- The Senate proceeded to consideration of the bill, 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.

Senator PILEGGI. Madam President, I move that the Senate adopt the Report of the Committee of Conference on Senate Bill No. 246.

On the question,

Will the Senate agree to the motion to adopt the Report of the Committee of Conference on Senate Bill No. 246?

PARLIAMENTARY INQUIRY

Senator MELLOW. Madam President, I rise for a parliamentary inquiry.

The PRESIDENT. The gentleman from Lackawanna, Senator Mellow, will state it.

Senator MELLOW. Madam President, my parliamentary inquiry is very simple. Madam President, in dealing with the Clean Air-- and I have to just make a little bit of a point so that I can express what my concern is to you. In dealing with the Clean Air Act, the city of Philadelphia, under the Fire and Panic Act of 1927, was originally exempted as a city of the first class, giving them authority to be able to pass a local ordinance in dealing with clean air. And they in fact did that, Madam President. They passed that ordinance.

The county of Allegheny does not have that same exemption under the Fire and Panic Act of 1927. When they passed their ordinance, very similar to what took place in the city of Philadelphia, there was a Commonwealth Court decision in 2007 that was filed by two owners of bars in Allegheny County, and the Commonwealth Court struck down the county ban, the county ordinance. They said it was invalid because there was no statutory authority under the statute that was the Fire and Panic Act of 1927. In doing so, Madam President, the city of Scranton, which had already passed their own ordinance, decided, instead of having the court throw out their ordinance also because it followed under the rule of what took place in Allegheny County, they went ahead and no longer enforced their own ordinance dealing with smoking.

Now my question, Madam President, on parliamentary procedure, is with Mason's Manual of Legislative Procedure. Section 771, paragraph 4, says, "The report of a committee on conference may be taken up immediately," number one, "delayed," number two, "or returned to a committee" on conference. Under Mason's Manual, Madam President, I now would like to move that the Report of the Committee of Conference on Senate Bill No. 246 be returned to the committee on conference, based on Mason's Manual, plus what has taken place with ordinances that were passed prior to the enactment of Senate Bill No. 246 in the Senate and then action in the House. The action for Philadelphia, Pittsburgh, Allegheny County, and the city of Scranton was done prior to the enactment of the bill.

Based on what Mason's Manual deals with in paragraph 4, Section 771, which again I will read, "The report of a committee on conference may be taken up immediately," number one, "delayed," number two, "or returned" to the committee on conference.

ence, I move that the Senate return Senate Bill No. 246 to the committee on conference for the purpose of addressing the issues of local governments that have already enacted an ordinance prior to us dealing with the legislation, similar to what took place in Philadelphia, although Philadelphia's was upheld by the court, and Allegheny County's was stricken down by the Commonwealth Court, and because of that, the city of Scranton, Madam President, chose not to enforce their ordinance as opposed to having it thrown out by the court, and I ask for a roll-call vote.

The PRESIDENT. The gentleman's motion is in order. The motion is to return the bill to the committee on conference to address the local government issues. On this motion, the debate is limited as to the propriety of the reference and not to the merits of the bill.

On the question,

Will the Senate agree to the motion to recommit the Report of the Committee of Conference on Senate Bill No. 246 to the committee of conference?

Senator PILEGGI. Madam President, I would like to comment on the motion, if it is appropriate at this time.

The PRESIDENT. Please.

Senator PILEGGI. Madam President, I ask for a negative vote on the motion. I think the conference committee report has been the product of a process that is longer than any conference committee process in recent memory. There have been a number of public hearings, a number of different attempts to issue a report. There is no indication that, if the conference committee again went back to work and tried to produce a different report, they would be able to do so. For that reason, I request a negative vote on the motion.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Fontana.

Senator FONTANA. Madam President, I rise to ask my colleagues to vote "yes" on Senator Mellow's motion and send this bill back to the conference committee. And here is why, Madam President. In the bill as it exists right now, Senate Bill No. 246, as it has come out of conference, there is one county, just one county, Madam President, in this whole State of 67 counties, that was carved out to be able to keep its own stricter ordinance. The question is, Madam President, why can the other counties not be given the same consideration? It is unfair that this bill does not let that happen, especially in light of what happened in Allegheny County, which I represent. They passed their own stricter ordinance, but it was thrown out, as Senator Mellow indicated, by a judge who said the State needs to give them the right to have a stricter ordinance. Madam President, that one county is able to keep their stricter ordinance, but Allegheny County is not. Senate Bill No. 246 continues that unfairness and that inequity.

Madam President, the conference committee has the ability to remedy this inequity, this unfairness, by at least permitting Allegheny County to also have their stricter ordinance. Madam President, I want to thank Senator Mellow, Senator Greenleaf, and Representative Gerber for recognizing this unfairness and inequity in a reference to carve out Allegheny County.

POINT OF ORDER

Senator PILEGGI. Madam President, I rise to a point of order.

The PRESIDENT. The gentleman from Delaware, Senator Pileggi, will state it.

Senator PILEGGI. Madam President, it is my understanding that statements and debate on this motion are not appropriate, that the only thing appropriate is what the Chair said was appropriate, which is whether or not the motion was in order in the first place.

Senator MELLOW. Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, my understanding is that the debate, there is limited debate as to the reason why the gentleman would be supporting the motion to send this particular conference report back to a conference committee. It is not an open debate, but it is a limited debate as to the reasons why the gentleman feels, or any Member of this body feels, that the motion is in order, and the reasons why it should go back to a conference committee.

The PRESIDENT. It is limited debate as to the propriety and the reference, not as to the meaning and the merits.

Senator MELLOW. Madam President, the only thing that cannot be discussed would be the merits of the bill.

The PRESIDENT. I understand that.

Senator PILEGGI. Madam President, I did not hear any discussion as to the propriety of the motion. I heard debate and argument as to how the vote should go in favor of the motion and why the vote should be in favor of the motion. I think they are completely different things.

The PRESIDENT. The gentleman will confine his remarks.

Senator FERLO. Madam President, I feel very strongly that this bill should be sent back to the conference committee, per Senator Mellow's motion, so that Allegheny County, the second largest county in the State, be allowed to live up to the higher standard that it set for itself, as the other county that is in this bill was allowed to do.

Senator PILEGGI. Madam President--

Senator FERLO. The least that we could do--

Senator PILEGGI. --point of order.

Senator FERLO. --is let Allegheny County have that option. Thank you, Madam President.

POINT OF ORDER

Senator PILEGGI. Madam President, I rise to a point of order.

The PRESIDENT. The gentleman from Delaware, Senator Pileggi, will state it.

Senator PILEGGI. Madam President, same point of order. This is either something we are going to be debating or not. I think the ruling from the Chair was clear. The only comment is on the propriety of the motion, not whether or not Members should vote in favor of the motion or why they should vote in favor of or against the motion.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Ferlo.

Senator FERLO. Madam President, I realize, appropriately, as the Majority Leader pointed out, we are being hamstrung here to some extent, the propriety being that we have limited debate and discourse on just the procedural matter that is before us relative to the appropriateness of Senator Mellow's motion and not, indeed, the substantive issues involved in why we even want to have a more comprehensive, uniform, and aggressive smoking ban in public places in Pennsylvania. So I will not comment on all that.

Obviously, that debate hopefully will come later, but there is a little bit of an intertwined relationship in the two issues, so I will try to be clear in not crossing that line. But it is clear that Senator Mellow deserves a lot of credit, as well as the working committee, Senator Greenleaf in particular, and others who have taken a progressive vision on the bill itself, but as it relates to the procedural matter before us, we cannot run roughshod over the rights, aspirations, and prerogatives of over a million residents of Allegheny County. And I raise--

Senator PILEGGI. Madam President.

Senator FERLO. --the issue of some sense of uniformity here.

Senator PILEGGI. Madam President.

Senator FERLO. The uniformity being legally going to--

POINT OF ORDER

Senator PILEGGI. Madam President, I rise to a point of order.

The PRESIDENT. The gentleman from Delaware, Senator Pileggi, will state it.

Senator PILEGGI. Madam President, I hate to interrupt my friend from Allegheny County, but again, we are getting into a debate as to the merits of the motion and why the motion should be supported, not whether or not the motion is appropriate under the rules.

Senator FERLO. I think there is a substantive issue that is before us as to the appropriateness of Senator Mellow's motion, which I am supporting, and I am supporting it because of the procedural basis of the issue of uniformity, that this is an unfinished symphony that needs to go back to the working committee of the Senate and the House. It is not appropriate for it to be in front of us today in its form that ran roughshod on law and uniformity on the part of Allegheny County, which is no different than Philadelphia. Why is--

Senator PILEGGI. Madam President, I ask for a ruling from the Chair.

Senator FERLO. Why would Allegheny County legally--

Senator PILEGGI. We are just going around in circles.

Senator FERLO. --be treated differently than the Philadelphia ordinance? Now, they have their genesis--

The PRESIDENT. The motion--

Senator FERLO. They have their genesis historically in different authorization, but I am sure the people--

Senator PILEGGI. Madam President.

Senator FERLO. --in Allegheny County thought that--

Senator PILEGGI. Are you going to rule on the point of order, Madam President?

Senator FERLO. --when they approved the homerule charter--

The PRESIDENT. Will the gentleman please yield.

Senator FERLO. --and it was passed in a bipartisan way, with Republicans and Democrats alike--

The PRESIDENT. Will the gentleman please yield.

Senator FERLO. --in the Allegheny County council.

Senator PILEGGI. Madam President, I have called a point of order three times--

Senator FERLO. I am trying to get to that crescendo.

Senator PILEGGI. --and there has been absolutely no ruling from the Chair or any action. I ask that the Chair--

The PRESIDENT. Well, it says the motion to commit or re-commit to committee is debatable as to the propriety of the reference, and the main question is not open to debate. It is too bad we did not do this before.

Senator FERLO. Just to clarify the Majority Leader's point--

The PRESIDENT. What happened before?

Senator FERLO. --what is debatable--

Senator PILEGGI. Madam President, are you going to rule on my point of order?

Senator FERLO. There has to be some element of debate here. We are not debating the fact that Senator Mellow got up and made a motion and quoted a section of Mason's prerogatives. We clearly have accepted that. Now we have the right to debate the appropriateness of Senator Mellow's initiative, which is that this conference committee report is a work in progress and needs to go back, and it is certainly in order.

The PRESIDENT. Will the gentleman yield.

Senator FERLO. And it is in order because of the substantive merits of what Senator Mellow is attempting to do.

Senator PILEGGI. Madam President, have we suspended the rules?

The PRESIDENT. Will the gentleman please yield.

I mean, actually, this should have been done before. It should have been debated before, and you cannot bring it up now. I think at this point, we have to take the vote.

Senator PILEGGI. Thank you, Madam President.

Senator FERLO. I think there is a real issue here about why--

Senator PILEGGI. Madam President, I ask that you rule the gentleman out of order.

Senator FERLO. --about why we are running roughshod--

The PRESIDENT. I agree, but we let it go too far. What do you suggest?

Senator FERLO. I implore all of us to be procedurally democratic in the spirit of the law and allow the opportunity for Allegheny County to have its law be respected by this State legislature, equal to what the--

The PRESIDENT. The gentleman is out of order. This should have been done before.

Senator FERLO. --committee report did in accepting the Philadelphia ordinance.

The PRESIDENT. What happened to the meetings before, that you did not cover this?

Senator FERLO. I do not know about any meetings before, but I am sure there will be a lot of meetings after.

Senator O'PAKE. Madam President.

Senator COSTA. Madam President.

The PRESIDENT. Okay, Senator O'Pake, you are the last one.

Senator FERLO. No, Madam President.

Senator MELLOW. Madam President, that can only be done if someone moves the previous question.

The PRESIDENT. Senator O'Pake.

Senator O'PAKE. Madam President, respectfully, our motion to send this back to committee is for the reason that we cannot amend this on the floor. It is a conference committee report. We want this sent back for a stronger bill.

The PRESIDENT. Do you agree to send this back to committee?

Senator PILEGGI. Madam President, there has been a motion, as I recall, from Senator Mellow, and we have had an attempt to have you enforce the rules in regard to some Members trying to debate that motion. I think that stopped, I hope that stopped now, and I think we are ready to vote on that motion.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Madam President, I rise, very briefly, just to make a couple of points that I think go to what our colleague, the Majority Leader, is referencing with respect to the procedural nature, I suspect, of this motion. Madam President, our motion is not to kill the bill. That is not our intent here today. The intent is to, as my colleague, Senator O'Pake, said, send the report back to the committee so that it could address what a number of us on this side of the aisle believe are answers to questions that have not been answered properly, in our opinion.

The only mechanism we have to do that is to send it back to committee. That is what we are trying to do. We want smoking banned in this Commonwealth. We advocated for it. We will continue to do so. Senator Mellow did an outstanding job representing our Caucus at that table. And he put forth amendments at that time that we believe are very important. But the bill that came out of that conference committee is different than the version that passed here in the Senate, that went over to the House before it reached the conference committee, and a very important part of that was the local option provided to Philadelphia.

And as Senator Mellow said very eloquently at that committee meeting earlier this week, it is important that that discussion take place. It cannot take place on this floor. It must take place in the committee. And that is all we are asking for, the opportunity to send it back to the committee, allow that committee to get the work done that needs to be done to treat some of these communities and these counties fairly and properly and, most importantly, equitably.

Thank you, Madam President.

The PRESIDENT. Senator, do you agree to send this back to the conference committee?

Senator PILEGGI. Madam President, that is up to the body, I believe, and I think the way to determine that would be to call a roll.

The PRESIDENT. So we are not going to send it back. We are going to take the vote on it now.

The Chair recognizes the gentleman from Allegheny, Senator Logan.

Senator LOGAN. Madam President, I rise to support Senator Mellow's motion to recommit Senate Bill No. 246 to the committee on conference. And not to belabor the point but to echo my colleagues, you know, I thought the goal of this bill was to provide a comprehensive smoking ban across the Commonwealth.

And here in one hand, we are saying Philadelphia can do that, but for the life of me, Madam President, I cannot understand why folks are turning their backs on the second-largest county--

POINT OF ORDER

Senator PILEGGI. Madam President.

Senator LOGAN. --in the Commonwealth, of 1.2 million people. It just does not make sense. The folks in Allegheny County, Allegheny Council--

Senator PILEGGI. Madam President, I rise to a point of order.

Senator LOGAN. --and the county executive want a stricter--

The PRESIDENT. Will the gentleman please yield.

Senator LOGAN. --a more strict ban, Madam President.

The PRESIDENT. Okay.

Senator LOGAN. --and what this motion does is to send it back.

Madam President, you can rule me out of order, and people can get up and say procedural things, but this should not be wrapped up in some procedural gimmick about debate, Madam President.

The PRESIDENT. I am trying to get you--

Senator LOGAN. This is very serious. Bang your gavel all you want, but I am not going to stop talking until you turn off my mike, Madam President. If that is what you must do, that is what you must do--

The PRESIDENT. That is not what I am trying to do. I am trying to get the Senators to agree to another meeting.

Senator LOGAN. This cannot be wrapped up in some procedural gimmick, Madam President, respectfully. So we cannot allow this, just to say you cannot debate this. This is very important, and folks cannot turn their backs on the second-largest county in the Commonwealth.

The PRESIDENT. Thank you.

Senator LOGAN. It is not as if the Allegheny County Senators--

Senator PILEGGI. Madam President.

Senator LOGAN. --want a weaker law. We want to be able to enforce a more strict law, Madam President.

Thank you.

The PRESIDENT. Very well. Now, shall we put it to a vote. We have gone enough on this.

And the question recurring,

Will the Senate agree to the motion to recommit the Report of the Committee of Conference on Senate Bill No. 246 to the committee of conference?

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

YEA-23

Boscola	Hughes	Musto	Tartaglione
Costa	Kasunic	O'Pake	Washington
Dinniman	Kitchen	Orie	Williams, Anthony H.
Ferlo	LaValle	Pippy	Williams, Constance
Fontana	Logan	Stack	Wozniak
Fumo	Mellow	Stout	

NAY-27

Armstrong	Erickson	Pileggi	Tomlinson
Baker	Folmer	Punt	Vance
Browne	Gordner	Rafferty	Waugh
Brubaker	Greenleaf	Regola	White, Donald
Corman	Madigan	Rhoades	White, Mary Jo
Earll	McIlhinney	Robbins	Wonderling
Eichelberger	Piccola	Scarnati	

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

The PRESIDENT. The motion fails.

And the question recurring,

Will the Senate agree to the motion to adopt the Report of the Committee of Conference on Senate Bill No. 246?

LEGISLATIVE LEAVES

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

Senator ORIE. Madam President, I request a legislative leave for Senator Pileggi.

The PRESIDENT. Senator Orie requests a legislative leave for Senator Pileggi.

The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, I request a legislative leave for Senator Musto.

The PRESIDENT. Senator Mellow requests a legislative leave for Senator Musto.

Without objection, the leaves will be granted.

And the question recurring,

Will the Senate agree to the motion to adopt the Report of the Committee of Conference on Senate Bill No. 246?

The PRESIDENT. Is there any more discussion on the vote?

The Chair recognizes the gentlewoman from Venango, Senator Mary Jo White.

Senator M.J. WHITE. Madam President, I was wondering whether Senator Mellow would stand for brief interrogation.

Senator MELLOW. Absolutely, Madam President.

The PRESIDENT. He indicates he will.

Senator M.J. WHITE. Madam President, is it not correct that the Senator was a member of this conference committee that prepared this report?

The PRESIDENT. Were you a member of the conference committee?

Senator MELLOW. Yes, Madam President, I was.

The PRESIDENT. Did you know they were avoiding Pittsburgh?

Senator M.J. WHITE. That was my next question, Madam President. Thank you.

Senator MELLOW. Is that in the form of a question from Senator White or from the Lieutenant Governor?

Senator M.J. WHITE. Actually, it is from both of us, Madam President.

The PRESIDENT. She is representing western Pennsylvania, too.

Senator MELLOW. Could the gentlewoman please tell me what her question is?

Senator M.J. WHITE. Madam President, my question is whether or not the matter of the exemption for Allegheny County was discussed and considered by the conference committee and, in fact, rejected?

The PRESIDENT. Was it discussed?

Senator MELLOW. Madam President, I offered the amendment to reinstate, to give both the city of Scranton, which is a second class-A city, and the second class county of Allegheny the opportunity, in the conference report, to be able to, if they so choose, to be able to reenact their legislation or their ordinance. I offered that. There was much discussion on it. The vote was 3-3, and obviously, if it did not receive the fourth vote, it could not pass.

In conference reports, you have to have two Members of the House and two Members of the Senate. The two Senate Members voted in the affirmative, both myself and Senator Greenleaf, and Representative Gerber voted in the negative. Also, Madam President, one of the conferees from the House, Representative Miller, I believe, stated for the record, and I do not know if there was an official record actually taken, that the reason why he was not going to vote for it was because he did not think it should be done for all 2,700, if you will, municipalities in the Commonwealth. And I think he might have voted a little bit under a misapprehension, because the amendment that I offered did not deal with the 2,700 municipalities of the Commonwealth. It only dealt with the municipalities that, prior to legislative approval, had passed their own ordinance.

In the case of Allegheny County, the Commonwealth Court decision in 2007, which challenged the Allegheny County ban, made that ordinance invalid. With regard to the city of Scranton, because of what took place in Allegheny County, the city of Scranton decided not to further enforce their ordinance after that court decision was made. So my resolution, a little bit different than what was stated by Representative Miller, would only have affected the city of Scranton, the second class-A city, and the second class county of Allegheny County. They are the only two local governments that would have been affected under my amendment, and only if they decided to go ahead and readopt their resolution.

Senator M.J. WHITE. Thank you, Madam President.

If I may make a brief remark, then, for the record based on the interrogation.

The PRESIDENT. The Chair recognizes the gentlewoman from Venango, Senator White.

Senator M.J. WHITE. I think this matter was thoroughly vetted by the conference committee. It was discussed, debated, and voted upon, and therefore, I think the procedural request to send this back to the conference committee would simply be a delaying tactic and would really have no impact on the outcome. Thank you.

Senator MELLOW. Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. I can go along with some of the things that Senator White said, but it is not a delaying tactic to do anything, and I believe that is a statement that either is taken out of

context, or I do not believe that is a valid statement on the floor of this Senate, because there is not one Member of this Senate, especially on this side of the aisle, who wants to delay the enactment of the passage of any legislation dealing with banning smoking in Pennsylvania.

In fact, if we really want to ban smoking in Pennsylvania, we will not pass this particular piece of legislation. We will go one step further and make it a much stronger proposal. But Madam President, the only thing that we want to do in sending it back to a conference committee is not vote against the proposal, but give the conference committee the opportunity to make it a stronger bill, and to be able to enact the ordinance that was passed by 1.4 million people in the county of Allegheny and the individuals, the people in the city of Scranton, who want to be able to go ahead and make their ordinance just a little bit stronger than what is taking place in Pennsylvania. But to say that it is a delaying tactic is a statement that, quite frankly, is being a little bit intellectually dishonest on the floor of the Senate, because this is not a delaying tactic.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. Senator Armstrong has returned, and his temporary Capitol leave is cancelled.

And the question recurring,

Will the Senate agree to the motion to adopt the Report of the Committee of Conference on Senate Bill No. 246?

Senator MELLOW. Madam President, one other thing--

The PRESIDENT. Senator McIlhinney, you want to speak--

Senator MELLOW. Madam President, if I can, and I know that we are going to have a problem here with how many times one can speak on the floor today, but it is important to note that the majority-- conference committees today are two separate committees, so that we understand this completely, because things have changed.

It is a committee of the House and a committee of the Senate. The committee of the Senate voted, the majority Members of the committee of the Senate voted for the amendment that I offered. It was the committee of the House that did not. But the committee of the Senate--so if we really want to reflect what the majority Members on that committee wanted, we would be reconsidering the vote that just failed, but we would be sending this back to the conference committee to have them reconsider that vote that the majority Members of the Senate said was an appropriate amendment.

The PRESIDENT. The Chair recognizes the gentleman from Bucks, Senator McIlhinney.

Senator McILHINNEY. Madam President, if I could briefly read into the record a letter that I received. *(Reading:)*

To the Honorable Members of the General Assembly:

I want to express my strong support for the Report of the Committee of Conference on SB 246. This legislation represents a giant step forward in protecting the public health of the *[sic]* ALL citizens of the Commonwealth. Our citizens, who live in places that had ordinances before, but lost those protections through litigation, will once again be protected by a strong state law. Those who have long needed and

wished for similar protections will finally have them.

I urge the members of the General Assembly to vote in favor of this legislation.

Sincerely,
Edward G. Rendell
Governor

Thank you, Madam President.

Senator MELLOW. Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, I would only like to remind the Governor, and I hope he is listening, that he is the Governor of 67 counties of Pennsylvania, not 1.

The PRESIDENT. Would you like to call the vote, Senator Orie?

Senator ORIE. Yes, Madam President.

The PRESIDENT. Oh, Senator Greenleaf, you are waiting. I apologize.

The Chair recognizes the gentleman from Montgomery, Senator Greenleaf.

Senator GREENLEAF. Madam President, I rise to ask for an affirmative vote for this legislation. To put some history into this, I first introduced this legislation in 1993, and since then, we really have not even been able to get this bill out of committee until about a year and a half ago.

It has now been released from committee, and we tried to pass legislation that would have no exceptions in the legislation. We tried that in the committee process, we tried that on the Senate floor here, and we were not successful in doing that. It went over to the House. We tried to keep the exceptions out in the House, and that did not happen. And we tried it in the committee.

The reason the committee report took so long is that we spent two hearings that were at least 8 hours each. We held probably five to six committee meetings on this, in an attempt to discuss it, to work on it, to get the best bill we possibly could that would protect the people of the Commonwealth of Pennsylvania.

I do not like everything that is in this legislation. For example, I would like to have local control. If we are going to pass a bill with exceptions, then we should have provisions in it that every community in the Commonwealth of Pennsylvania could pass a stronger bill. That is not in it. There are exceptions in this legislation that I do not like to see in this legislation, but it was clear to me that we have had votes, two votes on this floor, and there has been opposition to a bill without exceptions here, on both sides of the aisle. And it was also a battle in the House of Representatives as well.

So it was clear to me that if we did not pass this legislation, the best piece of legislation that could come out of this legislature, then we were going to have no legislation. I am disappointed that Allegheny County is not included. I am disappointed, as I said, that every community in this State does not have that right. But that was the best that we could do. I voted to put Allegheny County and Erie and other communities in this bill. We did not have the votes to do that in the committee.

So I have come to that realization. I think it is important for us to move on, to protect the people of this Commonwealth. If this legislation passes, 95 percent of the people who go to work and who are in a public building or in a public workplace are

going to be protected. The other 5 percent, unfortunately, are not going to have that ability. There are exceptions. We are certainly not finished with this legislation. I believe that we will continue, at least I will, and I am sure others, too, to work on this to provide additional protections for the people of the Commonwealth of Pennsylvania.

The only thing I can say in regard to the Allegheny County issue is that the bill that we had before us had many of the provisions that were in the Allegheny County ordinance. And so I believe that it does provide some protections that their ordinance originally had.

So I ask for an affirmative vote on this legislation, because this is our opportunity. This is our chance. The Governor has indicated that he will sign it. I thank the Governor for his support for this. I thank the Members of this body who support this legislation and have worked with us, and the Members of the House of Representatives as well, Senator McIlhinney, and Representative Gerber in the House, and others, and the members of the conference committee. They are all good people who have different views, and that is the problem here. We all have different views on this piece of legislation. When you have a situation like that, you have to compromise and come up with a proposal, and so I ask for a positive vote on the legislation.

The PRESIDENT. Thank you, Senator Greenleaf, for your meaningful comments after 15 years of study in the conference committee.

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

Senator A.H. WILLIAMS. Madam President, my comments go to the institution of the Senate. You know, the Governor wrote a letter, which I think is totally appropriate. I do not have a problem with the Governor writing a letter and addressing us as a body and saying he supports it. I do have a problem with acting as if Members who stand up from their respective counties are annoying us, and pushing them along. This is our job. We are supposed to be out of here, I think, by 11 o'clock tonight. They are supposed to fight until 11 o'clock tonight.

I come from Philadelphia County, the county which was exempted. I want to make it very clear to the Members of this body that we are a body that respects those who fight for their constituencies. And as such, those of us who come from Philadelphia County are, frankly, elated that we have reached a point that we are protected. But we are not going to protect anybody else by throwing them under the bus. So we stand as a collective body to make Pennsylvania smoke-free. So while the Governor has spoken to the progress we have made, there are those in other counties who will not make the progress of Philadelphia County. That is what we are speaking about today.

I do not think that should be an annoyance to anybody. I do not think anybody should be hurried along. I do not think anybody should say they are the last speaker. If somebody else chooses to stand to say similar comments, it is their right, prerogative, and their responsibility as an elected official of the Senate to do such.

I was not going to say anything, because I thought it was the responsibility of those from Allegheny County to speak on behalf of themselves. But I have felt the tyranny of the majority before, coming from Philadelphia County, where we are isolated. I un-

derstand what it means when we talk about guns, when Members from central Pennsylvania talk about the fact that they cannot seek cable connections or Internet connections that we seek. We are all isolated with our respective constituencies. That is why you have a Senate.

So the least we can do is listen to their claims. If we choose to vote one way or the other, that is what we are here to do. But I am not going to sit here in silence because we have gotten something in Philadelphia County, and they have not gotten it in Allegheny County, and actually scurry them along. That is not what we are here to do. So I suggest that those who want to do this and get it done--all of us, I am sure, are concerned about clean air--do it in a way that respects the Senate and respects our Members and our colleagues.

Thank you, Madam President.

The PRESIDENT. Thank you, Senator Williams. I am sure Allegheny County and Lackawanna County respect your comments.

Are there any more before we take the vote? Senator Ferlo, you are waiting?

Senator FERLO. Madam President, I will be brief. I think this previous discussion kind of laid the groundwork for where many of us are inclined to be voting, having expressed some of our opinions.

In regard to the letter that has been read, I do not know that the rest of us have gotten the letter. Maybe it arrived this morning. I am always pleased to see a letter from the Governor. I hope, in the future, that we could have more letters read on the opposite aisle when the Governor sends letters in support of various pieces of legislation, and not selectively.

Obviously, a couple of weeks ago, I was extremely critical and disappointed in the Governor for making a pronouncement about not being willing to sign any piece of legislation if it precluded the ability of Philadelphia to maintain its ordinance. While I respected that, it was extremely disheartening and disappointing, because I do not know if the Governor had temporary amnesia, but he should have recognized that there is a very large political body out in the southwest, namely Allegheny County, similar to the great city/county of Philadelphia that likewise took its political democratic process to heart and passed a strong smoking ban in Allegheny County, including banning it on casino floors. Scranton, as well, has been mentioned, and I believe there are a couple of other smaller communities that also took legislative action. Allegheny County did that based on their broad police powers under the home rule prerogatives that they have as a second class county.

Certainly, in Philadelphia, the genesis of their bill dates back much earlier and may be statutorily more clear to the court. But I think both large communities should have been respected and should have been the basis for any conference report, regardless of what the actual bill parameters were on all of the given points of what will or will not be allowed in the no-smoking area. So that is extremely disheartening, and that is a fatal flaw to this process.

So I, for one, am taking to the podium. I am adamantly and vociferously clear that I want a comprehensive, uniform smoking ban much stronger than the one that, I guess, is about to be voted on. So I come from the viewpoint, very clearly, that we should

not be compromising on the fundamental health, welfare, and safety of those affected by secondhand smoke, especially those who cannot speak for themselves here today and work for employers, especially in the service industry. They are stuck. They are stuck working, having to feed their kids and family. Many of them are at the lower end of the wage scale. Many of them are, unfortunately, in unorganized labor and unorganized jobs. So they are going to continue to be victimized.

So it is almost like we are saying it is all right to kill this portion of the Pennsylvania population, but we will try to finesse and take care of others. I mean, this bill is fatally flawed on its surface. It is reprehensible that it violates the spirit of uniformity in not respecting the political subdivision of Allegheny County. I believe strongly, and I hope that at least on our side of the aisle, we stand united in a resounding "no" vote. I clearly want to state that we want a comprehensive, strong bill that is uniform, that we can all be proud to put our names on.

That does not mean I do not respect the work that Senator Greenleaf and others have done, Senator Mellow in particular. But as I stated earlier, this is an unfinished symphony. It is unfinished, and we need to send it back and make sure it gets done correctly. I am not going to go at length now, given the time, Madam President, but normally, I would have to reiterate--you know, there were school kids up in the audience earlier, and they seem to know a lot more and have accepted, now, a lot more about the medical, health, and environmental realities of smoke and secondhand smoke. But it seems, continually, that we have to rise to the podium to reiterate all the scientific, medical, and healthcare-related information ad nauseam.

We say all this. We learn all this. We accept this body of scientific information. And then, we summarily dismiss it because of politics and wanting to be safe in our districts. And if you come from certain districts that are perceived to be more rural with more veterans clubs or smaller taverns, somehow you want to find something politically more acceptable. I mean, this is the time to stand up on a basic principle. It is not something to get through the next election with. Unfortunately, that is really the spirit and what is embodied in this so-called legislative compromise. It is about trying to weasel your way through the next election and not fundamentally standing up for what is correct, what is appropriate for one's health, safety, and well-being.

The fact of the matter is that this legislation runs roughshod over the aspirations and political reality and abilities of more than 1 million Allegheny County residents. So for all those reasons, and for hours more that I will not speak, I ask resoundingly for a "no" vote. Send it back. Let us get it right.

The PRESIDENT. Thank you.

The Chair recognizes the gentleman from Allegheny, Senator Fontana.

Senator FONTANA. Madam President, I rise again to ask my colleagues to vote "no" and send this bill back to a conference committee. But first, Madam President, let me say that I supported the original Senate Bill No. 246, a total smoking ban, with Senator Greenleaf. As Senator Greenleaf indicated, there have been a lot of disappointments along the way, a lot of exceptions that neither he nor I agreed with. Senate Bill No. 246 has developed many holes, more than a piece of Swiss cheese, that I can see. The bill is unmanageable, unenforceable, and certainly un-

fair, as it is, to Allegheny County. But when you are talking about 20 percent of this, 25 percent of that, and 20 percent of something else, who is going to enforce these conditions, Madam President? I do not see anything in there establishing the smoking police to help local municipalities or counties.

I suspect that possible lawsuits will come about because of these unenforceable conditions, which will be another burden on our local governments. We have the opportunity here to give local governments the opportunity to enact a stricter law. Allegheny County did that, and the unfairness of this is that they do not have the chance to reenact what they did enact. The people of Allegheny County have the right to have a stronger smoking bill. At this point, Madam President, I ask my colleagues to vote "no." Thank you.

The PRESIDENT. Thank you. Are there any other speakers?

The Chair recognizes the gentlewoman from Northhampton, Senator Boscola.

Senator BOSCOLA. Madam President, I was not going to talk on this bill today. But listening to my colleagues from Allegheny County, I live in the Lehigh Valley, and I am proud of that fact, by the way, and when I look at this bill, I am in favor of a smoking ban. No problem with having a smoking ban statewide. But I know that if my municipality, the city of Bethlehem, or any of the townships or boroughs in the city would want a stronger smoking ban standard, I would be fighting on this Senate floor for that to happen. So I understand why Pittsburgh is saying, right now, we need a stronger smoking ban. They want it, and I am going to help fight for it, because I would do the same thing if it happened in my district.

Now here is what happens. If we defeat this bill today, it will go back to conference committee, and the conference committee will have to decide if a smoking ban which includes Allegheny County is important, or no smoking ban at all. And I can guarantee you, if we send this bill back to conference committee, that those Members will say, I agree, let us have Pittsburgh have their exemption, or we have no smoking ban at all in the Commonwealth of Pennsylvania. I have faith in that.

As far as the Governor is concerned, he will sign that bill, too, if it has a Pittsburgh exemption. So for somebody from the opposite side of the aisle to read the letter today saying he is supportive of just this smoking ban legislation is entirely wrong. He will support smoking ban legislation even if it includes an Allegheny County exemption.

Thank you, Madam President.

The PRESIDENT. Are there any other comments?

The Chair recognizes the gentleman from Allegheny, Senator Logan.

Senator LOGAN. Madam President, I rise to ask for a negative vote on the conference committee report. I thought the goal, Madam President, was to try to get a comprehensive smoking ban across the Commonwealth of Pennsylvania. The conference committee wisely gave the folks in Philadelphia the ability to provide a more strict ordinance, which theirs is. We applaud that. We are not going backward. We are going forward. But they stopped there, and they said to the people of Allegheny County and Scranton, you cannot do the same thing, which just does not make sense to me. Fundamentally, it just does not make sense how you pick one subdivision--in this case, Philadelphia--and

you can provide a more strict ordinance, but the folks who have done it already in Allegheny County and in Scranton cannot. It just does not make sense to me, Madam President.

Senator Greenleaf said this is the best we can do. That is said too many times in this building. "This is the best we can do." "This is the best we can get." "Let us move forward." Well, it is not. We are going to be here many, many days in June. This is not a delaying tactic. This does not stop the bill. This sends it back to conference committee. Let us have more debate and more rationale, at least coming from the Members.

Originally, it was the Members from Allegheny County speaking as to why we cannot enact a more strict ordinance. But as Senator Boscola stood up and said, let us give them the ability to do that, and Senator O'Pake and Senator Mellow stood up. Somebody tell us why we cannot. It is not as if the folks in Allegheny County and Scranton want to take a step backward. We want to do what the ultimate goal is, which is to provide a comprehensive smoking ban, and, in this particular case, to provide a more strict ordinance.

Madam President, I ask for a negative vote. Send this bill back to a conference committee. Let us not just say to the people of Pennsylvania and, in this particular case, the people of Allegheny County, this is the best we can do, because it is not the best we can do. Madam President, a "yes" vote, and I have to quote our Minority Leader, Senator Mellow, he said it very accurately yesterday in the conference committee, that a vote for this conference committee report would be, in essence, to tell the 1.2 million people of Allegheny County to go to hell, Madam President.

Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Madam President, I again rise, as my colleagues have done, particularly those from Allegheny County, to ask for a negative vote on Senate Bill No. 246. Madam President, I think the Members of our Chamber have heard loud and clear that there is a major concern about the process by which we have arrived at the conclusion or decision that one of our 67 counties should be given preferential treatment when, in fact, each of their legislative bodies, those of Allegheny County and Philadelphia County and, I believe, Lackawanna County, have taken the steps to enact what they believe to be meaningful smoking legislation.

Madam President, I ask my colleagues to support us in that effort so that we do not send a message to this Commonwealth that most of the counties, 66 counties, are okay to follow one set of rules, and 1 county gets a special opportunity to do something differently. The fact of the matter is a fundamental decision needs to be made by this body about whether or not we are going to permit and whether or not we are going to advocate and move forward legislation that opens the door with respect to the local option in this case.

Madam President, I stood on this Senate floor months ago and offered an amendment that would have stripped out a significant number of the exceptions that are in the bill today. I believe that it was the McIlhinney amendment that ultimately passed. I made an effort to try to strip out all of those exceptions, except for the one dealing with casinos, that would have provided for statewide preemption. It would not have provided for local option. At the

end of the day, I failed. I was able to secure about six or seven votes.

Madam President, that process moved forward, and we adopted the McIlhinney amendment that included a number of the exceptions. But at that point in time, it did not provide for local option, and that is a significant distinction that has taken place here. We heard from the Governor, who indicated that we needed to have a local option for Philadelphia. While I can appreciate the Governor's concern about his home county, where he hails from, I think we failed to recognize that Allegheny County, Scranton, and Lackawanna County also have legislation on the books that they want to put into place and want to enact that provides the same rights, benefits, and protections from secondhand smoke for the individuals who live there and currently work there.

What we are asking is, and I think Senator Fontana said it very well, we are asking for a negative vote on this measure to allow it to go back to the conference committee with a very clear directive and a very clear message that either we want smoking ban legislation that provides no exemptions, no local option, or if you open up Pandora's box and allow for exemptions, that at a minimum, if you are going down the path to allow local option, that you take into consideration those counties that have enacted smoking bans that, in most cases, are more stringent and provide more protection than what this legislation does.

That is where we want to be. We support--and I think I can speak on behalf of my colleagues who all have said they support the notion that we want a comprehensive smoking bill in this Chamber to be enacted. This one is not what we want done. As Senator Ferlo stated, this is a symphony, but it needs to go back to the conductor, or the person who created it, to make certain that it provides for some of the things that need to be done.

That is where I stand. I support the notion that we need to do something, but not in this framework where we have provided local option to just one county. There should either be statewide preemption, or if you are going to provide local option, consider some of the other ones that have been enacted over the past couple of years.

I implore my colleagues to vote "no." Let us send this back to the drawing board, and let us make certain that we can do what is right for the people of this whole Commonwealth and not just one county.

Thank you, Madam President.

Senator MELLOW. Madam President.

The PRESIDENT. Yes, Senator Mellow.

Senator MELLOW. Madam President, I just want to finally mention that if this conference report is not accepted, if it is voted down, Mason's Manual, once again, is very clear in Section 771, paragraph 6. It says, "...when for any reason either house refuses to adopt the report of the committee [on conference], the committee should be discharged and a new committee on conference or free conference [committee] appointed."

Basically, what that means, Madam President, is it would give the conference committee more latitude, because it says a free conference committee could be appointed, which means that they do not have to discuss the differences between the House and the Senate. They can do exactly what Senator Greenleaf tried to do

yesterday that was defeated. You could make the bill that much tougher, because it would be a free conference committee.

So voting this down does not mean you have defeated a conference report. It means you have simply sent it back to the committee, giving the opportunity to appoint a new committee or to appoint a free conference committee. It is a little bit different, Madam President, than to send it back to the original conference committee, which we tried to do in our previous motion.

So I just want to make that clarification so that if anyone wants to vote against the bill to make it stronger, they can do that by voting against the bill, and it goes back either to the original conference committee or to a newly appointed conference committee, but that conference committee could also be a free conference committee, which means they would not be restricted as to the differences between the House and the Senate to reconcile those differences only.

Thank you, Madam President.

Senator ORIE. Madam President, could we be at ease, please.

The PRESIDENT. The Senate is at ease.

(The Senate was at ease.)

The PRESIDENT. The Chair recognizes the gentleman from Bucks, Senator McIlhinney.

Senator McILHINNEY. Madam President, for the record, I would like to state that it is my understanding that if this bill is voted down today, it does not revert back to a conference committee. The bill, as it appeared from the House last June, would reappear on our Calendar on Monday morning, which would then put us an entire year behind and back to square one with the smoking issue.

The House would also have to agree to a future conference committee. The House, as I understand it, is currently debating this bill and anticipates its passage today. So a defeat of this bill today will, in effect, defeat the smoking ban for the foreseeable future and probably the rest of this year, sending us into next year's new convening General Assembly.

I would hope that, with all the differences that have been fleshed out through the last year plus, we would come to a compromise here today and actually give Pennsylvania a smoke-free ban, a ban across Pennsylvania. However, in an effort to accommodate the gentleman from Allegheny County, this issue was specifically addressed, not in a group, not in a large omnibus amendment, but it was specifically addressed in this conference committee and it failed, along with a lot of other amendments and ideas that other Members had put forth.

The bottom line here was that Philadelphia was not carved out. Philadelphia did not get an exception. We simply allowed for any existing ordinances to remain in effect and be grandfathered. Philadelphia had the only ordinance in effect. There was no valid ordinance on the books as of today, as of the day that we passed this legislation. So therefore, we allowed the continuation of a ban in Philadelphia and put into place a strong ban, if not stronger in some cases than the Philadelphia ordinance, for the rest of the Commonwealth of Pennsylvania.

If it is the wish of the Minority Caucus to defeat the smoking bill today after the effort that was put into it, to go against the wishes of what will likely be the House, the Governor of Pennsylvania, the American Cancer Society, Tobacco-Free Kids,

Smoke-Free PA, and all of the activist groups that are saying they want to see this bill passed, it is time to put it into law, it is time to have a ban in Pennsylvania, then that would be the will of the Minority Caucus here, the Senate Democratic Caucus. But I would hope that they would see the wisdom in actually passing a bill today, going back to work in the future years, which is going to happen anyway, to continue to improve this bill. But I leave it up to the Democratic Members of the Senate to decide the fate of the smoking ban for Pennsylvania.

Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, either the gentleman is inaccurate purposely or is totally misinformed, because the Scranton ordinance, Madam President, is existing. It has not been enforced, but the Scranton ordinance, Madam President, is an existing ordinance. So either the gentleman was not aware of that, was inaccurate in his statement, or was not properly informed, Madam President, with regard to the ordinance in Scranton.

Secondly, Madam President, we have used Mason's Manual in this Chamber for the years that I have served in this Chamber, and it is very clear, regardless of what the gentleman may have said in his posturing for the passage of this bill and for his trying to blame Democrats for delaying a bill when, in fact, the Democrats want the bill stronger, Madam President, than it currently is in the version of the bill that is before the Senate today by a Conference Committee on Senate Bill No. 246.

Madam President, I will read it once again for the gentleman's interest. It states, paragraph 6, Section 771 of Mason's Manual of Legislative Procedure, which we have used in this Chamber forever with regard to the manual of legislative procedure that we follow, it says, "...when for any reason either house refuses to adopt the report of the committee, the committee should be discharged...." It does not say shall be discharged. It does not say may be discharged. It says, "...the committee should be discharged and a new committee on conference or free conference appointed."

So if the gentleman is trying to use his scare tactic by saying to those individuals who want to make the bill stronger, and by saying that you are going to vote against the bill means that there will be no passage of this bill, Madam President, until some future date is totally inaccurate. Perhaps the gentleman himself does not want a stronger bill on the floor of this Senate. I do not know what his apprehension is to consider Allegheny County, whose ordinance was declared unconstitutional, and the city of Scranton, who has a current, existing ordinance. Contrary to what he said on the floor, the city of Scranton has a current, existing ordinance. It is not enforced, Madam President, because of the ruling of the Commonwealth Court in dealing with Allegheny County.

Madam President, we should be doing the right thing. It has been many, many, many years in coming. There has never been a ban on smoking in Pennsylvania before. We have worked on this. Senator McIlhinney has worked on this very hard. Senator Greenleaf has been a pioneer. Today is not the day to compromise our principles so that we can go back into our districts and

say that we have passed a smoking ban that is going to prohibit smoking from taking place in Pennsylvania. To do so, Madam President, would be intellectually dishonest.

All we are asking for is, once again, the opportunity to go back to a conference committee so that we can insert Allegheny County's ordinance, insert the city of Scranton, which does have an existing ordinance, bring the bill to the House, bring the bill to the Senate, give the people of Pennsylvania what they want, not some form of a watered-down version of what the people in Allegheny County want and what the people in the city of Scranton want.

Madam President, I ask for a roll-call vote.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Madam President, I want to support the comments of my colleague, Senator Mellow, from Lackawanna County. I also want to recognize that, although the discussion today has been largely about Allegheny County, please, we cannot lose sight of the fact that the city of Pittsburgh, the second largest municipality in this Commonwealth, has a smoking ban in place, enacted by their county, adopted by their council, in effect, in law as we speak today. We have given the privilege to Philadelphia to keep theirs in place, yet what we are saying to the city of Pittsburgh now, 300,000-plus, is that their law is going by the wayside.

It is irrelevant, the significant differences between those two laws. What is important here is that we are preempting the State government of one local government and not the other one. That is what is offensive here. And to suggest that we are doing this to stall or that we are not going to worry about or not be concerned about the Commonwealth residents who are harmed by second-hand smoke is just not appropriate. We want a stronger law. We want a smoking ban.

And to do it just because the other Chamber across the hall is working on it, we have to make sure we do it? Since when does the House dictate to this Chamber when we actually do our work and what the content of our work should be? We should not worry about what the House is doing. If we are worrying about what the House is doing, we have three or four other bills that we think are far more important that need to be addressed. They may be just as important as this. Maybe we ought to talk about energy because the House did it, because they got done with it. Maybe we should talk about healthcare. Let us do that because the House did it, and because the Governor said we need to act on this. If we want to follow the lead—

Senator ORIE. Madam President, I ask for a point of order.

Senator COSTA. The point of order is, Madam President, let us vote this up or down.

The PRESIDENT. Will the gentleman yield, please.

The Chair recognizes the gentlewoman from Allegheny, Senator Orie.

Senator ORIE. Madam President, could we be at ease, please?

The PRESIDENT. I am sorry, the gentleman has the floor. Go ahead, finish.

Senator COSTA. Madam President, I will conclude my remarks by saying that Senate Democrats believe in a comprehensive statewide smoking ban. We want something done. We do not want to be controlled by the House's schedule. We do not

want to be told by the Governor that we need to do this because it is expedient.

We need to get it done. We want to get it done. We want to do it right. We want to be fair to the city of Pittsburgh, which is no different than the city of Philadelphia in terms of what they enacted legally, which we would preempt, no different than what Allegheny County has done and Scranton has done and Lackawanna County has done and Philadelphia County has done.

Let us take that into consideration, and let us reject this measure as it stands right now and send a very clear message back to the conference committee, whatever is created with the new conference committee, and send a message back to the House Members that we believe strongly enough that this is what we need to do.

Thank you, Madam President.

Senator ORIE. Madam President, may we be at ease.

The PRESIDENT. The Senate is now at ease.

(The Senate was at ease.)

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Logan.

Senator LOGAN. Madam President, I yield to Senator McIlhinney.

POINT OF ORDER

Senator McILHINNEY. Madam President, I rise to a point of order.

The PRESIDENT. The gentleman from Bucks, Senator McIlhinney, will state it.

Senator McILHINNEY. Madam President, may I get a ruling from the Chair as to what officially would happen if the bill were to fail here today on the Senate floor?

The PRESIDENT. If the bill fails today, it would appear again on Monday's Calendar as the bill in which the amendments are nonconcurring in by the Senate. And that is what we would send over to the House.

Senator McILHINNEY. So it would be the bill as nonconcurring in by the Senate from last June 2007.

The PRESIDENT. The House has insisted on these amendments, and it would be a bill that the Senate does not concur in.

Senator McILHINNEY. From July of last year.

Thank you, Madam President.

The PRESIDENT. Okay, apparently we did not see this, it was taken on October 23, 2007.

The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, we could do one of two things. We can recede from our opposition to the House amendments and accept the House bill or, if we insisted, on Monday, we would then be in the position of appointing a committee of conference to resolve the differences. So it would go immediately into a conference committee if we did not recede from our position. And there is precedent for that.

The PRESIDENT. The gentleman is correct. Either action could be taken.

Senator MELLOW. Thank you very much, Madam President.

The PRESIDENT. Okay, further debate? Are we finished?

The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, in essence, what we have done is, we have not done one thing to kill the bill. We have basically put the bill back into the position where it was, where we either accept the amendments from the House, were we to recede from our position, or we would not concur on it and put the bill into a conference committee. That is exactly what would take place on the next legislative day here in the Senate. The bill would not be dead--

The PRESIDENT. The gentleman is correct.

Senator MELLOW. And then we could reappoint the same conference committee or a new conference committee, if we so choose.

The PRESIDENT. The gentleman is correct.

And the question recurring,

Will the Senate agree to the motion to adopt the Report of the Committee of Conference on Senate Bill No. 246?

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

Senator A.H. WILLIAMS. Madam President, I ask that the previous speaker stand for a brief period of interrogation.

The PRESIDENT. The gentleman indicates he will.

Senator McILHINNEY. Thanks for the set-up, Senator.

Senator A.H. WILLIAMS. No set-up.

Senator McILHINNEY. Senator Mellow was the previous speaker.

Senator A.H. WILLIAMS. Okay, the previous, previous speaker, Madam President.

I have a very basic question. I heard, in the context of the gentleman's comments, that the "Democratic" word came out of his mouth. The question I obviously have is that to suggest that all the Republicans will be voting in the affirmative for this conference report.

Senator McILHINNEY. If that were the case, you are right, it would not fail then. I cannot say for certain what would or would not happen in this Caucus. There were statements made by that Caucus that you were united against it. This Caucus, to my knowledge, would probably have a majority of it voting for it. So therefore, if a majority of the Democrats were to vote for it, this would pass today.

Senator A.H. WILLIAMS. So if there is a Republican voting against it, that would make it a bipartisan declaration in opposition to the conference committee report. Because I have been here before when we have had one of each voting for something and we declared bipartisan activity. So by definition of prior activities, anybody on that side of the aisle would be painted with the same brush that you would describe the Democrats as.

Senator McILHINNEY. I think the difference here is that no statement was made in unity by this Caucus one way or the other. A statement of unity of Caucus on that side was made prior to my comments.

Senator A.H. WILLIAMS. The last time I heard, the Senate votes for laws; we do not talk about them. So it is what you pass or what you vote is affirming you as a Senator on this floor by your actions, not by your comments. Am I missing that? Is there something different?

Senator McILHINNEY. I am not following you. But I would--

Senator A.H. WILLIAMS. I think you do follow me. I think the fact is that a vote is a vote. And so, when you vote for something, you are talking about what we said as a body. The question is, if you vote as a Republican, that makes it a bipartisan activity. That is the question I am asking.

Senator McILHINNEY. That would be your characterization of it, yes.

Senator A.H. WILLIAMS. That would be my characterization. That would be our characterization. That would be the reality of the situation based upon your comments. So I want to clarify for the record, this is not an issue about a Democrat or a Republican, this is about those of us who want to have a stronger smoking ban in Pennsylvania. Those of us who are concerned about the committee report, as such, that is what our activities are based upon. With that, Madam President, I will conclude my comments. Thank you.

Senator McILHINNEY. I would just like to state that a vote taken would be on the merits of the bill and not a unified front to protect a certain group or a divisive--

POINT OF ORDER

Senator A.H. WILLIAMS. Madam President, I rise to a point of order.

The PRESIDENT. The gentleman from Philadelphia, Senator Williams, will state it.

Senator A.H. WILLIAMS. Madam President, is the gentleman responding to my interrogation or is he just making his own comments?

Senator McILHINNEY. I am not sure if I got a question asked of me.

Senator A.H. WILLIAMS. I did not ask another question. I made a statement.

Senator McILHINNEY. Thank you, Madam President.

Senator A.H. WILLIAMS. Thank you, Madam President.

And the question recurring,

Will the Senate agree to the motion to adopt the Report of the Committee of Conference on Senate Bill No. 246?

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

YEA-19

Armstrong	Erickson	Piccola	Tomlinson
Baker	Gordner	Pileggi	Vance
Browne	Greenleaf	Punt	Waugh
Brubaker	Madigan	Rafferty	Wonderling
Corman	McIlhinney	Rhoades	

NAY-31

Boscola	Fumo	O'Pake	Tartaglione
Costa	Hughes	Orie	Washington
Dinniman	Kasunic	Pippy	White, Donald
Earll	Kitchen	Regola	White, Mary Jo
Eichelberger	LaValle	Robbins	Williams, Anthony H.
Ferlo	Logan	Scarnati	Williams, Constance
Folmer	Mellow	Stack	Wozniak
Fontana	Musto	Stout	

Less than a constitutional majority of all the Senators having voted "aye," the question was determined in the negative.

The PRESIDENT. The report is rejected.

RECONSIDERATION OF SB 246

REPORT OVER IN ORDER

SB 246 (Pr. No. 2099) -- Senator McILHINNEY. Madam President, I move to reconsider the vote by which the Report of the Committee of Conference on Senate Bill No. 246 was defeated, and that the bill go over in its order.

A voice vote having been taken, the question was determined in the affirmative.

PARLIAMENTARY INQUIRY

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

Senator O'PAKE. Will the gentleman consent to brief interrogation?

The PRESIDENT. He indicates he will.

Senator O'PAKE. The bottom line is, as a result of this maneuver, the bill will appear on Monday's Calendar, is that correct?

Senator McILHINNEY. It will appear on Monday's Calendar as it was today, yes.

Senator O'PAKE. Before it was defeated?

Senator McILHINNEY. As reported from the conference committee.

Senator O'PAKE. It will not go back to the conference committee?

Senator McILHINNEY. It will not go back to the conference committee.

Senator O'PAKE. Unless there is a separate motion next Monday that carries?

Senator McILHINNEY. That is correct.

Senator O'PAKE. Madam President, may we be at ease.

The PRESIDENT. The Senate is at ease.

(The Senate was at ease.)

LEAVE CHANGED

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

Senator ORIE. Madam President, I request that Senator Pileggi's leave be changed from legislative leave to personal leave.

The PRESIDENT. Senator ORIE requests that Senator Pileggi's leave be changed from legislative leave to personal leave. Without objection, the leave will be changed.

CONSIDERATION OF CALENDAR RESUMED

THIRD CONSIDERATION CALENDAR

BILLS OVER IN ORDER

SB 1314, SB 1315, SB 1316, SB 1389, HB 239 and HB 1044 -- Without objection, the bills were passed over in their order at the request of Senator ORIE.

BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE

SB 1369 (Pr. No. 1954) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of August 14, 1963 (P.L.839, No.407), entitled, as amended, "An act creating a county records committee; imposing powers and duties upon it; authorizing the Pennsylvania Historical and Museum Commission to assist and cooperate with it; defining county records; and authorizing the disposition of certain county records by county officers in counties of the second to eighth class," increasing the membership of the committee.

Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

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

YEA-49

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

NAY-0

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

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

BILLS REREFERRED

SB 1385 (Pr. No. 2083) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, further providing, in corporate net income, for the definition of "taxable income."

Upon motion of Senator ORIE, and agreed to by voice vote, the bill was rereferred to the Committee on Appropriations.

SB 1386 (Pr. No. 2078) -- The Senate proceeded to consideration of the bill, entitled:

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 special tax provisions for poverty.

Upon motion of Senator ORIE, and agreed to by voice vote, the bill was rereferred to the Committee on Appropriations.

SB 1387 (Pr. No. 2079) -- The Senate proceeded to consideration of the bill, entitled:

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 classes of income for purposes of the personal income tax.

Upon motion of Senator ORIE, and agreed to by voice vote, the bill was rereferred to the Committee on Appropriations.

SB 1388 (Pr. No. 2084) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, further providing, in corporate net income, for the definition of "taxable income."

Upon motion of Senator ORIE, and agreed to by voice vote, the bill was rereferred to the Committee on Appropriations.

SB 1412 (Pr. No. 2065) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of October 6, 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act, defining "unoccupied parcel"; providing for extensions for unoccupied parcels, for additional keystone opportunity expansion zones and for substitution of parcels outside a subzone; and further providing for sales and use tax and for corporate net income tax.

Upon motion of Senator ORIE, and agreed to by voice vote, the bill was rereferred to the Committee on Appropriations.

SECOND CONSIDERATION CALENDAR

BILLS OVER IN ORDER

SB 352, SB 584, SB 667, SB 829, HB 958, SB 1146, SB 1227, SB 1363, SB 1364, SB 1365, SB 1366, SB 1367, SB 1368, SB 1392, SB 1424 and SB 1429 -- Without objection, the bills were passed over in their order at the request of Senator ORIE.

UNFINISHED BUSINESS

BILLS REPORTED FROM COMMITTEE

Senator D. WHITE, from the Committee on Banking and Insurance, reported the following bills:

SB 250 (Pr. No. 2104) (Amended)

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

SB 260 (Pr. No. 298)

An Act amending the act of July 22, 1974 (P.L.589, No.205), known as the Unfair Insurance Practices Act, further providing for definitions, for unfair acts and for exclusions.

SB 768 (Pr. No. 2105) (Amended)

An Act amending Title 64 (Public Authorities and Quasi-Public Corporations) of the Pennsylvania Consolidated Statutes, further providing for the definitions of "commercial lending activities" and "commercial lending institutions" and for the First Industries Program.

SB 1276 (Pr. No. 1756)

An Act providing for the licensure of credit counseling agencies and for the powers and duties of the Department of Banking; requiring surety bonds; prohibiting certain fees and costs; providing for debt management plans; and prohibiting certain acts by credit counseling agencies.

SB 1370 (Pr. No. 1957)

An Act amending the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, in insurance holding companies, further providing for standards and management of an insurer within a holding company system.

HB 2179 (Pr. No. 3862) (Amended)

An Act amending Titles 7 (Banks and Banking) and 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, regulating the mortgage loan industry in terms of practice, licensure and penalties; providing for unlicensed mortgage loan activity; and making related repeals.

CONGRATULATORY RESOLUTIONS

The PRESIDENT laid before the Senate the following resolutions, which were read, considered, and adopted by voice vote:

Congratulations of the Senate were extended to Strasburg Fire Company No. 1 by Senator Armstrong.

Congratulations of the Senate were extended to Mr. and Mrs. Henry L. Marlatt, Mr. and Mrs. Paul McCue, Mr. and Mrs. William Casterline, Mr. and Mrs. John Ruby, Mr. and Mrs. Donald Bock and to Mr. and Mrs. Jim Ruder by Senator Baker.

Congratulations of the Senate were extended to Good Shepherd Work Services of Allentown by Senator Browne.

Congratulations of the Senate were extended to the Conestoga Valley School District of Lancaster by Senator Brubaker.

Congratulations of the Senate were extended to Ann Pesiri Swanson by Senators Brubaker and Waugh.

Congratulations of the Senate were extended to Mr. and Mrs. Marlin D. Stitt, Mr. and Mrs. Frank R. Johns, Justin J. Araway, Nathan Brown, Elizabeth Ciuchta and to Kale Thompson by Senator Corman.

Congratulations of the Senate were extended to Ryan Michael Nessle by Senator Dinniman.

Congratulations of the Senate were extended to Dudley McNitt by Senator Eichelberger.

Congratulations of the Senate were extended to Dr. and Mrs. Russell Wilson by Senator Kasunic.

Congratulations of the Senate were extended to Margaret Mary Goshio Hanley and to Anne M. Gottlieb by Senator Logan.

Congratulations of the Senate were extended to Keenan Michael and to Dura-Bilt Products, Inc., of Gillett, by Senator Madigan.

Congratulations of the Senate were extended to the James A. Michener Art Museum of Doylestown by Senator McIlhinney.

Congratulations of the Senate were extended to John R. Weber, Mitchell J. Rozetar, Andrew F. Murray, Mark J. Lauer, Jeremy M. Neese, Christopher Allen Zimmerman, Patrick Riley Kehoe, Tyler J. Parmer, Matthew C. Moll, George A. Wentzel III, Michael W. Stuck and to Jonathan L. Florence by Senator O'Pake.

Congratulations of the Senate were extended to Jim Kelly, Gerald John Hickly, Paul Michael Fink, Alexander Manuel Vallejo and to the Perrysville Volunteer Fire Company of Pittsburgh by Senator Orie.

Congratulations of the Senate were extended to Reclaim the Streets Ministries by Senator Piccola.

Congratulations of the Senate were extended to Casandra Hernandez by Senator Pileggi.

Congratulations of the Senate were extended to Chief John Bennett, Geeta A. Sharma, Mala S. Sharma, Shaun MacMinn and to the citizens of Upper Uwchlan Township of Chester Springs by Senator Rafferty.

Congratulations of the Senate were extended to Dr. Diane Ringer Uber, Kristy Woods, Fawn Miller, Kara Mostoller, Curtis Steven Cozad, Robert Charles Kerr II, Marion E. Reed, George Warren III, Hugh Ringer, Gary Meszaros, Roberta Ringer and to Chad Mackenzie Hanna by Senator Robbins.

Congratulations of the Senate were extended to Mr. and Mrs. Ronald D. Smith by Senator Scarnati.

Congratulations of the Senate were extended to Mr. and Mrs. Murray Gases, Mr. and Mrs. Fred Poritsky and to Sam Oseroff by Senator Stack.

Congratulations of the Senate were extended to Charles Edward Kolsosky by Senator Stout.

Congratulations of the Senate were extended to Dr. Patricia A. Bainbridge, Nancy Ashe and to the Northeast Older Adult Center of Philadelphia by Senator Tartaglione.

Congratulations of the Senate were extended to Nigel U. Hieronymus and to Scott Alexander Martin by Senator Waugh.

Congratulations of the Senate were extended to Mr. and Mrs. Samuel McCord, Mr. and Mrs. Kennard Niehenke, Mr. and Mrs. Wesley Bruner and to Mr. and Mrs. Charles Klausing by Senator D. White.

Congratulations of the Senate were extended to Terry L. Seilhamer by Senator M.J. White.

Congratulations of the Senate were extended to Andrew Nagy by Senator Wonderling.

Congratulations of the Senate were extended to Justin Stevanus by Senator Wozniak.

CONDOLENCE RESOLUTIONS

The PRESIDENT laid before the Senate the following resolutions, which were read, considered, and adopted by voice vote:

Condolences of the Senate were extended to the family of the late H. Kim Malatestinic by Senator Piccola.

Condolences of the Senate were extended to the family of the late Anne d'Harnoncourt by Senator A.H. Williams.

Condolences of the Senate were extended to the family of the late Paul C. Salamon by Senator Wozniak.

POSTHUMOUS CITATION

The PRESIDENT laid before the Senate the following citation, which was read, considered, and adopted by voice vote:

A posthumous citation honoring the late Alfred Balkie was extended to the family by Senator Tartaglione.

BILLS ON FIRST CONSIDERATION

Senator RHOADES. Madam President, I move that the Senate do now proceed to consideration of all bills reported from committee for the first time at today's Session.

The motion was agreed to by voice vote.

The bills were as follows:

SB 250, SB 260, SB 768, SB 1276, SB 1370 and HB 2179.

And said bills having been considered for the first time,

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

PETITIONS AND REMONSTRANCES

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Folmer.

Senator FOLMER. Madam President, yesterday I made some brief remarks about the Access to Basic Care healthcare plan, which is being touted as a way to address Pennsylvania's healthcare problems through more government involvement in our healthcare system. As I do not support the Access to Basic Care plan, I wanted to point out the fact that the numbers for this initiative do not add up. PA ABC will simply not work, Madam President. Subsequent to my comments, other Members of the Senate spoke to talk about the supposed merits of PA ABC, most notably the fact that approximately 500,000 adults would be eligible for PA ABC, and this is why I rise again today to point out, again, how the numbers do not add up.

On several occasions, we have heard that approximately 500,000 adults would be eligible for PA ABC. Five hundred thousand adults would be eligible for PA ABC, even though the stated goal of PA ABC is to address those who lack health insurance, which has been estimated at 900,000 people, 776,000 adults and 133,000 children. This information comes from the Governor's own Web site, www.RxforPA. If PA ABC is to address the problems of 500,000 uninsured, then why is it that in year 1, 2008-09, Access to Basic Care is estimated to cover only 142,683 Pennsylvanians, only about one-quarter of the 500,000 people who are supposed to be covered, and just over 15 percent of the 900,000 who are said to be uninsured in Pennsylvania today?

Again, Madam President, these numbers come from the administration. And these same numbers from the administration show that 10 years from now, 2017-18, PA ABC will cover just 284,010 Pennsylvanians, not even one-third of the 500,000 people that the proponents of PA ABC say that they want to cover, and an even lower percentage of the 900,000 people they said are uninsured today. Meanwhile, the projected costs, again using the administration's own numbers, show staggering costs for implementing PA ABC, starting at about a half-billion dollars in year 1, 2008-09, and rising to over \$1 billion by year 10, 2017-18.

This is why we must be careful with our rhetoric on this important issue.

There will never be enough money, and the number of people to be covered will never meet expectations. To say otherwise gives people false hope, especially those who are lacking insurance today. Rather than promising people things we cannot deliver or afford, we should be taking a realistic approach to our healthcare problems, beginning with ways to take unnecessary costs out of our healthcare system. PA ABC does not do this. The rhetoric says one thing, but the numbers say another. That is why I continue to be wary of PA ABC, as there will never be enough money, and the alternatives could be far worse than what we have today, including lower quality and higher costs, including higher taxes, both today and well into the future.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Schuylkill, Senator Rhoades.

Senator RHOADES. Madam President, today, during our Senate Bill No. 246 debate, I became more and more interested with the logic and reasoning and the words going back and forth. I pulled out the bill history, and anyone can do this, any Member can, any staff member, any member of the public can, and we considered it on third consideration and final passage on June 26, 2007.

So I pulled up Senate Bill No. 246, Printer's No. 1227, and it has, right here in the act, the description, "preempting local regulations." On that particular part, if you look back on page 10, line 6, section 13, it has, "Preemption of local ordinances. The provisions of this act shall supercede any ordinance or rule or regulation adopted by a political subdivision concerning smoking in an indoor public place or workplace. No political subdivision shall have the authority to adopt or enforce any rule or ordinance which is more restrictive than the standards set forth in this act."

Then I looked at the Senate roll call. The roll call which would support Senate Bill No. 246, Printer's No. 1227, was passed with 33 ayes and 17 nays. That is, I think, what I would call an overwhelming number of the Senate which adopted this local ordinance. So we have, in one case, said overwhelmingly that we wanted to adopt it. No ordinance, no special ordinances.

It went over to the House, went through their process, and came back to us as Senate Bill No. 246, Printer's No. 1326. And if you look on page 16, beginning on line 29, it said, "Relationship to other laws.-- Smoking may not be permitted where prohibited by any other law, rule or regulation of any Commonwealth agency or any political subdivision. Nothing in this section shall be construed to restrict the power of any political subdivision to adopt and enforce additional local laws, ordinances or regulations that are more restrictive than this section and comply with the standards set forth under this section." So that changed. The House amendments changed what we did here.

Here, we have a chance, and this is what we are saying, this is what we want to do. We had a chance to make that change here, but when you look at the roll-call vote for that one, there were 13 ayes supporting this and 36 nays opposing it. I am kind of confused, when I look at all of this, from the standpoint of saying, just what do we want?

I think this kind of illustrates to the public that this is a very confusing process, but somewhere along the line, I think we have

to be more futuristic in our progressions and know exactly what we want and minimize and prioritize with this. I am not calling out the roll-call vote and the rest. I do not want to ever talk, and it is a rule of the Senate, we never talk and question anybody's vote or why they make a vote. The only reason I wanted to bring this out is that I see a great lack of consistency which ended up and is moving this back and forth. It is part of the process, I understand that, but I think it begins to create the image for us which gets the people awfully upset, and I will tell you what, it even gets, I think, a lot of our Members upset, too.

Thank you, Madam President.

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

Senator RAFFERTY. Madam President, I want to thank my friend and colleague, the gentleman from Schuylkill County, Senator Rhoades. We were working on his computer back there together, and I am very appreciative of him reading those amendments into the record.

Madam President, much of what happened here today, the debate on smoking, much of what happens day in and day out in this Chamber and in this Capitol building, would not have taken place, and will not take place, had it not been for what we call the longest day.

Coming up this week is the anniversary of the D-Day invasion, where U.S. troops and their allies landed on the coast of North Africa to begin the final destruction of Nazi Germany. Madam President, we in the Senate of Pennsylvania and all of us in this great Commonwealth owe a deep debt of gratitude to the men who wore the uniform of the U.S. military that day and throughout World War II, fighting against the forces of evil to protect our land, our liberties, our safety, and the rights and privileges of the entire world by fighting for their liberation from tyranny all across the globe.

Madam President, as we begin summer, as we begin to plan vacations, we should be mindful that at this time, we are losing our World War II vets at a quick-hitting number. The national veterans cemeteries are burying a number of World War II vets each day, so to each and every one of them, I think we owe a deep debt of gratitude and a thank you, and may God continue to bless them for their endeavors and for the benefits, through their actions, that we today share.

And Madam President, my father was a veteran of World War II. My uncles were veterans of World War II. My father's first cousin Helen was a sergeant in the WACs over in Europe during World War II. So it took in a wide range of individuals and family members throughout this great country to fight that war and win that war, and as many historians have said, World War II would not have been won without the United States of America.

We can be proud of that, and we should point with pride to the men who fought those battles and the women who served in the military as well during World War II, thanking them for their sacrifice, thanking them for their hardship, thanking them for the blood, sweat, and tears on our behalf. And may God continue to bless the men and women of the military who serve us today, especially those in theaters of operation where they are facing danger.

Thank you, Madam President.

The PRESIDENT. Thank you, Senator Rafferty, for announcing and reminding us of the anniversary of the D-Day invasion.

The Chair recognizes the gentleman from Philadelphia, Senator Stack.

Senator STACK. Madam President, healthcare has been front-and-center in speeches and debates between the Presidential candidates. According to most polls, healthcare is now the number-one domestic policy issue in the campaign. It is no different here in Pennsylvania. A plan has to be passed to help 700,000 uninsured adults in Pennsylvania.

Rapidly escalating costs, a huge and growing number of people without any healthcare coverage, and an epidemic of substandard and dangerous care are problems that have to be addressed. The costs of healthcare are surging at extraordinary rates. Over the past 5 years in Pennsylvania, the cost of health insurance has gone up 75 percent, while the average wage has gone up a meager 13 percent. Add these figures with the growing rate of inflation and the rising prices of food and gas, among other things, and simply put, it does not add up. People just cannot afford it at all. Something has to be cut out.

Seventy percent of people who are uninsured say the cost of premiums is the main reason they do not have insurance. The escalation of healthcare costs drives up program expenditures and creates severe budget problems. They draw resources away from other priorities such as education, energy, and infrastructure. Surging healthcare costs also slow the rate of job growth by making it more expensive for employers to add new workers. They erode the ability of employers to fund and sustain current levels of pension and health benefits.

Spiraling healthcare costs also reduce the living standards of retirees by slowly cutting off more and more of their incomes. Those without health coverage receive less care, endure more pain and suffering, and are more likely to die prematurely. They must live each day in financial as well as physical jeopardy, knowing that if they are injured or if they contract a serious disease, they may have to sell their assets or rack up a ton of debt in order to pay for it.

The costs of providing uncompensated care to the uninsured patients in emergency rooms are built into the charges for care of those with insurance. Philadelphia hospitals alone provided \$162 million in uncompensated care in 2006 alone. There is a wide gap between the care the patient should receive and the care that is actually delivered. It is estimated that unnecessary accidents, errors, and poor quality are the nation's third leading cause of death, just behind cancer and heart disease. We can and need to put a stop to this before it goes any further.

The Governor introduced his plan to reform health insurance. The House passed PA ABC in March. Now it is our turn. The plan, however, has stalled in our Senate Committee on Rules and Executive Nominations. The proposed PA ABC plan would not only provide an opportunity for affordable health insurance to hundreds of thousands of Pennsylvanians, but it would also eliminate the need for adultBasic and its lengthy waiting list. It is a beneficial and necessary plan. PA ABC is projected to provide healthcare coverage to 217,640 additional adult Pennsylvanians over the next 5 years, which is 42 percent of the estimated 513,000 uninsured adults who would be eligible for the adultBasic program.

We are already wrapping up the first week of June. There is not much time left. We will be talking and deliberating and debating the budget extensively this month. We also need to talk and extensively debate healthcare reform. The other side of the aisle has ideas to lower healthcare costs and increase access. These ideas deserve thorough consideration, and I look forward to a good debate on these issues. It is clear to me that the status quo in healthcare is not only unacceptable; it is unsustainable. The costs of continued inaction are enormous, and they will be felt by those who have sent us all here to Harrisburg to get the job done, and they are the people of Pennsylvania.

Thank you, Madam President.

The PRESIDENT. Thank you, Senator Stack, for your continued care and discussion on healthcare, not only in Pennsylvania but in the United States.

The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Madam President, before we conclude our Session here this afternoon, I would be remiss if I did not do two things. One is to say thank you very much to our colleagues for their unwavering support of our Pittsburgh Penguins, and I want to thank Rabbi Isaacson, who provided the prayer that led us to success on Monday evening. I wish Rabbi Isaacson would have been here again today to give us another boost and another prayer to that end, but on behalf of my colleagues here in the Senate Chamber, we want to wish our Pittsburgh Penguins the best of luck this evening as they move on to--

The PRESIDENT. Do you second that, Senator Orie?

Senator ORIE. I second that.

Senator COSTA. Thank you, Madam President.

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

Senator HUGHES. Madam President, I third that.

The PRESIDENT. Third. Amen. Good luck, Penguins.

Senator HUGHES. I third it, not just first or second, but third. We will pray for them in Detroit, right?

Thank you, Madam President.

The PRESIDENT. Do you have a petition?

Senator HUGHES. I have no petition, except, Madam President, we have introduced, as promised, a discharge resolution. Hopefully sooner rather than later we will have action on the issue of healthcare for the uninsured in the Commonwealth. Thank you.

DISCHARGE RESOLUTION

Senators HUGHES and COSTA offered the following resolution, which was read as follows:

In the Senate, June 4, 2008

A RESOLUTION

Discharging Committee on Rules and Executive Nominations from further consideration of Senate Bill No. 1137, Printer's No. 1838.

RESOLVED, That Senate Bill No. 1137, Printer's No. 1838, entitled "An act amending the act of March 20, 2002, (P.L.154, No.13), entitled 'An act reforming the law on medical professional liability; providing for patient safety and reporting; establishing the Patient Safety Authority and the Patient Safety Trust Fund; abrogating regu-

lations; providing for medical professional liability informed consent, damages, expert qualifications, limitations of actions and medical records; establishing the Interbranch Commission on Venue; providing for medical professional liability insurance; establishing the Medical Care Availability and Reduction of Error Fund; providing for medical professional liability claims; establishing the Joint Underwriting Association; regulating medical professional liability insurance; providing for medical licensure regulation; providing for administration; imposing penalties; and making repeals,' further providing for medical professional liability insurance, for the Medical Care Availability and Reduction of Error Fund and for actuarial data; establishing the Pennsylvania Access to Basic Care (PA ABC) Program Fund and the Continuing Access with Relief for Employers (CARE) Fund; further defining "health care provider"; further providing for the Health Care Provider Retention Program; establishing the Supplemental Assistance and Funding Account; further providing for expiration of the Health Care Provider Retention Program; establishing the Pennsylvania Access to Basic Care (PA ABC) Program; providing for Continuing Access with Relief for Employers (CARE) Grants, for health care coverage for certain adults, individuals, employees and employers and for expiration of certain sections; and repealing provisions of the Tobacco Settlement Act," having been referred to the Committee on Rules and Executive Nominations on March 18, 2008, and the committee not having reported the same to the Senate for a period of over ten legislative days, the committee is discharged from further consideration thereof.

The PRESIDENT. The resolution will appear on the Calendar.

ANNOUNCEMENTS BY THE SECRETARY

The following announcements were read by the Secretary of the Senate:

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

MONDAY, JUNE 9, 2008

12:30 P.M.	EDUCATION (to consider Senate Bills No. 1376, 1397 and 1442; Senate Resolution No. 243; House Bill No. 1067; and any other business that may come before the Committee)	Room 461 Main Capitol
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TUESDAY, JUNE 10, 2008

9:30 A.M.	ENVIRONMENTAL RESOURCES AND ENERGY (to consider Senate Bills No. 1341, 1408 and 1409; and House Bills No. 1705 and 1742)	Room 8E-B East Wing
9:30 A.M.	TRANSPORTATION (to consider Senate Bills No. 1158, 1274 and 1413; and House Bill No. 1863)	Room 461 Main Capitol
10:30 A.M.	PUBLIC HEALTH AND WELFARE (public hearing on PA Health Care Cost Containment Council)	Maj. Caucus Room 156 Main Capitol
11:30 A.M.	JUDICIARY (to consider Senate Bills No. 481, 1263 and 1284; Senate Resolution No. 245; and House Bill No. 1845)	Room 8E-B East Wing
12:30 P.M.	CONSUMER PROTECTION AND PROFESSIONAL LICENSURE (to consider House Bills No. 1804, 1999, 2051 and 2088)	Room 8E-A East Wing

12:30 P.M.	STATE GOVERNMENT (public hearing - explanation from Secretary Naomi Wyatt, Office of Administration, of the rationale behind the Governor's position on Senate Bill No. 1122)	Room 8E-B East Wing
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WEDNESDAY, JUNE 11, 2008

9:30 A.M.	COMMUNICATIONS AND TECHNOLOGY (to consider Senate Bills No. 1087 and 1266)	Room 8E-A East Wing
9:30 A.M.	TASK FORCE ON GAMING (to pursue the panel's goal of how to best address and enhance the existing PA gaming regulatory environment)	Room 8E-B East Wing

RECESS

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

Senator ORIE. Madam President, I move that the Senate do now recess until Monday, June 9, 2008, at 1 p.m., Eastern Daylight Saving Time.

The motion was agreed to by voice vote.

The Senate recessed at 2:03 p.m., Eastern Daylight Saving Time.