

COMMONWEALTH OF PENNSYLVANIA  
**Legislative Journal**

THURSDAY, NOVEMBER 19, 2020

SESSION OF 2020 204TH OF THE GENERAL ASSEMBLY

No. 51

**SENATE**

THURSDAY, November 19, 2020

The Senate met at 11 a.m., Eastern Standard Time.

The PRESIDENT (Lieutenant Governor John K. Fetterman) in the Chair.

**PRAYER**

The following prayer was offered by Hon. MEGAN MARTIN, Secretary of the Senate:

Let us pray.

Today I offer a prayer for our nation on this, the 157th anniversary of President Lincoln's Gettysburg Address. The Address, although brief in duration--only 272 words--has a legacy which is enduring. Despite the humble President's own belief that the world will little note, nor long remember, what we say here, the President reminded us then that we can never forget what they did here.

Heavenly Father, I ask You to help our nation to remember not only what President Lincoln said, but also what those men who struggled and died on that hallowed ground did. Heavenly Father, today our nation is divided. We ask You to help all of us across the nation to be apostles of peace so that we can work together to unify. Help us to know that coming together starts with each of us: our thoughts, our words, and our actions. All this we ask in Your name, Amen.

**PLEDGE OF ALLEGIANCE**

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

**BILLS SIGNED**

The PRESIDENT (Lieutenant Governor John K. Fetterman) in the presence of the Senate signed the following bills:

**HB 862, HB 1342, HB 1747, HB 1808, HB 2233 and HB 2440.**

**LEGISLATIVE LEAVES**

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

Senator CORMAN. Mr. President, I request a temporary Capitol leave for Senator Kim Ward, and legislative leaves for Senator Arnold and Senator Scarnati.

The PRESIDENT. Senator Corman requests a temporary Capitol leave for Senator Kim Ward, and legislative leaves for Senator Arnold and Senator Scarnati. Without objection, the leaves will be granted.

**LEAVE OF ABSENCE**

Senator COSTA asked and obtained a leave of absence for Senator HAYWOOD, for today's Session, for personal reasons.

**JOURNAL APPROVED**

The PRESIDENT. The Journal of the Session of September 8, 2020, is now in print.

The Clerk proceeded to read the Journal of the Session of September 8, 2020.

Senator CORMAN. Mr. President, I move that further reading of the Journal be dispensed with and that the Journal be approved.

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

The yeas and nays were required by Senator CORMAN and were as follows:

YEA-49

Argall	Dinniman	Martin	Street
Arnold	DiSanto	Mastriano	Tartaglione
Aument	Farnese	Mensch	Tomlinson
Baker	Fontana	Muth	Vogel
Bartolotta	Gordner	Phillips-Hill	Ward, Judy
Blake	Hughes	Pittman	Ward, Kim
Boscola	Hutchinson	Regan	Williams, Anthony H.
Brewster	Iovino	Sabatina	Williams, Lindsey
Brooks	Kearney	Santarsiero	Yaw
Browne	Killion	Scarnati	Yudichak
Collett	Langerhole	Scavello	
Corman	Laughlin	Schwank	
Costa	Leach	Stefano	

NAY-0

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

The PRESIDENT. The Journal is approved.

**RECESS**

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

Senator CORMAN. Mr. President, I request a recess of the Senate for the purpose of a Republican caucus to be held in the Majority Caucus Room.

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

Senator COSTA. Mr. President, Senate Democrats will meet in our Caucus room for caucus as well.

The PRESIDENT. For the purposes of Republican and Democratic caucuses to be held in their respective caucus rooms, without objection, the Senate stands in recess.

**AFTER RECESS**

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

**RECESS**

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

Senator CORMAN. Mr. President, I request a recess of the Senate for the purpose of an off-the-floor meeting of the Committee on Appropriations to be held on the floor of the Senate and via ZOOM immediately.

The PRESIDENT. For the purpose of an off-the-floor meeting of the Committee on Appropriations to be held immediately on the floor and via ZOOM, without objection, the Senate stands in recess.

**AFTER RECESS**

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

**CALENDAR**

**THIRD CONSIDERATION CALENDAR**

**BILL AMENDED**

**HB 21 (Pr. No. 3904)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of July 10, 1990 (P.L.404, No.98), know as The Real Estate Appraisers Certification Act, further providing for title of act, for definitions, for State Board of Certified Real Estate Appraisers, for powers and duties of board and for application and qualifications; providing for application and qualifications of home inspectors and home inspectors-in-training and for conduct of home inspection; further providing for reciprocity, for certification renewal, licensure renewal and records, for disciplinary and corrective measures, for reinstatement of certificate or license, for reporting of multiple certification, for surrender of suspended or revoked certificate or license, for penalties and for injunctive relief; providing for remedies for home inspection services consumers, for home inspection contracts and for home inspection reports; and making a related repeal.

On the question,  
Will the Senate agree to the bill on third consideration?  
Senator CORMAN offered the following amendment No. A7511:

Amend Bill, page 7, line 12, by striking out "The applicant is of good moral character" and inserting:

(Reserved)

Amend Bill, page 9, lines 1 and 2, by striking out "(a)(1), (2)" and inserting:

(a)(2)

Amend Bill, page 10, line 24, by striking out "The applicant is of good moral character" and inserting:

(Reserved)

On the question,  
Will the Senate agree to the amendment?  
It was agreed to.  
Without objection, the bill, as amended, was passed over in its order at the request of Senator CORMAN.

**LEGISLATIVE LEAVE CANCELLED**

The PRESIDENT. Senator Kim Ward has returned, and her temporary Capitol leave is cancelled.

**CONSIDERATION OF CALENDAR RESUMED**

**THIRD CONSIDERATION CALENDAR RESUMED**

**BILL ON THIRD CONSIDERATION AND FINAL PASSAGE**

**HB 64 (Pr. No. 68)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of July 2, 1993 (P.L.345, No.48), entitled "An act empowering the General Counsel or his designee to issue subpoenas for certain licensing board activities; providing for hearing examiners in the Bureau of Professional and Occupational Affairs; providing additional powers to the Commissioner of Professional and Occupational Affairs; and further providing for civil penalties and license suspension," further providing for civil penalties.

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**

Argall	Dinniman	Martin	Street
Arnold	DiSanto	Mastriano	Tartaglione
Aument	Farnese	Mensch	Tomlinson
Baker	Fontana	Muth	Vogel
Bartolotta	Gordner	Phillips-Hill	Ward, Judy
Blake	Hughes	Pittman	Ward, Kim
Boscola	Hutchinson	Regan	Williams, Anthony H.
Brewster	Iovino	Sabatina	Williams, Lindsey
Brooks	Kearney	Santarsiero	Yaw
Browne	Killion	Scarnati	Yudichak
Collett	Langerholc	Scavello	
Corman	Laughlin	Schwank	
Costa	Leach	Stefano	

**NAY-0**

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

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

**BILL OVER IN ORDER AND LAID ON THE TABLE**

**SB 107 (Pr. No. 883)** -- The Senate proceeded to consideration of the bill, entitled:

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

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

Pursuant to Senate Rule 9, the bill was laid on the table.

BILLS OVER IN ORDER

HB 280, HB 355, SB 565, SB 606, HB 630, SB 658 and HB 763 -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 916 (Pr. No. 4618) -- The Senate proceeded to consideration of the bill, entitled:

An Act mending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, in general provisions, further providing for definitions; in licensing of drivers, further providing for suspension of operating privilege, for the offense of driving while operating privilege is suspended or revoked and for ignition interlock limited license and providing for Relief from Administrative Suspension Program; and, in driving after imbibing alcohol or utilizing drugs, further providing for grading, for penalties, for ignition interlock, for prior offenses, for Accelerated Rehabilitative Disposition, for drug and alcohol assessments and for mandatory sentencing and providing for substance monitoring program. This act may be referred to as Deana's Law.

Considered the third time and agreed to,

And the amendments made thereto having been printed as required by the Constitution,

On the question,  
Shall the bill pass finally?

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

Senator STREET. Mr. President, I want to say first, as it is well known, I have multiple concerns about this bill. However, after talking with my colleague, Senator Bartolotta, who believes that next Session we will be able to address some of the issues around medical marijuana and DUIs, I am going to pull my amendments and we will reserve that discussion for another time.

Although I am still not comfortable supporting the bill, I will trust that my colleagues will help us resolve these issues in the subsequent Session.

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

Senator KILLION. Mr. President, I ask for an affirmative vote on House Bill No. 916, which was amended in the Committee on Transportation this week to include Deana's Law, my legislation, Senate Bill No. 773, which was numbered in honor of the birth month and year of Deana Eckman.

Deana was a bright young woman, beloved by her husband, Chris Eckman, her parents, Rich and Roseann DeRosa, and her family. On February 16, 2019, Deana's life was violently taken from us by an individual who was already convicted five times of driving under the influence. The purpose of this legislation is

to get the worst of the worst DUI repeat offenders off our roads and highways. I want to thank Deana's family and all the stakeholders, over 20, who helped us put this bill together. We must utilize every tool at our disposal to keep those who have multiple DUIs from endangering the lives of those on our roadways.

Deana Eckman was a warm, loving, generous woman. Those who knew her loved her, and they should still be enjoying her presence in their lives. This bill can help families to not experience the loss of a loved one under these circumstances as the DeRosa and Eckman families have. I remain hopeful that the full House of Representatives will finally consider and support this legislation, known as Deana's Law, shortly and send it to the Governor for his signature. I ask my colleagues for an affirmative vote on House Bill No. 916.

Thank you, Mr. President.

LEGISLATIVE LEAVES

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

Senator CORMAN. Mr. President, I request a temporary Capitol leave for Senator Browne.

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

Senator COSTA. Mr. President, I request a legislative leave for Senator Leach.

The PRESIDENT. Senator Corman requests a temporary Capitol leave for Senator Browne.

Senator Costa requests a legislative leave for Senator Leach. Without objection, the leaves will be granted.

And the question recurring,  
Shall the bill pass finally?

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

YEA-46

Argall	Costa	Laughlin	Stefano
Arnold	Dinniman	Martin	Tartaglione
Aument	DiSanto	Mastriano	Tomlinson
Baker	Farnese	Mensch	Vogel
Bartolotta	Fontana	Phillips-Hill	Ward, Judy
Blake	Gordner	Pittman	Ward, Kim
Boscola	Hughes	Regan	Williams, Anthony H.
Brewster	Hutchinson	Sabatina	Williams, Lindsey
Brooks	Iovino	Santarsiero	Yaw
Browne	Kearney	Scarnati	Yudichak
Collett	Killion	Scavello	
Corman	Langerholc	Schwank	

NAY-3

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

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

**HB 942 (Pr. No. 2088)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code, in public assistance, further providing for pharmaceutical and therapeutics 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

Argall	Dinniman	Martin	Street
Arnold	DiSanto	Mastriano	Tartaglione
Aument	Farnese	Mensch	Tomlinson
Baker	Fontana	Muth	Vogel
Bartolotta	Gordner	Phillips-Hill	Ward, Judy
Blake	Hughes	Pittman	Ward, Kim
Boscola	Hutchinson	Regan	Williams, Anthony H.
Brewster	Iovino	Sabatina	Williams, Lindsey
Brooks	Kearney	Santarsiero	Yaw
Browne	Killion	Scarnati	Yudichak
Collett	Langerholc	Scavello	
Corman	Laughlin	Schwank	
Costa	Leach	Stefano	

NAY-0

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

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

BILLS OVER IN ORDER

**HB 1034, HB 1069, SB 1085 and SB 1158** -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

BILL LAID ON THE TABLE

**SB 1226 (Pr. No. 1842)** -- The Senate proceeded to consideration of the bill, entitled:

A Supplement to the act of June 28, 2019 (P.L.839, No.1A), entitled "An act to provide appropriations from the General Fund for the expenses of the Executive, Legislative and Judicial Departments of the Commonwealth, the public debt and the public schools for the fiscal year July 1, 2019, to June 30, 2020, and for the payment of bills incurred and remaining unpaid at the close of the fiscal year ending June 30, 2019; to provide appropriations from special funds and accounts to the Executive and Judicial Departments for the fiscal year July 1, 2019, to June 30, 2020, and for the payment of bills remaining unpaid at the close of the fiscal year ending June 30, 2019; to provide for the appropriation of Federal funds to the Executive and Judicial Departments for the fiscal year July 1, 2019, to June 30, 2020, and for the payment of bills remaining unpaid at the close of the fiscal year ending June 30, 2019; and to provide for the additional appropriation of Federal and State funds to the Executive and Judicial Departments for the fiscal year July 1, 2018, to June 30, 2019, and for the payment of bills incurred and

remaining unpaid at the close of the fiscal year ending June 30, 2018," adding Federal appropriations to the Executive Department of the Commonwealth for the fiscal year July 1, 2019, to June 30, 2020.

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

**SB 1226 TAKEN FROM THE TABLE**

Senator CORMAN. Mr. President, I move that Senate Bill No. 1226, Printer's No. 1842, be taken from the table and placed on the Calendar.

The motion was agreed to by voice vote.  
The PRESIDENT. The bill will be placed on the Calendar.

BILL OVER IN ORDER

**SB 1236** -- Without objection, the bill was passed over in its order at the request of Senator CORMAN.

BILL LAID ON THE TABLE

**SB 1307 (Pr. No. 1929)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, in emergency COVID-19 response, providing for appropriations from the account, for Pennsylvania Infrastructure Investment Authority, for Low-Income Energy Assistance Residential Utility Payment Program and for the Pennsylvania Public Utility Commission.

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

**SB 1307 TAKEN FROM THE TABLE**

Senator CORMAN. Mr. President, I move that Senate Bill No. 1307, Printer's No. 1929, be taken from the table and placed on the Calendar.

The motion was agreed to by voice vote.  
The PRESIDENT. The bill will be placed on the Calendar.

BILL LAID ON THE TABLE

**SB 1314 (Pr. No. 1934)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, in emergency COVID-19 response, providing for appropriations from the account and for Nonprofit Economic Emergency Delivery System Grants Program.

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

**SB 1314 TAKEN FROM THE TABLE**

Senator CORMAN. Mr. President, I move that Senate Bill No. 1314, Printer's No. 1934, be taken from the table and placed on the Calendar.

The motion was agreed to by voice vote.  
The PRESIDENT. The bill will be placed on the Calendar.

BILLS OVER IN ORDER

HB 1325 and HB 1408 -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 1534 (Pr. No. 1952) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law, further providing for definitions and for unlawful acts or practices and exclusions.

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

Table with 4 columns of names: Argall, Arnold, Aument, Baker, Bartolotta, Blake, Boscola, Brewster, Brooks, Browne, Collett, Corman, Costa, Dinniman, DiSanto, Farnese, Fontana, Gordner, Hughes, Hutchinson, lovino, Kearney, Killion, Langerholc, Laughlin, Leach, Martin, Mastriano, Mensch, Muth, Phillips-Hill, Pittman, Regan, Sabatina, Santarsiero, Scarnati, Scavello, Schwank, Stefano, Street, Tartaglione, Tomlinson, Vogel, Ward, Judy, Ward, Kim, Williams, Anthony H., Williams, Lindsey, Yaw, Yudichak

NAY-0

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

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

BILLS OVER IN ORDER

HB 2044, HB 2101, HB 2176 and HB 2191 -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 2293 (Pr. No. 3847) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, in services and facilities, providing for emergency response plans.

Considered the third time and agreed to,

On the question, Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentlewoman from Montgomery, Senator Muth.

Senator MUTH. Mr. President, I will submit my remarks for the record.

The PRESIDENT. Without objection, the remarks will be spread upon the record.

(The following prepared remarks were made part of the record at the request of the gentlewoman from Montgomery, Senator MUTH:)

Mr. President, I rise to speak on two amendments I was prepared to offer to improve the regulatory impact of House Bill No. 2293. My amendments required that natural gas liquids emergency response plans be approved by the PUC before the delivery of natural gas liquids through densely populated communities known as "high-consequence areas." In addition, my amendments explicitly stated that the pipeline company would be liable for any damages caused by an emergency incident, including expenses of evacuation and relocation.

While the industry often insists that pipelines are the safest way to transport this highly volatile and explosive material, the truth is, accidents do occur and pipelines explode. This is not a hypothetical scenario. On September 10, 2018, the catastrophic failure of the Revolution Pipeline in Beaver County, Pennsylvania, resulted in the destruction of a private home after only transporting product for a few short days. More recently, only 1 week ago, on November 12, the DEP continued the shutdown of this pipeline due to numerous unstable slopes and the potential for earth movement along the pipeline path. In my district, and throughout our Commonwealth, pipelines are placed in areas of unstable ground that could result in pipeline leaks or explosions.

In situations when pipeline catastrophic failure events happen in densely populated areas, we are risking the lives and property of thousands of Pennsylvanians. Further, when we call our emergency responders to deal with these significant events, under current law, they are responding with little to no information about the true hazards they face. My amendments sought to resolve this issue by requiring pipeline operators transporting natural gas liquids through high-consequence areas to provide the Public Utility Commission and local emergency management agencies vital emergency response plans before the pipeline can begin transporting highly volatile natural gas liquids. However, I was told by the prime sponsor that if I offered these amendments, the Majority Leader would not run the bill. So, I withdrew the amendments because the Majority party refused to consider stronger policy that would better protect our constituents.

House Bill No. 2293, as it currently stands, is still an improvement in communication between pipeline companies and emergency responders. With this Session coming to a close, I would rather allow for a good bill to run rather than risk delaying this necessary improvement by amending the bill. Nevertheless, I plan to continue my work to protect our at-risk communities by introducing these changes in the next Session and urge your support of these necessary regulatory improvements when that time comes. As a Commonwealth, we opened the door to fracking many years ago, and it is past time that we fully update our regulations to protect the health, safety, and welfare for all Pennsylvanians.

Thank you, Mr. President.

And the question recurring, Shall the bill pass finally?

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

YEA-49

Table with 4 columns of names: Argall, Arnold, Aument, Dinniman, DiSanto, Farnese, Martin, Mastriano, Mensch, Street, Tartaglione, Tomlinson

Baker	Fontana	Muth	Vogel
Bartolotta	Gordner	Phillips-Hill	Ward, Judy
Blake	Hughes	Pittman	Ward, Kim
Boscola	Hutchinson	Regan	Williams, Anthony H.
Brewster	Iovino	Sabatina	Williams, Lindsey
Brooks	Kearney	Santarsiero	Yaw
Browne	Killion	Scarnati	Yudichak
Collett	Langerholc	Scavello	
Corman	Laughlin	Schwank	
Costa	Leach	Stefano	

NAY-0

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

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

#### BILLS OVER IN ORDER

**HB 2673** and **HB 2674** -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

#### SECOND CONSIDERATION CALENDAR

##### BILL OVER IN ORDER

**HB 26** -- Without objection, the bill was passed over in its order at the request of Senator CORMAN.

##### BILLS OVER IN ORDER AND LAID ON THE TABLE

**SB 258 (Pr. No. 1022)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, in service and facilities, providing for pipeline emergency management information.

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

Pursuant to Senate Rule 9, the bill was laid on the table.

**SB 284 (Pr. No. 1023)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of November 29, 2006 (P.L.1435, No.156), known as the Public Utility Confidential Security Information Disclosure Protection Act, further providing for definitions; providing for pipeline operation and emergency response plans; and further providing for prohibition.

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

Pursuant to Senate Rule 9, the bill was laid on the table.

##### BILLS OVER IN ORDER

**SB 531** and **SB 809** -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

##### BILL OVER IN ORDER AND LAID ON THE TABLE

**SB 833 (Pr. No. 1142)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, in marriage ceremony, further providing for persons qualified to solemnize marriages.

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

Pursuant to Senate Rule 9, the bill was laid on the table.

##### BILLS OVER IN ORDER

**SB 870, SB 871, SB 1034, HB 1220, HB 1224, SB 1229, SB 1242, SB 1251, SB 1331, HB 1363, HB 1769, HB 1855** and **HB 1947** -- Without objection, the bills were passed over in their order at the request of Senator CORMAN.

##### BILLS OVER IN ORDER AND LAID ON THE TABLE

**HB 2348 (Pr. No. 3454)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 64 (Public Authorities and Quasi-Public Corporations) of the Pennsylvania Consolidated Statutes, in Commonwealth Financing Authority, providing for Unserved High-Speed Broadband Funding Program; establishing the Unserved High-Speed Broadband Funding Program Account; making an appropriation; and making a related repeal.

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

Pursuant to Senate Rule 9, the bill was laid on the table.

**HB 2354 (Pr. No. 4014)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 71 (State Government) of the Pennsylvania Consolidated Statutes, providing for payments by the Commonwealth; and establishing Do-Not-Pay Initiative.

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

Pursuant to Senate Rule 9, the bill was laid on the table.

#### SENATE RESOLUTION No. 396, ADOPTED

Senator CORMAN, without objection, called up from page 10 of the Calendar, **Senate Resolution No. 396**, entitled:

A Resolution recognizing the essential work performed by individuals with disabilities during the 2020 pandemic and thanking them for their continued efforts through the remainder of the pandemic as they continue their work into the future.

On the question,

Will the Senate adopt the resolution?

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

Senator TARTAGLIONE. Mr. President, I rise today to ask my colleagues for an affirmative vote on Senate Resolution No. 396, which would recognize the essential work performed by individuals with disabilities during the COVID-19 pandemic and thank them for their continued efforts for the remainder of the pandemic.

As my colleagues know, advocating for people with disabilities, improving their access to employment, and insuring that they receive well-deserved recognition for the many talents and dedication they bring to the workplace are very important to me as a legislator and personally. It is truly remarkable and fitting that in the year 2020, the 30th anniversary of the Americans With Disabilities Act, people with disabilities have emerged at the forefront of our nation's response to a historic public health crisis. If the ADA ushered in a new era of workplace equality for people with disabilities in 1990, then the COVID-19 pandemic of 2020 has given our disability workforce the opportunity to demonstrate how exceedingly vital their contributions are to the maintenance of critical government and private sector functions during the most dire time for our Commonwealth and the nation.

They helped to maintain State Police barracks, rest areas, welcome centers, and facilities for PennDOT, emergency management, the Health Department, Human Services, and Labor and Industry. They provide deep cleaning and sanitation services in Commonwealth offices. In addition, people with disabilities produce critically needed personal protective equipment and disinfecting and sanitizing products. As we honor the contributions of people with disabilities in these areas, we also must recognize the role of Section 520 of the Commonwealth Procurement Code which provides employment opportunities for people with disabilities as well as the support of disability service providers who provide training, job coaching, transportation, and other vital services that help these essential workers perform their duties.

Mr. President, Pennsylvania has faced many new, unforeseen challenges during these last 8 months, but the work performed by individuals with disabilities has helped the Commonwealth to learn about the negative impacts of the pandemic and has enabled us to continue providing essential services to all Pennsylvanians. Therefore, I respectfully urge my colleagues for an affirmative vote to recognize the work performed by individuals with disabilities during the 2020 pandemic and thank them for their continued efforts.

Thank you, Mr. President.

And the question recurring,  
Will the Senate adopt the resolution?

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

#### **SENATE RESOLUTION No. 408, ADOPTED**

Senator CORMAN, without objection, called up from page 10 of the Calendar, **Senate Resolution No. 408**, entitled:

A Resolution designating the week of November 16 through 20, 2020, as "Pennsylvania Education for Students Experiencing Homelessness Awareness Week" and November 20, 2020, as "Red Shirt Day" in Pennsylvania.

On the question,  
Will the Senate adopt the resolution?

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

Senator FARNESE. Mr. President, I rise today to speak to the number of homeless students today in Pennsylvania. As we know, it has increased by 8 percent. That is 39,221 students without adequate housing. Today's resolution sheds light on students struggling with the basic necessities of daily life: food, a place to wash their clothes, and a safe place to sleep. I ask that you support this resolution, which declares this week as "Education for Students Experiencing Homelessness Awareness Week," and tomorrow, November 20, 2020, as "Red Shirt Day." Wear a red mask as a symbol of our support for the right of these children to remain in their home school districts and as members of our communities. Your support for this resolution today is asking our communities to be aware of those children who are living on the streets. It could be a child who always seems to want to spend the night with friends, the family who recently lost work and has moved to a motel, or the LGBTQ youth who has come out and now simply has nowhere to go. I can tell you, Mr. President, that is one of the most troubling things that we see in the Commonwealth, and certainly one of the most troubling statistics when we talk about our youth who take their own lives.

So, today, please join me in saying to any youth who is struggling that they are valued and we are here to help. I want to thank Representative Bullock, who partnered with me on this event, and Sonia Pitzi for everything she does to help these children in school and in safe places.

Thank you, Mr. President.

And the question recurring,  
Will the Senate adopt the resolution?

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

#### **UNFINISHED BUSINESS BILLS REPORTED FROM COMMITTEE**

Senator BROWNE, from the Committee on Appropriations, reported the following bills:

##### **HB 777 (Pr. No. 4342) (Rereported)**

An Act amending the act of December 19, 1988 (P.L.1262, No.156), known as the Local Option Small Games of Chance Act, in club licensees, further providing for report and for distribution of proceeds.

##### **HB 1737 (Pr. No. 2439) (Rereported)**

An Act amending the act of May 19, 1995 (P.L.33, No.3), known as the Economic Development Agency, Fiduciary and Lender Environmental Liability Protection Act, further providing for definitions.

##### **HB 1962 (Pr. No. 4575) (Rereported)**

An Act amending Titles 24 (Education) and 71 (State Government) of the Pennsylvania Consolidated Statutes, in administration and miscellaneous provisions relating to retirement for school employees, further providing for Public School Employees' Retirement Board and for

administrative duties of board and providing for stress test of system; and, in administration, funds, accounts and general provisions relating to retirement for State employees and officers, further providing for the State Employees' Retirement Board and for administrative duties of the board and providing for stress test of system.

**SPECIAL ORDER OF BUSINESS  
SUPPLEMENTAL CALENDAR No. 4**

**BILLS ON THIRD CONSIDERATION  
AND FINAL PASSAGE**

**HB 777 (Pr. No. 4342)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 19, 1988 (P.L.1262, No.156), known as the Local Option Small Games of Chance Act, in club licensees, further providing for report and for distribution of proceeds.

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

On the question,  
Shall the bill pass finally?

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

**YEA-49**

Argall	Dinniman	Martin	Street
Arnold	DiSanto	Mastriano	Tartaglione
Aument	Farnese	Mensch	Tomlinson
Baker	Fontana	Muth	Vogel
Bartolotta	Gordner	Phillips-Hill	Ward, Judy
Blake	Hughes	Pittman	Ward, Kim
Boscola	Hutchinson	Regan	Williams, Anthony H.
Brewster	Iovino	Sabatina	Williams, Lindsey
Brooks	Kearney	Santarsiero	Yaw
Browne	Killion	Scarnati	Yudichak
Collett	Langerhole	Scavello	
Corman	Laughlin	Schwank	
Costa	Leach	Stefano	

**NAY-0**

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

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

**HB 1962 (Pr. No. 4575)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 24 (Education) and 71 (State Government) of the Pennsylvania Consolidated Statutes, in administration and miscellaneous provisions relating to retirement for school employees, further providing for Public School Employees' Retirement Board and for administrative duties of board and providing for stress test of system; and, in administration, funds, accounts and general provisions relating to retirement for State employees and officers, further providing for the State Employees' Retirement Board and for administrative duties of the board and providing for stress test of system.

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

On the question,  
Shall the bill pass finally?

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

**YEA-49**

Argall	Dinniman	Martin	Street
Arnold	DiSanto	Mastriano	Tartaglione
Aument	Farnese	Mensch	Tomlinson
Baker	Fontana	Muth	Vogel
Bartolotta	Gordner	Phillips-Hill	Ward, Judy
Blake	Hughes	Pittman	Ward, Kim
Boscola	Hutchinson	Regan	Williams, Anthony H.
Brewster	Iovino	Sabatina	Williams, Lindsey
Brooks	Kearney	Santarsiero	Yaw
Browne	Killion	Scarnati	Yudichak
Collett	Langerhole	Scavello	
Corman	Laughlin	Schwank	
Costa	Leach	Stefano	

**NAY-0**

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

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

**RECESS**

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

Senator CORMAN. Mr. President, I request a recess of the Senate for the purpose of a Republican caucus to be held in the Majority Caucus Room.

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

Senator FONTANA. Mr. President, Senate Democrats will caucus in our Caucus room.

The PRESIDENT. For purposes of Republican and Democratic caucuses to be held in their respective caucus rooms, without objection, the Senate stands in recess.

**AFTER RECESS**

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

**LEGISLATIVE LEAVES**

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

Senator CORMAN. Mr. President, I request a legislative leave for Senator Killion.

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

Senator COSTA. Mr. President, I request a legislative leave for Senator Brewster.



The PRESIDENT, Senator Corman requests a legislative leave for Senator Killion.

Senator Costa requests a legislative leave for Senator Brewster.

Without objection, the leaves will be granted.

### SPECIAL ORDER OF BUSINESS SUPPLEMENTAL CALENDAR No. 5

#### BILL AMENDED

**HB 1737 (Pr. No. 2439)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 19, 1995 (P.L.33, No.3), known as the Economic Development Agency, Fiduciary and Lender Environmental Liability Protection Act, further providing for definitions.

On the question,

Will the Senate agree to the bill on third consideration?

Senator BAKER offered the following amendment No. A7937:

Amend Bill, page 1, lines 1 through 4, by striking out all of said lines and inserting:

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in particular rights and immunities, providing for economic development agency, fiduciary and lender environmental liability protection, for agritourism activity protection and for COVID-19-related liability; and making a related repeal.

Amend Bill, page 1, lines 7 through 19; page 2, lines 1 through 29; by striking out all of said lines on said pages and inserting:

Section 1. Chapter 83 of Title 42 of the Pennsylvania Consolidated Statutes is amended by adding subchapters to read:

#### SUBCHAPTER F.2

#### ECONOMIC DEVELOPMENT AGENCY, FIDUCIARY AND LENDER ENVIRONMENTAL LIABILITY PROTECTION

Sec.

8368.11. Scope of subchapter.

8368.12. Declaration of policy.

8368.13. Definitions.

8368.14. Limitation of economic development agency environmental liability.

8368.15. Limitation of lender environmental liability.

8368.16. Limitation of fiduciary environmental liability.

8368.17. Defenses to liability.

8368.18. Savings clause.

8368.19. Apportionment of liability.

8368.20. Construction.

8368.21. Severability.

8368.22. Preemption and repeals.

8368.23. Applicability.

§ 8368.11. Scope of subchapter.

This subchapter relates to economic development agency, fiduciary and lender environmental liability protection.

§ 8368.12. Declaration of policy.

The General Assembly finds and declares as follows:

(1) The Commonwealth has provided grant and loan money to a variety of economic development agencies, all for the purpose of assisting these agencies in their efforts to promote the general welfare of this Commonwealth by encouraging economic development and industrial redevelopment throughout this Commonwealth.

(2) Economic development agencies acquire title to industrial property for financing purposes only and lease or sell the same to industrial occupants who have sole possession of the facilities for an amount of rent or installment payments under an installment sale contract which is determined solely on a basis of meeting the costs of the financing and other costs associated with ownership unrelated to profit.

(3) Economic development agencies acquire possession of these industrial sites from time to time when the industrial occupant defaults under its obligations to the agencies under its lease or installment sales agreements.

(4) Economic development agencies acquire industrial property either for the purpose of financing or redevelopment but without a motive for profit or to occupy the property for their own industrial operations.

(5) Economic development agencies are reluctant to acquire title to or other interests in property whether for financing or redevelopment purposes or to secure repayment of obligations unless the economic development agencies are protected from liability for environmental contamination on those sites they seek to assist to develop.

(6) The taking of legal title and any foreclosure or retaking of possession of property by an industrial development agency, area loan organization or industrial and commercial development authority is under the following acts:

(i) The act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act, which expressly requires that the Pennsylvania Industrial Development Authority loan money to industrial development agencies secured by not less than a second mortgage lien.

(ii) The act of August 23, 1967 (P.L.251, No.102), known as the Economic Development Financing Law, which provides for issuance of debt by industrial and commercial development authorities and authorizes these authorities to take title to real property as security for the indebtedness.

(iii) The act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act.

(7) The maximum level of economic development and business opportunity and employment and the elimination or prevention of abandoned industrial and commercial property and Federal Government or military lands which can best be provided by the promotion, attraction, stimulation, rehabilitation and revitalization of all types of industry, commerce, manufacturing and business development within this Commonwealth.

(8) To continue and further the stimulation of business opportunities and economic development within this Commonwealth and by which cause the reuse and rehabilitation of industrial and commercial property, it is necessary to ensure various means of financing to promote economic growth and the availability of fiduciary services to persons within this Commonwealth.

(9) Lenders are reluctant to provide funding for business opportunities and economic development, and fiduciaries are reluctant to provide services to persons with environmental problems, because of catastrophic risks of environmental liability and remediation costs under environmental laws relating to releases and contamination which were not caused by lenders and fiduciaries.

(10) When borrowers default on loans, lenders are reluctant to foreclose upon commercial property with environmental problems because lenders may be forced to assume costly environmental liabilities; thus, commercial property is being abandoned in this Commonwealth and new businesses are unable to obtain financing to purchase such properties.

(11) Family businesses are unable to establish trusts to convey their business interests to the next generation, and other businesses are unable to receive retirement, investment and other trust services from fiduciaries, if fiduciaries in their personal or individual capacities may be held liable for environmental contamination caused by other persons merely by virtue of owning property in their trustee capacities and providing fiduciary services.

(12) In order to continue to stimulate growth and continue the use or reuse of industrial and commercial property, it is necessary to provide protection to lenders, fiduciaries and economic development agencies from environmental liability and remediation costs under environmental laws for releases and contamination caused by others.

(13) Environmental liability for lenders, fiduciaries and economic development agencies shall be limited in scope as specifically provided in this subchapter, and this subchapter shall be interpreted as broadly as possible in order to preempt any laws, regulations or ordinances imposing environmental liability on the persons in order to promote economic development.

§ 8368.13. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Board." The Environmental Hearing Board of the Commonwealth.

"Borrower." A person who has received an extension of credit. The term includes a debtor, a lessor, a lessee or an obligor.

"Conservancy." A charitable corporation, charitable association or charitable trust:

(1) registered with the Bureau of Corporations and Charitable Organizations;

(2) exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) or other Federal or Commonwealth statutes or regulations; and

(3) the purpose or powers of which include:

(i) retaining or protecting natural, scenic, agricultural or open-space values of real property;

(ii) assuring the availability of real property for agricultural, forest, recreational or open-space use;

(iii) protecting natural resources and wildlife;

(iv) maintaining or enhancing land, air or water quality;

or

(v) preserving the historical, architectural, archaeological or cultural aspects of real property.

"Department." The Department of Environmental Protection of the Commonwealth.

"Economic development agency." The term includes:

(1) A redevelopment authority created under the act of May 24, 1945 (P.L.991, No.385), known as the Urban Redevelopment Law, and any nonprofit corporation created and controlled by a redevelopment authority to carry out its statutory purpose.

(2) An industrial development agency as defined in the act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act.

(3) An industrial and commercial development authority created under the act of August 23, 1967 (P.L.251, No.102), known as the Economic Development Financing Law.

(4) An area loan organization as defined in the act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act.

(5) Any other Commonwealth or municipal authority which acquires title or an interest in property.

(6) A municipality or municipal industrial development or community development department organized by ordinance under a home rule charter which buys and sells land for community development purposes.

(7) A tourist promotion agency or the tourist promotion agency's local community-based nonprofit sponsor which engages in the acquisition of former industrial sites as part of an "Industrial Heritage" or similar program.

(8) A conservancy engaged in the renewal or reclamation of an industrial site.

(9) A land bank established under 68 Pa.C.S. Ch. 21 (relating to land banks).

"Environmental act." Any of the following:

(1) The act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law.

(2) The act of January 8, 1960 (1959 P.L.2119, No.787),

known as the Air Pollution Control Act.

(3) The act of July 7, 1980 (P.L. 380, No.97), known as the Solid Waste Management Act.

(4) The act of October 5, 1984 (P.L.734, No.159), known as the Worker and Community Right-to-Know Act.

(5) The act of July 13, 1988 (P.L.525, No.93), referred to as the Infectious and Chemotherapeutic Waste Law.

(6) The act of October 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup Act.

(7) The act of July 6, 1989 (P.L.169, No.32), known as the Storage Tank and Spill Prevention Act.

(8) The act of December 7, 1990 (P.L.639, No.165), known as the Hazardous Material Emergency Planning and Response Act.

(9) The act of June 11, 1992 (P.L.303, No.52), known as the Oil Spill Responder Liability Act.

(10) A Federal, State or local law, statute, regulation, rule, ordinance, court or administrative order or decree, common law, interpretation or guidance, in existence on or after July 18, 1995, pertaining to employees, occupational health and safety, public health or safety, natural resources or the environment.

"Environmental due diligence." Investigative techniques, including visual property inspections, electronic environmental database searches, review of ownership and use history of the property, environmental questionnaires, transaction screens, environmental assessments or audits.

"Fiduciary." A person which is considered a fiduciary under section 3(21) of the Employee Retirement Income Security Act of 1974 (Public Law 93-406, 29 U.S.C. § 1002(21)) or who acts as trustee, executor, administrator, custodian, guardian of estates, conservator, committee of estates of persons who are disabled, personal representative, receiver, agent, nominee, registrar of stocks and bonds, assignee or in any other capacity for the benefit of another person.

"Foreclosure." The date upon which title vests in property through realizing upon a security interest, including an ownership of property recognized under applicable law as vesting the holder of the security interest with some indicia of title, legal or equitable title obtained at or in lieu of foreclosure, sheriff sales, bankruptcy distributions and their equivalents.

"Fund." Any of the following:

(1) A special fund of Commonwealth money administered by the Commonwealth or the Department of Environmental Protection, including the Hazardous Sites Cleanup Fund and the Under ground Storage Tank Indemnification Fund.

(2) A fund of Commonwealth money in existence on and after July 18, 1995, created for the funding or reimbursement of costs and damages such as response costs, emergency response measures and their equivalent relating to natural resources or the environment.

"Guarantor." The term includes:

(1) Guarantors and sureties of security interests, securities and other obligations, issuers of letters of credit and other credit enhancements, title insurers and entities which directly or indirectly acquire indicia of ownership in the course of protecting a security interest or acting as the guarantors, sureties, issuers of letters of credit or other credit enhancements or title insurers.

(2) Guaranties, surety bonds, title insurance policies, letters of credit and other credit enhancements, and other agreements with a guarantor relating to the obligations described in this definition.

(3) Directly or indirectly, an interest in property, security interest, indicia of ownership title or right to title held or acquired by a fiduciary or similar entity for the benefit of a holder of a security interest.

"Indicia of ownership." As follows:

(1) A legal or equitable interest in property, including fee title, acquired directly or indirectly:

(i) for securing payment of a loan or indebtedness, a right of reimbursement or subrogation under a guaranty or the performance of another obligation;

(ii) evidencing ownership under a lease financing transaction where the lessor does not initially select or ordinarily control the daily operation or maintenance of the property;

(iii) in the course of creating, protecting or enforcing a security interest or right of reimbursement of subrogation under a guaranty; or

(iv) to secure public funding for the environmental investigation, remediation or redevelopment of or implementation of infrastructure improvements at the property for, among other purposes, the transfer of title to the property to a third party after rehabilitation.

(2) The term includes evidence of interest in mortgages, deeds of trust, liens, surety bonds, guaranties, lease financing transactions where the lessor does not initially select or ordinarily control the daily operation or maintenance of the property, other forms of encumbrances against property recognized under applicable law as vesting the holder of the security interest with some indicia of title.

"Industrial activity." Commercial, manufacturing, public utility, mining or any other activity done to further either the development, manufacturing or distribution of goods and services, intermediate and final products and solid waste created during the activities, including

administration of business activities, research and development, warehousing, shipping, transport, remanufacturing, stockpiling of raw materials, storage, repair and maintenance of commercial machinery and equipment and solid waste management.

"Industrial site." A site which now has or once had an industrial activity on it.

"Lender." A person regulated or supervised by a Federal or State regulatory agency and any of its affiliates or subsidiaries, successors or assigns, including its officers, directors, employees, representatives or agents, and any Federal or State banking or lending agency or its successors, including, the Resolution Trust Corporation, Federal Deposit Insurance Corporation, Federal Reserve Bank, Board of Governors of the Federal Reserve System, Federal Home Loan Bank, National Credit Union Administrator Board, Office of the Comptroller of the Currency, Office of Thrift Supervision, Farm Credit Administration and Small Business Administration or similarly chartered Federal instrumentality. The term includes:

(1) The initial lender and a subsequent holder of a security interest or note, guarantor, lease financier or a successor or a receiver or other person who acts on behalf or for the benefit of a holder of a security interest.

(2) An economic development agency.

"Occupant." A party which occupies or has the right to occupy property owned by an economic development agency by an instrument, including a lease, mortgage, installment sale contract, disposition agreement or trust agreement.

"Person." An individual, partnership, corporation, business trust, joint-stock fund, estate trust, banking association, governmental, administrative or regulatory agency, institution or any other type of legal entity.

"Property." Each type of real, personal, tangible and intangible property.

"Redevelopment." Undertakings and activities made under the act of May 24, 1945 (P.L.991, No.385), known as the Urban Redevelopment Law, including planning, acquisition, site preparation, demolition, rehabilitation, renovation, conservation, reuse, renewal, improvement, clearance, sale and lease of real property and improvements thereon.

"Regulated substance." An element, compound or material which is subject to regulation under the environmental acts or an element, compound or material defined as a hazardous, toxic, regulated infectious chemotherapeutic substance or chemical contaminant, waste, a type of pollution or condition or an equivalent under the environmental acts.

"Release." A spill, rupture, emission, discharge, other action, occurrence, condition or any other term defined as a "release" or other threat of release or operative word or event which would trigger compliance requirements or liability under the environmental acts.

"Response action." An action, including a response or interim response, remedial response or remedy or corrective action, closure or another action under the environmental acts in response to a release, such as testing, inspections, sampling, installations, corrective action, removals, closure, response costs, assessments or a type of claims, damages, actions, fines and penalties.

"Security interest." An interest in property created or established for the purpose of securing a loan, right of reimbursement or subrogation under a guaranty or other obligation or constituting a lease financing transaction. The term includes:

(1) Security interests created under 13 Pa.C.S. (relating to commercial code), mortgages, deeds of trust, liens, lease financing transactions in which the lessor does not initially select or ordinarily control the daily operation or maintenance of the property, trust receipt transactions and their equivalents. A security interest may arise from transactions such as sales and leasebacks, conditional sales, installment sales, certain assignments, factoring agreements, accounts receivable, financing arrangements and consignments if the transaction creates or establishes an interest in property for the purpose of securing a loan, right of reimbursement or subrogation under a guaranty or other obligation.

(2) A confession of judgment or money judgment whereby a lender commences an execution on the judgment with a writ of execution and by which causes property to be levied and attached.

§ 8368.14. Limitation of economic development agency environmental liability.

(a) General rule.--An economic development agency that holds an

indicia of ownership in property under the following shall not be liable under the environmental acts to the department or to any other person in accordance with this section:

(1) as a security interest for the purpose of developing or redeveloping the property;

(2) to finance an economic development or redevelopment activity; or

(3) to secure public funding for the environmental investigation, remediation or redevelopment of or implementation of infrastructure improvements at the property for, among other purposes, the transfer of title to the property to a third party after rehabilitation.

(b) Scope of limited liability.--

(1) An economic development agency shall not be liable in an action by the department, as a responsible person, unless the economic development agency, its employees or agents directly cause an immediate release or directly exacerbate a release of a regulated substance on or from the property.

(1.1) An economic development agency, its officers, directors, agents, members, employees and its professional consultants shall not be liable, including for property damages, diminution of property value, stigma damages, natural resource damages, economic loss, bodily injury or death relating to a regulated substance currently or previously released on or from the property, in an action by a person alleging liability of any kind under the environmental acts, except if the economic development agency, its officers, directors, agents, members, employees or its professional consultants directly cause an immediate release or directly exacerbate a release of any regulated substance on or from the property.

(2) An economic development agency which forecloses on or assumes possession of a property shall remain within the exemption from liability under subsection (a).

(3) An economic development agency that conducts a remedial action in accordance with a written agreement with the department shall not be liable as a responsible party, owner, operator or occupier in an action by the department for a release or potential release of a regulated substance.

(4) Cooperation among governmental agencies performing a remedial action shall be as follows:

(i) An economic development agency and any of its successors and assigns may take no action that would disturb or be inconsistent with remedial response that is proposed, approved or implemented by the Environmental Protection

Agency.

(ii) An economic development agency and any of its successors and assigns shall permit access to Federal and Commonwealth agencies and other parties acting under the direction of the agencies to evaluate, perform or maintain a remedial action.

(iii) An economic development agency or any of its successors and assigns shall perform, operate and maintain remedial actions under State laws as directed by the department.

§ 8368.15. Limitation of lender environmental liability.

(a) Scope of lender liability.--A lender who engages in activities involved in the routine practices of commercial lending, including the providing of financial services, holding of security interests, workout practices, foreclosure or the recovery of money from the sale of property shall not be liable under the environmental acts or common law equivalents to the Department of Environmental Protection or to any other person by virtue of the fact that the lender engages in the commercial lending practice except if:

(1) the lender, its employees or agents directly cause an immediate release or directly exacerbate a release of regulated substances on or from the property; or

(2) the lender, its employees or agents knowingly and willfully compelled the borrower to:

(i) do an action which caused an immediate release of regulated substances; or

(ii) violate an environmental act.

(b) Limitation of lender liability.--

(1) Liability under this subchapter shall be limited to the cost for a response action which may be directly attributable to the lender's activities as specified in subsection (a).

(2) Liability shall arise only if the lender's actions were the

proximate and efficient cause of the release or violation.

(3) Ownership or control of the property after foreclosure shall not by itself trigger liability.

(4) A lender shall not be liable for a response action if the response action arises solely from a release of regulated substances which occurred prior to or commences before and continues after foreclosure, except that the lender shall be responsible for that portion of the response action which is directly attributed to the lender's exacerbation of a release.

(5) A release of regulated substances discovered in the course of conducting environmental due diligence shall be presumed to be a prior or continuing release on the property.

#### § 8368.16. Limitation of fiduciary environmental liability.

(a) Scope of fiduciary liability.--Any person who acts or has acted as a fiduciary to another person shall not be liable in its personal or individual capacity under the environmental acts or common law equivalents to the department or to any other person by virtue of the fact that the fiduciary provides or provided the services except if:

(1) during the time when the fiduciary services were actively provided, an event occurred which constituted a release of regulated substances according to the environmental acts at the time of the event;

(2) the fiduciary had the express power and authority to control property which was the cause of or the site of the release as part of actively providing services; and

(3) the release was caused by an act or omission which constituted gross negligence or willful misconduct of the fiduciary according to the law or standard practices at the time of the release.

(b) Limitation of fiduciary liability.--

(1) Liability under this subchapter shall be limited to only the cost for a response action which is directly attributable to the fiduciary's activities as specified in this section.

(2) Under subsection (a)(2), control of property shall be deemed to be in the lessee and not the lessor for leased property.

(3) A fiduciary:

(i) shall not be liable for a response action if the response action arises from a release of regulated substances which occurred prior to or commences before and continues after the fiduciary takes action as specified in subsection (a); but

(ii) shall be responsible for that portion of a response action which is directly attributable to exacerbating a release.

(4) A release of regulated substances discovered in the course of conducting an environmental due diligence shall be presumed to be a prior and continuing release on the property.

(c) Estate claims.--Nothing in this section shall prevent claims against the fiduciary in its representative capacity.

#### § 8368.17. Defenses to liability.

A lender, fiduciary or economic development agency can avoid liability under the environmental acts by showing evidence that a release or threatened release of regulated substances for which the lender, fiduciary or economic development agency otherwise is responsible under sections 8368.14 (relating to limitation of economic development agency environmental liability), 8368.15 (relating to limitation of lender environmental liability) and 8368.16 (relating to limitation of fiduciary environmental liability) was caused by any of the following:

(1) An act of God.

(2) An intervening act of a public agency.

(3) Migration from property owned by a third party.

(4) Actions taken or omitted in the course of rendering care, assistance or advice in accordance with the environmental acts or at the direction of the department.

(5) An act of a third party who was not an agent or employee of the lender, fiduciary or economic development agency.

(6) If the alleged liability for a lender or economic development agency arises after foreclosure and the lender or economic development agency exercised due care with respect to the lender's or economic development agency's knowledge about the regulated substances and took reasonable precautions based upon such knowledge against foreseeable actions of third parties and the consequences arising therefrom. A lender, fiduciary or economic development agency can avoid liability by proving any other defense which may be available to it under the environmental acts or common law.

#### § 8368.18. Savings clause.

Nothing in this subchapter shall affect the rights, immunities or other defenses that are available under other applicable law to a lender, fiduciary or economic development agency, including rights of contribution and indemnity. Nothing in this subchapter shall be construed to create a new, different or additional liability for or create a private right of action against a lender, fiduciary or economic development agency. § 8368.19. Apportionment of liability.

Notwithstanding anything to the contrary, if two or more persons acting independently cause distinct harm or a single harm for which there is a reasonable basis for division according to the contribution of each, a lender, fiduciary or economic development agency shall be subject to liability only for the portion of the total liability that is directly attributable to the lender, fiduciary or economic development agency.

#### § 8368.20. Construction.

The terms and conditions of this subchapter are to be liberally construed so as to best achieve and effectuate the goals and purposes of this subchapter. Liability shall be based on proximate and efficient causation. This subchapter shall preempt and eliminate all liability standards in effect on July 18, 1995, including the concept of a person who, without participation in the management of property, holds indicia of ownership primarily to protect a security interest. Under the provisions of this subchapter, the burden of proof shall be on the person seeking to have a lender, fiduciary or economic development agency held liable for a response action or damages.

#### § 8368.21. Severability.

The provisions of this subchapter are severable. If a provision of this subchapter or its application to a person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this subchapter which can be given effect without the invalid provision or application.

#### § 8368.22. Preemption and repeals.

In the event of an inconsistency between an environmental act and this subchapter, this subchapter shall control. An environmental law enacted after July 18, 1995, may not be applied retroactively to impose liability on a lender, fiduciary or economic development agency unless there are express repealers which explain the extent of the repeal.

#### § 8368.23. Applicability.

This subchapter shall apply to the following:

(1) Each indicia of ownership, regardless of the date of acquisition.

(2) Each fiduciary with respect to a service provided by the fiduciary, regardless of the date the service was provided.

(3) Each administrative action, action, suit or claim against a lender, fiduciary or economic development agency not yet finally resolved by the department or a court or administrative hearing board having an action, suit or claim pending before it or an appeal from a lower court, notwithstanding when the release or interest in the subject property occurred.

### SUBCHAPTER F.3

#### AGRITOURISM ACTIVITY PROTECTION

Sec.

8368.31. Scope of subchapter.

8368.32. Definitions.

8368.33. Limited civil liability for agritourism activity providers.

8368.34. Notice of limited civil liability.

8368.35. Acknowledgment of limited civil liability.

8368.36. Applicability.

§ 8368.31. Scope of subchapter.

This subchapter relates to agritourism activity protection.

§ 8368.32. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Agritourism activity." As follows:

(1) A farm-related tourism or farm-related entertainment activity that takes place on agricultural land and allows members of the general public, whether or not for a fee, to tour, explore, observe, learn about, participate in or be entertained by an aspect of agricultural production, harvesting, husbandry or rural lifestyle that occurs on the farm.

(2) The term shall not include overnight accommodations, weddings, concerts or provisions for food and beverage services. "Agritourism activity provider." A person who owns, operates,

provides or sponsors an agritourism activity, whether or not for a fee, or an employee of such a person.

"Dangerous condition." A condition that creates an imminent and substantial risk of injury or damages to a participant.

"Participant." An individual, other than an employee of an agritourism activity provider, who engages in an agritourism activity. § 8368.33. Limited civil liability for agritourism activity providers.

(a) Liability.--Except as otherwise provided by subsection (b), an agritourism activity provider shall not be civilly liable for injury or damages to a participant if:

(1) at the time of the agritourism activity from which the injury or damages occurred, a warning sign was posted in accordance with section 8368.34 (relating to notice of limited civil liability); and

(2) the agritourism activity provider entered into a written agreement with the participant in accordance with section 8368.35 (relating to acknowledgment of limited civil liability) with respect to the agritourism activity from which the injury or damages occurred.

(b) Exceptions.--An agritourism activity provider shall not be immune from civil liability for injury or damages if any of the following apply:

(1) The agritourism activity provider performs an act in a grossly negligent manner and causes injury or damages to a participant.

(2) The agritourism activity provider purposefully causes the injury or damages to a participant.

(3) The agritourism activity provider's action or inaction constitutes criminal conduct and causes the injury or damages to a participant.

(4) The agritourism activity provider recklessly fails to warn or guard against a dangerous condition that causes injury or damages to a participant.

§ 8368.34. Notice of limited civil liability.

(a) Notice.--For the purpose of providing notice of the limited liability under section 8368.33 (relating to limited civil liability for agritourism activity providers), an agritourism activity provider shall post and maintain a sign with a warning notice in accordance with subsection (b). The agritourism activity provider shall post the sign in a clearly visible location at or near each entrance to the farm or at the site of each agritourism activity.

(b) Contents.--The warning notice shall consist of a sign that is at least three feet by two feet in dimension and states the following:

"WARNING: Read your written agreement or the back of your ticket. Under Pennsylvania law, except for limited circumstances, an agritourism activity provider is not liable for any injury to or death of a participant resulting from an agritourism activity. Do not participate in the activity if you do not wish to waive liability."

§ 8368.35. Acknowledgment of limited civil liability.

For the purpose of enforcing the limited liability under section 8368.33 (relating to limited civil liability for agritourism activity providers), a written agreement between an agritourism activity provider and a participant shall be enforceable if the written agreement meets all the following criteria:

(1) The written agreement is signed before the participant engages in an agritourism activity.

(2) The written agreement is signed by the participant or, if the participant is a minor or care dependent person, the participant's parent or guardian.

(3) The written agreement is in a document separate from any other agreement between the participant and the agritourism activity provider, except for a document that includes a different warning, consent or assumption of risk statement.

(4) The written agreement is printed in not less than 10-point bold type.

(5) The written agreement contains the following language:  
"AGREEMENT AND WARNING: I understand and acknowledge that, except for limited circumstances listed below, an agritourism activity provider is not liable for any injury to or death of a participant resulting from an agritourism activity. I understand that I have accepted all risk of injury, death, property damage and other loss that may result from an agritourism activity. I understand that

an agritourism activity provider is not protected from liability if the provider:

(1) Performs an act in a grossly negligent manner and causes injury or damages to a participant.

(2) Purposefully causes a participant's injury.

(3) Acts or fails to act in a way that constitutes criminal conduct.

(4) Recklessly fails to warn or guard against a dangerous condition that causes injury or damages to a participant. A dangerous condition is a condition that creates an imminent and substantial risk of injury or damages to a participant."

(6) Notwithstanding paragraphs (1), (2), (3) and (4), a written agreement that contains substantially the same language under paragraph (5) may be printed on a ticket required for access to an agritourism activity.

§ 8368.36. Applicability.

This subchapter shall apply to any cause of action that arises on or after the effective date of this section.

#### SUBCHAPTER F.4 COVID-19-RELATED LIABILITY

Sec.

8368.41. Definitions.

8368.42. School and child care liability.

8368.43. Personal protective equipment liability.

8368.44. Business or government services liability.

8368.45. Covered provider liability.

8368.46. Application of subchapter.

8368.47. Construction of subchapter.

§ 8368.41. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Business or government services." A lawful activity conducted by a trade, business, nonprofit organization or local governmental unit which is permitted by the terms of a proclamation of disaster emergency to hold itself out as open to members of the public.

"Child-care facility." Any of the following:

(1) A child care center as defined in section 1001 of the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code.

(2) A children's institution as defined in section 901 of the Human Services Code.

(3) A family child care home as defined in section 1001 of the Human Services Code.

(4) An individual employed or contracted by a person under paragraph (1), (2) or (3).

"Covered provider." Any of the following:

(1) A health care practitioner as defined in section 103 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

(2) A health care provider, including a registered nurse, licensed by a state or a political division of the United States. This paragraph includes licensure pursuant to a waiver.

(3) A health care facility as defined in section 802.1 of the Health Care Facilities Act. This paragraph includes a facility authorized to operate pursuant to a waiver.

(4) A temporary site operated by a health care facility under paragraph (3) during the proclamation of disaster emergency.

(5) A health care provider as defined in section 103 of the Health Care Facilities Act or another legal entity whose primary purpose is the provision of medical care for a health care provider.

(6) A facility as defined in section 1001 of the Human Services Code or a parent organization of the facility.

(7) A business, institution of higher education, facility or organization, which provides a venue for the provision of medical care.

(8) A licensed, certified, registered or authorized person providing emergency medical services as defined in 35 Pa.C.S. § 8103 (relating to definitions). The term includes an emergency medical services vehicle operator.

(9) An emergency medical services agency as defined in 35 Pa.C.S. § 8103. This paragraph includes a parent organization of the agency.

(10) A person engaged in nursing care as defined in 28 Pa. Code § 201.3 (relating to definitions), if the nursing care:

(i) is in support of the ADL--activities of daily living and other instrumental activities of daily living as defined in 55 Pa. Code § 2600.4 (relating to definitions) or 2800.4 (relating to definitions) and other instrumental activities; or

(ii) consists of covered services which nursing care providers are obligated to deliver or arrange under their requirements of licensure.

(11) A clinical laboratory:

(i) certified under section 353 of the Public Health Service Act (58 Stat. 682, 42 U.S.C. § 263a); or

(ii) licensed under the act of September 26, 1951 (P.L.1539, No.389), known as The Clinical Laboratory Act.

(12) An individual employed or contracted by a person under paragraph (1), (2), (3), (4), (5), (6), (7), (8), (9), (10) or (11), who is involved in providing medical care.

"COVID-19." The novel coronavirus as identified in the proclamation of disaster emergency issued by the Governor on March 6, 2020, published at 50 Pa.B. 1644 (March 21, 2020).

"Direct cost." The direct labor and direct material costs of producing personal protective equipment, excluding any manufacturing overhead costs.

"Institution of higher education." The term includes any of the following:

(1) A community college operating under Article XIX-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

(2) The State System of Higher Education. This paragraph includes a university within the system.

(3) The Pennsylvania State University, the University of Pittsburgh, Temple University, Lincoln University or an institution designated as State-related by the Commonwealth.

(4) The Thaddeus Stevens College of Technology and The Pennsylvania College of Technology.

(5) A rural regional college operating under Article XIX-G of the Public School Code of 1949.

(6) An institution of higher education located in and incorporated or chartered by the Commonwealth and entitled to confer degrees under 24 Pa.C.S. § 6505 (relating to power to confer degrees) and as provided for by the standards and qualifications prescribed by the State Board of Education under 24 Pa.C.S. Ch. 65 (relating to private colleges, universities and seminaries).

(7) A private school licensed under the act of December 15, 1986 (P.L.1585, No.174), known as the Private Licensed Schools Act.

(8) A foreign corporation approved to operate an educational enterprise under 22 Pa. Code Ch. 36 (relating to foreign corporation standards).

(9) A community education council operating under Article XIX-D of the Public School Code of 1949.

"Local governmental unit." A municipality or local authority.

"Person." A natural person, corporation, firm, association, organization, partnership, limited liability company, business, trust, business trust, estate or foundation.

"Personal protective equipment." A device, equipment, substance or material, recommended by the Centers for Disease Control and Prevention, Food and Drug Administration, Environmental Protection Agency, Department of Homeland Security or another Federal authority or the Department of Health to prevent, limit or slow the spread of COVID-19, such as respirators, masks, surgical apparel, gowns, gloves and other apparel intended for a medical purpose. The term includes sanitizers and disinfectants.

"Proclamation of disaster emergency." A proclamation of disaster emergency issued by the Governor relating to COVID-19 and any renewal of the state of disaster emergency, such as the proclamation of disaster emergency issued by the Governor on March 6, 2020, published at 50 Pa.B. 1644 (March 21, 2020), and renewed on June 3, 2020, and August 31, 2020.

"Public health directives." Orders or guidelines issued by the Federal or State government regarding any of the following:

(1) The manufacturing or use of personal protective equipment during the proclamation of disaster emergency.

(2) Treatment or testing of individuals with or reasonably

believed to have COVID-19.

(3) Steps necessary or recommended to prevent, limit or slow the spread of COVID-19.

"School entity." Any school district, charter school, cyber charter school, regional charter school, chartered school for the deaf and blind, private school, nonpublic school, prekindergarten, intermediate unit, area career and technical school, approved private school or institution of higher education operating within this Commonwealth. The term includes an individual employed by or contracted by a school entity. § 8368.42. School and child care liability.

(a) Limited liability.--Notwithstanding any other provision of law, a school entity or child-care facility shall not be civilly liable for damages or personal injury relating to an actual or alleged exposure to COVID-19, absent a showing, by clear and convincing evidence, of gross negligence, recklessness, willful misconduct or intentional infliction of harm.

(b) Compliance with public health directives.--An act or omission in compliance with, or in a good faith belief that the act or omission is in compliance with, public health directives shall not be considered gross negligence, recklessness, willful misconduct or intentional infliction of harm.

§ 8368.43. Personal protective equipment liability.

(a) Manufacturer, distributor, labeler and donor.--

(1) Notwithstanding any other provision of law, a person that manufactures, distributes, labels or donates personal protective equipment shall not be civilly liable for damage to property or personal injury, related to actual or alleged exposure to COVID-19 in connection with the use of personal protective equipment which, during the proclamation of disaster emergency, is donated or sold at direct cost to a charitable organization, the Commonwealth, a local governmental unit or covered provider, absent a showing by clear and convincing evidence of recklessness, willful misconduct or intentional infliction of harm.

(2) An act or omission in compliance with, or in a good faith belief that the act or omission was in compliance with, public health directives shall not be considered recklessness, willful misconduct or intentional infliction of harm.

(b) Other manufacturers, distributors and labelers.--Subject to subsection (a), all of the following apply:

(1) Notwithstanding any other provision of law, a person that manufactures, distributes or labels personal protective equipment shall not be civilly liable for damage to property or personal injury related to actual or alleged exposure to COVID-19 in connection with the use of personal protective equipment, absent a showing, by clear and convincing evidence, of gross negligence, recklessness, willful misconduct or intentional infliction of harm if the person commenced manufacturing, distributing or labeling:

(i) only in connection with a proclamation of disaster emergency; or

(ii) in accord with the same standards to which it manufactured, distributed or labeled the equipment before a proclamation of disaster emergency, unless the equipment is clearly labeled to indicate otherwise.

(2) An act or omission in compliance with, or in a good faith belief that the act or omission was in compliance with, public health directives shall not be considered gross negligence, recklessness, willful misconduct or intentional infliction of harm.

(c) Users.--

(1) Notwithstanding any other provision of law, a person that uses or employs personal protective equipment during the proclamation of disaster emergency in compliance with public health directives related to the personal protective equipment shall not be civilly liable for damage to property or personal injury related to use of the personal protective equipment, absent a showing, by clear and convincing evidence, of gross negligence, recklessness, willful misconduct or intentional infliction of harm.

(2) An act or omission in compliance with, or in a good faith belief that the act or omission was in compliance with, public health directives shall not be considered gross negligence, recklessness, willful misconduct or intentional infliction of harm.

§ 8368.44. Business or government services liability.

(a) Limited liability.--Notwithstanding any other provision of law, a person providing business or government services shall not be civilly liable for damage to property or personal injury, related to an actual or

alleged exposure to COVID-19, absent a showing, by clear and convincing evidence, of gross negligence, recklessness, willful misconduct or intentional infliction of harm.

(b) Compliance with public health directives.--An act or omission in compliance with, or in a good faith belief that the act or omission is in compliance with, public health directives shall not be considered gross negligence, recklessness, willful misconduct or intentional infliction of harm.

§ 8368.45. Covered provider liability.

(a) Limited liability.--Notwithstanding any other provision of law, a covered provider shall not be civilly liable for damages or personal injury, related to any of the following, absent a showing, by clear and convincing evidence, of gross negligence, recklessness, willful misconduct or intentional infliction of harm:

(1) Provision of treatment or testing for COVID-19 to patients who have been exposed to or whom a covered provider reasonably believes may have been exposed to COVID-19.

(2) An act or omission proximately caused by:

(i) shortage of equipment, supplies or personnel which:

(A) was a direct result of the demand for testing for or treatment of COVID-19; and

(B) was beyond the reasonable control of the covered provider;

(ii) a number of patients in excess of the capacity of a department or of a unit of a covered provider as a direct result of the need to test for or treat COVID-19; or

(iii) compliance with public health directives regarding the testing for and treatment of COVID-19.

(b) Compliance with public health directives.--An act or omission by a covered provider in compliance with, or in a good faith belief that the act or omission was in compliance with, public health directives shall not be considered gross negligence, recklessness, willful misconduct or intentional infliction of harm.

§ 8368.46. Application of subchapter.

(a) Vicarious liability.--Vicarious liability shall not attach to the employer of an individual who is otherwise immune under this subchapter or an executive order.

(b) Public health directives.--In determining civil liability under this subchapter, a court shall:

(1) For a manufacturer, distributor, labeler or donor, consider public health directives which were in effect at the time of the manufacture, distribution, labeling or sale of the personal protective equipment.

(2) For a person providing business or government services, user of personal protective equipment, school entity or child-care facility, consider public health directives which were in effect at the time an alleged act or omission occurred.

(3) For a covered provider, consider public health directives which were in effect at the time an alleged act or omission occurred.

(c) Proclamation of disaster emergency.--This subchapter shall apply to acts or omissions during a proclamation of disaster emergency.

§ 8368.47. Construction of subchapter.

This subchapter shall not be construed to:

(1) create a new cause of action;

(2) expand a civil or criminal liability otherwise imposed;

(3) limit a defense;

(4) affect the applicability of a statute which affords greater protections to defendants than are provided under this subchapter; or

(5) prevent an individual from filing a claim or receiving benefits under the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act, if otherwise available.

Section 2. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the addition of 42 Pa.C.S. Ch. 83 Subch. F.2.

(2) The act of May 19, 1995 (P.L.33, No.3), known as the Economic Development Agency, Fiduciary and Lender Environmental Liability Protection Act, is repealed.

Section 3. The addition of 42 Pa.C.S. Ch. 83 Subch. F.2 is a continuation of the act of May 19, 1995 (P.L.33, No.3), known as the Economic Development Agency, Fiduciary and Lender Environmental Liability Protection Act. The following apply:

(1) Except as otherwise provided in 42 Pa.C.S. Ch. 83 Subch. F.2, all activities initiated under the Economic Development Agency, Fiduciary and Lender Environmental Liability Protection Act shall continue and remain in full force and effect and may be completed under 42 Pa.C.S. Ch. 83 Subch. F.2. Orders, regulations, rules and decisions which were made under the Economic Development Agency, Fiduciary and Lender Environmental Liability Protection Act and which are in effect on the effective date of section 2 of this act shall remain in full force and effect until revoked, vacated or modified under 42 Pa.C.S. Ch. 83 Subch. F.2. Contracts, obligations and collective bargaining agreements entered into under the Economic Development Agency, Fiduciary and Lender Environmental Liability Protection Act are not affected nor impaired by the repeal of the Economic Development Agency, Fiduciary and Lender Environmental Liability Protection Act.

(2) Except as set forth in paragraph (3), any difference in language between 42 Pa.C.S. Ch. 83 Subch. F.2 and the Economic Development Agency, Fiduciary and Lender Environmental Liability Protection Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the Economic Development Agency, Fiduciary and Lender Environmental Liability Protection Act.

(3) Paragraph (2) does not apply to the addition of paragraph (9) of the definition of "economic development agency" in 42

Pa.C.S.

§ 8368.13.

Section 4. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) This section.

(ii) The addition of 42 Pa.C.S. Ch. 83 Subch. F.4.

(2) The remainder of this act shall take effect immediately.

On the question,

Will the Senate agree to the amendment?

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

Senator BAKER. Mr. President, I offer some brief comments and an explanation about amendment No. 7937. It is a three-part amendment. Section one of the amendment replicates all of the provisions of the underlying bill, House Bill No. 1737, yet it places it into a Title 42 bill. As a result of the amendment, it amends the Economic Development Agency, Fiduciary and Lender Environmental Liability Protection Act by adding land banks to the list of economic development agencies covered by the act. Land banks, for the purposes of the amendment, are governmental entities that specialize in the conversion of vacant, abandoned, or foreclosed properties into productive use. Local municipalities established land banks pursuant to Act 153 of 2012. The amendment exempts land banks, as it already does for redevelopment authorities, municipal authorities, and other community-based entities that acquire properties. That is done so from liability to DEP for damages caused by the release of substances, so long as the land banks do not contribute or exacerbate contamination at the property.

The second component of the amendment creates and provides for COVID-19 liability assistance for healthcare providers, manufacturers of PPE, schools, universities, businesses, and governmental service providers. There have been times when guidance on the steps to take was lacking, changing, or conflicting, and individuals and entities should not be punished for doing the best they could in the absence of reliable information and protocols. In all cases, if a person or entity follows or followed the public health directives established by the Federal and State governments, they will not be held responsible for any harm that

allegedly occurred. The language in this amendment does not provide complete immunity for anyone. Instead, it reduces the potential exposure of certain people and entities that are likely to face lawsuits as a result of the actions they took in response to the pandemic. Individuals and entities will still be responsible for any intentionally wrongful acts and any acts that are considered reckless. Most will also be responsible for their own gross negligence.

Under the amendment, the following classes of people are protected: public schools, private schools, charter schools, community colleges, institutions of higher education, and childcare facilities. Manufacturers of PPE and those that donated PPE or sold them at cost get a slightly higher level of protection. Other manufacturers are only protected against their negligence. Users of PPE and those that provide business or government services will be protected against claims of harm caused by alleged exposure to COVID-19 individuals—for example, customers—and healthcare providers with respect to the testing or treatment of COVID-19 patients, actions they were forced to take, or actions they could not take as a result of COVID-19 shortages and the excessive number of patients or compliance with public health directives. An individual's ability to file for workers' compensation would not be affected by this amendment, and the changes do not create a new cause of action, expand civil liability, nor do they affect any defense otherwise available or any law that provides greater protections.

The final component of the amendment pertains to and replicates the language that was contained in House Bill No. 1348, which was voted out of the House yesterday by a vote of 120-81. Generally, the bill and the amendment provides limited liability protection for agritourism activity providers. Under this amendment, it creates an Agritourism Activity Protection Act and provides limited civil liability protections for persons who offer agritourism activities on a farm. As is the case with COVID-19 liability, liability protection is provided only for negligence, and liability protection does not apply if the agritourism activity provider acts grossly negligent, causes injury or damage to a participant, purposely causes a participant injury, commits an action or inaction that constitutes criminal conduct and causes the participant injury, or recklessly fails to warn or guard against dangerous conditions that could cause injury or damages to a participant.

That concludes my summary of the comprehensive amendment. Thank you, Mr. President. I, obviously, am calling for an affirmative vote on the amendment. Thank you.

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

Senator STREET. Mr. President, I rise to ask for a "no" vote on this amendment. I do so with some regret, as this amendment will probably interfere with the reasonable relief that agribusinesses should have received, and should receive, allowing folks to engage in agritourism, something that many of us have talked about for a while. This amendment simply goes too far and is inconsistent with good public policy. The provisions around COVID-19 provide, under certain circumstances, that even if a party acts with willful misconduct or gross negligence, if a person can assert a good faith belief that they are following a public health directive, even if that belief is not grounded in reality, that belief is an affirmative defense. How could there ever be an affirmative defense to willful misconduct? How can there be an affirmative defense to gross negligence? People have a right to

know--what is the incentive for a person to educate themselves about how, in fact, to conduct themselves and keep people safe in the midst of a pandemic?

As people talk about keeping businesses open and making sure the public has confidence, that they can engage in businesses, that they can go out and engage the public, people should know that businesses are being held accountable if they do not protect people. Merely believing that you followed a public health directive, even if you are found to have been grossly negligent, does not make any sense. So, certainly, we do not want to punish people who did the right thing. That is why we have a system that says you have to follow the standard of care of being reasonable. You have to not be negligent. You have to be careful custodians of the public you serve when you are in public accommodations. To undermine the ability of people in public accommodations, their obligation to act in a reasonable manner, to allow there to be an affirmative defense to gross negligence, to allow for there to be an affirmative defense to willful misconduct is completely inconsistent with good public policy. Therefore, regrettably, while I would like to see agritourism get some relief, I have to urge a "no" vote on this amendment.

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

Senator SANTARSIERO. Mr. President, I will be relatively brief because I simply want to amplify what my colleague and friend, the gentleman from Philadelphia, just said with respect to this standard. It is inconceivable that you could have a reasonable belief that you are complying with something if you were being grossly negligent. Now, I understand we are literally in the eleventh hour of trying to get the budget and a number of other pieces of legislation done, so I can understand if the drafting of a particular amendment might have happened quickly, and perhaps too quickly, to arrive at a point that seems internally inconsistent, to be charitable. But the truth of the matter is, as written, this amendment is problematic because it ultimately undermines our ability to address a public health pandemic. Because we are at a point now, particularly with the cases spiraling, I think 7,000 cases in Pennsylvania yesterday alone, that we need every institution in this State, whether public or private, to do absolutely everything they can to help prevent the spread of COVID-19. Passing legislation that throws, at best, uncertainty into what that means and what the responsibilities are opens a floodgate of possibilities that are contrary to preventing the spread of this virus and are contrary, therefore, to preventing our hospitals and other healthcare providers from being overwhelmed and, therefore, for us to lose even more lives than we need to.

So, Mr. President, I respectfully request a "no" vote on this amendment for that reason. It is far too broad and internally inconsistent, frankly, and would wreak havoc on our ability as a State, as a matter of good public health protection, to be able to enforce whatever rules may be in place at a particular time. Thank you.

The PRESIDENT. The Chair recognizes the gentlewoman from Berks, Senator Schwank.

Senator SCHWANK. Mr. President, today we were supposed to consider House Bill No. 1348 in the Committee on Judiciary and were anticipating a full vote in the Senate. House Bill No. 1348 would bring modest civil liability relief to agritourism and assist our agricultural community at a time when they desperately need new business opportunities. This was legislation that



farmers in my district were very anxious to see passed--they supported it, of course--and was a high priority for the Pennsylvania Farm Bureau. But now that the language of House Bill No. 1348 has been amended into House Bill No. 1737, I simply cannot support this amendment and the ensuing bill based on some of the arguments that my colleagues already made. It is confusing, and it lays bare the protections that so many individuals will need in the midst of a pandemic. I am just disappointed that, yet again, last-minute changes and amendments that benefit corporate special interests outweigh assistance to our family farms and our farm families that was contained in House Bill No. 1348. So, we will await another Session, likely, to be able to get this done. But, again, I also urge a "no" vote on this. Thank you.

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

Senator COSTA. Mr. President, very briefly, first and foremost, I intend to offer my remarks for the record, but there are a couple of things I really want to emphasize with respect to the process by which we are taking and the content of this amendment, amendment No. 7937 to House Bill No. 1737. By all accounts, House Bill No. 1737 is a good bill that extends and addresses the issue with respect to protection for land banks. But, Mr. President, I would argue that the amendment that is being offered and discussed today violates the single subject and original purpose provisions of Article III of the Pennsylvania Constitution by simply jamming together several unrelated parts under the very broad definition of immunity or limited immunity. I assert, Mr. President, that the original intent of agritourism and COVID-19 immunity are just simply too far unrelated to satisfy the standards that have been set and required by our Constitution and also supported by the decisions of our Pennsylvania Supreme Court on this very specific issue of whether or not these things are single subject or not.

That all being said, Mr. President, I echo the comments of my colleagues who previously spoke on the Democratic side of the aisle. I ask for a negative vote on this particular amendment and on the bill as we go forward. I offer these remarks for the record.

Thank you, Mr. President.

The PRESIDENT. Without objection, the remarks will be spread upon the record.

*(The following prepared remarks were made part of the record at the request of the gentleman from Allegheny, Senator COSTA:)*

Mr. President, I rise to oppose Amendment No. A7937 to House Bill No. 1737. First, House Bill No. 1737 is a good bill that extends fiduciary and lender environmental liability protection for land banks to develop former industrial sites commonly referred to as "brownfield sites." The liability protections provided in this act are narrowly tailored to governmental entities from DEP actions. The amendment violates the single subject and original purpose provisions of Article III of the Pennsylvania Constitution by jamming together several unrelated parts under the broad scope of immunity or limited liability. I assert that agritourism and COVID-19 immunity are far too unrelated to satisfy the standards required by the Constitution and the decisions of the Supreme Court on this issue. The amendment being offered will greatly expand this bill to include immunity for agritourism and to provide a broad set of liability protections from activities taken during the COVID-19 pandemic.

The broad liability protection related to COVID-19 will apply only upon a clear and convincing showing of gross negligence, recklessness, willful misconduct, or intentional harm. It will extend to include actions

by manufacturers of PPE; health care workers; health care facilities; State and local government agencies; private, public, parochial, and charter schools, and other institutions; private and public institutions of higher education; and businesses. PPE manufacturers' liability immunity already exists pursuant to Federal law for the manufacturers of PPE. The Families First Coronavirus Response Act extended immunity for manufacturers of masks and respiratory products. Additionally, on March 17, 2020, an administrative declaration was issued by the U.S. Department of Health and Human Services (DHHS) providing immunity for manufacturers, suppliers, and administrators of certain products and technologies used to combat COVID-19. These products and technologies are known as "countermeasures."

Federal law provides compensation for individuals who are injured or killed; the amendment provides no such compensation, unnecessarily harming Pennsylvanians. The Federal Department of Health and Human Services' declaration provides that the countermeasures injury compensation fund is authorized to administer benefits to eligible individuals who suffer death or a serious physical injury as a result of the administration of countermeasures. Providing a new standard for liability may undermine Pennsylvanians' access to benefits in this fund.

The amendment provides virtual immunity for companies that make a business decision to conduct some sort of commercial transaction involving PPE. The amendment lacks standards for product approval or intended use. Federal law provides immunity so long as the countermeasures are approved, licensed, or authorized by the Food, Drug, and Cosmetic Act or the Public Health Service Act. Section 8402 allows immunity without any standards for manufacturing or safety. If a Pennsylvania company that makes straws decides they want to make tracheotomy tubes, this amendment grants unbridled, unsupervised, and unnecessary immunity.

The amendment provides immunity from civil liability for medical care, specifically: "A covered provider...shall be immune from civil liability as a result of any acts or omissions by the covered provider during the proclamation of disaster emergency, absent a showing by clear and convincing evidence of gross negligence, recklessness, willful misconduct or intentional infliction of harm." Additionally, this language provides limited liability for instances of equipment or personnel shortages, or excessive number of patients. Again, a standard of care analysis considers liability under the circumstances; therefore, an overcrowded ER or a shortage of equipment would be considered the standard of care, so long as the professional acted reasonably under those circumstances by a doctor of that same specialty. Similar protection was already provided by the Governor's proclamation on May 6, 2020, where he ordered:

"...neither the Commonwealth nor any political subdivision thereof nor other agencies, nor, except in case of willful misconduct, the agents, employees or representatives of any of them engaged in any emergency services activities, nor, except in cases of willful misconduct or gross negligence, any individual or other person under contract with them to provide equipment or work on a cost basis to be used in disaster relief, nor, except in cases of willful misconduct or gross negligence, any person, firm, corporation or an agent or employee of any of them engaged in disaster services activities shall be liable for the death of or any injury to a person or for loss or damage to property as a result of that activity."

Further, protection was extended through the order to the following:

"I hereby designate the following classifications of individuals as agents of the Commonwealth solely and exclusively for purposes of immunity from civil liability due to emergency services activities or disaster services activities only as related to the Commonwealth's COVID-19 disaster emergency response...Any individual who holds a license, certificate, registration or certification or is otherwise authorized to practice a health care profession or occupation in this Commonwealth, and who is engaged in emergency services activities or the provision of disaster services activities related to the Commonwealth's COVID-19 disaster emergency response pursuant to my March 6, 2020 Proclamation...This designation is without regard for whether such individuals receive remuneration. The aforementioned classifications of individuals (and not the facilities or entities themselves) shall be immune from civil liability and shall not be liable for the death of or any injury to a person or for loss of or damage to property as a result of the emergency services activity or disaster services activity described above, except in the cases of willful misconduct or gross negligence, to

the fullest extent permitted by law. This grant of immunity shall not extend to health care professionals rendering non-COVID-19 medical and health treatment..."

This is unnecessary as immunity for Good Samaritan medical care is already covered under Federal law and State law. If it is the intent of proponents of the bill to provide immunity for good Samaritans/volunteers--as indicated in Section 8404(a)(1)[of Senate Bill No. 1239]: "A covered provider, notwithstanding if the covered provider is compensated for medical care, shall be immune...."--immunity for volunteers already exists. On March 27, 2020, the CARES Act was signed, providing for liability protections for volunteer health care professionals during the COVID-19 emergency response. Specifically, physicians and health care professionals who provide volunteer services relating to the diagnosis, prevention, or treatment of COVID-19 are not liable unless their conduct was that of gross negligence or intentional.

The amendment offers immunity not limited to medical treatment. This section repeats the phrase "An act or omission by the covered provider," which does not always involve care for a patient. Furthermore, the language says "A covered provider that is involved with...medical care...." There are many non-medical situations where actors are involved with medical care where immunity will now be extended, such as: negligent billing of residents/patients, negligent understaffing, negligent violation of safety laws, and negligent billing for reimbursement by the Commonwealth.

The amendment is broad and offers immunity to care beyond the scope of the COVID-19 pandemic. Public schools and other public entities are protected by governmental immunity both under sovereign immunity and local government immunity. Further, the immunity provided in this bill extends to private entities as well as public entities. The only reasonable exception to this immunity is the real estate exception. However, to assert this exception to governmental immunity, one must prove that a material defect in the real estate existed that was the cause of the COVID-19-related injuries. COVID-19 is not a material defect in real estate. Failure to clean properly is not a material defect in real estate.

A common case we have heard cited by school boards as a reason to support a COVID-19 immunity provision is *Brewington v. City of Philadelphia* 199A.3d 348 (Pa. 2018). *Brewington* involves whether pads should have been placed on a gymnasium wall. Because there were no pads, a child ran into the wall and sustained a concussion. That scenario has nothing to do with COVID-19 and, as the Supreme Court made a point of saying, it does not herald a sea change in interpretation of the real property exception to governmental immunity. It is a fairly unimaginative application of settled law to unique facts. If anything, *Brewington* underscores all of the core principles in this area: the general rule of immunity; the narrow exception for negligence in care, custody, and control of real estate; and, no liability for negligence that was facilitated or framed by the real property--the injury has to have been caused by the real property itself. *Brewington* is an ideal example of what it means to be injured by dangerous conditions of real estate; COVID-19 is not a dangerous condition of real estate.

The PRESIDENT. The Chair recognizes the gentlewoman from Mercer, Senator Brooks.

Senator BROOKS. Mr. President, it is for the very reason of the over 7,000 cases across Pennsylvania that I stand in support of this amendment. To imply that this is about helping rich corporations? My goodness, I am just in disbelief over hearing that. This is about helping people, people who are working in our grocery stores or having to go to work every single day. People who are working in our emergency rooms or our teachers in our classrooms. People who need PPE, who need precious protection, who we are relying on so heavily.

Mr. President, I have the privilege to represent a district blessed with incredible manufacturers. As I witnessed their extremely nimble and noble response to this pandemic, I understood the importance of offering COVID-19 liability protections for these civic-minded businesses. Acting upon that objective, I was privileged to be a cosponsor of pandemic protection legisla-

tion with Senator Baker, Senator Phillips-Hill, and Senator Stefano. Our legislation has language that reflects the language and intent of this amendment. In my district and across the Commonwealth, as COVID-19 started to spread, businesses stepped up to answer the call when we were in desperate need of personal protective equipment. Thousands of manufacturers reinvented themselves quickly, creatively, and at their own expense to produce PPE for our hospitals, frontline workers, and so many Pennsylvanians when supplies fell far short of demand. This legislation will help protect many of these unsung heroes of the pandemic. I can assure you that it is not designed to protect bad actors and those who exhibited gross negligence. To the contrary, it protects those who acted in good faith to respond to an unprecedented emergency, giving them the freedom to continue to meet the needs of their communities. This legislation will help schools, small businesses, restaurants, and frontline workers, including doctors who may have to travel to a neighboring county where the needs are greater. It is difficult to identify the many Pennsylvanians who did their part to provide help and healing.

In closing, Mr. President, I just want to thank the thousands of Pennsylvanians who have given of themselves without hesitation or expectation of reward and have sacrificed precious time with their families. Mr. President, it is because this pandemic is growing so exponentially that we need this amendment. Thank you.

The PRESIDENT. The Chair recognizes the gentlewoman from York, Senator Phillips-Hill.

Senator PHILLIPS-HILL. Mr. President, I thank the gentlewoman from Luzerne County for offering this amendment to House Bill No. 1737 to provide pandemic liability protection if the Centers for Disease Control and State health guidelines are followed. It makes sense to protect the entities that have been trying to protect the public. This amendment provides protections to small businesses. This measure will guard schools, healthcare providers, farmers, and manufacturers that produce personal protective equipment from facing lawsuits during the COVID-19 pandemic as long as those entities are following CDC guidelines for mitigation efforts.

Locally owned businesses are struggling to get up and running under the weight of prolonged shutdowns and limitations. Our healthcare workers are fighting to keep our communities healthy. Our school districts, colleges, and universities are providing much-needed instruction for our students. The last thing any of these entities need is to worry about being sued, despite following all public health guidelines. Without these much-needed protections in place, taxpayers could be dealt a higher property tax bill, hospitals could go into bankruptcy, and small businesses could be shut down, despite doing everything they have been asked to do by public health officials.

Mr. President, before my tenure as a legislator, I was a school board director. What I can tell you is that school boards across the Commonwealth have warned that, without COVID-19 liability protections in place, school districts could be financially crippled or shut down. Public schools have been working really hard to resume in-person instruction as the COVID-19 pandemic continues. Despite all of their planning and preparation being done in accordance with State and Federal guidance, there is no guarantee that public schools can prevent any and all potential exposure to COVID-19. They need enhanced protections during this

time from frivolous and opportunistic lawsuits alleging exposure to this virus. School leaders fear it is not just a perception, it is reality. Because we know that even unsuccessful lawsuits will result in increased spending, that will result in increased local school taxes and school budget cuts in the future that could severely, negatively impact the opportunities and education that our students receive.

Mr. President, I urge my colleagues to join me in casting an affirmative vote for this amendment to provide COVID-19 liability protections for healthcare providers, small business owners, manufacturers of PPE, school districts, colleges, universities, government service providers, and farmers. All of those entities have worked hard to protect the public by adhering to public health recommendations.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentlewoman from Allegheny, Senator Lindsey Williams.

Senator L. WILLIAMS. Mr. President, I rise in opposition to this amendment. Our brave frontline workers have asked for a number of things during this pandemic. They have asked for more PPE, testing, and more safe and secure workplaces. They have asked for people to wear masks, something that people on this Senate floor cannot even do. They have asked for people to stay six feet away and limit their gatherings. They have not asked for restrictions on their ability to hold their employers accountable. Thank you.

The PRESIDENT. The Chair recognizes the gentlewoman from Montgomery, Senator Muth.

Senator MUTH. Mr. President, I will be brief, since my colleague, Senator Lindsey Williams, so succinctly summed up much of what I wanted to say, and I echo her sentiments. The calls that have come to my office, the hours I have spent on ZOOM calls with first responders, frontline workers, they are asking for real protections. To paint this legislation and this amendment as an effort to provide protections for any of them is simply irresponsible. This is not. We have not given anyone hazard pay. We cannot even manufacture PPE, except for a small couple of places. We have not met the needs of this virus before this recent spike. This body did nothing to help these people since then. So, today, 7,000 new cases, and this is our response? I will not have my name signed onto that. Absolutely not. Then to jam it into something, as Senator Schwank mentioned, that could have been helpful to our farmers who have been asking for that part of this bill. It is 6 o'clock on a Thursday night and here we are in a pandemic and this is what we are doing.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Chester, Senator Dinniman.

Senator DINNIMAN. Mr. President, this is a concern, and I hope Senator Langerholc will speak to this concern. When Senator Langerholc and I had meetings with higher education and school districts - public, religious, private, charter - they all asked for legislation that would give them protection. What they were concerned about is, if I am a religious school, whether it be a parochial school, a Jewish day school, an Islamic school, the university that is private, that they do not have current protection and they are in very difficult situations in terms of being sued.

Second, the public school systems, through the Pennsylvania School Boards Association, has written to each of you and has called for legislation that would protect them. You would argue

that they are already protected, but as a result of a number of court cases, that protection is questionable. I think before a vote is taken on this, I would ask the Majority chair to summarize the discussions and pleas that were given to us, and I would ask Senator Baker--excuse me, the fine person from Luzerne County--who was given similar pleas by the Pennsylvania School Boards Association, by our Catholic community, our Jewish community, and other communities about religious schools to answer whether this bill will protect those schools. I understand, and I am not arguing that we should have responded far earlier to those who were on the line, who were victims, who should have received hazardous pay in the first place. Senator Muth and Senator Lindsey Williams are right, we should have taken care of those people. We were wrong not to. But we need to clearly understand whether, by voting this bill down, we are hurting the schools of this Commonwealth.

In the hearing that both Senator Langerholc and I had, our most recent hearing, what school after school said is that one reason they cannot open to the students is because of their fear of suit. Are we depriving then those students who are not learning online? Are we depriving a whole group of students who are in the most--who are going to be 8 to 12 months behind, some of the poorest and most vulnerable students in this Commonwealth, of receiving an in-person education if we do not pass this legislation?

So, I am simply transmitting to you what my understanding of the hearings are. I am not an attorney, but I would hope, and I ask the Majority chairs of the Committee on Judiciary and the Committee on Education to share with us what we were told. It is my recollection, my interpretation, that school after school, public schools, said they were afraid to open unless additional liability was protected. Our religious schools said they did not feel they had any protection. Universities, the Chancellor of the University of Pittsburgh, if my memory serves me right, made a direct and personal appeal to the Members of the Committee on Education about his fear if some protection was not given.

In fact, the original bill that we are not considering today, the original bill that Senator Baker had that came out of the Committee on Judiciary, that bill was going to be changed and amended to provide the schools with this protection. So, I think we have to understand this, and I urge the two chairs of those committees to tell me, or tell all of us, whether my fear of what would happen to the schools and my fear that more children will not be educated is exactly what we heard and if my interpretation is correct, because we have to balance the two out. The criticism of this bill, my concern is not--we will solve agritourism, that is for sure when we come back--but I do not want to see more kids kept out of school. I think we need to find an answer to this and, hopefully, we will find it out before we have to vote.

Thank you, Mr. President. Thank you for letting me ask that question. Unfortunately, we cannot interrogate people and ask the question directly through my sitting here in West Chester, Pennsylvania, doing this virtually. So, hopefully, they will respond. I can see the two of them, and I urge you and ask you to respond, please.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Cambria, Senator Langerholc.

Senator LANGERHOLC. Mr. President, I rise to support this amendment and to echo the comments of the Minority chair of

the Committee on Education. We have been dealing with this issue for months. I have met with superintendents across this Commonwealth, not only in my own district but from the east to the west of many of the Members' districts, and they have all told me the same thing, that is what they need: liability protection. They yearn for that. They got little to no guidance over months of this pandemic, or when they did get guidance, it was walked back at the eleventh hour. We have a chance, tonight, to do something--yes, tonight at 6 o'clock on a Thursday evening--something that will truly make a difference in the lives of our students of this Commonwealth who do not know where they are going, who do not have the direction. This will give peace of mind to our education leaders, superintendents, and school districts to know they are hearing one voice here of what they can do. Because they have not heard it. They have heard differing opinions, differing things from all across the board saying you do not need liability protection because you are covered by the immunity laws which, in part, I will admit is accurate. This additional protection is what they need in its guidance, and we have a chance tonight to show true leadership, not inaction. I proudly stand behind my colleague, Senator Baker, thank her for this amendment, and support this and ask for an affirmative vote. Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Lancaster, Senator Martin.

Senator MARTIN. Mr. President, I rise today in support of this amendment, and I can truly say it warms my heart to hear the support for the liability protections for our agritourism-related efforts. I know it has a big impact not only in Lancaster County, but across the Commonwealth. But I do sit back and listen and find some of the discussion points very interesting, and I found very interesting a couple of facts that I want to point out to the people of this Commonwealth and the people in this room.

First and foremost, when we hear about what the needs of our frontline workers are, I want everyone in this Chamber to remember that the Governor, using his proclaimed pandemic-related response powers, granted those liability protections to frontline workers. With the stroke of a pen, he did that. He chose not to extend those same protections to a lot of the facilities that were on the front lines of dealing with this response. I also find great irony in this, for those making policy--good, bad, or indifferent, in those orders that were given in how to respond to this virus--is it not nice to know that there are government entities that are able to declare sovereign immunity for their decisions, some of which were extremely poor, some of which will lead to lawsuits, potentially, against long-term care facilities, even though they were told they were to take positive, stable COVID-19 patients back from hospitals?

So, let us make sure we have our facts straight. This is not about a corporate interest, though the business community does care about the liability issue moving forward, but I have heard more about this issue from our educational institutions, whether they are K through 12, private schools, or colleges and universities. When the general public does not understand why school boards are taking certain actions, and maybe quickly changing them again, or why colleges are only taking a certain percent and then quickly shutting down, one of the number one things that is on their mind are these liability issues. And not from gross negligence. Our hospitals, our long-term care facilities, our educational institutions, why should they not have the same protections

that the Governor and the Secretary enjoy when making decisions and our frontline workers were given by the Governor through the use of his powers? I urge my colleagues to support the amendment.

Thank you, Mr. President.

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

Senator BAKER. Mr. President, to respond to my colleague from Chester County and your question pertaining to, does the amendment include provisions to protect schools? Yes, it does. That is based upon the feedback we received after introducing the original bill, House Bill 1737, Printer's No. 2439. I had many conversations with public school officials, private school officials, and community colleges who are governmental entities, who did not realize whether they would be included, higher education institutions. So, yes, to your point, the amendment does include schools.

I would also like to remind those about the amendment. This is a temporary, targeted, safe harbor, and if you look at the core institutions that have sent letters of support and are part of a coalition, we are not talking about major corporate interests when we are talking about the United Way, the YMCA, or childcare facilities. The list of about 70 organizations that truly believe this is crucial, I would be happy to put on the record who they all are. But it is not corporate entities. These are small businesses, as Senator Brooks said. I will offer one small example of a business in my district. A woman who runs a small salon, shut down for a long period of time, has reopened and is following all of the guidelines from the CDC and extending it beyond what the CDC guidelines are. She shared with me that she is grateful to be reopened and paying her rent, her bills, and her employees. But her fear is, what happens if she is sued? She will be shut down permanently. So, I think we need to put into perspective that this is not shielding people who act inappropriately. This is trying to address the concerns of real-life citizens, small business owners, people in our communities who have reached out, whether it is our school superintendents or the manufacturer in my district that changed a line to create PPE to distribute for free in the community. These are the types of measures we believe are appropriate. If there are bad actors, this is not a pass for bad actors. So, I urge an affirmative vote. Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Monroe, Senator Scavello.

Senator SCAVELLO. Mr. President, I was not going to speak on this issue, but after hearing people speak against it, I felt I needed to say something. All of our small businesses out there that are on the front line that have made all the right decisions, followed CDC guidelines, we are trying to help them by doing the right thing by avoiding frivolous lawsuits. Why would we not want to support those small businesses? Why would we not want to support the childcare providers and all the--I am not going to go through a litany of mentioning all of them. But the healthcare providers that do it right, that follow the CDC guidelines. Why would we not want to support them? The public health directives specify that Federal and State governments are held responsible for any harm that allegedly occurred, this is why we need to protect them.

You know, they are struggling now as it is, and this type of protection at least helps them do the right thing, gives them that opportunity. Public schools, charter schools, institutions of

higher education, I can go on and on, and I think we pretty much mentioned most of them, but this is a way that they can at least know that we are helping them. We are looking over them if they do it right. If they follow the CDC guidelines, they do not have to worry about being sued for something that they did right. That is what we are saying. Do it right, follow the CDC guidelines, and you do not have to worry. Many of these businesses out there right now, like I said earlier, are truly struggling. I hear from these childcare providers on a daily basis. They are always afraid because if a child gets COVID-19, they are worried. They know it did not happen in their place, but at least they know that they could stay open and they could take the right precautions according to the guidelines. I urge the Members for an affirmative vote.

Thank you, Mr. President.

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

Senator COSTA. Mr. President, thank you very much. There has been a good bit of talk about the 7,000-plus individuals who are today experiencing COVID-19 symptoms and diagnoses, and as we talk about this particular amendment, I want to frame it in that space. Someone in this Chamber has argued that this legislation is very specifically designed to help those 7,000 folks, or the folks before them, who have suffered from COVID-19. I would argue, Mr. President, it is the complete opposite. This legislation in no way, shape, or form makes it any easier. In fact, it makes it far more difficult for any individual who is subject to and has contracted COVID-19 to try to be able to make a claim against a business, an employer, or a manufacturer.

Let us talk about the standards. Today, before this amendment gets in, if a person has contracted COVID-19 because they worked at a food processing plant here in Pennsylvania; or they stood shoulder to shoulder providing the food processing work because it was an essential thing that some reasonably believed that we needed to provide hamburger meat for people across this Commonwealth; or they did the work at the assembly line, shoulder to shoulder, without the proper protection, without PPE, without the ability to go home because they felt sick because they were compelled to work, these are the people I am talking about. What we are doing here today is making it more difficult for them to be able to file a claim by raising the standard of proof from a preponderance standard in a normal negligence action to say that it has to be clear and convincing evidence. And oh, by the way, not only do you have to present clear and convincing evidence of negligence, it has to be gross negligence, willful misconduct, recklessness. And oh, by the way, if you meet that standard of clear and convincing, and you meet that standard of gross negligence, you still may have a pass, I will call it a pass, a lessening of their liability. Maybe not a complete pass, but the ability to say, you know what? I thought it was reasonable for me to do what I did and I thought I was doing it in compliance with what the guidelines stated.

Mr. President, that is not what we should be doing for those 7,000 people and the 9,000-plus folks who have lost their lives here in Pennsylvania. As Dr. Levine tells us, by March 31, it is going to be 18,000 people. Those families, those loved ones who will not be able to be successful, maybe, with a workers' compensation claim towards their employer because they were more than generally negligent but they failed to meet the standard of gross negligence, or they could not provide clear and convincing

evidence, you are saying to them that we value the employer's liability concerns more than we value you, your lives, or your family members' lives. That is what this is doing. That is telling the people of Pennsylvania we do not think your life or your family member who lost their life, the 10,000 people, as President-elect Biden talks about, who will not be home at Thanksgiving in Pennsylvania, will not be sharing much of a holiday with their family members because there will be an empty seat there, you are saying to their families, we are going to make it harder for you to put a claim in and be successful when you have what I will call bad actors who, in the standard of law today in civil liability, the negligent standards have been exceeded, they would be successful in that standard, but not under this proposal and not under this law if you allow it to take place. Think about what we are saying to the people of Pennsylvania. We talk so much about our frontline workers and we want to help and assist them, but what you are saying to them tonight, if you support this measure, is that you do not think it is appropriate for them and you are making the standard higher and more difficult for them not to be able to receive things along those lines.

Finally, there is a question as it relates to what the Federal government--I included them in my previous remarks that I submitted for the record--there is a Federal immunity program that exists in Washington that creates a fund that is available for those individuals who are able to claim negligence. What we might be doing here today is making it a point that those individuals in Pennsylvania would not be able to access that particular fund when there is negligence involved. That is what we are doing. We are making it more difficult for those Pennsylvania residents to be able to access pots of money that specifically, by this current administration, the Trump administration in Washington that established this program, we are saying to them we are going to make it more difficult for you to access those programs. The program was designed specifically to help claimants, to help individuals who have been impacted. That is what we are talking about. Not just individuals who served in a capacity of an employer and employee relationship, but rather their family members who would have legitimate claims because of the negligence of people who we are talking about here today. Now, granted, most of these people, they are noteworthy in terms of what they have done, particularly those folks who try to develop, in a reasonable, responsible way, something along the lines of being of assistance and helping us, but there are bad actors. There are bad actors on today's standards who will fail to be able to meet this, not be negligent under today's standards, and we are saying to them we are going to let you off the hook because we are going to make it extremely more difficult for you to meet the standard of proof as it relates to negligence, recklessness, or even willful misconduct. I ask for a negative vote.

Thank you, Mr. President.

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

Senator FARNESE. Mr. President, I was not going to speak on this, but I just want to jump in here. The talk about burden shifting, shifting the burden from the victim to the responsible parties of the victim, the idea about changing the standards of negligence, gross to this to that, let us call this what it is: this is tort reform. That is what this is. This is tort reform in the middle of a pandemic. I am sorry, Mr. President, but to sit there and cite

the children and the frontline workers and the needs of this group and that, they are the same people that this Caucus, my Caucus, since March 17, has been pleading with the Majority to help, pleading with them. And this is what we offer them? This wrapped-up tort reform. That is what this is. Because there is no other way to look at it. When you start shifting the burden of negligence, when you go from different standards and then you start tweaking about who has to come forward and shift that burden, there is a phrase for that, and that is tort reform.

I remind this body that years ago, when we did tort reform, we gutted and replaced a good bill for a bunch of junk under the thought that we were going to help people. That is not what this is about. You want to do this, have a hearing. Put it in committee. Let it go through. My goodness, we have had since March to help these people. This cannot be the way that we help them. Because I am going to tell you, Mr. President, it certainly does not help the people who we have been talking about and putting up as heroes for the last 10 months. I am not going to be supporting this.

Thank you, Mr. President.

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

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

**YEA-29**

Argall	Dinniman	Mastriano	Tomlinson
Arnold	DiSanto	Mensch	Vogel
Aument	Gordner	Phillips-Hill	Ward, Judy
Baker	Hutchinson	Pittman	Ward, Kim
Bartolotta	Killion	Regan	Yaw
Brooks	Langerholc	Scarnati	
Browne	Laughlin	Scavello	
Corman	Martin	Stefano	

**NAY-20**

Blake	Farnese	Leach	Street
Boscola	Fontana	Muth	Tartaglione
Brewster	Hughes	Sabatina	Williams, Anthony H.
Collett	Iovino	Santarsiero	Williams, Lindsey
Costa	Kearney	Schwank	Yudichak

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

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

**MOTION PURSUANT TO SENATE RULE 12**

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

Senator CORMAN. Mr. President, as a special order of business, I call up Senate Supplemental Calendar No. 7 and move the Senate proceed to consider House Bill No. 21, notwithstanding the provisions of Senate Rule 12(m)(2).

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

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

**SPECIAL ORDER OF BUSINESS  
SUPPLEMENTAL CALENDAR No. 7**

**BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE**

**HB 21 (Pr. No. 4619)** -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of July 10, 1990 (P.L.404, No.98), know as The Real Estate Appraisers Certification Act, further providing for title of act, for definitions, for State Board of Certified Real Estate Appraisers, for powers and duties of board and for application and qualifications; providing for application and qualifications of home inspectors and home inspectors-in-training and for conduct of home inspection; further providing for reciprocity, for certification renewal, licensure renewal and records, for disciplinary and corrective measures, for reinstatement of certificate or license, for reporting of multiple certification, for surrender of suspended or revoked certificate or license, for penalties and for injunctive relief; providing for remedies for home inspection services consumers, for home inspection contracts and for home inspection reports; and making a related repeal.

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

On the question,  
Shall the bill pass finally?

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

**YEA-40**

Argall	Corman	Laughlin	Schwank
Arnold	DiSanto	Martin	Stefano
Aument	Farnese	Mastriano	Street
Baker	Fontana	Mensch	Tartaglione
Bartolotta	Gordner	Phillips-Hill	Tomlinson
Blake	Hutchinson	Pittman	Vogel
Boscola	Iovino	Regan	Ward, Judy
Brewster	Kearney	Sabatina	Ward, Kim
Brooks	Killion	Scarnati	Yaw
Browne	Langerholc	Scavello	Yudichak

**NAY-9**

Collett	Hughes	Muth	Williams, Anthony H.
Costa	Leach	Santarsiero	Williams, Lindsey
Dinniman			

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

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

**MOTION PURSUANT TO SENATE RULE 12**

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

Senator CORMAN. Mr. President, as a special order of business, I call up Senate Supplemental Calendar No. 8 and move the Senate proceed to consider House Bill No. 1737, notwithstanding the provisions of Senate Rule 12(m)(2).

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

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

**SPECIAL ORDER OF BUSINESS  
SUPPLEMENTAL CALENDAR No. 8**

**BILL ON THIRD CONSIDERATION  
AND FINAL PASSAGE**

**HB 1737 (Pr. No. 4625)** -- The Senate proceeded to consideration of the bill, entitled:

An Act mending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in particular rights and immunities, providing for economic development agency, fiduciary and lender environmental liability protection, for agritourism activity protection and for COVID-19-related liability; and making a related repeal.

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

On the question,  
Shall the bill pass finally?

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

Senator COSTA. Mr. President, very briefly, I think Members on this side of the aisle articulated our position with respect to House Bill No. 1737. I think their arguments made a lot of sense and, to that end, I ask our Members for a negative vote on this piece of legislation at this point in time.

Thank you, Mr. President.

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

Senator BAKER. Mr. President, I am going to offer my remarks on the legislation for the record, and I urge an affirmative vote. Thank you.

The PRESIDENT. Without objection, the remarks will be spread upon the record.

*(The following prepared remarks were made part of the record at the request of the gentlewoman from Luzerne, Senator BAKER:)*

Mr. President, the right to seek, through the courts, remedies for wrongs is fundamental to jurisprudence and justice. It takes extraordinary circumstances for us to consider limitations on lawsuits. Unfortunately, the pandemic has upended assumptions, practices, and traditions across our lives. In nearly every way, citizens and officials were caught underprepared. This was true in health care, in education, in long-term care, and across the economy. Early on, the coronavirus was rightfully termed "novel," which meant that decisions had to be rendered quickly, in the absence of reliable information and valid precedent, and in the presence of conflicting presumptions.

Too many Pennsylvanians have contracted COVID-19. Daily, we confront the mounting cases and number of deaths resulting from the virus. What we do not see are equally saddening numbers for the individuals who recover but suffer temporary or permanent disabilities. That, too, is painful. Jobs, institutions, enterprises, government--all have suffered serious economic harm.

Who are we assisting through this proposal? Take a look at just about every employer in your community. When I talk to struggling

business owners, most are grateful to be open and paying their bills, but all too frequently they express fear that one lawsuit could be their death sentence and close their doors permanently. We also need to consider manufacturers who quickly shifted gears to make crucial products and materials, enabling our health care facilities to keep operating and giving workers there and elsewhere the protection needed so they can do their jobs with a greater degree of safety.

The perception of those supporting this measure should not be clouded by historic disputes over litigation. Check the list of groups advocating this temporary, targeted safe harbor shield. What you will find are core community service groups and institutions, such as the United Way, YMCAs, childcare operators, physicians and dentists, public and private schools, colleges, governmental entities, contractors, and service providers. The list goes on. These represent a vital heart and fabric of our lives and communities. This is as big a need for nonprofits as it is for those who depend on profit to keep going.

Not a day goes by without news about business closures, layoffs, and permanent job losses. If we do not act here to put a tourniquet on the economic bleeding, the fiscal distress felt by families will deepen and the hill of eventual economic recovery will be steeper. With the benefit of hindsight, we could have done better in our reaction and response. Even at that, the situation is deteriorating again, and we are struggling for new answers and more effective approaches. This is war against an unseen and uncaring enemy, and such conflicts never go according to plan. There are many steps taken with good intentions that did not yield benefits. This is regrettable. But we must distinguish these actions from ones that rise to the level of substantial negligence or willful misconduct. Good faith actions--those who comply with the relevant requirements--are what we shield from legal assault.

Obviously, we are still deep in the throes of the pandemic. To invest huge amounts of time, energy, and resources in a wave of litigation over lesser matters would be neither productive nor restorative. Those struggling to stay open do not need to incur litigation costs and potentially get hit with judgments atop all the other pressures and stresses afflicting them, especially if they were simply acting in good faith. This bill does not protect bad actors or those operating irresponsibly. Let me be clear, this bill does not protect bad actors or those operating irresponsibly. Moreover, it would represent an unaffordable diversion from the battle we must wage. Already, our courts are struggling to manage their criminal and civil caseloads in these days of public fears and health care restrictions.

Given the immense challenges we are confronting, the action we take today is necessary, appropriate, and responsible. I urge an affirmative vote on House Bill No. 1737.

And the question recurring,  
Shall the bill pass finally?

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

**YEA-29**

Argall	Dinniman	Mastriano	Tomlinson
Arnold	DiSanto	Mensch	Vogel
Aument	Gordner	Phillips-Hill	Ward, Judy
Baker	Hutchinson	Pittman	Ward, Kim
Bartolotta	Killion	Regan	Yaw
Brooks	Langerhole	Scarnati	
Browne	Laughlin	Scavello	
Corman	Martin	Stefano	

**NAY-20**

Blake	Farnese	Leach	Street
Boscola	Fontana	Muth	Tartaglione
Brewster	Hughes	Sabatina	Williams, Anthony H.
Collett	Iovino	Santarsiero	Williams, Lindsey
Costa	Kearney	Schwank	Yudichak

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

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

**ANNOUNCEMENT BY THE MAJORITY AND MINORITY LEADERS**

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

Senator CORMAN. Mr. President, if I could just say briefly, for the interest of the Members, there will be no more votes tonight. There will be a Senate Republican caucus at 10 a.m. tomorrow morning either on ZOOM or here in the Majority Caucus Room.

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

Senator COSTA. Mr. President, similarly, Senate Democrats will meet for caucus tomorrow morning in our Caucus room at 10 a.m. or via ZOOM to discuss the matters before us, and we are looking forward to Session tomorrow at 11 a.m.

**ANNOUNCEMENTS BY THE SECRETARY**

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

SENATE OF PENNSYLVANIA  
COMMITTEE MEETINGS  
FRIDAY, NOVEMBER 20, 2020

Off the Floor	APPROPRIATIONS (to consider House Bill No. 2536)	Senate Chamber (LIVE STREAMED)
Off the Floor	RULES AND EXECUTIVE NOMINATIONS (to consider Senate Bills No. 835, 845, 1193, 1214, 1241 and 1350; House Bill No. 941; and certain Executive Nominations)	Senate Chamber (LIVE STREAMED)

**PETITIONS AND REMONSTRANCES**

The PRESIDENT. Senator Tartaglione has submitted remarks for the record. Without objection, the remarks will be spread upon the record.

*(The following prepared remarks were made part of the record at the request of the gentlewoman from Philadelphia, Senator TARTAGLIONE:)*

Mr. President, today marks 5,247 days since the Pennsylvania legislature last raised the minimum wage. That is more than 14 years, and it is far too long.

Mr. President, in a year full of critical junctures for our Commonwealth and for the nation, we are rapidly approaching yet another one—and it will likely be the most critical juncture we have faced throughout our protracted and growingly tedious public health emergency. Since March, Americans and Pennsylvanians have relied heavily on the resources provided to them by the Federal CARES Act, but the money is quickly running out with nothing on the horizon to replace it. Federal jobless benefits, mortgage forbearance, rent subsidies, student loan freezes, and Federal Reserve loan programs for small businesses and local governments are all due to expire by New Year's Day, and prospects for a new round of relief before year's end are dissolving with each day that passes.

Bloomberg.com reported it succinctly yesterday: "Some COVID-19 assistance could potentially be attached to a spending bill needed to avoid a federal government shutdown, but with Congress deadlocked and a White House transition looming, the outlook for another stimulus package this year is bleak." By now, there is no disputing that low-income folks and people of color—including workers whose wages during times of so-called prosperity do not amount to living wages—have borne the greatest brunt of the pandemic-related suffering. They are getting sick at higher rates than other populations and they are most in need of financial relief. That is largely because even in times of historically low unemployment, employers have not found a way to raise wages commensurate with the rising costs of living. Those of us in government—including the Members of the Pennsylvania General Assembly—have not found a way to ensure fair wages for all workers. We have not agreed to raise the minimum wage.

As a result, our lowest-paid workers, our most tenuous and vulnerable workers, had nothing to fall back on when the pandemic hit. They were living paycheck to paycheck and did not have the savings to sustain a loss of work or a reduction of income. They did not have the health insurance to cover them in case they got sick. They did not have the personal leave benefits to cover them if they had to quarantine. So, on the heels of Hanukkah and just in time for Christmas and Kwanzaa, roughly 12 million Americans will lose Federal jobless benefits. Their lifeline will be cut. Meanwhile, their mortgage and rent deferments, and their student loan deferments will be coming due. Likewise, foreclosures and evictions will be back on the table for cash-strapped lenders and landlords. In Pennsylvania, an estimated 480,000 unemployed people will lose Pandemic Unemployment Assistance. For context, that number is about 100,000 more than the current total for Pennsylvanians collecting traditional unemployment compensation.

Mr. President, we can add the numbers any way we want, but they all produce the same result. Pennsylvania is headed for a train wreck economically if Pennsylvanians do not get immediate help. Even if that help arrives, we in the General Assembly must consider and adopt new policies that will better position working families to withstand the next global pandemic, or whatever disaster fate sends our way. We must reverse the growth of income inequality and rebuild the middle class. We must give working families the tools and protections they need to start building their own nest eggs. We must raise the minimum wage to a fair, family-sustaining wage.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Venango, Senator Hutchinson.

Senator HUTCHINSON. Mr. President, a few years ago, a scheme was hatched in this building to put tolls on Interstate 80 in an attempt to fund projects all around this State. There was a huge public uprising by communities, individuals, and businesses across northern Pennsylvania. We realized how that scheme would crush an already hurting economy and break a promise which was made when Interstate 80 was built by the Federal government, and that promise was that Interstate 80 would be a freeway. Let me repeat that word, freeway. We were able to ultimately, at that time, roll back that scheme, but now, unfortunately, the bureaucrats are at it again. Using a stealth board that very few people had ever heard of before, let alone knew that they had such broad-ranging powers, a new tolling scheme was put in motion last week, with no public discussion and input. I have been hearing from trucking companies who heard about this stealth tolling plan after the fact in vague newspaper accounts covering what happened at that meeting. These companies have said this will be another cost added to their operations which they will not be able to pass along to their customers, so it will be another hurt put on the trucking industry here in Pennsylvania.

These trucking companies are wondering, just as I am, why this State, which already has the highest gas tax in the country, needs even more money. There is a basic fairness issue here.



Some new bridges will have tolls on them. Others will not have tolls. Some bridges, which were just recently built without tolling, may be located right next to a bridge that is replaced under this program, and it will have tolls. This is just a money grab by PennDOT. It is not well thought out. It has not been publicly vetted, and I believe it is illegal. It is unfair to communities, some of which will have tolls and others which will not, and it will have disastrous economic consequences on many hurting areas in this State.

Mr. President, I stand in total opposition to this new scheme. I am here today to inform my fellow Members that it is time to take a stand against this scheme, and I look forward to working with them in the future to stop this money grab and unfair tolling grab by PennDOT.

Thank you, Mr. President.

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

Senator COSTA. Mr. President, I would like to provide a few remarks to the gentleman's concerns with respect to, in a broad way, transportation funding. We now know very clearly that we have roads and bridges in Pennsylvania that continue to be deficient, and have been deficient, for a number of years. We have a fiscal crisis looming with respect to a transfer from the Turnpike Commission to PennDOT in the amount of about \$400 million that we have known about and needs to be addressed between now and the end of June 30, 2021, because it deals with that transfer. We have known about that since 2013, and we have done nothing to try to address that. We have done nothing with respect to, or done a small amount, I would say, in terms of removing the proceeds from the Motor License Fund into the budget to help pay for our State Police across Pennsylvania. While we had a high-water mark of \$800 million at one point, we were sucking those dollars out of programs and projects to be able to put that in our General Fund budget because we did not want to address the issue. We now have PennDOT, who has come forward, working with the PPP board to be able to provide a mechanism that allows us to do that and, again, driving those dollars right back into the projects, programs, and the tolling bridges that would be a part of that conversation.

We have a transportation crisis here in Pennsylvania, and we need to address it. When we did this back in 2013 in this Chamber, I remember working with a number of my colleagues, we passed legislation, I believe, 45-5. One of the things we saw very clearly was that it is the roads and bridges, particularly the bridges, and we heard from a lot of organizations across those lines, a number of roads and bridges, in particular, were shuttered, shut down, or had weight limitations. Organizations came to us and said we cannot operate this way. The Farm Bureau and other merchants came to us saying we need to take steps to be able to do that because we cannot get our product to the market, and a coalition was put together to try to address that. That is what we need to do going forward. We have a crisis coming before us and we hear all the time from these individuals. This is just one part of an overall plan that needs to be developed here in Pennsylvania, but we cannot shy away from these types of things to be able to do it.

We believe, and I think a lot of folks believe, in this Commonwealth we have maxed out our ability to utilize the gasoline tax. We have probably maxed out our ability to do other things along the lines of fees that need to be generated. We know we

have limited options available to us. This, quite frankly, in my view, would be a creative option to allow us to be able to channel those dollars raised there to be placed right back into that bridge and facility. That is the approach I think we have to take, as well as many others, to resolve our looming crisis. We cannot keep our head in the sand with respect to what needs to be done. Not just with our roads and bridges, but when you think about mass transit as well. The dollars that are utilized from the different programs, it is central for them to be part of a comprehensive plan going forward that not only addresses roads, bridges, and our highways, but also addresses mass transit, which stands to lose in excess of \$200 million if we do not begin to resolve this crisis we have. Think about our communities. Think about our urban centers, people being able to get to and from work and not having the ability to be able to get back and forth, particularly those people who are working on the weekends and those hours. In my area, in Pittsburgh and Allegheny County, we have a strong healthcare community where we deliver tremendous healthcare services. But folks work around the clock. Not everyone is working 9:00 to 5:00 or 8:30 to 4:30, so we have lots of people working on weekends, in the hospitality community, who are dependent upon the ability to utilize mass transit to get to and from work. If we take that away from them or we reduce it significantly, as we were facing in 2013 when we did Act 89, it would be a detriment to those people and their ability to get to and from work.

We need to talk about transportation funding. It is one of the issues that we have failed to talk about. I will also argue that, in the last 4 years, nothing has come from Washington to assist in that. We generated in Act 89 almost \$2.5 billion. By the way, when we generate revenue for transportation, the ratio of new jobs created is 25,000 new jobs when you talk about per billion dollars that you raise. If you raise \$5 billion through transportation projects, you are talking about a significant amount of jobs. I stood at this podium back in 2013 and argued and articulated with so many others that we needed to make an investment in our roads and bridges to fix them, but also we needed to talk about figuring out a way to get people back to work. That is precisely what these types of things do - they put people to work, they help us resolve situations, they limit the resources from other places being forced to go to other places where the project is and allows the projects and the users to be able to help pay for that. That is the method that we should be looking at, as well as many others as we go forward. I understand the gentleman's perspective and the work he did with respect to Interstate 89 and tolling at that point in time. We are at a different place in time right now as we go forward with respect to our transportation funding needs in Pennsylvania. They are dire needs and we have to address them going forward. I look forward to that being a part of our conversation as we go forward next Session.

Thank you, Mr. President.

## HOUSE MESSAGES

### SENATE BILLS RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives returned to the Senate **SB 845** and **SB 1193**, with the information the House has passed the same with amendments in which the concurrence of the Senate is requested.

The PRESIDENT. Pursuant to Senate Rule 13(c)(2)(i), the bills will be referred to the Committee on Rules and Executive Nominations.

#### **HOUSE CONCURS IN SENATE BILL**

The Clerk of the House of Representatives returned to the Senate **SB 983**, with the information the House has passed the same without amendments.

#### **HOUSE CONCURS IN SENATE AMENDMENTS TO HOUSE BILLS**

The Clerk of the House of Representatives informed the Senate that the House has concurred in amendments made by the Senate to **HB 30**, **HB 770** and **HB 1617**.

#### **BILLS SIGNED**

The PRESIDENT (Lieutenant Governor John K. Fetterman) in the presence of the Senate signed the following bills:

**SB 983**, **HB 30**, **HB 64**, **HB 770**, **HB 942**, **HB 1534**, **HB 1617** and **HB 2293**.

#### **RECESS**

The PRESIDENT. The Chair recognizes the gentleman from Venango, Senator Hutchinson.

Senator HUTCHINSON. Mr. President, I move that the Senate do now recess to the call of the President pro tempore.

The motion was agreed to by voice vote.

The PRESIDENT. The Senate stands in recess to the call of the President pro tempore.

#### **AFTER RECESS**

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

#### **RECESS**

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

Senator CORMAN. Mr. President, I move that the Senate do now recess until Friday, November 20, 2020, at 12:20 p.m., Eastern Standard Time, unless sooner recalled by the President pro tempore.

The motion was agreed to by voice vote.

The Senate recessed at 10:59 p.m., Eastern Standard Time.