NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 20, 2021

3:12 p.m.

REGULAR SESSION

SENATOR SHELLEY B. MAYER, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

P R O C E E D I N G S

ACTING PRESIDENT MAYER: The Senate will come to order.

I ask everyone present to please rise and recite the Pledge of Allegiance.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

ACTING PRESIDENT MAYER: In the absence of clergy, let us bow our heads in a moment of silent reflection or prayer.

(Whereupon, the assemblage respected a moment of silence.)

ACTING PRESIDENT MAYER: Reading of the Journal.

THE SECRETARY: In Senate, Monday, April 19, 2021, the Senate met pursuant to adjournment. The Journal of Friday, April 16, 2021, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT MAYER: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: Senator Gianaris

moves to discharge, from the Committee on Labor, Assembly Bill Number 2681B and substitute it for the identical Senate Bill 1034B, Third Reading Calendar 119.

ACTING PRESIDENT MAYER: The substitution is so ordered.

THE SECRETARY: Senator Breslin moves to discharge, from the Committee on Insurance, Assembly Bill Number 5379 and substitute it for the identical Senate Bill 4326, Third Reading Calendar 480.

ACTING PRESIDENT MAYER: The substitution is so ordered.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Gianaris.

SENATOR GIANARIS: Madam President, on behalf of Senator Savino, on page 29 I offer the following amendments to Calendar 581, Senate Print 4102, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MAYER: The amendments are received, and the bill shall retain its place on the Third Reading Calendar.

Senator Gianaris.

SENATOR GIANARIS: I now move to adopt the Resolution Calendar, with the exception of Resolutions 618, 622 and 631.

ACTING PRESIDENT MAYER: All in favor of adopting the Resolution Calendar, with the exception of Resolutions 618, 622 and 631, please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAYER: Opposed, nay.

(No response.)

ACTING PRESIDENT MAYER: The Resolution Calendar is adopted.

Senator Gianaris.

SENATOR GIANARIS: Let's start with Resolution 631, by Leader Stewart-Cousins, read that resolution's title, and recognize the leader on the resolution.

ACTING PRESIDENT MAYER: The Secretary will read.

THE SECRETARY: Senate Resolution

631, by Senator Stewart-Cousins, mourning the untimely death of DMX, legendary New York rap icon and talented actor.

ACTING PRESIDENT MAYER: Leader Stewart-Cousins on the resolution.

SENATOR STEWART-COUSINS: Thank you so much, Madam President.

I rise and I want to acknowledge my coprime sponsor of this resolution, Senator Bailey. Senator Bailey and I claim DMX -- as I'm sure you do, Madam President -- because Earl Simmons, as is his name, was born in Mount Vernon, but we like to say he became DMX in Yonkers.

And he grew up in the 35th District, he grew up in my district. He grew up in the School Street Housing Complex. And even with all of his great success, he remained really committed to the people of both Mount Vernon and certainly of Yonkers. And in everything that I have attended since his passing, there has been nothing but love in the street for X, as he's called.

He was the first hip-hop artist to have his debut album and his sophomore album

reach number one in the same year, and his first five albums also reached number one.

And although he was a rapper, I think that people have to remember he was so much more than that. He was a husband, a son, an actor. He was a father, a friend, fiance. But mostly he was Yonkers, he was East Coast, and he was hip-hop.

He was somebody who no matter where he lived, Yonkers was always present in his soul. And he exuded greatness, he exuded pain, he talked about struggle, he talked about agony, he talked about faith. And he knew all of those things, and somehow it was always watching, you know, watching the evolution, watching him in lightness and in darkness -- but it was always his being available for everybody. I think that makes DMX's impact so strong.

Through his music and his life, he challenged us to find purpose. In his song "Slippin'," DMX said "See, to live is to suffer, but to survive, well, that's to find meaning in the suffering."

DMX was never ashamed of where he came from and what he went through. He spent

about five years in another place in my district, Children's Village, on and off. And he never loved the experience, because that's -- it's always difficult when you're separated from your family. But nonetheless, he continued to go back to Children's Village to help to give guidance to young people who had to call Children's Village their home.

He also continued to come back to another place in my district, the Nepperhan Community Center, where he would offer families turkey dinners at Thanksgiving. And again, whether he was donating money or just walking down the street giving people ice cream, I just never met anybody who hasn't talked about DMX interacting with them in nothing but an open way.

I had a chance to meet him many years ago when he was just beginning to rise. He was at a music shop in Getty Square in Yonkers, and there he was, signing autographs, inspiring everybody. He had the -- his dogs in the back, but he was just totally there and was always present when he walked in our community.

We know that DMX had his demons. We know that DMX suffered like so many from

addiction. And we know that a large part of his life he was criminalized for that. I'm always happy that in this chamber and at this juncture we have understood the disease of addiction and want to believe that we can help to save lives by making sure that it is addressed as a disease.

But for DMX, you know, although he left us too soon, I want to say that the job he did, the job that he did that gave inspiration to so many kids, so many young people, so many adults who have seen the same struggles and have tried to fight through the most difficult times, DMX still, still offers an amazing path, inspiration: You could be totally different, you could do different things, you could sound rough and raspy, you could be hard, but you could be soft. You could be so many things and never, ever, ever be all that you can be. You'll never be everything.

But we who have benefited from what he brought to us in the positive will be able to make sure that his life and his legacy are remembered with all of his aspects, but also very, very fondly for all that he did.

As we celebrate the life and the

legacy of Earl Simmons, DMX, I'm reminded of a quote he said that all of us in this chamber could use a reminder of while we serve the people we represent. He said: "You can't speak for the people unless you're able to walk amongst the people."

He never failed, no matter how high he got, to walk amongst the people. And because of that, the people will never forget DMX.

Thank you, Madam President.

ACTING PRESIDENT MAYER: Thank you, Leader Stewart-Cousins.

Senator Bailey on the resolution.

SENATOR BAILEY: Thank you, Madam President.

And let me thank our great Majority Leader, Andrea Stewart-Cousins, for not just introducing this resolution and allowing me to be to be the coprime sponsor of it, but for speaking about DMX, Earl Simmons, in such an eloquent fashion, Madam Leader, one that transcends generations.

You know, we used to commemorate Black Music Month. And the last time we were able to do that was June 17, 2019. I recall it

vividly, because we all got to speak about how music affects us.

And DMX, as an artist, came around at a pivotal time for me. I was in high school. But Mount Vernon-born, Yonkers-raised Earl Simmons, he affected the lives of so many people. Passed away far too soon at the age of 50.

And during that hospitalization, so many of us, we prayed for him like he prayed on his music, like he prayed in his music. On every DMX album there was a word of scripture, there was a gospel tract, there was something to show his connection and his faith. And we as his fans, his supporters, people that never met him but felt that we knew him, we tried to will him through it, but we weren't able to.

But when he passed away, the neighborhood, the entire neighborhood was playing his music so loud. And they were playing different songs. But for some reason, Madam President, they all seemed to fit together. They blended beautifully together, because that's kind of what hip-hop is to so many of us. It's what it is to me.

And I was speaking about, earlier,

about me in high school, right? And I remember the first time I heard DMX. And it was either on HOT 97 or it was a DJ Clue mixtape, I can't remember. But back in those days we had to wait for the music to come out. We couldn't just go on after music and pull it up. Right?

But it was a song called "24 Hours to Live." And what stood out to me was that he was a featured artist on this song, but he was given the last verse. Usually the last verse is reserved for somebody more established, more prominent. But DMX's raw energy -- and on that line, he said "Out with a bang, you will remember my name." And we certainly do remember DMX's name and his legacy.

And I remember that. And I was like, Wow, this guy's different. Because at that point in hip-hop we were in the, quote, unquote, shiny suit era. Right? There was a lot of rap about -- about -- speaking about opulence and wealth and decadence. And then you heard gritty or raw, but powerful, an emotional voice, and it made you stop and think like, Who is this? He's just different.

He was uniquely New York, with

references such as 5411s, which is a reference to a pair of Reebok Freestyle sneakers, which were 49.99 plus tax. He referenced so many geographical areas within the five boroughs and Westchester County.

And as far as hip-hop goes, being from the Bronx, the birthplace of hip-hop, he put Yonkers on the map. I had people in the North Bronx who were talking about they're from Y-O. And I'm like, Hey, you're not from Yonkers. I know where you live. You're from the North Bronx.

But it was that sound, it was that intensity, it was that charisma that made people want to be down with DMX.

I went to the Bronx High School of Science. In 1998-1999, kids at Bronx Science were talking about "Get at Me Dog" and "Money, power, respect is the key to life." And these were kids who weren't big hip-hop fans, but there was just something about DMX that drew them in.

You had Intel Science Talent Search winners talking about "stop, drop, open up shop." It was just amazing.

And so many people, they talked

about -- they used to talk about Westchester County as upstate, Madam President and Madam Leader. But upstate in 1999, when he performed at Woodstock -- and you can look at the clip on the internet. He moved a crowd of about 100,000 people who knew every single word to "Ruff Ryders' Anthem." He was a hip-hop rock star.

And I remember a day post-session last year, we were up here for a July session on July 22nd, and there was a Verzuz. It was something that's been put together by Swizz Beatz and assembled into -- in the era of COVID-19, for us to be able to have some sort of music. And the DMX versus the Snoop Dogg Verzuz was something that was must-see TV. Members and staffers and a lot of people, everybody was talking about that one. I remember watching that one last year up here, and it brought so many people together.

He was ahead of his time when it came to honesty and openness about who he was. We tell people to speak their truths and be their authentic selves, and sometimes it's too raw sometimes for us. But DMX had no problem

articulating that in his music, and did so unabashedly and boldly. And I think about his skill as an MC.

He was way more than just a guy who barked on records. He had significant technical rhyme skill, internal rhyme scheme. He would change up his flows in songs. My friends and I, we were in college, we would analyze certain songs and the meanings and the double entendres and the metaphor and the simile that he would use.

He was an incredibly skilled rapper, someone who has not been given credit by people who don't really listen to rap because they think that he's just barking and yelling. But if you pay attention to the music, DMX was a wordsmith ahead of his time.

As I said before, he was given that final verse on songs because he was a burst of energy with his raw talent and skill. I talked about how he switched up his flow in a song called "Stop Being Greedy." And there's a song called "Damien" which was -- kind of illustrated his internal demons, so to speak. And it was a literal conversation with the Devil, but

ultimately good prevailed.

And he talked about "The snake, the rat, the cat, the dog, how you gonna see them if you livin' in the fog?" And the snake is the individual who is, you know, colloquially referred to as somebody who's being not worthy. The rat is someone who is not going to stay to their word. The cat is a regular-seeming person, but the dog, to DMX, was someone who was loyal. So that progression.

See, there's a level of skill and intensity and thought process in his rhyme skills. And "There was Brenda, LaTisha" -- no. He was able to get 46 names effortlessly in a song. And at first when I heard that song, "What They Really Want," I was like, he's just saying names. But listening to it over and over again, that takes a significant amount of skills to be able to rhyme that many names and put it on record. It was incredible.

And 19 years later, there was a social media challenge, the DMX Challenge, which showed -- which went along to the beat of that song. It was -- his lyrics stood the test of time.

Now, on this very floor we speak about the effects of childhood trauma, substance use disorder and how it leads to crime. And we all agree -- at least in this chamber I hope we do -- that we should find a way to stop these causes. We have to do everything that we can to help people recover and thrive so that people do not succumb to these illnesses. The reality is that people -- growing up, nobody wakes up in the morning and decides that they want to feel pain, that they want to have trauma. These are things that sometimes individuals are faced with, but they deal with them. Earl Simmons dealt with them. DMX dealt with them. He lived his authentic truth.

Sometimes we say we want to hear it, but we don't really want to hear it. We tell people we understand the conditions that they live in, but we turn our collective noses up when we hear certain lyrics because they're too raw for us.

Now, quite frankly, DMX talked about a lot of things that we've either fixed in this house, thanks to the leadership of Andrea Stewart-Cousins, or that we still look towards

fixing. When he said in the song "Get at Me Dog" "Nah'mean, I'm just robbing to eat, and there's at least a thousand of us like me mobbin' the street," he talks about actual hunger, the root causes of crime when attempting to survive.

He talked about, in "Who We Be," "The 23 hours that's locked, the one hour that's not, the silence, the dark, the mind so fragile, the wish that the streets would have took you when they had you." We're talking about solitary confinement, the HALT bill that we just did in this Legislature, talking about how spending that much time by yourself, isolated, makes you wonder whether the streets -- what was better for you, the pitfall in the street that you escaped or being incarcerated for that amount of time and being inside by yourself. Those are things that he was telling us about.

The leader spoke about "Slippin'," and there's a song -- and there's a part where he talked about "Damn, was it my fault, somethin' I did, to make a father leave his first kid at seven doin' my first bid." We're talking about the incarceration of young people, raising the lower age, making sure that we don't submit young

people to incarceration at such a young age.

"All I know is pain, all I feel is rain, How can I maintain with madness on my brain," from "Ruff Ryders' Anthem."

From "Do You" he said, "You wanna be me? Here's what you do, grow up neglected by both parents and still pull through." Think about how self-aware that is. And that was in the year 2000. He's obviously grown as a man and as an artist. But in the year 2000 he was able to speak that truth which was so uncomfortable. But we have to sometimes, Madam President, be comfortable with being uncomfortable.

From "Prayer III," "And when it seems like the pressure gets to be too much, I take time out and pray, and ask that you be my crutch. Lord I am not perfect by a long shot, I confess to you daily, but I work harder every day and I hope that you hear me."

But that duality, that's what made him real. Because no one is the same person all the time. We all have our DMX moments. And I know everybody in this chamber has felt: "Y'all gon' make me lose my mind up in here, up in here." I know everybody's felt that. Who hasn't

had a Ruff Ryders' Anthem kind of day? Who hasn't had a day where they're trying to figure out what games are being played and how's it going down.

But who also in this chamber, who has not had a moment where they were slipping, falling and they felt that they couldn't get up? But they got back up. He could hike me up to work out, he could make you think introspectively.

And Madam President, dare I say that anybody that's ever tried to rap along with a DMX song has changed their voice? I don't care who you are, I don't care what song you're singing, you're not using your regular voice if you're rapping along to a DMX song. You're trying to go one octave below, you're trying to get the ground, you're trying to do it -- I've tried not to, intentionally I've tried not to go into the DMX voice, but I can't help it. It is something that was just so specific to who he is.

The praise that he offered was often invigorating. But, I mean we know him as DMX, but to his loved ones, he was just Earl -- father, grandfather, a loyal friend, just someone

who people relied on.

I never actually got the chance to meet him in person. And the one time that I was going to meet him when he was coming back to perform in the City of Mount Vernon, he was coming in as I was leaving and I didn't get the chance to meet him. Everybody that I've ever known that's met him has said that he was incredibly affable, a kind soul, someone who was much more comfortable with those who didn't have as much than he would be with those who seemingly had it all.

Stopped for pictures with everybody. And if you're reading social media and looking at all of the encounters that he's had with people, with perfect strangers -- the one woman who forgave her father for his substance abuse after speaking to DMX one time. Another woman who met him on a plane with her stepdaughter and he had a conversation with her, and they were eventually invited to a concert that he had later on that evening. The time that he mopped the floor of a Waffle House because he saw that the worker at the Waffle House was overly tired. And DMX said, and I quote, "The minute you get too big to mop

up a floor or to wipe a counter, that's the exact minute you have life messed up."

When we think about his name, Earl, in royalty an earl is the third rank of the peerage standing above the ranks of viscount and baron, but below duke and marquis. It's an ancient title that comes from the words "warrior" and "nobleman."

Well, in New York we have our own hip-hop royalty. He's the Earl of Westchester County. He is DMX, he is one of the greatest hip-hop artists that we will ever know, a phenomenal actor, phenomenal for the culture, someone who gave us so much in the hip-hop generation. As a kid who's been raised by hip-hop, I am grateful for not just the accomplishments that DMX has given, but I'm more happy about the impact that Earl Simmons left on the world.

May he rest in peace, and may his memory be a blessing.

Thank you, Madam President.

ACTING PRESIDENT MAYER: Thank you, Senator Bailey.

The question is on the resolution.

All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAYER: Opposed?

(No response.)

ACTING PRESIDENT MAYER: The resolution is adopted.

Senator Gianaris.

SENATOR GIANARIS: Madam President, can we now move on to Resolution 622, by Senator Gounardes, read that resolution's title only, and recognize Senator Gounardes.

ACTING PRESIDENT MAYER: The Secretary will read.

THE SECRETARY: Senate Resolution 622, by Senator Gounardes, memorializing Governor Andrew M. Cuomo to recognize April 20, 2021, in honor of the 244th Anniversary of the adoption of the first New York State Constitution.

ACTING PRESIDENT MAYER: Senator Gounardes on the resolution.

SENATOR GOUNARDES: Thank you, Madam President.

Today is an incredibly important day in the history of our state. On this date in 1777, our state's first Constitution was ratified

and adopted in the City of Kingston.

The Constitution, the first chartering document of the newly declared independent New York, was drafted primarily by prominent founding fathers John Jay and Gouverneur Morris, both of whom would go on to sign the U.S. Constitution in 1787, and Robert Livingston, who represented New York at the Second Continental Congress, was a member of the Committee of Five who drafted the Declaration of Independence, and administered the first oath of office to George Washington in 1789.

The process of drafting the Constitution began almost immediately after the Declaration of Independence was announced in July of '76. The New York Provincial Congress, a committee of colonists who favored independence that began organizing themselves in 1775 to support the war effort, met in the City of White Plains on July 10, 1776, to begin the work of creating a new government now that the Colony of New York had declared itself free and independent.

The work of the Provincial Congress was delayed and disrupted by the imminent

invasion of New York City by British forces. The Congress had to adjourn repeatedly and seek out safer locations away from the British Army, a situation that became more desperate with the Continental Army's defeats across Long Island and New York City and their ultimate retreat across the river to New Jersey.

As winter settled in and the British made camp in New York City, the Provincial Congress fled to upstate, Kingston, to continue their efforts at mobilizing for the war effort and drafting the Constitution.

Finally, on April 20, 1777, 244 years ago, and with only one dissenting vote, the Provincial Congress of New York, renaming itself the Convention of Representatives of the State of New York, adopted and ratified the new Constitution. Remarkably, this new Constitution was not submitted to the general public for ratification or support. The ongoing war made that nearly impossible.

Our first Constitution had 42 sections and clocked in at just under 7,000 words. It included in its preamble the entire text of the Declaration of Independence.

It did not have a formal Bill of Rights, but it did include a right to trial by jury, a right to counsel in felony cases, and a right to due process, as well as prohibitions against bills of attainder and protections of religious freedom and liberty of conscience.

The Constitution made no mention of slavery, nor did it even include a process for future amendments. But it was the first state constitution -- and therefore the first in our nation's history -- to require that legislative representation be based on equal population and that every seven years the apportionment of legislative seats be reallocated based on changes in the population.

It's amazing to me that this is still an issue that we are discussing and debating today when our state's forefathers so easily provided us with a solution some 240-odd years ago.

Our State Constitution was in many ways a precursor to the U.S. Constitution that would be adopted a decade later. For example, looking at the records that we have available of the deliberations and debates, the State

Senate -- this very body -- was designed to be a filter for public opinion much like the U.S. Senate was designed to be "the saucer that cools the tea" that we so often learn about in our social studies classes.

Over the years, our state, the structures of our government, the rights bestowed to our people, and the obligations of those people vis-a-vis their government have changed greatly. In fact, the State of New York has ratified four different Constitutions in its history: 1777, 1821, 1846, and 1894. And in between all those years, the Constitution has been amended hundreds of times.

Now, I could spend hours and hours going through this history in greater detail, but I won't. I will just note one interesting historical fact, that in 1858 our State Legislature approved a resolution calling for a Constitutional Convention for the express purpose of disbanding the entire state government and transferring all governing authority to the New York Central Railroad. They submitted that amendment for ratification to the public, and it failed by just 6,000 votes. We would have quite

a different history if that amendment had actually been passed.

Now, I'm sure many of you here are wondering what's the big deal, why is this so important, why should we care? What is this all about? And the answer is really simple. We tend to place such a premium on discussing our federal Constitution. We talk about it all throughout our education, beginning in elementary school. We talk about the U.S. Constitution as if it were some sort of religious document that holds the eternal truths that support our own personal political views.

We spend so much time debating and discussing the constitutional powers of the federal government -- Congress, the Supreme Court, Presidency -- and yet despite the Constitution's sacred importance to our national civic identity, we often overlook just how important state governments really are.

States -- the laboratories of democracy, as Justice Brandeis reminds us -- have a more fundamental impact on our day-to-day lives as citizens than the federal government ever has and perhaps ever will. And in a world that

depends on an engaged and educated citizenry to fulfill the promise of self-government, what could be more important than starting with the very foundational charter that outlines the rights, privileges, powers and responsibilities of a government that directly affects our lives each and every day?

We should care about our State Constitution and its history because it is the blueprint for a government of, by and for us. The people. New Yorkers.

And so today, April 20th, I want to wish you all a happy 4/20; that is, a happy New York Constitution Day.

Thank you, Mr. President.

ACTING PRESIDENT BAILEY: Thank you, Senator Gounardes.

The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BAILEY: Opposed?

(No response.)

ACTING PRESIDENT BAILEY: The resolution is adopted.

Senator Gianaris.

SENATOR GIANARIS: Mr. President, can we now move on to Resolution 618, by Senator Ryan, read its title only, and recognize Senator Ryan on the resolution.

ACTING PRESIDENT BAILEY: The Secretary will read.

THE SECRETARY: Senate Resolution 618, by Senator Ryan, commemorating the 200th Anniversary of Erie County, New York.

ACTING PRESIDENT BAILEY: Senator Ryan on the resolution.

SENATOR RYAN: Thank you, Mr. President.

While certainly not as catchy as 4/20, I only have 200 to deal with. So it's the 200th anniversary of the founding of Erie County.

At its founding in 1821 Erie County was consisting of just 10 towns and the Buffalo Creek Reservation, which was home to the Seneca, Cayuga and Onondaga Nations.

Today Erie County has many more than 10 towns. It has the City of Buffalo. Approximately 900,000 people live there, the most populous county out of the five-borough area. It's located on the shores of Lake Erie, the

terminus of the Erie Canal. And it helped Erie County grow quickly into a major industrial and transportation powerhouse in the late 1800s.

Today, our county has changed. We are no longer the Gateway to the Western Frontier. It seems quaint to think about it, that that was the gateway to the western frontier not too long ago. And we built a new county, and it's an ever-evolving county with a vibrant economy.

So the county's bicentennial provides us with an exciting opportunity to look back at our history, to remember where we came from. And we in Erie County will spend this upcoming year honoring the hardworking individuals who helped make Erie County what it is over the past 200 years. And we'll celebrate the artists, we'll celebrate the architects who help envision Erie County and helped make us a nationwide tourist destination. And finally, we'll celebrate the present-day Erie County by recognizing its significant role and place today in the State of New York.

And on that note I'd like to thank our county executive, Mark Poloncarz, for his

work leading our community, especially his work during the pandemic. I look forward to joining him and other county residents in a year-long celebration of the county's great history.

Thank you, Mr. President.

ACTING PRESIDENT BAILEY: Thank you, Senator Ryan.

Senator Kennedy on the resolution.

SENATOR KENNEDY: Thank you, Mr. President.

First of all, I want to thank Senator Ryan for bringing this resolution to the floor.

And I rise to also commemorate and celebrate the 200th anniversary of Erie County, New York.

My colleagues have heard me talk about my hometown in this chamber, and not only because I'm proud of the place it is today, but because I understand the centuries of dedication and work that went into building it into the region that it's become. So many individuals and businesses have contributed to shaping our community, as well as moments in history that put Erie County on the map, like the

Pan-American Exposition and our ties to several U.S. presidents, including Millard Fillmore, Grover Cleveland, William McKinley and Teddy Roosevelt.

Over the years, Erie County has served as home for hardworking blue-collar families, business owners, innovators, farmers, thousands upon thousands of immigrants who rooted their futures in Western New York and built our region, over 200 years, into what it is today -- immigrants like my own ancestors, who came to the U.S. from Ireland, Germany, and other areas of Western Europe, some through Canada, in order to find a home in Erie County and live the American dream after fleeing oppression and starvation.

And now, in some cases over a century later, my wife Katie and I continue to raise our own family in Erie County because we believe in all that it offers and we believe in all the potential that it holds.

There's no better way to commemorate the county's bicentennial celebration than by embracing all the businesses, artists and ideas that make Erie County so vibrant. I'm looking forward to participating in EC200 with my own

family, whether that be at the Buffalo History Museum, listening to the Buffalo Philharmonic Orchestra and the credible lineup of speakers who will share their own perspective on the county's storied past, or just sharing stories among friends in the community.

I'd be remiss if I didn't recognize the County Executive, Mark Poloncarz, who's doing a tremendous job not only leading our county in this generation, but in coordinating the entire effort to celebrate the bicentennial, and whose staff has gone above and beyond to protect and inform residents of Erie County during this remarkably difficult year.

With EC200 we're celebrating not only the region but the individuals who make it outstanding, and we're deeply grateful for the county workers who have tirelessly worked hand-in-hand with state leaders over this past year.

My hope is that Erie County continues to expand and grow its footprint as a welcoming, diverse, trail-blazing region, and that as we finally see hope on the horizon, we can celebrate all that our community has to offer

together.

We congratulate once again Erie County on its bicentennial, EC200. Thank you, Mr. President. I vote aye.

ACTING PRESIDENT BAILEY: Thank you, Senator Kennedy.

The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BAILEY: Opposed, nay.

(No response.)

ACTING PRESIDENT BAILEY: The resolution is adopted.

Senator Gianaris.

SENATOR GIANARIS: Mr. President, I didn't realize until today that modern-day Greece and Erie County were both birthed in the same year. And I'm not referring to Greece, New York, I'm referring to the nation of Greece. Both in 1821.

At the request of the sponsors, Mr. President, the resolutions we took up today are open for cosponsorship.

ACTING PRESIDENT BAILEY: The

resolutions are open for cosponsorship. Should you choose not to be a cosponsor of the resolutions, please notify the desk.

Senator Gianaris.

SENATOR GIANARIS: Please take up the calendar.

ACTING PRESIDENT BAILEY: The Secretary will read.

THE SECRETARY: Calendar Number 109, Senate Print 1410, by Senator Rivera, an act to amend the Public Health Law.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT BAILEY: Lay it aside.

THE SECRETARY: Calendar Number 119, Assembly Print 2681B, substituted earlier by Assemblymember Reyes, an act to amend the Labor Law.

ACTING PRESIDENT BAILEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Senator Gianaris to explain his vote.

SENATOR GIANARIS: Thank you, Mr. President.

I want to thank my colleagues on both sides of the aisle for supporting this important measure, which passed the Assembly yesterday and we're taking up for the second time today to match the bills.

We know that people lost their lives over the last year because of inadequate protections in the workplace. And this legislation will require places of employment to have standards that are set by the Departments of Labor and Health to protect workers and customers at establishments throughout the state, and will also give those workers a role to play in monitoring and opining about whether those measures are sufficient in terms of PPE, air circulation, social distancing, all the measures we've come to know and accept over the last year.

There are still places where people work helping us get through the pandemic that are not provided adequate safety, and so this bill will do that. It's called the HERO Act for a

reason, because we lost too many heroes over the last year and we're trying to save lives as we go forward and continue to grapple with what is hopefully the ending of this pandemic over the next several months.

And again, I thank my colleagues because we do have support from both sides of the aisle for this. I do thank them for recognizing its importance and for supporting this bill.

Thank you, Mr. President.

ACTING PRESIDENT BAILEY: Senator Gianaris to be recorded in the affirmative.

Senator Mannion to explain his vote.

SENATOR MANNION: Thank you, Mr. President.

The New York HERO Act turns the lessons of COVID-19 into policies that will protect all New Yorkers, all New York workers, and help the state persevere through similar public health crises in the future.

My prior vocation was a high school science teacher and a representative of teachers and nurses. As the gravity of the pandemic became clear, I watched as learning moved to a remote model. But I was also there as we

cautiously returned teachers and students into the classroom in a world filled with unknowns.

I represented teachers who were cancer survivors, who suffered from multiple sclerosis, who were immunocompromised or who cared for loved ones who were susceptible to the virus. And I represented teachers who were just scared.

They came to work during a global pandemic and did their jobs of educating children. They walked through the classroom doors. Others walked through the hospital doors. They walked through the bus doors. They walked through supermarket doors.

What can we do? We can pass the New York HERO Act, which will minimize the risk to our health and the livelihoods of many. The New York HERO Act requires the state to develop airborne infectious disease policies that include health screenings, face coverings and PPE.

With the return to normalcy within our sights, it is imperative that we prepare for the next public health crisis. Closing our schools and our businesses for prolonged periods of time must be a last resort. The New York HERO

Act is a major leap forward in workplace safety and worker protection.

I want to thank Deputy Majority Leader Mike Gianaris for his leadership on this bill. I am proud to be a cosponsor, and I proudly cast my vote in the affirmative.

Thank you, Mr. President.

ACTING PRESIDENT BAILEY: Senator Mannion to be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar 119, those Senators voting in the negative are Senators Borrello, Boyle, Gallivan, Griffo, Helming, Jordan, Lanza, Oberacker, O'Mara, Ortt, Palumbo, Rath, Ritchie, Serino, Stec, Tedisco and Weik.

Ayes, 46. Nays, 17.

ACTING PRESIDENT BAILEY: The bill is passed.

ACTING PRESIDENT BAILEY: Calendar Number 185, Senate Print 134, by Senator Mayer, an act to amend the Banking Law.

ACTING PRESIDENT BAILEY: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect one year after it shall have become a law.

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Senator Mayer to explain her vote.

SENATOR MAYER: Thank you, Mr. President.

In August of 2019 I read a most disturbing story in the New York Times entitled "Wells Fargo Closed their Accounts, but the Fees Continued to Mount." And it told the story of one man who closed 13 of his checking accounts, got the cash out, and then went about his business. He found out several months later he was charged by the bank $1500 in fees to an account that he thought he had closed.

And he wasn't alone. It turned out that at least with respect to Wells Fargo, there were an estimated $100,000 in overdraft fees over eight months for accounts that were closed.

This is the kind of behavior that affects all of our constituents. And the fact is that under New York law, these so-called zombie

accounts, like we have zombie housing, are not sufficiently regulated.

I felt it was very imperative to protect those I represent and those we all represent by ensuring that New York law expressly prohibited charging fees once your account is closed. And in fact, in reading up about this, all the guidance is: Send a letter to the bank. All the burden is on the consumer. Make sure you solidify the closure.

Well, frankly, the burden should be on the banking institution. Once you have a clear understanding that your account is closed, no additional fees should be charged unless they have to do with an overdraft or something that was previously due.

So this bill finally changes that. I look forward to it passing in the Assembly as well.

And again, in a time of very tough finances for so many of our constituents, we have to speak up for the consumer and speak up for the little guy and the little gal, and this bill does that.

Thank you, Mr. President. I vote

aye.

ACTING PRESIDENT BAILEY: Senator Mayer to be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar 185, those Senators voting in the negative are Senators Akshar, Borrello, Boyle, Griffo, Jordan, Martucci, Oberacker, Palumbo, Rath, Stec, Tedisco and Weik.

Ayes, 51. Nays, 12.

ACTING PRESIDENT BAILEY: The bill is passed.

THE SECRETARY: Calendar Number 224, Senate Print 1843, by Senator Skoufis, an act to amend the Insurance Law.

ACTING PRESIDENT BAILEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT BAILEY: The bill is passed.

THE SECRETARY: Calendar Number 320, Senate Print 989A, by Senator Gaughran, an act in relation to the assessment of property owned by water-works corporations.

ACTING PRESIDENT BAILEY: Read the last section.

THE SECRETARY: Section 7. This act shall take effect immediately.

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Senator Brooks to explain his vote.

SENATOR BROOKS: Thank you, Mr. President.

This bill is the result of work and discussions that have gone on over and over the last four or five years that I have been a member of this great house. New York American Water has provided a level of service and rates that have been excessively expensive to the residents of their service area.

This legislation provides a

mechanism to let us make this a municipal agency, resulting, we believe, in both improved services and reductions in taxes.

Our discussions with New York American Water -- my discussions with them go through today, we spoke with them today. This is the step and the direction we have to take, and I am fully in support of this legislation and vote aye for a better financial future for the residents of Nassau County.

Thank you.

ACTING PRESIDENT MAYER: Senator Brooks to be recorded in the affirmative.

Senator Kaminsky to explain his vote.

SENATOR KAMINSKY: Thank you, Madam President.

I rise today representing approximately 90,000 aggrieved customers of American Water who have been gouged for years paying excessive water rates. Their neighbors in municipal districts just down the street pay a fraction of what they pay. Yet American Water customers complain about brown water and poor service.

It used to be the water bill was the one bill you didn't have to wince when you opened the envelope. But with American Water, that's proven not to be true. To think that affordability, especially on Long Island, has been pushed to the point where people are gouged for water, the basic necessity of life? Well, that's where we are.

And this bill today will help provide much-needed relief. It does two things. One is that much of the bill is a special franchise tax. That would be removed from this bill so American Water customers eventually will not see this on their bill.

And second, and most importantly, it will create the Nassau County Water Authority, which will have it in their power to municipalize the very water systems owned by American Water right now, because it's very clear that a path to municipal water is a way for relief for American customers who have been aggrieved for far too long.

I'm proud to act as the Senate today. Our residents demand action, and that's what we're doing here today, and I vote in the

affirmative.

Thank you, Madam President. And thank you, Senator Gaughran and Senator Brooks, for your support on this bill.

ACTING PRESIDENT MAYER: Senator Kaminsky to be recorded in the affirmative.

Senator Gaughran to explain his vote.

SENATOR GAUGHRAN: Thank you, Madam President.

No one should have to pay four or five times more for water than their neighbor on the other side of the fence who is in a municipal water district. No one should have to possibly lose their home because of the excessive money they owe on their water bill.

Water is a basic human right. And on Long Island there are 125,000 customers who pay water bills that are so high they honestly should be considered extortion.

So today we begin the path to create public water for these people and for all of Long Island who have suffered for too long and have been left behind. By creating the Nassau County Water Authority, we are establishing that

pathway.

And we have to recognize that Long Island, with our sole-source aquifer, with the aging infrastructure for our water systems, with all the emerging contaminants, the cost of water is unfortunately probably going to continue to rise over the years. So that's why this legislation is really the economic, environmental and moral obligation of all of us to pass today.

And I thank the leader, Andrea Stewart-Cousins, for bringing this bill forward, and Senators Kaminsky and Brooks and the staff for all their help on this bill, and I vote in the affirmative.

ACTING PRESIDENT MAYER: Senator Gaughran to be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar 320, voting in the negative:
Senator Skoufis.

Ayes, 62. Nays, 1.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 411, Senate Print 3156, by Senator Comrie, an act

to amend the Public Authorities Law.

SENATOR GIANARIS: Lay it aside for the day.

ACTING PRESIDENT MAYER: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 480, Assembly Print 5379, substituted earlier by Assemblymember Hunter, an act to amend the Insurance Law.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day after it shall have become a law.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 506, Senate Print 1682, by Senator Bailey, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Senator Bailey to explain his vote. I'm sorry, I did not see you.

SENATOR BAILEY: Thank you, Madam President.

I want to thank Majority Leader Stewart-Cousins for bringing this bill to the floor, as well as Committee Chair Senator Pete Harckham for recognizing the importance of this critical bill.

I want to thank my Assembly sponsor, Assemblymember Diana Richardson, for being such a fierce advocate for this in the Assembly and really looking at this bill as an opportunity.

Being able to expand the access to drug courts in judicial diversion programs can only be good for us. Drug courts work not only in terms of fiscal savings, because they save

upwards of $7,000 per person that go, but the success rates, which are more valuable in human capital, are immeasurable.

In the Bronx and in Mount Vernon, I have seen drug courts work. I have seen individuals not just be restored to prior their status, but they've been better because of what's happened in drug court. So expanding the accessibility can only be a good thing.

The second thing is making sure that we treat people with addiction respectfully. And that's changing references of "substance abuse" to "substance use disorder." Because if we're really looking at these matters as health-related problems -- which they are, Madam President -- we should be changing the names in the way that we describe certain things and certain afflictions that individuals have.

I thank my colleagues for supporting this important piece of legislation, and I will be voting in the affirmative.

ACTING PRESIDENT MAYER: Senator Bailey to be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to

Calendar 506, those Senators voting in the negative are Senators Akshar, Borrello, Boyle, Gallivan, Griffo, Helming, Jordan, Lanza, Martucci, Mattera, Oberacker, O'Mara, Ortt, Palumbo, Rath, Ritchie, Serino, Stec, Tedisco and Weik.

Ayes, 43. Nays, 20.

ACTING PRESIDENT MAYER: The bill is passed.

THE SECRETARY: Calendar Number 508, Senate Print 3070, by Senator Sepúlveda, an act to direct the president of the State Civil Service Commission to conduct a study on the current civil service examinations.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT MAYER: The bill

is passed.

THE SECRETARY: Calendar Number 640, Senate Print 5267A, by Senator May, an act to amend the Highway Law.

ACTING PRESIDENT MAYER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Senator May to explain her vote.

SENATOR MAY: Thank you, Madam President.

I want to thank the leadership and my colleagues for bringing forward this bill to honor the late Assemblymember Bill Magee.

Bill served for 28 years in the Assembly, much of it as chair of the Committee on Agriculture. He was a relentless advocate for rural New York, for farmers, and for the people of his district in Central New York. He represented Madison County, as I do, and I always feel he left very big shoes to fill.

His staff and colleagues recall him as humble, quiet, smart and caring. And they say his favorite phrase was "How can I help?"

I had too few opportunities to get to know him, and only near the end of his life, but they were memorable. I remember being at a fundraiser, a benefit for FarmNet, where he revived his lifelong calling as an auctioneer to auction off some of his famous farm-themed neckties for charity. With his skill as an auctioneer, and I think the affection that people felt for him, he managed to drive the prices well into the four figures, which was very impressive to me for a necktie.

I also toured his nursing home where he lived for the last year or so of his life, only to find that he had joined the board of directors as a resident of the nursing home, and he personally guided me around in his wheelchair.

This was a man who never lost sight of his calling as a public servant, and he never stopped asking "How can I help?"

I am pleased we can honor Bill by naming a portion of highway in Madison County for him, near his home. I hope his memory will live

on for a very long time.

I vote aye. Thank you.

ACTING PRESIDENT MAYER: Senator May to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT MAYER: The bill is passed.

Senator Gianaris, that completes the reading of today's calendar.

SENATOR GIANARIS: Can we now move to the controversial calendar, please.

ACTING PRESIDENT MAYER: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 109, Senate Print 1410, by Senator Rivera, an act to amend the Public Health Law.

ACTING PRESIDENT MAYER: Senator Lanza, why do you rise?

SENATOR LANZA: Madam President, I believe there's an amendment at the desk. I waive the reading of that amendment and ask that Senator Mattera be recognized and heard.

ACTING PRESIDENT MAYER: Thank you,

Senator Lanza.

Upon review of the amendment, in accordance with Rule 6, Section 4B, I rule it nongermane and out of order at this time.

SENATOR LANZA: Accordingly, Madam President, I appeal the ruling of the chair and ask that Senator Mattera be recognized.

ACTING PRESIDENT MAYER: The appeal has been made and recognized, and Senator Mattera may be heard.

SENATOR MATTERA: Thank you, Madam President.

I rise today to urge this amendment is germane because the bill-in-chief, S1410, amends the Public Health Law.

For more than a year now, the Governor has amended and suspended dozens of Public Health Law provisions and continues to do so. Not only is my amendment germane, each day it becomes more and more apparent that it is absolutely necessary for us to rightfully reestablish the Legislature as a coequal branch of government.

The Executive bill that was passed by the Senate Majority on March 5th has done

nothing to curtail his power. Yesterday we learned of yet another investigation into allegations of the Governor's abuse of power. The State Comptroller has now issued a referral authorizing the State Attorney General to begin a criminal investigation into Governor Andrew Cuomo's use of state resources in relation to his most recent book.

Well, it's about time. No one should be using state resources for their own political benefit, such as writing a book, particularly when it was for his own personal profit and at the expense of vulnerable New Yorkers who have suffered the most throughout this pandemic.

How are we allowing this Governor to still have this type of authority while under a cloud of multiple investigations? He continues to operate, making decisions for his own political survival, with no checks and balances in place.

We must put an end to this. The bill that my colleagues across the aisle passed did not strip any powers away from the Executive. That has become more clear with each day that

passes. In fact, the Governor is blatantly disregarding the law and has not posted the required justifications for this extension of his own executive orders.

I present to you for the 37th time our amendment that would actually do so. This would actually remove powers from a damaged Executive who continues to inflict harm on New Yorkers and our small businesses. New Yorkers need and deserve better.

For these reasons, Madam President, I strongly urge you to reconsider your ruling and I urge all my colleagues to support this amendment.

Thank you, Madam President. Thank you.

ACTING PRESIDENT MAYER: Thank you, Senator Mattera.

I want to remind the house that the vote is on the procedures of the house and the ruling of the chair.

Those in favor of overruling the chair signify by saying aye.

SENATOR LANZA: Request a show of hands.

SENATOR GIANARIS: Madam President, we've agreed to waive the showing of hands and record each member of the Minority in the affirmative.

ACTING PRESIDENT MAYER: Without objection, so ordered.

Announce the results.

THE SECRETARY: Ayes, 20.

ACTING PRESIDENT MAYER: The ruling of the chair stands, and the bill-in-chief is before the house.

Are there any other Senators wishing to be heard? Seeing and hearing -- Senator Boyle. No?

Seeing and hearing none, debate is closed. The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MAYER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAYER: Senator Boyle to explain his vote.

SENATOR BOYLE: Thank you,

Madam President, to explain my vote.

I would like to thank the sponsor of the bill, Senator Rivera.

This bill would include reports of asthma and other respiratory disease diagnoses for which a rescue inhaler treatment is prescribed by a healthcare provider to be reported in a statewide immunization information database.

It would allow schools, colleges, professional and technical schools, children's overnight camps and summer day camps, commissioners of local social service districts, commissioners of Office of Children and Family Services and WIC programs to access this information so that they are aware that a child has been prescribed a rescue inhaler, much like they do with -- are made aware of blood lead analysis and immunization information.

Quite simply, this will save lives. Right now it's a convoluted system to get the information about which children are required to have these rescue inhalers. This will have the information automatically in the database. And God forbid something happens in terms of an

asthma attack, they should be ready to protect and save this child.

I'd like to also take this opportunity to thank a businessman constituent of mine, a physician who specializes in asthma, particularly with children, Dr. Harvey Miller, on Long Island.

Dr. Miller has been a relentless, passionate advocate for all legislation involving protecting children who suffer from asthma. He's probably called my office once or twice a day for the last 10 years to push legislation such as this bill to protect children. He's made it his lifelong profession and his passion, and I want to thank Dr. Miller.

And in honor of him, I will be voting in the affirmative.

ACTING PRESIDENT MAYER: Senator Boyle to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT MAYER: The bill is passed.

Senator Gianaris, that completes the reading of the controversial calendar.

SENATOR GIANARIS: Madam President, if we can return to motions and resolutions.

On behalf of Senator May, I'd like to call up Senate Print 3396, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MAYER: The Secretary will read.

THE SECRETARY: Calendar Number 418, Senate Print 3396, by Senator May, an act to amend the Agriculture and Markets Law.

SENATOR GIANARIS: I move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT MAYER: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT MAYER: The bill is restored to its place on the Third Reading Calendar.

SENATOR GIANARIS: I offer the following amendments.

ACTING PRESIDENT MAYER: The amendments are received.

SENATOR GIANARIS: Is there any further business at the desk?

ACTING PRESIDENT MAYER: There is no further business at the desk.

SENATOR GIANARIS: I move to adjourn until tomorrow, Wednesday, April 21st, at 11:00 a.m.

ACTING PRESIDENT MAYER: On motion, the Senate stands adjourned until Wednesday, April 21st, at 11:00 a.m.

(Whereupon, at 4:15 p.m., the Senate adjourned.)