NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 30, 2012

3:10 p.m.

REGULAR SESSION

SENATOR LEE ZELDIN, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT ZELDIN: The Senate will come to order.

I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

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

ACTING PRESIDENT ZELDIN: We are joined today by Rabbi Josh Joseph, of Yeshiva University in New York, who will give our invocation.

RABBI JOSEPH: "Who am I," said Moses upon first meeting God, "and how can I possibly take the Israelites out of slavery?"

Almighty and most merciful God, You reassured that leader of leaders, saying, "Moses, you shall never be alone, for I will always be with you."

You answered both questions at the same time, reminding Moses not just of your presence but also of his worthiness.

Moses, a former prince of Egypt and Midianite, doubted himself. Who was he, who had never suffered the pain of his

brothers and sisters, to lead their exodus? But You, Almighty God, knew what qualified him, that as a young man he left the palace to see the servitude and feel the hard work of his people.

You were telling Moses that a leader does not have to just feel the pain of his people so long as he is sensitive to it. You were reminding him that despite his background he had always been with his people in spirit, and so too would You always be with him.

It does not necessarily matter who we are, where we come from, or what we believe. What matters in Your eyes, God, is our sensitivity to the suffering of our neighbors, our brothers and sisters, and our friends.

Life shoulders us with responsibilities, and the most divine thing we can do is to take them on. The lowest, ignore them.

A wise member of our New York State Assembly, President Theodore Roosevelt, shared the same sentiment: "Far better it is to dare mighty things, to win glorious triumphs, even though checkered by failure, than to rank with those poor spirits who neither enjoy nor suffer

much because they live in a gray twilight that knows not victory nor defeat."

Almighty God, bless the leaders of our Senate with the courage to continue to understand the great responsibility they have, the foresight to make policies and statements that will enable all New Yorkers to live lives of fruitfulness and fulfillment, and the strength to stand by their convictions even in the shadow of great doubt.

And let us say amen.

ACTING PRESIDENT ZELDIN: The reading of the Journal.

THE SECRETARY: In Senate, Saturday, April 28th, the Senate met pursuant to adjournment. The Journal of Friday, April 27th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: On page 25,

Senator Valesky moves to discharge, from the Committee on Social Services, Assembly Bill Number 8005 and substitute it for the identical Senate Bill Number 5673, Third Reading Calendar 506.

And on page 27, Senator Grisanti moves to discharge, from the Committee on Finance, Assembly Bill Number 9297 and substitute it for the identical Senate Bill Number 6647, Third Reading Calendar 529.

ACTING PRESIDENT ZELDIN: Substitutions ordered.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Would you call on Senator Breslin, please.

ACTING PRESIDENT ZELDIN: Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

On behalf of Senator Peralta, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause. And that's Senate Number 6530.

ACTING PRESIDENT ZELDIN: So ordered.

SENATOR BRESLIN: Thank you, Mr. President.

ACTING PRESIDENT ZELDIN: Senator Libous, why do you rise?

SENATOR BRESLIN: I have a motion, Mr. President.

ACTING PRESIDENT ZELDIN: Please read.

SENATOR LIBOUS: Thank you.

On behalf of Senator Golden, on page 17 I offer the following amendments to Calendar Number 348, Senate Print Number 4313A, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

At this time, Mr. President, could we please have the reading of the noncontroversial calendar.

ACTING PRESIDENT ZELDIN: The Secretary will read.

THE SECRETARY: Calendar Number 390, by Senator Sampson, Senate Print 1546, an act to amend the Judiciary Law.

ACTING PRESIDENT ZELDIN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50. Nays, 1. Senator Ball recorded in the negative.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 399, by Senator Bonacic, Senate Print 6660, an act to amend the New York City Civil Court Act.

ACTING PRESIDENT ZELDIN: Read the

last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 451, by Senator DeFrancisco, Senate Print 6642A, an act in relation to authorizing.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 496, by Senator Grisanti, Senate Print 6489, an act to amend the Penal Law.

ACTING PRESIDENT ZELDIN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 180th day.

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49. Nays, 2. Senators Duane and Montgomery recorded in the negative.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 506, substituted earlier today by Member of the Assembly Rivera, Assembly Print Number 8005, an act to amend the Social Services Law.

ACTING PRESIDENT ZELDIN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT ZELDIN: The bill

is passed.

THE SECRETARY: Calendar Number 508, by Senator Little, Senate Print 134A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 509, by Senator Little, Senate Print 345, an act to amend the Executive Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT ZELDIN: Announce

the results.

THE SECRETARY: In relation to Calendar Number 509, those recorded in the negative are Senators Adams, Addabbo, Avella, Ball, Dilan, Duane, Gianaris, Hassell-Thompson, Huntley, Krueger, Montgomery, Oppenheimer, Peralta, Perkins, Rivera, Serrano, Squadron, Stavisky and Stewart-Cousins.

Ayes, 35. Nays, 19.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 516, by Senator Stavisky, Senate Print 828, an act to amend the State Finance Law.

ACTING PRESIDENT ZELDIN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number

518, by Senator LaValle, Senate Print 1076, an act to amend the Education Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52. Nays, 2. Senators Montgomery and Perkins recorded in the negative.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 519, by Senator LaValle, Senate Print 1458, an act to amend the Public Health Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 522, by Senator Grisanti, Senate Print 2352, an act to amend the Education Law.

ACTING PRESIDENT ZELDIN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of July.

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 526, by Senator Lanza, Senate Print 3546, an act to establish.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.
ACTING PRESIDENT ZELDIN: The bill is passed.
THE SECRETARY: Calendar Number 527, by Senator Carlucci, Senate Print 4818A, an act to amend the Executive Law.
ACTING PRESIDENT ZELDIN: Read the last section.
THE SECRETARY: Section 3. This act shall take effect immediately.
ACTING PRESIDENT ZELDIN: Call the roll.
(The Secretary called the roll.)
THE SECRETARY: Ayes, 54.
ACTING PRESIDENT ZELDIN: The bill is passed.
THE SECRETARY: Calendar Number 529, substituted earlier today by Member of the Assembly Ryan, Assembly Print Number 9297, an act to amend the Executive Law.
ACTING PRESIDENT ZELDIN: Read the last section.
THE SECRETARY: Section 2. This act shall take effect immediately.
ACTING PRESIDENT ZELDIN: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 531, by Senator LaValle, Senate Print 1809, an act to amend the Education Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 535, by Senator Seward, Senate Print 1682, an act to amend the State Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 548, by Senator Griffo, Senate Print 3641A, an act to amend the Highway Law.

ACTING PRESIDENT ZELDIN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 120th day.

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 555, by Senator Libous, Senate Print 4514, an act to amend the Real Property Tax Law.

ACTING PRESIDENT ZELDIN: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 558, by Senator Seward, Senate Print 6811, an act to amend Chapter 585 of the Laws of 2011.

ACTING PRESIDENT ZELDIN: There is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Ball recorded in the negative.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 559, by Senator Seward, Senate Print 6814, an act to amend Chapter 578 of the Laws of 2011.

ACTING PRESIDENT ZELDIN: There is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Ball recorded in the negative.

ACTING PRESIDENT ZELDIN: The bill is passed.

THE SECRETARY: Calendar Number 561, by Senator Klein, Senate Print 6182, an act to amend the Education Law.

ACTING PRESIDENT ZELDIN: Read the last section.

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

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT ZELDIN: Senator Klein to explain his vote.

SENATOR KLEIN: Thank you,

Mr. President.

Today we have a very special guest in the chamber with us, someone who has courage and commitment and who has spent the better part of the last year fighting for a very important piece of legislation, which she hopes to pass in all 50 states, named for her, Erin Merryn's Law.

I just want to take a couple of moments to share Erin's story because it certainly is a compelling one. And she's someone who took a great tragedy --

ACTING PRESIDENT ZELDIN: Can we have order in the chamber, please.

Sorry, Senator Klein. Go ahead.

SENATOR KLEIN: Thank you.

She went through great tragedy in her life and sort of tried to make it into a positive.

At a very early age, Erin was raped by a next-door neighbor, a friend of the family. Later on in her life, when she was 11, she was sexually abused by an older cousin.

And, you know, she never learned anything in school about what to do when confronted by someone you know. This is not a

stranger who, when growing up, we're taught to be aware of: Don't get into a car with a stranger, don't talk to a stranger. These were family members. These were people who were supposed to be friendly to her, people who were friends of her family.

So Erin has taken on a very important mission and a very important cause. She wants to pass Erin Merryn's Law in all 50 states, which would simply mandate that the curriculum in our schools, starting at kindergarten, actually teach what to do to make sure you're not sexually abused by someone you know, someone who you don't know.

Right now in the State of New York, thanks to Senator Skelos, a law was passed in 1994 which presently mandates in our school curricula around the state the teaching to students as early as kindergarten to prevent being abducted.

So this is not going to be an added mandate or an added cost, this is merely adding the part about making sure to be wary or learn to deal or understand, making sure you're not abused by someone you know or you don't know.

So this is something that I think is very, very important. When you look at the statistics, they're rather devastating. Ninety-four percent of young people who were the victims of sexual abuse, the actual abuser is someone they know.

So it's no longer that individual in some dark alley, there's no longer that individual trying to lure you into a car. In many cases it's people we see and we know and we see every day and trust.

So today this is something important to me and I know it's important to Erin. And I would like to recognize her today in the chamber.

She's someone who has had this legislation passed in Illinois, in Missouri, in Indiana. It's awaiting the signature of the governor in Maine. And hopefully we can make New York State one of those states that passes Erin Merryn's Law.

So thank you, Erin, for being here today.

And, Mr. President, I vote yes. And I'd like to recognize -- I hope the chamber

can welcome and give Ms. Merryn a hand for all of her hard work and dedication.

(Standing ovation.)

ACTING PRESIDENT ZELDIN: Erin, we extend the full courtesies of the chamber to you today.

Senator Klein will be recorded in the affirmative.

Senator Adams to explain his vote.

SENATOR ADAMS: Thank you, Mr. President, just to explain my vote and really commend Senator Klein on this bill.

And just to commend young Erin, you know, it's difficult to turn pain into purpose. And often people go internally when they feel a level of pain instead of reaching out and trying to prevent other people from experiencing that pain.

And, you know, stories like this are so profound. And I think it's important that we use our classrooms for more than just teaching one and one equals two; it must teach some of the challenges, the socialization problems that young people will experience.

So this is commendable. And I

truly thank you, not only for myself as a Senator but as someone who has a son.

And it's heroes like you that make it possible for legislators not to get so far removed in this comfortable environment that we're in. There are real problems out there, and real people like you are giving us some great solutions.

So I thank my colleague for this bill, and I thank you for doing this. We must make all states in this America also have this bill on the books.

Thank you very much.

ACTING PRESIDENT ZELDIN: Senator Adams recorded in the affirmative.

Senator Montgomery to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President, I join my colleagues in complimenting Ms. Merryn. I think that her work is admirable, and hopefully we can spread this success more nationwide.

I'm voting no on this, not because I am not absolutely supportive of the legislation or the intent of this legislation, but I do want

to make a statement about I too have legislation that would require sex education in every school, in every grade, appropriate to every grade from first through twelfth. We do not have that.

I also am a huge advocate of school-based health clinics, where we would have health professionals to speak to young people about all of the aspects of their health, their mental health needs, their nutritional education needs, as well as their sexuality and the sex education.

We do not approach young people in a comprehensive way. Everything is piecemeal for them. And therefore some people, some youngsters will get it, others will never get it, and we never do a thorough and complete job of making sure our young people have all that they need comprehensively.

So I object to this process. That's what I am voting no about.

However, I am all in favor of young people having sex education and all the information available about their sexuality and to protect them and their health.

But I vote no on this bill.

ACTING PRESIDENT ZELDIN: Senator Montgomery will be recorded in the negative.

Senator Savino to explain her vote.

SENATOR SAVINO: Thank you, Mr. President. I rise in support of this piece of legislation.

And I just want to say to Erin Merryn, you're a remarkable young woman who has shown tremendous courage. Where most people would run away and hide, you've chosen to make this your own personal mission.

As I said to you earlier today at the press conference, when I was a caseworker in the city's child welfare administration, the most difficult cases that I dealt with were children who were victims of sexual abuse. Their scars were internal, not external. You couldn't look at them and see the bruises, you couldn't see their broken bones, you couldn't see the evidence of the abuse that they suffered.

But it is a very real suffering that millions of children go through. And the really sad reality is the majority of those children are victimized by people they know and trust -- family members, people who they look up

to, people they would not question.

And when we think about the very small children who are most at risk, they have no other frame of reference. They don't know what sexual abuse is because they don't know what sex is. They don't know what appropriate touching is. They don't know what's inappropriate.

So we need to educate our children, we need to educate our educators. Because as we begin to talk about these things publicly, we're going to have children who begin to self-report about what's happening in their home or when they visit their uncle or when they see their next-door neighbor.

So this has to be a collaborative effort about educating children, educating our communities and trying to cut back on the risks that young children face every day at the hands of people they know and love the most.

So I want to thank you, Erin. I want to thank Senator Klein for bringing this legislation forward, and Assemblyman Dinowitz in the Assembly. And hopefully this will be the next state that adopts Erin Merryn's Law.

Thank you, Mr. President.

ACTING PRESIDENT ZELDIN: Senator Savino will be recorded in the affirmative.

Senator Smith to explain his vote.

SENATOR SMITH: Thank you very much, Mr. President.

Let me rise just to thank my colleague Senator Klein for bringing forth this significant piece of legislation.

To Erin, thank you. That's all I can say to you, just thank you. You are very brave. I don't know how you muster up the strength, given what you have been through, to do this. But to be so magnanimous in your effort for other people, I know God will continue to bless you and your family.

And know that we are going to do the right thing by you. And we know how hard this is for you. You probably remember it night after night. I have a daughter myself, and I don't know if I could even stand to have her sit here and hear this.

This is serious. And I hope people understand how serious this is. This is not a matter of you being here for anything other than the fact that you feel it's the right thing to

do.

So I'm going to vote yes, and know that I will ask all my colleagues as well as others to do so. God bless you.

ACTING PRESIDENT ZELDIN: Senator Smith will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 55. Nays, 1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT ZELDIN: The bill is passed.

(Applause.)

THE SECRETARY: Calendar Number 562, by Senator Flanagan, Senate Print 6694A, an act to establish.

ACTING PRESIDENT ZELDIN: Read the last section.

THE SECRETARY: Section 12. This act shall take effect on the 90th day.

ACTING PRESIDENT ZELDIN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT ZELDIN: The bill

is passed.

Excuse me. The Secretary will again announce the results.

THE SECRETARY: In relation to Calendar Number 562, those recorded in the negative are Senators Duane and Montgomery.

Ayes, 54. Nays, 2.

ACTING PRESIDENT ZELDIN: The bill is passed.

Senator Libous, that completes the reading of the noncontroversial calendar.

SENATOR LIBOUS: Mr. President, is there any further business at the desk?

ACTING PRESIDENT ZELDIN: There is no further business.

SENATOR LIBOUS: Mr. President, you've done such a good job, I'm sure that our colleagues will want you to preside more frequently.

Because if there's no further business at the desk, Mr. President, I move that we adjourn at this time until Tuesday, May 1st, at 3:00 p.m.

ACTING PRESIDENT ZELDIN: On motion, the Senate stands adjourned until

tomorrow, Tuesday, May 1st, at 3:00 p.m.

(Whereupon, at 3:34 p.m., the Senate adjourned.)