NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

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3:22 p.m.

REGULAR SESSION

LIEUTENANT GOVERNOR KATHLEEN C. HOCHUL, President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

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

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

THE PRESIDENT: Today we have Reverend Peter G. Young, of the Mother Teresa Community in Albany, to say a prayer for us.

REVEREND YOUNG: Thank you, Governor.

Let us pray.

By being a Senator you have been accepted into a leadership position so that you can more fully serve the people of New York State.

In this spirit of community, our prayer today will be to better achieve the goal of dedicated representation in the power that is entrusted to all of our legislative leadership.

May you attain your satisfaction in your service and in your constituency and the joy that they are now given by your good work.

Amen.

THE PRESIDENT: The reading of the Journal.

THE SECRETARY: In Senate, Sunday, January 24th, the Senate met pursuant to adjournment. The Journal of Saturday, January 23th, was read and approved.

On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Mr. Floor Leader.

SENATOR DeFRANCISCO: I apologize. There will be an immediate meeting of the Rules Committee in Room 332.

THE PRESIDENT: Immediate meeting of the Rules Committee in Room 332 of the Capitol.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:25 p.m.)

(Whereupon, the Senate reconvened at 3:46 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Mr. President, can we return to the reports of standing committees for the report of the Rules Committee.

ACTING PRESIDENT GRIFFO: We will return to reports of standing committees.

There is a Committee of Rules report before the desk.

SENATOR DeFRANCISCO: Can we please accept the report of the Rules Committee.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Senator Flanagan, from the Committee on Rules, reports the following bills:

Senate Print 1640A, by Senator Klein, an act to amend the Public Health Law;

Senate 2836C, by Senator Flanagan,

an act to amend the Public Health Law;

Senate 3709A, by Senator Lanza, an act to amend the General Municipal Law;

Senate 4743, by Senator Funke, an act to amend the Public Health Law;

Senate 6040A, by Senator Klein, an act to establish; and

Senate 6496, by Senator Valesky, an act to amend the Public Health Law.

All bills reported direct to third reading.

ACTING PRESIDENT GRIFFO: All in favor of accepting the Rules Committee report signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The Rules Committee report is accepted and before the house.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes. Could you now please do the noncontroversial reading of the calendar.

ACTING PRESIDENT GRIFFO: The

Secretary will begin with the active list for today, noncontroversial. Calendar Number 14.

THE SECRETARY: Calendar Number 14, by Senator Flanagan, Senate Print 6383, an act to amend the General Business Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the same date and in the same manner as Chapter 583 of the Laws of 2015.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 22, by Senator Marcellino, Senate Print 6391, an act to amend Chapter 672 of the Laws of 1993.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 25, by Senator Ranzenhofer, Senate Print 6394, an act to amend the Public Authorities Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator DeFrancisco, that completes the reading of the original active-list calendar.

SENATOR DeFRANCISCO: As we speak, a Senate supplemental Calendar Number 5A is being passed out, and he's moving very quickly now to do that. And these are dealing with the bills that we just dealt with in the Rules Committee.

And as soon as that's handed out, I

will ask you to do the noncontroversial reading of Supplemental Calendar 5A. And that is now.

ACTING PRESIDENT GRIFFO: The Secretary will begin the noncontroversial reading of Senate Supplemental Calendar 5A.

THE SECRETARY: Calendar Number 50, by Senator Klein, Senate Print 1640A, an act to amend the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Klein to explain his vote.

SENATOR KLEIN: Thank you, Mr. President.

I rise in support of this legislation. But first, I'll just talk a little bit about the fight that was conducted over the summer on K2.

This summer, unfortunately, can be dubbed -- not only downstate but also upstate,

and every place in between -- the summer of K2. K2 is a synthetic drug known as Spice or Spike, but it's nothing more than poison packaged with clever names like Scooby Snacks, Bizarro and Geeked Up. You can get this poison for as little as $5 at local grocery stores all over the State of New York.

During this fight I met a brave mother, Deirdre Canaday, from Athens, New York, who lost her son, Aaron Stinson, to this poison. Deirdre transformed her pain into advocacy. She's truly someone I consider very, very brave.

This tragedy with her son caused Deirdre to be a one-woman wrecking crew against the poison that we call K2. She actually refers to it as "poison in a candy wrapper," and she is doing everything possible to make sure no other lives are taken.

She's with us today. Deirdre, can you please stand up? I'd love everyone to welcome Deirdre to the chamber and give her a round of applause for protecting everyone.

(Standing ovation.)

SENATOR KLEIN: Aaron, her son, was just 26 years old when he smoked Mr. Nice Guy

with his friends. Unfortunately, Aaron never woke up. Who knows what was in the deceptive baggy, a plant mixture sprayed with unlisted chemicals. K2 is marketed as legal weed, incense, potpourri. But the only thing we know, that it's dangerous and lethal.

Like any 26-year-old, Aaron thought he was having some fun because of these colorful packages sold in delis and corner stores. Instead, his mother Deirdre is left to grieve. To tell his story, she's been traveling all over the state, appeared with myself in the Bronx at Jacobi Hospital, a hospital in my district, appeared in Syracuse with Senator David Valesky at an upstate summit.

In my district, over the summer alone, there were 700 visits within one month and statewide, over the summer, there was over 6,800 people who were hospitalized from K2. Most doctors, most law enforcement don't even know how to handle the situation. They have ugly mood swings, become very violent, erratic, have epileptic seizures. But we know one thing for sure, that's it preying on our young people.

The legislation before you today is

a comprehensive package that was developed by myself, Senator Valesky, and members of the Republican Conference. I think this package is going to go a long way towards finally criminalizing this drug and finally getting these drugs off the street.

The piece of legislation that's before you today is an "analog" bill. This analog law is something that I have passed in the State Senate for the last three years. It's about time that the Assembly has taken up the bill. It's very, very simple. What it does is it allows New York to replicate the federal Analog Law.

Right now when DEA actually finds that a drug that's being manufactured -- remember, most of these things are made in labs -- is mimicking the actual drug, we have the ability on the federal level to actually criminalize it or ban it. By allowing the state to replicate or mimic the federal Analog Law, we can quickly ban all these substances.

I know many of you in this chamber know that we banned bath salts. Then they came to K2. There was something that replicated LSD

last year called Bromo-Dragonfly. We're not going to be done once we actually ban or criminalize the sale of K2.

So I think the way we get ahead of the curve, the way we continue to criminalize these dangerous substances, is by finally adopting an analog law in New York State.

So again, I want to thank you, Mr. President. I urge all my colleagues to vote yes on this very important piece of legislation.

ACTING PRESIDENT GRIFFO: Senator Klein to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

Deirdre, we welcome you to the Senate and extend the courtesies of the house to you.

The Secretary will continue.

THE SECRETARY: Calendar Number 51, by Senator Flanagan, Senate Print 2836C, an act to amend the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 11. This act shall take effect on the 180th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Montgomery to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President, to explain my vote.

This bill, similarly to Senator Klein's bill, is an attempt to deal with the fact that this horrible drug is available so freely in this state. And I certainly agree that we would love to ban it and to make it less possible for people, especially young people, to have access to it.

However, the bill includes, among the illegal entities, one who possesses or has control or abandons or transports. And it also includes criminal sanctions beginning as high as a D felony.

So I think that we do not want at this point in time, though this is a very, very serious issue and the substance is an awful one, we do not want to go down the same road that we

already traveled with the war on drugs that we have been through recently and that we are now trying to correct. And this is a slippery slope in that direction.

So I'm going to vote no and I hope that Senator Flanagan will make the necessary amendments so that we can all support this legislation.

Thank you. I vote no.

ACTING PRESIDENT GRIFFO: Senator Montgomery to be recorded in the negative.

The Secretary will announce the results.

THE SECRETARY: In relation to Calendar 51, those recorded in the negative are Senators Montgomery, Perkins, Persaud and Serrano.

Ayes, 55. Nays, 4.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 52, by Senator Lanza, Senate Print 3709A --

SENATOR DeFRANCISCO: Lay the bill aside for the day, please.

ACTING PRESIDENT GRIFFO: Lay it

aside for the day.

THE SECRETARY: Calendar Number 53, by Senator Funke, Senate Print 4743, an act to amend the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Funke to explain his vote.

SENATOR FUNKE: Thank you, Mr. President.

I want to thank Senator Klein and Senator Valesky and the members of my own conference who have worked so hard on this particular issue.

As we work, ladies and gentlemen, to protect our children from the harmful effects of drugs, we have to work hard to stay ahead of the dealers and to stay ahead of the suppliers who design and manufacture these new drugs each and every day. Therefore, when a new drug is

identified as something similar to a synthetic drug that's already been banned, we have to act on that, it seems to me, right away.

And this particular drug, alpha-PVP, is also referred to as "flakka" or "gravel" on the street. And I'm sure many of you have read the stories about it; it can be snorted, injected, smoked or swallowed, and it has similar effects to methamphetamine, in that it can lead to violent behavior.

And an example of that happened last year. An 83-year-old Florida woman died of injuries sustained after she was brutally beaten by a man who was believed to be under the influence of flakka who attacked her inside her own home.

Last year the DEA arrested somebody in my region, in Livingston County, for possessing six pounds of this compound with the intent to sell. And we have seen similar instances of it growing across the state and across the nation.

So by acting today, I think we are proactively and not reactively dealing with this problem in terms of how we seek to prevent our

kids from having access to these dangerous drugs.

So I want to thank everybody who voted for this last year. I vote aye, Mr. President. I urge my colleagues to do the same. Thanks.

ACTING PRESIDENT GRIFFO: Senator Funke to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 54, by Senator Klein, Senate Print 6040A, an act to establish.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 10. This act shall take effect on the 180th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Klein to explain his vote.

SENATOR KLEIN: Thank you, Mr. President.

This is the second piece of legislation that I introduced in response to the K2 epidemic. This legislation amends the General Business Law and I think provides I hope a chilling effect to any businesses that are thinking of selling K2.

First, it would provide a $2,000 fine for the first violation, a $5,000 fine for the second violation, and finally a "three strikes you're out," where a third offense will result in the retailer's inability to sell cigarettes, alcohol, or lottery tickets. And I think everyone knows that's the lifeblood of any convenience store, grocery store, or bodega.

This is something that's very, very important, because as we saw all over the state, especially in areas in downstate, according to the Governor's Executive Order there was only a $250 fine for actually selling K2 over the counter all over the state. Needless to say, that was the cost of doing business and it didn't stop anyone from selling this nefarious substance.

So I think the combination of the large fines and finally a "three strikes you're

out" will go a long way towards stopping the sale of this substance in grocery stores.

We also have a surrender program that's created that if some businesses want to come forward and surrender this substance, they can.

So I think this is another comprehensive approach which I hope will lead towards the end of synthetic drugs.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Klein to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 55, by Senator Valesky, Senate Print 6496, an act to amend the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator DeFrancisco, that completes today's noncontroversial reading of the Senate Supplemental Calendar 5A.

SENATOR DeFRANCISCO: Thank you. I'd now like to hand up committee assignments.

ACTING PRESIDENT GRIFFO: The committee assignments are received and will be put into the Journal.

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

ACTING PRESIDENT GRIFFO: There is no further business before the desk.

SENATOR DeFRANCISCO: In that case, I move to adjourn until Tuesday, January 26th, at 11:00 a.m.

ACTING PRESIDENT GRIFFO: On motion, the Senate will stand adjourned until Tuesday, January 26th, at 11:00 a.m.

Senate adjourned.

(Whereupon, at 4:01 p.m., the Senate adjourned.)