NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 18, 2021

11:10 a.m.

REGULAR SESSION

SENATOR ROXANNE J. PERSAUD, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

P R O C E E D I N G S

ACTING PRESIDENT PERSAUD: 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 PERSAUD: 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 PERSAUD: Reading of the Journal.

THE SECRETARY: In Senate, Wednesday, March 17, 2021, the Senate met pursuant to adjournment. The Journal of Tuesday, March 16, 2021, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: Senator Salazar

moves to discharge, from the Committee on Rules, Assembly Bill Number 2277A and substitute it for the identical Senate Bill 2836, Third Reading Calendar 555.

ACTING PRESIDENT PERSAUD: 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: Thank you, Madam President.

Amendments are offered to the following Third Reading Calendar bills:

Senator Hoylman's bill, page 23, Calendar 409, Senate 1957;

And Senator Kaplan, page 34, Calendar 597, Senate 5669.

ACTING PRESIDENT PERSAUD: The amendments are received, and the bills shall retain their place on the Third Reading Calendar.

Senator Gianaris.

SENATOR GIANARIS: Please take up the reading of the calendar at this time.

ACTING PRESIDENT PERSAUD: The Secretary will read.

THE SECRETARY: Calendar Number 153, Senate Print 1378A, by Senator Brooks, an act to amend the Real Property Tax Law.

ACTING PRESIDENT PERSAUD: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the second day of January.

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 203, Senate Print 161, by Senator Gounardes, Concurrent Resolution of the Senate and Assembly proposing an amendment to Section 6 of Article 5 of the Constitution.

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 205, Senate Print 436, by Senator Kaminsky, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT PERSAUD: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of November.

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: In relation to

Calendar 205, those Senators voting in the negative are Senators Borrello, Gallivan, Griffo, Helming, O'Mara, Ortt, Rath, Serino and Tedisco.

Ayes, 54. Nays, 9.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 435, Senate Print 1646, by Senator Skoufis, an act to amend the General Municipal Law.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT PERSAUD: Lay it aside.

THE SECRETARY: Calendar Number 437, Senate Print 409, by Senator Biaggi, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT PERSAUD: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day after it shall have become a law.

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 448, Senate Print 4700, by Senator Gaughran, an act authorizing the Village of Upper Brookville to retroactively apply for a real property tax exemption.

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: In relation to Calendar 448, those Senators voting in the negative are Senators Akshar, O'Mara and Skoufis.

Ayes, 60. Nays, 3.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 507, Senate Print 4207, by Senator Addabbo, an

act to amend the Mental Hygiene Law and the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT PERSAUD: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day after it shall have become a law.

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 518, Senate Print 2969, by Senator Harckham, an act to amend the Tax Law.

ACTING PRESIDENT PERSAUD: Read the last section.

THE SECRETARY: Section 2. This act shall take effect July 1, 2021.

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: In relation to Calendar 518, those Senators voting in the negative are Senators Akshar and O'Mara.

Ayes, 61. Nays, 2.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 521, Senate Print 4670, by Senator Parker, an act to amend the Tax Law.

ACTING PRESIDENT PERSAUD: Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 555, Assembly Print Number 2277A, substituted

earlier by Assemblymember Aubry, an act to amend the Correction Law.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT PERSAUD: Lay it aside.

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

SENATOR GIANARIS: Can we now go to the reading of the controversial calendar, please.

ACTING PRESIDENT PERSAUD: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 435, Senate Print 1646, by Senator Skoufis, an act to amend the General Municipal Law.

ACTING PRESIDENT PERSAUD: 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 you recognize Senator Borrello to be heard.

ACTING PRESIDENT PERSAUD: 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 Borrello be recognized.

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

SENATOR BORRELLO: Thank you, Madam President.

I believe this amendment is germane because this particular bill deals with how VFWs and other organizations -- American Legion posts -- have been harmed by the Governor's erratic and unscientific executive orders. Therefore, this bill is there to try and help those folks offset some of those losses caused by the Governor's unscientific way of handling these lockdowns.

More importantly, we are seeing now -- here we are, Day 13 since the Governor's powers were supposedly revoked. It kind of reminds me when I was a kid hearing about the American hostages in Iran, how many days each day that they were held hostage in Iran.

Well, here we are, it's Day 13, still being held hostage by powers that were allegedly revoked nearly two weeks ago.

But not only does it appear that these powers still exist, but the Governor seems to be emboldened by them. As recently as yesterday we saw the Governor say, Well, we're going to let some people, you know, go past the 11 p.m. curfew, and the others, well, we'll see.

He is clearly still using these powers to not only, you know, continue his lockdown and harm our economy but to create basically a diversion from the mounting scandals that we have seen.

In order to really remedy this, this amendment needs to be taken up. We need to vote on it and pass it to truly strip the Governor of that executive authority.

So what else can we do now except notice that right now the only changes that have happened in the last 13 days are the ones that the Governor himself has brought forth. That's why this amendment is not only germane but it's critical that it passes here today so that this Legislature can return to its constitutional

obligation to be a separate, coequal branch of government.

So, Madam President, I respectfully ask that you find this amendment to be germane and pass it today. Thank you.

ACTING PRESIDENT PERSAUD: Thank you, Senator.

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 please signify by saying aye.

SENATOR LANZA: Request a show of hands.

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

ACTING PRESIDENT PERSAUD: Without objection, so ordered.

Announce the results.

THE SECRETARY: Ayes, 20.

ACTING PRESIDENT PERSAUD: The bill is passed. No. No, sorry. Sorry.

(Laughter.)

ACTING PRESIDENT PERSAUD: Sorry. 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 none, debate is closed. The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: Ayes, 63.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 555, Assembly Print Number 2277A, by Assemblymember Aubry, an act to amend the Correction Law.

ACTING PRESIDENT PERSAUD: Senator Akshar.

SENATOR AKSHAR: Madam President,

if you'd just give me one second, please.

ACTING PRESIDENT PERSAUD: Sure.

SENATOR AKSHAR: Madam President, thank you. Through you, if the sponsor would yield for a few questions.

ACTING PRESIDENT PERSAUD: Will the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor will yield.

SENATOR AKSHAR: Thank you, Madam President.

My question, through you, Madam President, is do the terms "solitary confinement" and "special housing unit" mean the same thing to the sponsor?

SENATOR SALAZAR: Through you, Madam President, I'm not sure how Senator Akshar defines "special housing unit." So if you could clarify, that would be helpful.

SENATOR AKSHAR: Madam President, through you, if the sponsor would give me a definition of a special housing unit, in her mind, and solitary confinement, in her mind as well.

SENATOR SALAZAR: Through you, Madam President. The special housing unit, or SHU, is one form of solitary confinement that is used in DOCCS facilities. Typically it means being confined to a small space about the size of an elevator for 22 to 24 hours a day, given no meaningful interaction with other people.

Currently, under the law, there is not a limit to how long someone can be confined in SHU. It could be for months, years, and in some cases even decades.

SENATOR AKSHAR: Madam President, through you, if the sponsor will continue to yield.

ACTING PRESIDENT PERSAUD: Will the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Could the sponsor give me an example of someone who has languished in a special housing unit for years or even decades?

SENATOR SALAZAR: Through you, Madam President, there are about 4,000 people in

segregated confinement in prisoners and jails across New York State, including numerous people who are being held in SHU right now.

For just one example, I recently visited Fishkill Correctional Facility in the Hudson Valley. While I was there, I visited SHU 200, where several men were being held in solitary. I don't feel that I need to name them, but I personally witnessed men being held in solitary confinement in SHU.

SENATOR AKSHAR: Madam President, through you, if the sponsor will continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: The sponsor just used the number 4,000, she was aware of 4,000 inmates who are currently being held in special housing units. Is that what I heard?

SENATOR SALAZAR: Yes.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to

yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Where does the sponsor get that number of 4,000 from?

SENATOR SALAZAR: Well, first, you know, this is approximately 4,000 people who are being held right now. We know, for example, in 2019, through a report that was issued by the NYCLU that in that year alone, more than 38,000 people were sent to solitary confinement in facilities across the State of New York.

Additionally, DOCCS actually on a monthly basis reports -- while the data is limited, they do report the number of people who are being held in SHU on their website on a monthly basis.

SENATOR AKSHAR: Madam President, through you, if the sponsor will continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: The sponsor made reference to, I think, NYCLU. And I'm sorry, it was year -- what year? It was two thousand and -- I'm sorry, what --

SENATOR SALAZAR: Nineteen. 2019.

SENATOR AKSHAR: Okay. The question is in 2019 -- I just want to make sure I understand this, Senator Salazar. In 2019 it is your assertion that some 31,000 people were sent to a special housing unit?

SENATOR SALAZAR: Through you, Madam President. It was more than 38,000 people who were sent to solitary confinement.

And we don't know, you know, the -- which types of solitary confinement. We know that that included SHU, but there are additional forms of solitary confinement that some of those 38,000 people were likely sent to instead.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the

sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Two questions, if I may. The first, in 2019, again, some 38,000 people were sent to -- the sponsor is asserting -- were sent to solitary confinement, as she describes. What was the total prison population during that period of time?

SENATOR SALAZAR: Through you, Madam President, I don't have the exact number of how many people were incarcerated in the state in 2019 readily available to me.

SENATOR AKSHAR: Madam President, through you, if the sponsor will continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Does the sponsor know how many people are currently incarcerated today in the state prison system?

SENATOR SALAZAR: Through you, Madam President. Today, in March of 2021, I'm told that there are approximately 31,000 people who are in DOCCS facilities across the state.

SENATOR AKSHAR: Madam President, through you, if the sponsor will continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Would the sponsor be so kind to look over her shoulder and ask her counsel how many people were incarcerated in 2019 in state correctional facilities?

SENATOR SALAZAR: Through you, Madam President. I think that what the Senator is asking is about the number of people who were at any point in 2019 held in solitary confinement, versus the total number of people who were in DOCCS facilities in 2019.

And so I want to be very clear that in the report that the NYCLU issued in 2019, they were referring to the number of times that people

were sent to solitary confinement. Some of those people were likely sent to solitary more than once, and so that number of more than 38,000 times when people were sent to solitary confinement could include some of the people multiple times, and in fact it almost certainly did.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: That was the point -- it was the point that I was trying to make, Senator Salazar.

So this is -- we're talking now in terms of numbers, but it's your assertion that these were instances of people going to solitary confinement, based on what the NYCLU report said, not necessarily 38,000 separate state prisoners going to special housing units.

SENATOR SALAZAR: Through you,

Madam President, that is correct.

But this is separate from the fact that we know there are approximately, right now, 4,000 people in segregated confinement in prisons and jails across New York State.

SENATOR AKSHAR: Madam President. Through you, if the sponsor will continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: The sponsor made mention of several different types of solitary confinement. Would the sponsor be so kind to educate me on the different types of solitary confinement within the state prison system?

SENATOR SALAZAR: Through you, Madam President, this includes SHU, the special housing unit. Ad seg. It includes keeplock in your own cell, where you can be held for the same period of time, up to -- well, under HALT, it would be up to 17 hours a day. Currently there is not a limit on how long someone can be held in

solitary confinement.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Why would one find themselves in administrative segregation or in a keeplock situation?

SENATOR SALAZAR: Through you, Madam President, it is really at DOCCS' discretion right now. We know of instances where, of course, someone may be disciplined through the use of solitary confinement for committing a violent act.

But additionally, people can be sent to solitary confinement for virtually any reason, for very minor infractions, such as putting up a photo of their family in their cell without permission. You know, not putting their tray away properly. These sort of minor infractions can also have someone sent to solitary

confinement.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Thank you, Madam President.

Where is solitary confinement defined? Where could I look to get that definition?

SENATOR SALAZAR: Through you, Madam President. There are competing definitions for what constitutes solitary confinement.

We define it as forms of segregated confinement where the person is separated from the general population, is held in isolation.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.
ACTING PRESIDENT PERSAUD: The sponsor yields.
SENATOR AKSHAR: Who is "we"? "We define it as," who is we? I'm sorry.
SENATOR SALAZAR: Through you, Madam President. In the bill, at the very beginning of the bill, it states that segregated confinement means the confinement of an inmate and says any form of cell confinement for more than 17 hours a day, other than in a facility-wide emergency, of course, or for the purpose of providing medical or mental health treatment.
SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.
ACTING PRESIDENT PERSAUD: Does the sponsor yield?
SENATOR SALAZAR: Yes.
ACTING PRESIDENT PERSAUD: The sponsor yields.
SENATOR AKSHAR: Let me ask the question a different way.
Prior to authoring the statute, how

was solitary confinement defined? Because much of this bill -- and I'm going to get to my question in just a moment -- much of this bill is being driven by this terminology, doing away with solitary confinement. So I'm curious to know, prior to this bill being authored, how was solitary confinement defined?

SENATOR SALAZAR: Through you, Madam President, I would argue that solitary confinement was not clearly defined before this bill was introduced.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: I wonder if the sponsor would be so kind just to walk me through the history of this HALT legislation.

SENATOR SALAZAR: Through you, Madam President. Before this bill was introduced, there was a settlement agreement in

2014. This bill was introduced to encompass some of the provisions of the settlement agreement, as well as to expand and to codify the provisions of the settlement.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: The sponsor is familiar with The People v. Annucci? I think that's what she's describing in terms of the settlement. Is that accurate?

SENATOR SALAZAR: Yes.

SENATOR AKSHAR: If the sponsor would continue to yield, Madam President.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: And what

specifically came of that class action lawsuit by NYCLU in regards to The People v. Annucci?

SENATOR SALAZAR: So through you, Madam President, the NYCLU settlement resulted in the implementation of policies which minimized the use and duration of confinement in SHUs specifically, although not in other forms of solitary confinement.

It created sanction guidelines, ended the use of solitary only on juveniles, it instituted a presumption against solitary for pregnant people who are incarcerated, and provided for alternative placement for people with cognitive impairment.

However, the settlement agreement of course did not enact into statute laws to incorporate its provisions.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: At the time NYCLU said of the settlement that it was a comprehensive overhaul of the system.

Does the sponsor agree with that assertion?

SENATOR SALAZAR: Through you, Madam President, I do not believe that the settlement was a comprehensive overhaul.

I do believe that it made some progress, but the reason that we are voting on this bill today and why I support this bill becoming law is because I think that this is actually what is necessary in order to address the very serious problems with the use of solitary confinement in New York.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: An inmate that finds themselves in a special housing unit or a

SHU, do you consider them to be in solitary confinement?

SENATOR SALAZAR: Through you, Madam President. Yes, I do.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Do those individuals have human contact?

SENATOR SALAZAR: Through you, Madam President, someone who is held in SHU does have minimal human contact, although under current law, prior to the passage of this bill -- under current law someone can be held in SHU for up to 23 hours a day, more than 17 hours a day, and without any meaningful human contact.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the

sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Are they able to have their property?

SENATOR SALAZAR: Through you, Madam President. It is actually at the discretion of DOCCS whether or not someone who is held in SHU can have their property. They are not required to give them their property while they are held in solitary confinement.

SENATOR AKSHAR: Are they allowed to have --

ACTING PRESIDENT PERSAUD: Senator Akshar, are you asking the sponsor to yield?

SENATOR AKSHAR: I am, Madam President.

ACTING PRESIDENT PERSAUD: Will the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: In the interests of time, I'm just going to ask about several

things that inmates are allowed to have, and maybe I could just get a yes or a no or we could discuss them individually.

Personal visits, legal visits, radios, televisions, commissary privileges, the same meals as inmates in general population, playing cards, books, photographs, tablets, religious material, mental health assessments, packages, mail, legal mail, daily medical sick calls and emergency sick calls, general library services and the law library services, amongst others. Do people in a special housing unit have access to those things?

SENATOR SALAZAR: Through you, Madam President, these are privileges that someone who is held in SHU or solitary confinement could have access to, but it is at the discretion of DOCCS.

Any of these privileges, under current law, can be taken away from someone, they can be held without access to these privileges.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the

sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Thank you, Madam President. I'm having a difficult time making the delineation between a special housing unit and solitary confinement. So could the sponsor just help me through this issue?

I am calling the folks that find themselves to be, with poor behavior, incorrigible, who find themselves in this situation in a special housing unit, keeplock or ad seg -- how does that differ from what the sponsor is describing as solitary confinement?

SENATOR SALAZAR: Through you, Madam President, it is not. All of these are forms of what I would consider to be and what the bill treats as solitary confinement.

SENATOR AKSHAR: Thank you.

Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: How does the current law address these issues surrounding special housing units?

SENATOR SALAZAR: Through you, Madam President, I -- I'm a little unclear on which issues Senator Akshar is referring to.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Will the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Let me try it a different way.

It's my understanding that there was an agreement last year between the Governor and the Legislature in reference to dealing with inmates, both in state facilities and county facilities, who find themselves residing in a special housing unit, ad seg, keeplock.

How does that agreement of 2019

differ from what we're currently doing by way of the bill-in-chief?

SENATOR SALAZAR: Through you, Madam President. The agreement and the regulations that were adopted when the agreement was reached in 2019 do include some of the key points outlined in this bill, but they are not statutory mandates.

They fall short in many areas, one of which -- one difference between the regulatory agreement and this bill is that this bill clearly defines segregated confinement, also regulates and prevents the prolonged use of solitary confinement in keeplock and one's cell in administrative segregation or protective custody.

It also is necessary to prevent alternatives to SHU from becoming the new prolonged solitary confinement.

Additionally, this bill specifically includes special populations and expands that definition to include people up to 21 years of age or over the age of 55, in order to further protect vulnerable populations that were not protected by the regulations.

SENATOR AKSHAR: Madam President,

through you, if the sponsor will continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: In reference to the agreement that was reached in 2019, who was part and parcel to that discussion? And how did you all arrive at the parameters of that agreement?

SENATOR SALAZAR: Through you, Madam President, it was based on a proposal from the Executive and negotiations between the Executive and the two houses of the Legislature.

SENATOR AKSHAR: Madam President, through you, if the sponsor will continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: These were

regulations, not laws, is that correct?

SENATOR SALAZAR: Through you, Madam President. Yes, that is correct.

SENATOR AKSHAR: If the sponsor will continue to yield, Madam President.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Were those regulations crafted by those who would be considered experts in the field of corrections who understand the complexities of running facilities like jails or prisons? Or were they created by bureaucrats in Albany?

SENATOR SALAZAR: Through you, Madam President. These regulations were not created, these regulations -- you know, I -- first of all, I was not directly involved in the process of creating these regulations. They were informed by a number of things.

But most importantly, those regulations are not actually the basis of what we are doing today. What we are doing today and

what is outlined in the HALT solitary confinement bill is based on research. We have data. There is well-documented information about the impacts and the negative impacts of the long-term use of solitary confinement. And that is the basis for the changes in this bill.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Just based off of something that you just said. So the question is, who did you in fact consult with in regards to authorizing this legislation?

SENATOR SALAZAR: Through you, Madam President, those who authored this legislation consulted with people who do have experience working within the system of mass incarceration.

They consulted with -- and I consulted with, as the sponsor of this bill --

many people who have been directly impacted by the use of solitary confinement, as well as what you could call stakeholders, people who work in correctional facilities in New York.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Does the sponsor care just to share who some of those people who work in correctional facilities were that she spoke to?

SENATOR SALAZAR: Through you, Madam President, this included speaking to corrections officers about the bill.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: I just want to make sure I understand the last point.

So you sought the advice of members of NYSCOPBA in authoring this legislation in terms of, you know, arriving at whatever language it is that we're discussing today?

SENATOR SALAZAR: Through you, Madam President, I did not personally draft this legislation. I'm the sponsor of this legislation, but this legislation precedes me and my time in the Senate.

But I do know for a fact that I met with corrections officers, with union representatives, I met with people who work for DOCCS, and I spoke to DOCCS about this bill.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: In reference specifically to the folks who are working within the confines of correctional facilities that you have spoken to, are they in favor or support of this language?

SENATOR SALAZAR: Through you, Madam President. No, they are not.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: In state correctional facilities there are what is known as inmate liaisons. Have you spoken to any inmate liaisons in reference to this language?

SENATOR SALAZAR: Through you, Madam President, I have not personally spoken to inmate liaisons about the content of this bill, although I have spoken to many people who have either experienced solitary confinement firsthand or whose family members have, as well as the

families of people who have died in solitary confinement in our state. Many people who have been directly impacted by the use of solitary confinement.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: How many people have died while in solitary confinement in the last decade?

SENATOR SALAZAR: Through you, Madam President, we don't have the number of people who have died in solitary confinement in the past decade readily available to us.

I would argue, however, that even one person dying while held in solitary confinement for preventable causes is too many.

SENATOR AKSHAR: For the record, I would agree with the sponsor.

If the sponsor would be so kind to

yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Senator, I think you may have mentioned this. And obviously you and I have had this discussion about you traveling the state visiting correctional facilities.

Have you had the opportunity to visit a SHU?

SENATOR SALAZAR: Through you, Madam President. Yes, I did have the opportunity to visit SHU as recently as last month.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: What was the

sponsor's overall perception of that visit, the conditions? If the sponsor would be so kind, if she would just share what it was that she observed or witnessed while she was there.

SENATOR SALAZAR: Through you, Madam President. While I was visiting -- most recently, when visiting Fishkill Correctional Facility, I did go to the SHU. I saw several men who were being held in solitary confinement there. I spoke to them.

One of them, for example, was very distressed. He had been held in there for longer than 15 days, and that was actually confirmed to me by corrections officers. He also mentioned that he didn't have his property with him.

I also had the opportunity, while there, to go into one of the cells in the special housing unit and see the size, that it's a small cell, and also see the very small space that is used for people who are being held in SHU to have some time -- some out-of-cell time while they're in SHU. And it is roughly the size of a fire escape.

SENATOR AKSHAR: Madam President, through you, if the sponsor will continue to

yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: In the discussion with that particular inmate who was being held longer than 15 days and did not have his -- I'm assuming "him." If I'm wrong, just let me know.

If you care to elaborate, did he fill you in as to why he found himself in a special housing unit in the first place and why he did not have his property?

SENATOR SALAZAR: Through you, Madam President. While I did speak to the man who was incarcerated, I also spoke to corrections officers who were there with us, and they confirmed for me that actually in this particular case, the man was being held because he had not taken a COVID test and he had been exposed to COVID-19.

Typically, that means that someone would only be quarantined for two weeks. In this case, the reason that he was held longer was

because apparently during his brief out-of-cell time at the end of that 14 days of quarantine period, he was exposed again.

He still didn't test positive for COVID-19. He wasn't tested, but he was returned immediately that same day to SHU. And so it essentially restarted the clock on his time in SHU.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

SENATOR AKSHAR: So in this --

ACTING PRESIDENT PERSAUD: The sponsor -- the sponsor yields.

SENATOR AKSHAR: I'm sorry, Madam President.

So in this particular instance this inmate was not being held in a special housing unit for behavioral issues, he was being housed because of COVID-related issues?

SENATOR SALAZAR: Through you, Madam President. It's possible that originally

he was held for disciplinary reasons. I cannot confirm that.

I do know that people are currently being held in SHU not only for disciplinary reasons, but also for the purpose of public health, of trying to manage the spread of COVID-19 in correctional facilities.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Two parts. What were the lighting conditions like when you were in the special housing unit? And did you witness any interactions between the inmates and someone providing service, mental health, substance use disorder, whatever it may be, or any interactions between those inmates and corrections officers?

SENATOR SALAZAR: Through you, Madam President, I did not get to witness those -- any of the incarcerated people engaging

in programming at all during my visit. I was at Fishkill for about four hours, and there was not any programming that I could see available to the people held in SHU during that time.

SENATOR AKSHAR: Madam President, through you, if the sponsor would yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Do those inmates who find themselves in a special housing unit, are they afforded an opportunity to get some of those services that you and I are discussing?

SENATOR SALAZAR: Through you, Madam President. Currently they are not required, under the law, to be provided with access to the programs that are available to the general population in DOCCS facilities.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Thank you, Madam President.

What about the agreement that was reached between the Governor and the Legislature? Are they afforded an opportunity to have access to those services?

SENATOR SALAZAR: Through you, Madam President. Under the regulations, out-of-cell time, including programming, is still at the discretion of DOCCS. As opposed to in this bill, where the access to out-of-cell programming is required.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

SENATOR GIANARIS: Madam President, briefly.

Please allow Senator Akshar to continue, but I do want to point out to him that his 30-minute limit has passed, but we're happy to allow him to continue on the debate.

SENATOR AKSHAR: Thank you,

Senator Gianaris.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Madam President, through you. I just want to discuss, in reference to the bill-in-chief, the age requirements or the special category of people who will no longer be able to go into a special housing unit.

If you'd be so kind, how did we arrive at those ages, 21 and 55, respectively?

SENATOR SALAZAR: Through you, Madam President. It is well documented that people in these age groups, young people 21 years of age or younger, people who are 55 years of age or older, are particularly vulnerable to the detrimental impacts of long-term solitary confinement.

SENATOR AKSHAR: Thank you, Madam President. If the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the

sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Could we agree that those under 21 years of age or younger or 55 years of age or older are still capable of creating chaos and wreaking havoc within the confines of a correctional facility?

SENATOR SALAZAR: Through you, Madam President. Yes, certainly.

This bill does not assume that people in the special populations, even including pregnant people who are included in the special populations under this bill, are incapable of committing violence or doing something that would require separation from the general population.

Under this bill they would still be able to be separated from the general population, they just would not be able to -- would not be held in the isolation that comes with solitary confinement in the SHU.

SENATOR AKSHAR: If the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the

sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: In regard to this particular point, if you'd just describe what would happen to someone if they were 20 years old and committed an offense that is captured within Part K of the statute.

SENATOR SALAZAR: Through you, Madam President. They would be separated from the general population. They would be sent to what is referred to as RRU, a residential rehabilitation unit, and it would be used for therapy, treatment, rehabilitative programming that would be available to them.

And they also would be required to have out-of-cell time that they wouldn't otherwise have in SHU, seven hours total of out-of-cell time per day.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Within this statute, if one commits one of those offenses in Part K and it is determined that he -- I'm just going to use "he" in this instance, if you're okay with that -- must be placed in a special housing unit, for how long -- if I commit one of those offenses and I'm sent to the SHU, for how long can I go?

SENATOR SALAZAR: Through you, Madam President. Someone could be held in SHU for up to 15 days if they are not included in the special populations.

After that point, if they are held for 15 days, they would then need to be put instead in an RRU, if they were going to continue to be separated from the general population.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: So if my behavior did not improve during those 15 days, under this statute that we're debating today, it would be up to the folks within the correctional facility to determine whether I would go back to general population or I would go to a residential rehabilitation unit?

SENATOR SALAZAR: Through you, Madam President, yes.

SENATOR AKSHAR: If -- Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: If a determination was made that I could go back to general population, and then that very same day I reoffended, what would happen? To me.

SENATOR SALAZAR: Through you, Madam President. At the discretion of DOCCS, the

person could be separated once again, immediately, from the general population and could be put in an RRU.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: So DOCCS has the ability to send me back to the SHU after that 15-day period.

SENATOR SALAZAR: Through you, Madam President. Rather, the person would in this particular case, because they had just spent 15 consecutive days in SHU, they would instead be put in an RRU.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: So the longest amount of time that I can spend in a special housing unit, based on the language of this statute, is no more than 15 days?

SENATOR SALAZAR: Through you, Madam President. Once you are returned to the general population, you could potentially go back to the SHU as long as you're not included in these special populations and as long as it is not determined that it is unsafe or to the detriment of the person's health for them to return to SHU.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: For how long?

SENATOR SALAZAR: Through you, Madam President. So up to 15 days is how long

they could be held in SHU specifically.

However, after that 15 days, whether this is the first time that they've been in SHU or if they previously at some point had been held in SHU, after 15 days they need to be transferred either back to general population, if it's appropriate, or to an RRU.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: I guess the point I'm trying to make is, is there a time limit within a specified time frame that an inmate can go to a special housing unit?

SENATOR SALAZAR: Through you, Madam President. The bill I think is clear in stating that the longest time that someone can be held in a special housing unit is 15 days; additionally, 20 days within a 60-day period.

But they also can potentially be

held in an RRU, and there is not -- there is not a hard limit on the amount of time that someone could potentially be held in an RRU. It would likely be up to a year, but even after spending a year in the RRU, if DOCCS determined that someone needed to -- for any, you know, serious reason, or if they posed a threat to their own safety or to the safety of someone else in the facility, they could even continue to be held in RRU and, at DOCCS' discretion, potentially have restrictions imposed.

SENATOR AKSHAR: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: So an inmate cannot be placed in a special housing unit any more than 20 days in a 60-day period.

SENATOR SALAZAR: Through you, Madam President, yes.

SENATOR AKSHAR: Madam President,

through you, if the sponsor will continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: In this same hypothetical, if I had met that 20-day period in a 60-day time frame and it was the decision to send me to an RRU, and I too was creating issues within that residential rehabilitation unit, what recourse does the Department of Corrections then have, since I've met -- I can't be sent to a special housing unit because I've already made that 20-day time frame. I've not been able to behave in a residential rehabilitation unit. So what recourse do corrections officers and those that run the facilities have then to deal with me?

SENATOR SALAZAR: Through you, Madam President. There are still other means of discipline that are available at the discretion of DOCCS under this bill.

HALT -- you know, passing this bill

would not prohibit these other means of discipline. It could mean official reprimand, imposition of work assignments, suspending privileges, suspending visitation, loss of commissary, withholding of packages -- all of those things could still be used as a means of discipline under this bill.

And additionally, safety precautions can be taken if someone continues to be a threat to the safety of themselves or others while they were held in RRU.

SENATOR AKSHAR: Just on the bill for just a moment.

ACTING PRESIDENT PERSAUD: Senator Akshar on the bill.

SENATOR AKSHAR: While I respect the position of my colleague, I think the point I'm trying to make is that if someone was prone to committing violent assaults or was a sexual predator within the confines of a correctional facility -- and they exist. They prey on the weak. And we are limiting the amount of time that we can put someone in a special housing unit. I think actually we're doing a disservice to the other people who find themselves

incarcerated.

Would the sponsor continue to yield for a question.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: If we could look at page 5 of the bill, lines 31 and 32, it says specifically -- and I'll read it, if that's okay, while you're looking for it. "The department shall not impose restricted diets or any other change in diet as a form of punishment."

Is it the sponsor's assertion that this is currently taking place?

SENATOR SALAZAR: Through you, Madam President. The purpose of including this is to ensure -- to codify the position that it will not take place, that someone will not be punished through changes in their diet, including depriving them of food.

SENATOR AKSHAR: Madam President, through you. I'm just going to ask just a couple more questions, if that would be okay.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: I just have a question specifically about the evidentiary hearings. Can the sponsor just walk me through that process when those evidentiary hearings take place?

SENATOR SALAZAR: Through you, Madam President. Under this bill, if someone -- someone could be held in keeplock immediately for up to 48 hours.

But before being placed in SHU, they would need to have a due process hearing, a discipline hearing, in order to determine whether or not it's justified to place them in SHU.

SENATOR AKSHAR: Two last questions, if the sponsor would be so kind to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The

sponsor yields.

SENATOR AKSHAR: Page 8, lines 43 through 46 talk specifically about the training that is associated with this particular statute. Who is going to be developing that training? You know, who's setting the curriculum? And who will be teaching that?

SENATOR SALAZAR: Through you, Madam President, DOCCS will.

SENATOR AKSHAR: Thank you.

And, Madam President, if the sponsor will continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR AKSHAR: Page 9, lines 9 through 18, I just want to talk about this for just a moment.

In the second sentence, it's talking about de-escalation, intervention, informational reports shall be the preferred methods of responding to misbehavior.

So do those within a correctional

facility still have the discretion -- can they use their discretion in terms of trying to figure out what is best for the safety of not only the other inmates, but the inmate in question, or the facility, the corrections officers, so on and so forth?

Does this section of the law still allow for discretion?

SENATOR SALAZAR: Through you, Madam President. Yes, this section of the bill does still allow for DOCCS to use discretion in determining whether someone needs to be -- continue to be separated and whether they are held in SHU or transferred to RRU.

SENATOR AKSHAR: Madam President, on the bill.

ACTING PRESIDENT PERSAUD: Senator Akshar on the bill.

SENATOR AKSHAR: I want to thank Senator Salazar for taking some time and her indulgence in answering my questions. I think it was a spirited debate.

Many of you know that in my previous employ I was a member of law enforcement. I guess I had the unfortunate opportunity of seeing

the commission of crime and the havoc that that crime has, you know, created for so many people.

My opposition to this bill -- you know, I think this is important for me to say, Madam President -- is not for a lack of compassion. It is not because I do not believe in rehabilitation or this issue of reentry.

To the contrary, I agree with it very much. And I think, you know, regardless of our politics, at the end of the day it should be the collective wisdom of this body to reduce recidivism to the greatest extent that we possibly can.

This bill, for me -- you know, it seems dangerous that we would handcuff, no pun intended, the men and women who are working within the confines of correctional facilities and taking discretion away from them.

I mean, we heard today that regardless of what it is that I do while incarcerated, regardless of how incorrigible I am or how much havoc I create, the most that the facility can do is put me in a special housing unit for no more than 20 days within a 60-day period.

I actually am in favor of these residential rehabilitation units. I think they have the potential of serving a great purpose. And at the end of the day, for me, again, this is not about not caring or not being compassionate. I'm just trying to look at things pragmatically and be measured and ensure that we are balancing the needs of people who find themselves incarcerated but we're also balancing the needs of others, including our corrections officers, who have a thankless job.

And I think one point, one last point I will make is that I think this issue of solitary confinement has really been sensationalized. Or some would have the general public believe that a special housing unit is like what Andy Dufresne was sent to in "The Shawshank Redemption." And that's not necessarily the case.

The sponsor has had an opportunity to tour Fishkill. I've had an opportunity to tour Southport and witness for myself what that facility was like. And it is the furthest thing from what we have seen in Hollywood-produced movies.

So it is for those reasons and others that I cannot and will not in good conscience, when it comes time to vote, be able to support this bill.

Madam President, again, I thank you for your indulgence. And my thanks again to Senator Salazar.

ACTING PRESIDENT PERSAUD: Senator Stec.

SENATOR STEC: Good morning, Madam President. Will the sponsor yield, please.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR STEC: Thank you, Madam President. Thank you, Senator.

Do you personally -- in your prior experience before becoming a Senator, do you have professional experience working in corrections, either in a corrections facility or with, you know, other groups that are directly involved in our corrections process?

SENATOR SALAZAR: Through you,

Madam President, I did not previously work in corrections before becoming a Senator.

SENATOR STEC: Thank you. Again, if the sponsor would yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR STEC: Thank you, Senator.

Generally speaking, today, if you could describe your understanding of what the situation would be and the process would be for somebody that's in general population to find themselves relocated to a special housing unit. What would they have to do, and what's the process?

SENATOR SALAZAR: Through you, Madam President. Under the current law, someone can be placed in a special housing unit in SHU for -- at the discretion of DOCCS.

And they can be placed for a number of reasons ranging from a very minor infraction, what I think any of us would consider to be a very minor infraction that doesn't impact other

people in the facility, to more serious infractions such as, you know, assaulting an officer or being involved in violence.

SENATOR STEC: Madam President, if the sponsor will continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR STEC: You said assigned by DOCCS. I mean, a correction officer on the block decides, I've had it with this guy, I'm putting him in SHU, or -- if you could elaborate on your understanding of the process.

SENATOR SALAZAR: Through you, Madam President. Under current law, someone can be sent to SHU at the discretion of the people in the facility, of the corrections officer. They can be sent to SHU and they do not need to have a disciplinary hearing, as would be required under this bill. Under current law, they're not required to have a disciplinary in the 15 days that they could potentially be held in SHU.

SENATOR STEC: If the sponsor would

continue to yield, Madam President.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR STEC: Thank you.

Senator, so just so I'm clear, are you saying that right now, for an incident either of little severity or significant severity, an individual correctional officer could say, I'm relocating you to a special housing unit, and that's the end of it, that there's no hearing at all, there's no hearing officer that is involved at all in any of our facilities?

SENATOR SALAZAR: Through you, Madam President. Currently it is at the CO's discretion whether or not someone can be sent to SHU as a means of discipline.

SENATOR STEC: Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The

sponsor yields.

SENATOR STEC: I apologize. I'm Not trying to be difficult. So you're saying that an incident happens and an individual corrections officer, brand-new on the job, can say, I've had it, this guy's going to go to the special housing unit, and he could be there for 15 or 20 days? All by himself, one corrections officer?

SENATOR SALAZAR: Through you, Madam President, COs are hypothetically following the DOCCS regulations. And yes, it is at the discretion of an individual officer in these cases.

SENATOR STEC: Madam President, if the sponsor would yield, please.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR STEC: Thank you.

Is the sponsor aware of any trends in our prisons over the last seven or eight years as far as violence on corrections officers? Is

it an upward trend, a downward trend, has it been generally steady?

SENATOR SALAZAR: Through you, Madam President. I wouldn't be able to characterize whether there is an upward or a downward trend in assaults on corrections officers in New York.

What I will say is that in other jurisdictions -- in fact, in every other jurisdiction where they have limited or eliminated the use of long-term solitary confinement -- they have seen a decrease in violence in the facility, including violence committed against corrections officers.

SENATOR STEC: Madam President, through you, if the sponsor would continue to yield, please.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR STEC: Senator, would it surprise you to learn that in 2013 there were 645 assaults against officers in New York corrections

facilities, and in 2020 that number jumped to 1,050?

SENATOR SALAZAR: Through you, Madam President. I'm not necessarily surprised by this information. I think that we need to take any violence that occurs in correctional facilities seriously. And it is part of what motivates me to support this bill, based on the evidence that we've seen that limiting the use of solitary confinement, and reducing it, is consistent with reductions in violence.

SENATOR STEC: Madam President, through you, if the sponsor would please yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR STEC: Thank you, Senator Salazar.

Step-down units. They're units where inmates go, under current regulations, when they've completed their time in the special housing unit but are still too dangerous to be placed back in general population. In these

step-down units the inmates receive more programming than they did in SHU, but they are still subject to stricter safety measures than in the general population, which is important.

HALT would provide no such units. The RRUs contemplated by HALT are not step-down units. So how would they plan to deal with an inmate who is not ready to be returned to the general population?

SENATOR SALAZAR: Through you, Madam President. Actually, the bill does not specify that the existing step-down units in DOCCS facilities could not actually be used as RRU. These same units could be used as residential rehabilitative units.

It is about the amount of out-of-cell time, at least seven hours of out-of-cell time that someone would be provided if they are in RRU, as well as access to programming, including -- there are about 99 different programs currently offered by DOCCS. Many of those wouldn't likely be available to someone who is in RRU, but many would.

These are programs such as seeking to reduce violence, anger management, mental

health programs, different rehabilitative programs that DOCCS currently offers.

SENATOR STEC: Madam President, if the sponsor would continue to please yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR STEC: Thank you, Madam President. Thank you, Senator.

Under HALT, an inmate can be sent back to the general population without having to complete the necessary programming that they were receiving in the special housing unit. If the purpose of this type of programming is to rehabilitate an inmate, shouldn't the inmate be required to complete the training?

SENATOR SALAZAR: Through you, Madam President. The purpose of the programming is to rehabilitate, to address behaviors that may have led someone to end up in SHU in the first place and then to be separated from the general population in RRU.

The purpose here is actually to give

more access to these programs. Because under current law and regulation, DOCCS is not required to provide these programs to people while they're incarcerated.

SENATOR STEC: Madam President, through you, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR STEC: Thank you.

HALT requires a great deal more of congregate setting programs than what currently exists. Will there be additional staff positions created to handle these congregate situations, similar to the RRUs?

SENATOR SALAZAR: Through you, Madam President. DOCCS, under this bill, will be able to develop programming and hire additional staff as necessary.

SENATOR STEC: Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the

sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR STEC: Thank you.

HALT also requires programming seven days a week. How are we going to staff this kind of initiative?

SENATOR SALAZAR: Through you, Madam President. Currently, DOCCS already provides staff seven days a week.

We also are -- in the one-house budget, for example, we have designated additional funds for the implementation of HALT, and that can include ensuring that the facilities can provide the programming that is required under this bill.

Although I would note that DOCCS does currently have a budget of more than $3 billion. I would argue that DOCCS has the existing resources to provide this programming to people while they're being held in RRUs.

SENATOR STEC: Madam President, if the sponsor would continue to yield, please.

ACTING PRESIDENT PERSAUD: Does the

sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR STEC: Thank you.

Senator, it's my understanding in the one-house budget resolution you set aside $100 million towards HALT and these programs. Is that a one-shot or is that going to be an annual recurring level of funding that the state taxpayers are going to have to foot, please?

SENATOR SALAZAR: Through you, Madam President. The funding that was included in the one-house budget for the implementation of HALT is for the first round -- or, rather, the first year of implementation.

I would also note that while the size of the projected savings varies, it is not disputed. And DOCCS does not dispute that in the long term -- and not even very long, like in a matter of years -- we would see a cost savings to DOCCS and to local facilities through the implementation of HALT.

SENATOR STEC: Madam President, if the sponsor would please continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR STEC: Thank you, Madam President.

In the beginning of the bill it defines the people that will not be eligible for HALT are people of the age 21 -- among other things -- 21 years of age and younger and 55 years and older.

What is the science behind picking 21 and 55? It's been my experience that a lot of 18-, 19-, and 20-year-olds are very dangerous. And frankly, at 52, I feel like I could still be a little danger in three years. So if you could, how did we come up with those ages?

SENATOR SALAZAR: Through you, Madam President. It is well-documented -- for example, there was a report from 2006 from a law journal that states that there are very serious impacts on any individual, regardless of their age, of long-term solitary confinement, but that these special populations -- younger people,

people over the age of 55 -- for them the impact is exacerbated.

For example, for older adults, depriving them of auditory and visual stimuli can worsen existing confusion, memory loss. It exaggerates isolation. Studies have shown that it actually worsens heart disease and can lead to premature death.

SENATOR STEC: Madam President, will the sponsor continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR STEC: Thank you, Senator. I'm not quite ready to move off of the age thing.

Most children understand consequences to their actions. Certainly I believe most adults do. If you're 21 or younger or you're 55 or older, you're not -- this is not a tool for you. There's no consequences to the bad behavior at 20 years old than for somebody who's 22 years old.

So how - -- doesn't that increase

the safety risk, to have people walking around with two different sets of rules where one person can instigate and face a consequence, but another person could be involved and instigate and not face consequences?

SENATOR SALAZAR: Through you, Madam President. In the cases where the person, the individual in question is violent or has demonstrated that they are a safety risk in the facility, they can absolutely still be separated from the general population even if they are included in these special populations, whether it's a young person 21 years or younger or 55 years of age or older.

The problem is that while someone of course should still face consequences, you know, if they commit an act of violence -- for example, it would not be appropriate to harm their health. You know, we know that the use of solitary confinement has had a very detrimental impact on not only people's mental well-being, but also on their physical well-being. And that should not be a consequence of someone committing an infraction while incarcerated.

SENATOR STEC: Madam President, if

the sponsor would yield for just a couple more questions, please.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR STEC: Thank you, Madam President. Thank you, Senator.

I think this question may have been asked before, but I want to make sure that we are all clear on the answer. What is the level of involvement in the development of this legislation from the Department of Corrections? And has the Department of Corrections endorsed this bill, or do they support it?

SENATOR SALAZAR: Through you, Madam President, DOCCS was very involved in the regulations that were put in place. However, DOCCS was not directly involved in drafting this bill, which wouldn't be typical. They haven't endorsed this bill.

SENATOR STEC: Madam President, will the sponsor yield.

ACTING PRESIDENT PERSAUD: Does the

sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR STEC: Thank you.

Does the Department of Corrections oppose this bill?

SENATOR SALAZAR: Through you, Madam President, DOCCS does not take a position on this bill.

SENATOR STEC: Thank you.

Madam President, through you, if the sponsor would yield, please.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR STEC: Thank you.

Similarly, previously you were asked about -- and you'd said that you'd spoken with correction officers and staff, of course many of which are members to various labor unions.

But have you talked to union leadership -- you know, I mean obviously you talk

to an individual correction officer, he or she has their own experience and their own opinion. But certainly the leadership speaks for -- with authority and knowledge and experience -- for the group as a whole.

So what contact and what level of support have you received from NYSCOPBA?

SENATOR SALAZAR: Through you, Madam President. I have spoken to representatives from NYSCOPBA, also AFSCME, PEF, the unions whose members include corrections officers in these facilities.

SENATOR STEC: Madam President, if the sponsor would continue to yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR STEC: I'm sorry, I'm not sure I heard an answer to my question.

Have you spoken with leadership from NYSCOPBA, Council 82 and PEF, and are they supportive of this bill?

SENATOR SALAZAR: Through you,

Madam President. They have not expressed support for this bill, but I did speak to them about the provisions of the bill at length.

SENATOR STEC: All right. Madam President, if the sponsor would yield for a couple more questions.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR STEC: Are you aware that NYSCOPBA and PEF are opposed to this bill, have issued memos of opposition?

SENATOR SALAZAR: Yes.

SENATOR STEC: All right, thank you. One final question, Madam President, if the sponsor would yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR STEC: Appreciate your time, Senator Salazar, today, and your candor and

the spirit where you're coming from, your heart, in the matter, I truly do.

I guess the purpose of the questions I've asked is -- the driving point that I'm trying to get at now is -- and I have my own answer to the question. I suspect your answer is going to be a little different than mine.

But should we really be substituting our judgement and authority in an area of expertise that we haven't fully been on the same page with and hasn't been shared and developed with the people that work this every day -- the corrections officers, the staff, the Department of Corrections -- that have the knowledge, have the history, know how we got here, why we got here. Should we be substituting our judgment for their experience?

SENATOR SALAZAR: Through you, Madam President. This experience has actually not informed the current use of solitary confinement under the law.

And what has informed this bill is the expertise of medical professionals who attest that the use of solitary confinement is harmful. The United Nations, who considers the use of

long-term solitary confinement, isolation for longer than 15 days to be torture.

This is what has informed the provisions in this bill, in addition to numerous studies, research that demonstrates not only the detrimental impact of the use of solitary confinement but, on the flip side, the benefits of using, instead, alternatives to solitary confinement when someone needs to be separated from the general population.

SENATOR STEC: Thank you, Senator Salazar.

On the bill, please, Madam President.

ACTING PRESIDENT PERSAUD: Senator Stec on the bill.

SENATOR STEC: Thank you very much, Madam President.

Again, I appreciate Senator Salazar's effort and her passion and her perspective on this, as well as her time in answering my questions today.

I have visited many -- in my Senate district there are many corrections facilities run by the State of New York, run by the

Department of Corrections. I've visited almost all of them, and I've visited most of them on numerous occasions. I've seen special housing units. I've seen the medical units. I've seen the general population. I've seen these prisons. I've talked to a lot of members of PEF and members of Council 82 and members of NYSCOPBA, and I've talked to the superintendents.

Now, I've mentioned before on the floor my -- and I go back to it quite often. The older I get, the more I go back to it. Maybe I'm enjoying looking at my youth. But in my past, I spent eight years in the United States Navy. And I was an engineer working in a nuclear power plant.

And let me tell you, the last thing I wanted to see when I walked through the door into the control room to take over the watch was a bunch of people mashing buttons and twisting valves and turning knobs. They had too many things going on, and the plant wasn't steadied out. And that's a really good way -- that's the last time that you want to make additional changes.

We have regulations that have been

put in place three months ago in these facilities that address a lot of what this bill is aimed at. We've also got COVID and struggling with protective equipment and vaccines and segregating those that are COVID-positive with those that are suspected positive. And there's, you know, limited transportation. We're changing all the criminal justice rules. We're emptying out our prison population.

There's just so much going on in corrections right now that it reminds me of walking into that nuclear power plant's control room and saying, The last thing we need to do here is add more variables, because it's going to get more dangerous. So I see parallels there.

One of my colleagues brought this up before, but I think it's important to bring up on the bill current regulations in the special housing units. These inmates have access to mental health counseling, they have unlimited access to legal counsel. They get their mail, they have access to their healthcare. They have books, they have playing cards, they have their tablets, they have the -- they have most of the comforts, if you will, of the general population.

They eat the same food as the general population. They get the phone, they get the radio.

In fact, in my visits, corrections officers have told me that in many instances people leaving the special housing unit will seek an infraction immediately after being let out of the special housing unit, to go back into the special housing unit. It's a phenomenon that I think would surprise many.

You know, so anyways, I've been in a lot of these facilities. There's not -- none of us want to spend any more time in there than we have to. There are people, though, that go there, they make their family's livelihood working there. And they're concerned about their own health and their own safety.

But in visiting these facilities, I'll tell you this. This isn't Papillon, and this isn't Devil's Island. When -- again, when I was in the Navy, there were 12 of us in a room that's about 12 feet wide by 20 feet long. Twelve of us.

Prisoners today -- and it struck me at the time, and I had no idea at the time that I was going to be a state legislator talking about

this today. But it struck me odd at the time that in the noblest of callings, serving your country in the military, that these guys volunteered and they had less personal space and less room for gear -- and frankly, 25 years ago, a lot less access to the outside world when at sea -- than the people that have preyed on society and caused society angst and the taxpayer angst and have victims out there. Prisoners are getting better treatment and more space and more creature comforts today than sailors that I served with 25 years ago.

My concern is about safety. Safety of our officers, safety of our staff, safety of the inmates. I understand it, they're people too. Most of them have people out there that love them. They're somebody's kid. They're human beings. They deserve to be treated reasonably and fairly. And that means they've got to worry about being preyed on by one another. I worry about the safety of the individual.

And I -- the special housing unit and the way that they've been run professionally by DOCCS and the people that work for DOCCS for

decades, it's a tool in the toolbox. We're going to take this tool, this important tool away from them -- again, while we've been doing everything else, they're all mashing buttons trying to keep up with all the changes that we've put on our criminal justice system. We've made their job only harder and harder in recent years. And now one behavioral tool that they have is going to be taken away from them, it's going to make the officers and the civilian staff less safe. It's going to make the population less safe.

And I don't want to see us do something legislatively that is going to cause one more person to be assaulted or physically harmed in any of these facilities. If voting this bill down saves one life, then voting this bill down would be a good thing for us to do.

I am and will be voting in the negative. Thank you, Madam President.

ACTING PRESIDENT PERSAUD: Are there any other Senators wishing to be heard?

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

Read the last section.

THE SECRETARY: Section 14. This

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Senator Brouk to explain her vote.

SENATOR BROUK: Thank you, Madam President.

I won't take long today. I just wanted to share my experience hearing one of the stories of an individual who had been held in solitary confinement, because I think that it's important when we are talking about this issue to remember we're talking about people and we're talking about their lives.

We're talking about people like Layleen Polanco and Kalief Browder, Ben Van Zandt and Dante Taylor, who have lost their lives. And we're talking about the people who are living every single day, sometimes silently struggling from the mental health challenges that they have from being put away in solitary confinement.

This is the morally right thing to do. And I am so proud of some of my colleagues,

the organizers, the survivors, the advocates, and Senate leadership for pushing this forward.

The United Nations believes that the actions we take against these folks who are incarcerated in solitary confinement are wrong. And finally New York State is stepping up to say that we are taking the moral high ground and we will save lives with this bill.

And for those reasons, I'm incredibly proud to join my colleagues in voting aye on this bill.

Thank you.

ACTING PRESIDENT PERSAUD: Senator Brouk to be recorded in the affirmative.

Senator Gianaris to explain his vote.

SENATOR GIANARIS: Thank you, Madam President.

We fancy ourselves a civilized society. And in New York, we like to think we set the tone for a lot of the other states. And yet we continue to cling on to medieval forms of punishment that have been deemed, as you heard through the course of this debate, to be nothing less than torture by authorities such as the

United Nations and many others.

I heard one of my colleagues just say that if rejecting this bill will save even one life of the general population, then it's worth it. The entire point of this bill is that it will save lives of people in the general population. There are many instances where those who have suffered through solitary confinement have taken their own lives or suffered other physical or mental anguish as a result.

And let's be clear. There are other ways to achieve the goals of maintaining order without subjecting someone to this kind of inhumane process.

And so I'm proud today to stand with the countless families that have been affected and suffered through the use of this process.

And I want to thank the sponsor of the bill, Senator Salazar, for her leadership and command of this issue, not just today during the course of the debate, but over the last several months as we shepherded this important bill through the process.

But I'm incredibly proud to be voting in favor of this bill today. It's going

to make a real difference and it's going to give us a New York we can be slightly more proud of than was the case before its enactment.

I vote in the affirmative. Thank you, Madam President.

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

Senator Akshar to explain his vote.

SENATOR AKSHAR: Madam President, thank you.

I just heard the word torture. What a mischaracterization. If it were torture, then why would we allow it to take place for a period of 20 days? If we truly believed that using a special housing unit was torture, why would we allow that to happen for 20 days?

I said to the sponsor, Yes, we should rehabilitate. Yes, we should have a very strong reentry program. Yes, we should reduce recidivism. But we have a responsibility in this body to protect and ensure the safety and security of the facility, of every inmate that finds themselves incarcerated, and equally as important, we have a responsibility as a body to ensure that we are protecting the hardworking men

and women that work in these facilities.

I heard that the acting commissioner has not endorsed the bill or has not opined. That's not a big surprise. But I can tell you who has spoken very loudly and very clearly: The hardworking men and women of NYSCOPBA, of PEF, of Council 82. They know this is bad. They know that this is going to endanger not only themselves, but also the people that they are charged with protecting.

There are only 1600 people currently in a special housing unit, less than 1 percent of the prison population. But yet we will spend tens of millions of dollars to change our course.

I listened with great intent to the sponsor's interview the other day on Capital Pressroom. She said that these regulations have been tried and solitary confinement has increased over the last couple of years.

These regulations are less than three months old. We've not even given them an opportunity to work or to be tried.

So Madam President, today, even though I am in favor of all of the things that I

said during the outset, I'm going to stand on the side of common sense. I'm going to stand on the side of ensuring the safety and security of prison systems, correctional facilities, and I'm going to stand on the side of the hardworking men and women of those organizations that I mentioned and vote no.

Thank you, Madam President.

ACTING PRESIDENT PERSAUD:

Senator Akshar to be recorded in the negative.

Senator Martucci to explain his vote.

SENATOR MARTUCCI: Thank you, Madam President. I rise today to explain my vote.

I'll be voting no today for two simple reasons. First, this legislation is going to give an automatic out, a pass, to prisoners of certain ages. And in the case I'm going to talk about, prisoners over 55, preventing the ability to use a special housing unit.

Let's talk about some of the people that are going to catch a break from this legislation. David Berkowitz, the infamous Son of Sam killer, who is in prison here in the State

of New York, over 55. Mark David Chapman, John Lennon's murderer. Colin Ferguson, a man who in cold blood murdered six and wounded 19 on the Long Island Rail Road. And Joel Rifkin, who murdered nine women and is suspected to have killed 17 more.

Those are just a few of the people who are going to catch an automatic break, an automatic break that I just can't support.

In preparation for coming here today, a little over 12 hours ago I visited, for the very first time, a special housing unit, traveled all the way back to my district to visit a jail. And there what I found was an impeccably clean jail. I found a jail that was well-lit and bright. And I even went into one of these special housing unit cells myself.

What I also found there were hardworking union members -- NYSCOPBA, PEF, Council 82, CSEA, and many others. And what I found out is that these members have been waiting for a raise that they were due last year, over a year.

I ask this Majority to focus on an important piece for these workers, which is

delivering them the raise that they are due. I wish we were in such a rush to take care of these hardworking union members, these hardworking New Yorkers, as we are to pass this bill today.

So for the reasons that I've outlined and the reasons many of my colleagues have outlined, I'll be voting in the negative, and I urge my colleagues to do the same.

ACTING PRESIDENT PERSAUD: Senator Martucci to be recorded in the negative.

Senator Rivera to explain his vote.

SENATOR RIVERA: Thank you, Madam President.

Solitary confinement is torture. I'm not the only one to say it; some of my colleagues have said it. We've -- my colleague Senator Salazar went deep into this, and we have read much on the subject.

In particular, there's one person that I want to underline here that is the reason why I'm on this floor today to proudly vote in the affirmative on this piece of legislation. His name is Kalief Browder. I should say his name was Kalief Browder.

I've talked about him on this floor

before: A constituent of mine who, at 16, was arrested and charged with stealing a backpack. He spent three years at Rikers Island, and two of those in solitary confinement. Maybe they called it a SHU or maybe they called it another name. But ultimately what that led to was that after he was let out, while not being charged with anything, because he had never stolen anything, he then committed suicide in my district, in the home where he lived with his mother.

And he did that because of how much he had been harmed by this practice that has been abused in this system for way too long.

As my colleague Senator Gianaris said, there are other ways to maintain discipline in a facility. These folks, the folks who are incarcerated, are people as well. And unlike what some of my colleagues have tried to make us think, not every single one of them is a predator straight out of a 1990s horror flick. The majority of them are going to come back to our communities, the majority of them are there for nonviolent crimes. And many of them have to spend hours, days, weeks, sometimes months without any real connection to other people.

That harms them. And that harms us.

Which is why we need to move in a different direction. And I'm incredibly proud to vote in the affirmative on this piece of legislation, for Kalief and for every other person that has found themself in this situation.

Thank you to the sponsor for bringing this to the floor. Thank you to our leader for bringing it here. I vote in the affirmative.

Thank you, Madam President.

ACTING PRESIDENT PERSAUD: Senator Rivera to be recorded in the affirmative.

Senator Salazar to explain her vote.

SENATOR SALAZAR: Thank you, Madam President.

I want to begin by thanking our Majority Leader, Senator Stewart-Cousins, for her support in allowing me to carry the HALT solitary confinement bill. Or, as Assemblyman Aubry has aptly said, in passing the baton to me, since this bill precedes my time in the Senate.

I want to quickly address something that was just said that -- and note that the settlement from NYCLU was actually beginning to

be implemented -- the provisions of the settlement -- years ago. It has not been only a matter of months, but it has been years since some of these regulations have been in place.

I also want to add, on the subject of safety, that not only would this bill, as Senator Gianaris mentioned, save lives of people who are incarcerated, but it will do so without compromising anyone else's safety.

There is no evidence to support the claim that solitary confinement increases safety or that its absence would increase violence within prisons. Colorado, for example, decreased its use of solitary confinement by 85 percent, and prisoner assaults on staff are now the lowest that they have been since 2006.

Colorado actually implemented a 15-day limit on solitary, dropped the number of people who are held in solitary, and they saw violence in their facilities decline by 40 percent. Corrections staff who initially opposed the changes there now support them.

People across our state who have survived solitary confinement, and families who have lost their loved ones to the lasting harms

of solitary, have testified for years to the urgency of ending the use of solitary confinement in our state.

Today I'm thinking of Ben Van Zandt. Ben was 17 years old when he was sent to Fishkill Correctional Facility. During his incarceration at Fishkill, Ben was sexually assaulted, beaten, and continually harassed. He was retaliated against. He was not always given the antipsychotic medication that he was prescribed.

Ben spent long stretches of time in solitary confinement, where his mental health deteriorated into severe depression and suicidal thoughts. In July of 2014, an OMH evaluation at Fishkill said that Ben was mentally unstable and vulnerable. But DOCCS placed Ben in solitary confinement despite his well-documented mental illness.

And later that same year, Ben was driven to take his own life in the isolation of his cell. He was only 21 years old.

I'm also, as Senator Rivera mentioned, thinking of Kalief Browder today. Kalief Browder was 16 years old when he was placed in pretrial detention in Rikers Island

after being charged for stealing a backpack.

In the time that Kalief spent in New York City's Rikers Island facility awaiting trial as a legally innocent person, he spent nearly two years in solitary confinement, 700 days. Ultimately, Kalief's charge was dropped. He was never convicted. But the negative impact of confinement solitary confinement on Kalief's mental health persisted, and ultimately drove him to suicide.

Today I'm thinking about Layleen Polanco. While being held in pretrial detention at Rikers, the New York City Department of Correction knew about Layleen's medical condition, that she had epilepsy. But she was placed in solitary against the recommendation of medical professionals. Layleen suffered an epileptic seizure and died alone in solitary confinement. She was 27 years old.

It is abundantly clear that the use of solitary confinement has exacerbated mental illness. It has caused illness where it didn't previously exist. Reducing the use of solitary confinement has been consistent with dramatic decreases in violence in correctional facilities.

We know that reducing the use of solitary confinement will in turn reduce recidivism, and it will make correctional facilities and our communities safer.

Dostoevsky once said the degree of civilization in a society can be judged by entering its prisons. Solitary confinement in our carceral system has not only caused sickness in individuals, it has also made our society sick. But in passing this bill today, we are taking a necessary step to begin to heal.

Thank you, Madam President.

ACTING PRESIDENT PERSAUD: Senator Salazar to be recorded in the affirmative.

Announce the results.

THE SECRETARY: In relation to Calendar 555, those Senators voting in the negative are Senators Akshar, Borrello, Boyle, Gallivan, Griffo, Helming, Jordan, Lanza, Mannion, Martucci, Mattera, Oberacker, O'Mara, Ortt, Palumbo, Rath, Ritchie, Serino, Stec, Tedisco and Weik.

Ayes, 42. Nays, 21.

ACTING PRESIDENT PERSAUD: The bill is passed.

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

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

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

SENATOR GIANARIS: I move to adjourn until Monday, March 22nd, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT PERSAUD: On motion, the Senate stands adjourned until Monday, March 22nd, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 12:54 p.m., the Senate adjourned.)