NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

December 7, 2011

12:17 p.m.

EXTRAORDINARY SESSION

LIEUTENANT GOVERNOR ROBERT J. DUFFY, President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

Will everyone please rise and join me in the Pledge of Allegiance.

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

THE PRESIDENT: In the absence of clergy, please bow your heads for a moment of silence.

Also, I want to bring up that today is the anniversary of the attack on Pearl Harbor.

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

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could have a reading of the proclamation of the Governor.

THE PRESIDENT: The Secretary will read the proclamation.

THE SECRETARY: "Pursuant to the power vested in me by Article IV, Section 3 of the Constitution, I hereby convene the Senate and the Assembly of the State of New York in

Extraordinary Session, at the Capitol, in the City of Albany on the seventh day of December, two thousand eleven, at twelve o'clock p.m., for the purpose of considering legislation I will submit with respect to various subjects, and for the consideration of legislation with respect to such other subjects as I may recommend.

"Given under my hand and the Privy Seal of the State in the City of Albany this sixth day of December in the year two thousand eleven, by the Governor, Andrew M. Cuomo."

THE PRESIDENT: The Secretary will now call the roll to ascertain a quorum.

THE SECRETARY: Senator Adams.

(No response.)

THE SECRETARY: Senator Addabbo.

(Senator Addabbo was indicated as present.)

THE SECRETARY: Senator Alesi.

(No response.)

THE SECRETARY: Senator Avella.

(Senator Avella was indicated as present.)

THE SECRETARY: Senator Ball.
(Senator Ball was indicated as present.)
THE SECRETARY: Senator Bonacic.
SENATOR BONACIC: Here.
THE SECRETARY: Senator Breslin.
SENATOR BRESLIN: Here.
THE SECRETARY: Senator Carlucci.
SENATOR CARLUCCI: Here.
THE SECRETARY: Senator DeFrancisco.
SENATOR DeFRANCISCO: Here.
THE SECRETARY: Senator Diaz.
(Senator Diaz was indicated as present.)
THE SECRETARY: Senator Dilan.
SENATOR DILAN: Here.
THE SECRETARY: Senator Duane.
(No response.)
THE SECRETARY: Senator Espaillat.
SENATOR ESPAILLAT: Here.
THE SECRETARY: Senator Farley.
SENATOR FARLEY: Here.

THE SECRETARY: Senator Flanagan.
SENATOR FLANAGAN: Here.
THE SECRETARY: Senator Fuschillo.
SENATOR FUSCHILLO: Present.
THE SECRETARY: Senator Gallivan.
SENATOR GALLIVAN: Here.
THE SECRETARY: Senator Gianaris.
SENATOR GIANARIS: Here.
THE SECRETARY: Senator Golden.
SENATOR GOLDEN: Here.
THE SECRETARY: Senator Griffo.
SENATOR GRIFFO: Here.
THE SECRETARY: Senator Grisanti.
SENATOR GRISANTI: Present.
THE SECRETARY: Senator Hannon.
SENATOR HANNON: Here.
THE SECRETARY: Senator Hassell-Thompson.
(No response.)
THE SECRETARY: Senator Huntley.

(No response.)

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Here.

THE SECRETARY: Senator Kennedy.

SENATOR KENNEDY: Here.

THE SECRETARY: Senator Klein.

(No response.)

THE SECRETARY: Senator L. Krueger.

(No response.)

THE SECRETARY: Senator C. Kruger.

(No response.)

THE SECRETARY: Senator Lanza.

SENATOR LANZA: Here.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Here.

THE SECRETARY: Senator LaValle.

SENATOR LaVALLE: Here.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Happy to be here.

THE SECRETARY: Senator Little.

SENATOR LITTLE: Present.

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: Present.

THE SECRETARY: Senator Martins.

SENATOR MARTINS: Here.

THE SECRETARY: Senator Maziarz.
SENATOR MAZIARZ: Here.
THE SECRETARY: Senator McDonald.
SENATOR McDONALD: Here.
THE SECRETARY: Senator Montgomery.
(No response.)
THE SECRETARY: Senator Nozzolio.
(No response.)
THE SECRETARY: Senator O'Mara.
SENATOR O'MARA: Here.
THE SECRETARY: Senator Oppenheimer.
(Senator Oppenheimer was indicated as present.)
THE SECRETARY: Senator Parker.
SENATOR PARKER: Present.
THE SECRETARY: Senator Skelos, a quorum is present.
SENATOR SKELOS: Thank you, Mr. President.
Have the Governor and Assembly been informed that the Senate is ready to proceed?
THE PRESIDENT: Yes, sir, both the Governor and the Assembly have been informed that the Senate is ready to proceed.

SENATOR SKELOS: Mr. President, I'd like to hand up the following resolution and ask for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senate Resolution Number 1, providing for the introduction of bills in the Senate during the Extraordinary Session.

"RESOLVED, That notwithstanding any provisions of the rules to the contrary, all bills introduced when the Senate is in Extraordinary Session shall be by the Committee on Rules or on message from the Assembly, and shall be referred to the Committee on Rules of the Senate, with the exception of any bills making an appropriation, which shall be referred to the Committee on Finance of the Senate pursuant to Section 23 of the Legislative Law."

THE PRESIDENT: The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is

adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate Senate Majority conference in Room 332, and I would expect we'll be back within an hour.

And if we could stand at ease.

THE PRESIDENT: The Senate will stand at ease.

Oh, Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

There will be an immediate meeting of the Democratic Conference in the Democratic Conference Room.

THE PRESIDENT: The Senate is now at ease.

(Whereupon, the Senate stood at ease at 12:22 p.m.)

(Whereupon, the Senate reconvened at 6:36 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: Thank you,

Mr. President.

If we could go to the order of motions and resolutions, I believe there's a resolution at the desk by Senator Larkin. I ask that it be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Extraordinary Session Legislative Resolution Number 2, commemorating Wednesday, December 7, 20ll, as Pearl Harbor Remembrance Day in the State of New York.

"WHEREAS, It is the sense of this Legislative Body to commemorate significant events which represent turning points in our unique history and which are indelibly etched in the saga of our great nation; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to commemorate Wednesday, December 7, 2011, as Pearl Harbor Remembrance Day in the State of New York; and

"WHEREAS, On December 7, 1941, the

Imperial Japanese Navy launched a surprise attack on the United States naval base at Pearl Harbor on Oahu, Hawaii, destroying 188 aircraft, five battleships, one minelayer and three destroyers, with more than 2,400 dead and 1,100 wounded; and

"WHEREAS, A decisive victory for the Japanese, the attack on Pearl Harbor spurred the United States into a declaration of war. The country officially entered World War II the following day, when President Franklin Delano Roosevelt addressed a joint session of Congress, calling December 7, 1941, 'a date that will live in infamy'; and

"WHEREAS, Four days after the attack on Pearl Harbor, Japan's allies, Nazi Germany and Fascist Italy, declared war on the United States, turning it into a global war and opening up the Atlantic theater; and

"WHEREAS, Despite the perception of the attack on Pearl Harbor as a devastating blow to America, the three aircraft carriers assigned to the Pacific Fleet -- the Enterprise, the Lexington, and the Saratoga -- remained intact, as did the navy yard and submarine base, and tank farms were undamaged; and

"WHEREAS, However, the battleships Arizona and Oklahoma and the destroyers Shaw, Cassin and Downes, were permanently lost, and several other battleships were removed from the order of battle to be refitted; and

"WHEREAS, The attack on Pearl Harbor immediately galvanized a divided nation into action. At the time, public opinion had been moving towards support for entering the war but considerable opposition still remained; and

"WHEREAS, Overnight, Americans united against their enemies, and the 'sleeping giant' of United States industrial and military capacity was awakened, pouring overwhelming resources into both the Pacific and Atlantic theaters toward final victory over tyranny; and

"WHEREAS, Over 16 million Americans ultimately served in the armed forces during World War II, with over 400,000 paying the ultimate sacrifice for their country; and

"WHEREAS, Countless veterans and active-duty soldiers have been inspired by the spirit of courage, duty and sacrifice displayed by those men and women who served at Pearl Harbor on December 7, 1941; and

"WHEREAS, It is the custom of this Legislative Body that when events of such historical consequences are brought to our attention, they should be celebrated and recognized by all citizens of this great Empire State; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to commemorate Wednesday, December 7, 2011, as Pearl Harbor Remembrance Day in the State of New York."

ACTING PRESIDENT GRIFFO: Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

You know, there's very few of us here today that were alive on that day 70 years ago. It was a Sunday morning. Most of the troops, both Navy, Army, coastal units, were having breakfast. And the sound of it was something that was a shriek, if you've ever been there when they show the movie at Pearl Harbor. The number of 600 are still floating down there in the USS Arizona.

Pearl Harbor did something. It woke us up. I remember that Sunday I went to the

movies in McDonald's area, the Troy Theater, and we come out and they said "Pearl Harbor's been bombed," because it was different hours here. People had no idea where Pearl Harbor was: "What's the Navy doing out there? What are the Army folks doing out there?"

Twenty-four hundred were killed and 1100 were wounded. We lost the intensity that we should have had to engage the Japanese strongly enough. We had military leaders that weren't listening to Washington, and they moved the fleet out into the ocean. The Army took care of themselves because of their ack-acks, and everybody else was handling a gun, even nurses.

This is a day that we never should miss. Today in Hawaii they had the last ceremony they will have because there are just so few of them alive today. But what is it all about? It's about our country.

Hawaii wasn't a state, Hawaii was a territory of the United States of America. To be assigned to Hawaii in those days was considered the golden spot for any member of the armed forces. Today it is still one of the bright spots in our military commands. But when you go to

Hawaii, nobody lets you forget what went on. First thing they want to do is to take you to the Arizona. Then they want to take you to Hickam Field, and you see what happened, where it was, and why we did what we did.

The bravery of the men and women at Pearl Harbor and at Hickam, you have to see the story of it to see what those men and women went through, and the families. I've met children who are now my age whose family was there, they were stationed there, and they told of the bravery. They said if somebody got wounded, people just didn't walk away, they turned around: What can we do to help?

I think it woke America up. Because we had a lot of people in this country at that time who said why are we getting involved in this business. Well, for two years before the Japanese attacked us, we sent all of our salvage material, metal, to Japan. And two years later they come back with bombers and bombed us.

Pearl Harbor should never be forgotten. Old-timers like Dean Skelos said to me: "Remember the Alamo." I said "I wasn't that old, Dean."

(Laughter.)

SENATOR LARKIN: But we should never forget Pearl Harbor. Units that were at Pearl Harbor then -- the 25th Infantry Division, the Pineapple, the 24th -- later engaged in the South Pacific, but their heart and soul was at Pearl Harbor.

I wasn't old enough to be there. I've been there twice during my military career. And I want to tell you, the people that were alive then say if it was not for the American forces and the stability, the foresight for both Short and Kincaid, the Navy and Army officers who later everybody wanted to crucify because somebody in Washington dropped the ball, well, the easiest thing to do was to hang the general and the admiral. If the general and the admiral had not acted, there would have been more than 2400 killed.

So today is a day we should never forget. President Roosevelt said it the day after, when he said "the day of infamy." But you know what, if you think this country is doing something right, remember, it took the heart and soul of members of the armed forces to stand up.

Nobody ran away. Oh, yes, somebody said the fleet went out, the fleet went out and attacked the Japanese. And 2400 people were killed, 1100 were wounded. It was reported that in 60 days, over 200 of those wounded died of wounds.

So, you know, it's nice and easy to sit here today and say "I don't remember Pearl Harbor." Some of you don't even remember Vietnam. And I think our nation has to make sure that our generations of the future understand what our country's all about, the greatest country in the world.

And I say, in prayer, God bless those who helped us survive as a nation.

Thank you very much.

ACTING PRESIDENT GRIFFO: Thank you, Senator Larkin.

Is there any other Senator wishing to be heard?

Seeing none, we'll call a vote on the resolution. All in favor of accepting the resolution signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted unanimously.

All members will be listed as cosponsors. If you choose otherwise, please notify the desk.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Finance Committee in the Majority Conference Room.

ACTING PRESIDENT GRIFFO: There will be an immediate meeting of the Senate Finance Committee in the Majority Conference Room, 332.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 6:46 p.m.)

(Whereupon, the Senate reconvened at 7:38 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there's a report of the Finance Committee at the desk. I ask that it be read at this time.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Senator DeFrancisco, from the Committee on Finance, reports the following bill direct to third reading:

Extraordinary Session Senate Print 1, Budget Bill, an act to amend Chapter 50 of the Laws of 2011.

ACTING PRESIDENT GRIFFO: So ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go to the reading of the noncontroversial calendar.

ACTING PRESIDENT GRIFFO: We will go to a reading of the noncontroversial calendar.

The Secretary will read.

THE SECRETARY: Extraordinary Session Calendar Number 1, Senate Print 1, Budget Bill, an act to amend Chapter 50 of the Laws of 2011.

ACTING PRESIDENT GRIFFO: Senator Skelos.

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT GRIFFO: There is

a message at the desk.

SENATOR SKELOS: I move to accept the message of necessity.

ACTING PRESIDENT GRIFFO: All in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The message is accepted.

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT GRIFFO: The bill is passed.

SENATOR SKELOS: Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Breslin.

SENATOR BRESLIN: Thank you,

Senator Skelos. And thank you, Mr. President.

There will be an immediate meeting of the Democratic Conference in the Democratic Conference Room.

ACTING PRESIDENT GRIFFO: There's an immediate meeting of the Democrat Conference in the Democrat Conference Room.

SENATOR SKELOS: Senator Klein, would you like to announce anything?

(Laughter.)

SENATOR SKELOS: I hope it will be quick and we'll be back to complete the calendar.

Thank you.

ACTING PRESIDENT GRIFFO: The Senate will stand at ease.

The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: Thank you, Mr. President.

I forgot to mention that following the conferences there will be a meeting of the Finance Committee in the Majority Conference Room.

Senator Breslin, could we say by 8 o'clock? Good. There will be a meeting of the Finance Committee at 8:00 p.m.

ACTING PRESIDENT GRIFFO: There will be a meeting of the Senate Finance Committee at 8:00 p.m. in Room 332.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 7:38 p.m.)

(Whereupon, the Senate reconvened at 8:31 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: I believe there's a report of the Finance Committee at the desk. I ask that it be read at this time.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Senator DeFrancisco, from the Committee on Finance, reports the following bill direct to third reading:

Extraordinary Session Senate Print 2, Budget Bill, an act to amend the Tax Law.

ACTING PRESIDENT GRIFFO: So ordered.

Senator Skelos.

SENATOR SKELOS: If we could go to the reading of the noncontroversial calendar.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Extraordinary Session Calendar Number 2, Senate Print 2, Budget Bill, an act to amend the Tax Law.

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT GRIFFO: There is a message at the desk, Senator Skelos.

SENATOR SKELOS: I move to accept the message.

ACTING PRESIDENT GRIFFO: All in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The message of necessity is accepted.

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator DeFrancisco to explain his vote.

SENATOR DeFRANCISCO: Thank you, Mr. President.

I'll be brief because the hour is late. However, this package is an excellent example of how we can work in a bipartisan fashion in order to compromise and do what's good for the citizens of the State of New York, rather than take intractable positions and be unwilling to get a result. And I think that's what we've seen repeatedly over this last year.

The centerpiece of this whole piece of legislation is really the change in the tax brackets in the State of New York. And by this change, 205,299 taxpayers will have a surcharge eliminated that they've had to pay over these last two years. Four million four hundred forty-two-thousand-plus individuals will actually receive tax cuts under this package.

There's a payroll reduction, there's a reduction in the MTA payroll tax. A tax cut for manufacturers, especially in the upstate region.

There's PIT indexing. So what's been happening in the past, as your money is worth less as inflation is rising, you're getting more money but you're no better off and you're going into the next tax bracket. This indexing will eliminate that tax-bracket creep.

There's a Youth Works tax credit. There's some dollars also for flood relief for victims of the flood. And it is a package that really is a comprehensive one.

There's just one thing I really want to emphasize. And that is depending on where you're coming from, people have characterized what's happened in many, many different ways. But the most important thing about the tax package I want to mention is from this year till next year, no taxpayer will pay any higher taxes than they paid last year. In fact, every taxpayer except a small number at the lower end that pays 2 percent taxes will realize a tax reduction. Everybody will get a tax reduction.

And it becomes a situation where individuals at the $200,000 range that were paying a so-called millionaire's tax will not be paying that. And joint filers will not be paying a

millionaire's tax where they never were millionaires if their joint income is $300,000.

The 40,000 -- that's $40,000 joint filers to $300,000 joint filers will see their tax rate actually drop from 6.85 percent, and it goes down to various categories depending upon your income within that range.

So this is truly a tax-cut package. There are other parts of this proposal that others will speak on, and including the flood issue and the relief as far as that's concerned, the MTA payroll tax reduction, which is significant to the MTA region. But all in all, this is a tax cut, it's an important tax cut, and it was worked in a very bipartisan way, in a way that is going benefit the taxpayers of the State of New York. Because we are result-driven, not being an ideologue on any particular aspect of this particular package.

So I would request that during the course of this discussion of our explaining our votes, that others address the flood issue as well as the MTA tax, others that affect them, that that issue affects them more than it affects me and my district and other Senators not in the districts

affected.

So I want to applaud the Governor. Our Senate Finance staff was absolutely unbelievable. And we applaud everybody who had a role in negotiating this, because it's a great, great package for our citizens.

Thank you, Mr. President.

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

Senator Zeldin to explain his vote.

SENATOR ZELDIN: I rise in support of this bill and with a big smile on my face. And I do it on behalf of the residents of the Third Senate District.

See, it was about two years ago this week that I announced that I was going to run for State Senate with a pledge that I was going to fight as hard as I could every day that I was on the job to try to get the MTA payroll tax repealed.

An important first step of that was when this house took a lead in passing legislation in June to repeal the MTA payroll tax. Well, this tonight is a significant next step, a significant next step. Why? Because 80 percent of those that

currently pay the MTA payroll tax are going to see it eliminated. Just how many people is that? Seven hundred thousand people that currently pay the MTA payroll tax are seeing it eliminated.

I'm proud to be part of this team with the Senate Republican Conference. I'm proud of my first year that working with this team, what we've been able to achieve. It's a year that we were able to close a $10 billion deficit. We cut taxes for the first time in 15 years. We have the nation's toughest property tax cap law. We passed an on-time budget. And now we're repealing the MTA payroll tax.

Thank you, Senator Skelos, for your leadership. Thank you, Senator Libous. To the staff, all of my colleagues. This is a great day to be part of this conference.

I vote aye.

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

Senator Rivera to explain his vote.

SENATOR RIVERA: Thank you, Mr. President.

It was a few months ago that we were here in session, and I remember a lot of

conversations that I had both with my colleagues on this side of the aisle and on that side of the aisle. And I remember many times having very heated discussions and very passionate discussions about income inequality and how to design a tax system that was fairer.

I believe that we have done that. It is something that Democrats have been talking about for a very long time. I was very happy to be one of the folks that spoke about it on the floor of the Senate, and we talked about how to make a fairer tax system.

I think that the package that we're voting on today demonstrates that we can do both: We can talk about economic development and creating a more equal tax distribution. I believe it is a very important first step in moving even further in making a more progressive state tax system.

We have been leaders before in the State of New York. Certainly I was proud to be here a couple of months ago when we voted on marriage equality and we passed that. We were leaders then, and we're leaders now.

I vote in the affirmative on this

package. Thank you, Mr. President.

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

Senator Grisanti to explain his vote.

SENATOR GRISANTI: Thank you, Mr. President.

I want to commend Dean Skelos with regards to bringing this package together, along with the Governor. I'm proud that I can say that every New Yorker will either pay less tax or the same amount of tax since I was elected last year. That overwhelming majority are constituents in my district that will see their first tax cut in decades.

On top of that, the middle-class tax cut and job creation plan, not only does it cut taxes for many New Yorkers, but it's going to create thousands of private-sector jobs, jobs that we need to begin to turn our economy around.

But beyond this, we have shown that we have action here in New York State and our Senate conference, action where the federal government has shown inaction. We did work together in a bipartisan fashion to achieve this

plan. I would call on our federal leaders to do the same.

But I would also say that we cannot stop there. Action here has given us a major head start on next year's budget as we seek to further reduce state spending and right-size government for all New Yorkers. I'm ready to start at this very moment. I say we stay here right now all the way till next June. Just kidding.

But if this momentum and things continue, we cannot have this stop. It's important for every New Yorker. And just think, it's an early Christmas present, so Merry Christmas to all.

And I vote in the affirmative.

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

Senator Krueger to explain her vote.

SENATOR LIZ KRUEGER: Thank you very much.

I rise to vote yes on this bill and to agree with many of my colleagues about that this is steps forward for the State of New York. It is a significant step forward in creating a more fair and equitable personal income tax

process. The brackets are better. We need the revenue. And the distribution of who will be paying additional revenue to keep this state together and who will see a tax reduction is a laudable first step.

But I'm also here to say, as my colleagues have pointed out, this is a step towards bipartisan cooperation, keeping open minds about not continuing to do business as we have done it. And there is so much more we can do with reforming our tax policies and moving into the 21st century in the coming year. So this is not an end, it is a beginning.

I wish, for the record, that this bill had been out in print for more than a literal perhaps hour or two before we were voting for it on the Senate floor. This is the type of bill that the public should have a chance to review. It's 65 pages. It's technical and complicated. I've even been asking questions of our staff while we've been discussing it on the floor tonight.

So not only is this not an end, but hopefully a beginning of a better process when it comes to tax and revenue policy and job creation programs for the State of New York. Hopefully

we'll improve the process by which we do it in the coming months as well, because the public should be participating and having a chance to see legislation like this that has a major impact on their lives and the future of the State of New York.

And so I am happily voting yes tonight as a step in the right direction. But for me, the challenges are equally as great for the coming year.

Thank you, Mr. President.

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

Senator Libous to explain his vote.

SENATOR LIBOUS: Thank you, Mr. President.

I rise, like my colleagues, to certainly congratulate Senator Skelos, the Governor, and all the members of this conference for moving forward on a middle-class tax cut, something that has been long overdue, a very positive approach in cutting taxes in this state.

But I want to speak on the portion of the bill that deals with the flood. I, like many of my colleagues in this chamber, have gone

through a very difficult six months because of hurricane or flood devastation. In Broome County in 2006, Broome, Tioga and Chenango counties, the three counties that I represent, in 2006 we were hit with what they called the hundred-year flood. We were hit with it again in 2011. It was a quick hundred years. It was very devastating and worse than 2006.

This chamber, everyone in it, came together, Republicans and Democrats alike, and put together a package to help the people at that time of my district. We are now helping people in some 37 counties, I believe, throughout New York State. This is a very positive approach. We are going to help small business, we are going to help the counties with mitigation, we are going to help with a number of things.

So I am very pleased that we're back here today and not only cutting taxes for 4.4 million New Yorkers, but also helping those people who are terribly in need at this time because of tropical storms and flooding.

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

Senator Espaillat to explain his

vote.

SENATOR ESPAILLAT: Thank you, Mr. President. I rise in support of this bill.

This bill accomplishes many things. It brings help to inner-city youth, those that have been at the epicenter of this economic crisis for decades. In fact, they have been experiencing the kind of problems, economic problems that are experienced throughout the state for many, many decades. And this bill brings a sign of relief to them.

But it also brings help to the middle class, those that are feeling the pinch in the form of tax cuts. In addition to that, small businesses will benefit with the reduction of the MTA payroll tax. And of course, as has been said earlier, areas that have been flooded are also going to get some much-needed help.

But fundamentally this bill addresses a particular issue that we have been debating back and forth for over a year. And that is whether people that make over a million dollars who pay a certain level of tax that guarantees revenues for us, whether or not at the end of the this year they should be exempted from that

responsibility or not.

And I think that we were very wise to choose that they should continue to contribute, that they must be part of the solution, that they could not only benefit from times of bonanza, times of great wealth, but they've also got to step up when we have difficulties in the state.

So in essence the debate has been shifted. And tonight we will be voting on a piece of legislation that will extend that tax, that just tax that 99 percent of New Yorkers feel and are part of another society, another group that contributes on a daily basis.

And I think that this was done in a bipartisan way. I want to commend the Governor and the leaderships both of this house, both the majority and the minority, and the Assembly for doing this in a bipartisan fashion. This is perhaps one of our best moments this year. And I'm happy to be part of it.

I will be voting and casting my vote in the affirmative. Thank you.

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

Senator Martins to explain his vote.

SENATOR MARTINS: Thank you, Mr. President.

Senator Espaillat, I do believe that this is one of our best moments. But we have had a special year when you think about the fact that we bridged a $10 billion deficit, we passed an MTA payroll tax cut overwhelmingly, with bipartisan support. We worked together as a legislative body in ways that perhaps no other legislative body in the country is doing right now, and certainly not that legislative body in Washington, D.C.

And here we've come together at the end of the year to pass a piece of legislation that is truly worthy of us as a legislative body representing our constituents.

And as has been said before -- I think it is important that we repeat -- it has been done in a bipartisan fashion. Providing tax cuts to middle-income families struggling through this tough economy. Repealing the MTA payroll tax, something that is certainly important to me and to my constituents who are struggling, small businesses struggling to get through this tough economy who desperately need the kind of relief that this repeal will provide. Economic

assistance to our brothers and sisters, family members and friends in the Mid-Hudson Valley and in the Southern Tier, while at the same time providing jobs, manufacturing jobs in upstate New York.

This is a piece of legislation that is worthy of all of us. I want to thank my colleagues on both sides of the aisle for coming together and making this happen and showing not only our state but the entire country that if we work together we can arrive not only at consensus but at important pieces of legislation that will make a difference in the lives of our constituents.

I want to thank Senator Skelos for his leadership. I want to thank the Governor for allowing the opportunity for this to come together the way it did.

And, Mr. President, I will be supporting this bill. I vote aye.

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

Senator Saland to explain his vote.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, there are certainly a multitude of reasons to support this bill, whether it be the middle-class tax cuts that will impact some 4.4 million New Yorkers, whether it be the job creation components of this legislation, whether it be the flood relief -- both of the counties in my Senate district were part of the federal disaster area as declared by our friends in Washington -- or whether it be the fact that we have demonstrated here today, as we have previously during the course of this session, the ability to work in a bipartisan fashion that distinguishes us so dramatically from what's going on in Washington, Washington which has taken dysfunction to heights which are simply unparalleled or unbelievable by any estimate.

But I rise particularly -- many of you in the past have heard me rail against the MTA tax, as I did when it was adopted. I rise not to crow about the success of what we're accomplishing here tonight, I rise somewhat certainly gleefully, if not triumphantly, for the people who I represent in the Dutchess County portion of my district. Some 80-plus percent of those who have had the payroll tax imposed upon them -- small

businesses, single proprietorships -- will no longer have the burden of this tax, a most onerous, egregious and unfair tax to those of us who are among the so-called quarter-pounders, heaped upon their shoulders.

For that and that alone, I would willingly and gleefully support this. But for the multitude of reasons that have been cited, certainly the several, I cast my vote in the affirmative.

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

Senator Carlucci to explain his vote.

SENATOR CARLUCCI: Thank you, Mr. President.

I rise in support of this legislation, this very important legislation, and to commend all of my partners in government in this chamber tonight. I believe this is the reason why the good people of New York elected each of us, to really work in a bipartisan fashion, to put common sense as the priority.

And tonight, by cutting taxes for middle-class families, putting money back in their

pocket, by eliminating the MTA payroll tax for over 700,000 people in New York, these are the bold moves that we have to continue to do to move New York forward and pull us into the 21st century.

So with that, I support this legislation, and I want to thank all my colleagues for doing the same. Thank you.

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

Senator Fuschillo to explain his vote.

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

Let me compliment our leader. Senator Skelos, you never gave up on this issue. You never gave up. When we voted against the payroll tax and we voted against raising personal income tax, we knew it was wrong. And that was done in a partisan faction. And our Majority Leader since last year, on January 1, kept hearing us. We have to repeal the payroll tax. We have to cut personal income taxes. And it worked. He formed a partnership with the Democratic Governor.

And down in Washington, as my colleagues said, it doesn't work because politics drives the agenda, whereas the needs of the people of New York State drive our agenda. We've heard them, we've acted.

I vote affirmatively on this bill.

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

Senator Alesi to explain his vote.

SENATOR ALESI: Thank you, Mr. President.

It's good to be back. And I'm happy to see all my colleagues just before the holidays. Let me start by saying this couldn't be a better gift to the taxpayers of New York State.

I'd like to congratulate and thank the Governor for his leadership -- it's been consistent -- and my leader, Senator Skelos, as well as the Speaker, all of us here, for working in a bipartisan fashion in the last many months to deliver the things that New York residents have so desperately been missing for far too long.

We've done this in a bipartisan fashion, and I hope we can continue as we go into the next session and the budget that lies ahead of

us.

These are the first real tax cuts for hardworking, overburdened taxpayers in New York State for the first time in over half of a century. Over half of a century. And nearly every taxpayer in New York State is going to see real, meaningful tax cuts.

This is part of a package that the Senate Republicans have introduced and reintroduced over the last several years. It's part of Senator Skelos's blueprint for job creation, specifically eliminating taxes on manufacturing, this time in upstate New York, as we eliminate the MTA payroll tax downstate.

It focuses on the need to spend on infrastructure, which we all know will help produce more jobs and improve quality of life in New York State. And it keeps commitments that have been made in previous budgets for healthcare, for education. And a focus on employing young people, giving them the opportunity to have a job. And I surely want to congratulate the Governor for his focus in that area.

Essentially what this does is it dismantles the tax increases of the past. It

dismantles those tax increases that have been perpetrated on the hardworking taxpayers of this state. It works well for the middle class, who have not seen tax cuts, as I said, in over half a century. It focuses on job creation. As Senator Saland pointed out, those many small businesses that pay their business taxes through the PIT.

And I want to thank Senator Skelos, the Speaker, and the Governor once again for their consistent efforts to work in a bipartisan fashion. And I look forward to a new session when we can continue in the same manner.

Thank you, Mr. President.

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

I will be calling upon the leaders to close on explanations. So I would ask, is there any other member at this time who would wish to be heard to explain their vote?

(No response.)

ACTING PRESIDENT GRIFFO: Seeing none, hearing none, I call upon Senator Sampson.

SENATOR SAMPSON: Thank you very much, Mr. President, and to all my colleagues, to Senator Skelos and to all my colleagues assembled

here today.

Today is an important victory for two principles, and that is fairness and equity. Today I want to thank my colleagues in the Republican conference for listening to the 99 percent who pushed for a more progressive and fair tax code for all New Yorkers. Today is proof that government works best when it listens to all of the people, not the 1 percent.

However, I want to be clear that today's actions were just the first step, and unfortunately they will not solve all our problems. We still face an approximately $2 billion budget deficit, and this gap will simply not disappear.

This year we were forced to make some hard choices, and unprecedented cuts were truly made. Next year hard choices remain. But as we face them, we must allow the same fairness and equity that we saw today guide our decisions.

In the past, politics and partisanships have been devastating to our economy. Today, programs Senate Democrats have pushed forth are becoming reality. We have finally realized that you can't balance a budget

based upon all cuts, you can't balance a budget based upon increasing taxes. We are enacting what we call a bold and innovative economic plan that will create jobs, strengthen our economies, deal with unemployment in our urban communities, and enact a fairer tax code. And dealing, as Senator Libous said, with the devastation that is faced upstate, dealing with the importance of our urban communities and the unemployment, which reaches 50 percent in some communities, needs to be dealt with.

Alongside Governor Cuomo and our legislative leaders and our colleagues, we are sending a consistent message throughout New York and throughout this country that, when it comes to talking about shared sacrifice, we mean shared sacrifice. That means everyone has to pitch in.

In times of crisis New Yorkers have shown we can come together for the collective good of our state and we truly are the Empire State. Today is about those two principles, fairness and equity.

I want to commend my colleagues for coming here today, but most of all I want to commend the staff for doing a phenomenal job this

legislative year.

Once again, I want to wish everyone a happy and healthy holiday season and a happy New Year, and I look forward to seeing everyone at the State of the State.

Once again, Senator Skelos, congratulations.

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

Senator Skelos.

SENATOR SKELOS: Thank you, Mr. President.

I want to start off by thanking Senator DeFrancisco, members of the Finance staff, counsel's office for the great job that they did in putting this package together.

Today we're ending hopefully the 2011 legislative session on really a positive note by taking up a measure that will provide a total of $3.3 billion in tax relief to hardworking taxpayers and to businesses to help them create jobs.

This builds on our accomplishments that we achieved earlier this year, including eliminating a $10 billion deficit without raising

taxes or increasing fees or borrowing; reducing state spending in a fiscally responsible budget that we passed early; enacting a 2 percent property tax cap for local property taxpayers; new tax credits for high-tech businesses; a new low-cost power program for manufacturers, a power plant siting bill to increase our supply of clean energy; a SUNY 2020 challenge grant program that invests in economic expansion and job creation at SUNY university centers. We were able to get these things done by working together, and by doing so we made state government function again.

This tax cut and job creation measure that we are acting on today was also negotiated in a bipartisan manner with the Governor and the Assembly. The progress we have made together will benefit taxpayers and help strengthen our economy. About 4.4 million middle-class taxpayers will receive $690 million in personal income tax relief, allowing them to save, spend and invest more of their hard-earned money.

And I think it's very important to point out that in New York State, 53 percent of the people, 53 percent of the people are paying

the personal income tax that's received by the state. Forty-seven percent of the people of the state don't pay a nickel. And in fact, there's close to a billion dollars that's spent, a billion dollars that is sent to people that are not paying any taxes in this state.

If it continues in this direction, we will not be an affordable state to live in. That's why we have to continue to cut taxes. And we've seen this, as so many of my colleagues have said, the lowest tax rate in more than 50 years.

The job-killing MTA tax, payroll tax -- thank you, Senator Zeldin. You are our conference's new Most Valuable Player --

(Laughter.)

SENATOR SKELOS: -- when it comes to phasing out the MTA tax.

And now 80 percent of the businesses currently paying it will not have to pay it. No matter where you live within the MTA region, whether it's in the City of New York, whether it's in Rockville Centre, my home community, walk around along the streets with all the small business owners that this tax was imposed upon -- they will not have to pay that. And that is, I

think, a huge win for job creation.

The corporate tax rate on manufacturers outside of the MTA region will be cut in half, saving them $25 million and providing a major boost for job creation. Fifty million in additional relief will be provided for areas affected by the recent flooding. A job retention tax credit will also be extended to businesses harmed by the floods. A new $1 billion infrastructure fund will be established to rebuild roads, bridges, and other infrastructure and encourage the creation of thousands of related jobs.

We are eliminating New York's stealth tax by indexing tax brackets and deductions to inflation. And we are setting aside nearly $1.5 billion in a new 2012 reserve fund designed to assist with future needs, including job growth, local mandate relief, and education. This will give us a major head start on next year's budget as we seek to further reduce state spending.

The actions we have taken together with the Governor and Assembly this year have restored people's faith and confidence in this

state government that was missing for too many years. We have reduced spending, reduced taxes, and we have taken significant steps to help businesses create jobs. Those are the people's priorities, and we are going to continue to stay focused on them and build on the efforts as we go into the 2012 session.

I also want to pay special tribute to Governor Cuomo, who has listened to our conference, has listened to the different positions of people throughout the Senate and the Assembly. In working together, we brought it together. Governor Cuomo is our doer-in-chief, not our campaigner-in-chief. And he is the type of Executive that has brought it together and that is making it work in New York State

So I salute the Governor, I thank our conference, I thank the Minority, and next year we are going have a super year as we continue to control government spending, we continue to look to cut taxes, and we continue to do what the people of the State of New York have sent us here to do, to put aside partisan politics and to do what's right for them, making New York State affordable and create jobs. That's our

commitment, and we will fulfill that commitment.

Mr. President, I will vote aye.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there's a Concurrent Resolution at the desk. I ask that it be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Extraordinary Session Concurrent Resolution Number 3 of the Senate and Assembly, relative to the adjournment of the Extraordinary Session of the Legislature sine die.

"RESOLVED, That the Legislature adjourn the Extraordinary Session sine die on December 7, 2011, at the close of business."

ACTING PRESIDENT GRIFFO: All those

in favor of the resolution signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, I wish everybody a happy holiday season, Happy Hanukkah, Merry Christmas, healthy new year. And I move to adjourn the extraordinary session.

ACTING PRESIDENT GRIFFO: The extraordinary session is adjourned sine die.

(Whereupon, at 9:07 p.m., the Senate adjourned.)