

**SIXTY-THIRD DAY****Friday, May 4, 1990**

The Senate of the Fifteenth Legislature of the State of Hawaii, Regular Session of 1990, convened at 7:15 o'clock p.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Julia McKenna-Ritchie, after which the Roll was called showing all Senators present with the exception of Senator Menor who was excused.

The President announced that he had not read and approved the Journals of the Sixty-First and Sixty-Second Days.

The following introductions were made to the members of the Senate.

Senator Koki introduced his wife Donna who was seated in the gallery.

Senator Tungpalan introduced her son Jonathan and husband Cirio who were also seated in the gallery.

At 7:21 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 7:27 o'clock p.m.

**HOUSE COMMUNICATIONS**

The following communications from the House (Hse. Com. Nos. 871 to 876) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 871, returning S.C.R. No. 273, which was adopted by the House of Representatives on May 2, 1990, was placed on file.

Hse. Com. No. 872, returning S.C.R. No. 66, S.D. 1, which was adopted by the House of Representatives on May 2, 1990, in an amended form, was placed on file.

By unanimous consent, action on S.C.R. No. 66, S.D. 1, H.D. 1, was deferred to the end of the calendar.

Hse. Com. No. 873, returning S.C.R. No. 209, S.D. 1, which was adopted by the House of Representatives on May 2, 1990, in an amended form, was placed on file.

On motion by Senator McCartney, seconded by Senator McMurdo and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 209, S.D. 1, and S.C.R. No. 209, S.D. 1, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION URGING THE GOVERNOR OF THE STATE OF HAWAII TO APPOINT AN EQUAL NUMBER OF WOMEN AND MEN TO ALL STATE BOARDS, AUTHORITIES, COMMITTEES, AND COMMISSIONS," was finally adopted.

Hse. Com. No. 874, returning S.C.R. No. 243, which was adopted by the House of Representatives on May 2, 1990, in an amended form, was placed on file.

By unanimous consent, action on S.C.R. No. 243, H.D. 1, was deferred to the end of the calendar.

Hse. Com. No. 875, returning S.C.R. No. 136, S.D. 1, which was adopted by the House of Representatives on May 2, 1990, was placed on file.

Hse. Com. No. 876, returning S.C.R. No. 258, S.D. 1, which was adopted by the House of Representatives on May 2, 1990, was placed on file.

**ORDER OF THE DAY****FINAL READING**

Conf. Com. Rep. No. 164 (S.B. No. 1719, S.D. 1, H.D. 2, C.D. 1):

Senator Yamasaki moved that Conf. Com. Rep. No. 164 be adopted and S.B. No. 1719, S.D. 1, H.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Fernandes Salling.

Senator McMurdo rose to speak in support of the bill as follows:

"Mr. President, at crossover time when the mass transit funding issue was raised, I admitted to a real dichotomy. I wanted mass transit for our state but I am extremely opposed to even the possibility of a raise in the general excise tax, even a half percent, as I feel that this type of tax is grossly unfair to the middle and lower income people and could impose a tremendous burden on them. However, tonight, I no longer face the dichotomy because there are two bills and now I am voting for this bill, Mr. President, because it authorizes the mass transit. But I still oppose S.B. 3128 because of the half percent rise possibility. Thank you."

Senator Cobb rose to speak against the measure and said:

"Mr. President, I'll yield to any other Senator that wants to discuss this before addressing my remarks."

Chair responded: "No, proceed."

Senator Cobb continued:

"In addressing the remarks, Mr. President, since I'm going to be voting 'no' on this as well as the tax, rather than separate the debate since the two bills are linked, I will address both simultaneously. I'll also try to confine my remarks to be as brief as possible despite the numerous reasons and objections. I want to make it very clear that there will be no filibuster. I intend to conclude my remarks, hopefully, within 20 minutes to half an hour at the longest. If there are other points that are raised I will reserve the right to address them. But I'm going to be voting 'no' on the bill for transportation involving the train simply because it is so inextricably linked to a tax increase.

"The previous speaker spoke in favor of mass transit. Mr. President, the city is presently conducting hearings on the subject of mass transit and there is a great deal of confusion within our own community as to what is meant by mass transit. The federal government defines mass transit as any form of transportation that moves more than one person in a vehicle from point A to point B.

"Last night, Neighborhood Board No. 2 which stretches from Kuliouou to Kalanikiiki voted 8 to 3 in favor of mass transit and against -- I repeat, against -- a fixed guideway system. They very clearly recognize there is a difference between mass transit or rapid transit on one hand and the train on the other. And they recognize that mass transit can include such things as jitneys, alternative buses, shuttle services, 15- and 25-passenger taxicabs, and a variety of other alternatives that are not being presented

by the city planners. In addition, on Monday night Hawaii Kai Neighborhood Board No. 1, according to a spokesman of that board, unanimously rejected the fixed guideway system and voted instead in favor of mass transit as I've just outlined.

"Mr. President, the first flaw in the premise of a mass transit alternative is found on page 2 of the committee report in the second full paragraph where it says, and I quote:

'Mass transportation or, more specifically, the transportation of individuals by bus or fixed rail rapid transit is a very viable means of reducing the number of motor vehicles on our highways.'

That statement, Mr. President, is patently false because all of the proponents of mass transit admit that if a train is built the number of vehicles will not be reduced. At best, the rate of increase will be lessened and some say lessened very little.

"Recently, Mr. President, not meaning to sound like Henry Block, I circulated a memorandum on 18 reasons to vote 'no' on the rail tax. I trust some people read it. But I'd like to elaborate on just a couple of points within that memorandum, and then quote what is likely to be called the 'doomsday scenario' from the Pacific Business News on the subject of a train.

"Again, addressing both issues, I think everyone acknowledges that an increase in the general excise tax is clearly regressive and it will hurt those who can least afford to pay it. It will reduce the daily disposable income of the poorest of our people and, in fact, all of our people.

"Recently, Ah Quon McElrath was quoted in the April 26, 1990 Honolulu Star-Bulletin where she said and I quote: 'The state tax credits take up 4 pages in the instruction book. For the working poor, just to go through 4 pages of explanation is difficult. It is questionable whether tax credits are a viable tool.' I would think, Mr. President, that Ah Quon McElrath having fought for and represented the poor for many years would know best of all of us the negative impact not only of this tax but the fact that tax credits simply don't wash because people simply don't take advantage of it in sufficient numbers.

"Next, Mr. President, I would like to point out there is utterly no incentive or penalty of any kind for the failure of the city or private sector to come up with private financing. In fact, it's been reported that the city managing director has already attempted to come up with such financing and has not been successful. Given the absence of any incentive or penalty, what makes us think he will be successful in the future. Given the language of this bill, all the big-money people have to do is say no and the little people end up paying the freight.

"I pointed out where this bill is designed to take two bites out of the same apple, namely, us, not only this year but the exquisite timing of the bill provides that the county councils must by October 1, 1992, increase the tax, which is terrific because that's right in the middle of the next election campaign. So for those of us who are not running this year, we get the second end of the double whammy in 1992. I guess they call that equal time.

"This year, Mr. President, the only thing the taxpayers have to look forward to is now an amended \$60 rebate. We have the failure of any kind of tax reform, we have a 12-1/2 percent increase in the excise tax.

"When we get into the funding of this measure, despite all of the rhetoric and all the mechanisms, the certification and the process of delay, this legislation and its accompanying tax bill is still nothing more than a convoluted, camouflaged tax increase two years down the road. There's really no long-term commitment for state financing since the \$53 million a year is designed to terminate when, and I emphasize when and not if, the tax increase goes into effect. And unfortunately, all of the alternatives including bond financing, private sector incentives or requirements, and all of the recommendations of Lowell Kalapa of the Tax Foundation of Hawaii have been ignored.

"Passage of this tax increase will move Hawaii nearer or to the top of the list as the most heavily taxed state in the nation. This will reinforce our image as a tax hell. This tax increase is certainly not pro-business. And I've received literally hundreds of calls, letters and faxed messages from small business men and constituents opposing this increase. No amount of public relations and advertising campaigns by the administration or anyone else can erase the negative reality of the tax increase we're going to pass tonight. In fact, many of our small business people including travel agents, insurance agents, salespersons on commissions and others will not be able to pass on the tax increase. It will come, instead, directly out of their own pockets.

"To date, Mr. President, no one -- I emphasize no one -- has been able to cite an example of where a temporary tax was ever sunsetted on time by government. BART in San Francisco was started with a 'temporary tax' which is now permanent. Even the United States income tax of 1914 was passed originally as a temporary tax and it's never been repealed. In short, government seems to take a very long view of what is a 'temporary tax.' The pressure for this tax increase to be permanent, Mr. President, will continue if and when such areas as Hawaii Kai, Mililani, Ewa Beach, Kapolei, Kailua and Kaneohe demand any extension of the rail system to serve their needs. And that very clearly is a likelihood that we should be able to see down the road. And the tax, I might add, is to cover only the basic portion of the guideway system as presently proposed, which does not serve any of the areas I just mentioned.

"It is highly likely that the fixed guideway will have cost over-runs of about 50 percent, and there is no penalty in this legislation to prevent any such over-run. Almost every major guideway system built in the United States has had a cost over-run with the average being almost 50 percent. If we compute that average to the cost of this system, that will add \$700 million to the Honolulu project for a total initial cost of \$2.1 billion. I was provided a table of ten cities and I would like to list the names of the cities and cite the over-runs. In the last 15 years, according to the United States Department of Transportation, the following cities built a guideway system: Washington, Atlanta, Baltimore, Miami in two increments, Buffalo, Pittsburgh, Portland, Sacramento and Detroit. The average cost over-run of those cities was 43 percent.

"Please note, Mr. President and members of the Senate, operating and maintenance costs are not covered by this proposed tax increase. Yet, the city has not specifically spelled out how such costs of over \$100 million, yearly, will be covered.

"In addition, Mr. President, most ridership projections from the same list of cities have been flawed. In fact, the average ridership of those cities has only been 38 percent of projections, and there have been three independent studies conducted of the projected Honolulu ridership that arrived at exactly the same percentage of 38 percent. The

annual operating costs are usually understated in the initial estimate by guideway proponents. Again, the same cities averaged 83 percent higher costs for operating and maintenance than was forecast at the time of appropriation and UMTA approval.

"Mr. President, what I'm saying is not that we shouldn't build a train, but that we should exhaust every conceivable, practical alternative before doing so. Most of the needed para-transit alternatives have not been implemented or required in this proposed legislation before or during construction of the train system. Examples are the restoration of private jitney service in Honolulu which was abolished over public protest in 1940; an airport shuttle service which should end the present taxi monopoly; shuttle service to and from such areas as downtown, Ala Moana, Waikiki and the University of Hawaii; 15- and 25-passenger taxicabs, plus subscription bus service to provide point-to-point service. At the present time, our commuters have only two real choices -- their cars or a bus. They should be provided mid-cost alternative choices as provided for by the United States Department of Transportation.

"Recently, Mr. President, in the Pacific Business News appeared what we can reasonably call a 'doomsday scenario,' or a commentary on the fixed-rail system that would lead to a 'fiscal black hole.' As a prediction, I would like to quote from this scenario.

"While the Legislature is considering a bill to raise the excise tax and thus fund rail transit, its passage would be the first step on a slippery slope that would lead to the same fiscal black hole created by other new rail systems. First will come the shock of the construction cost over-runs. The U.S. Department of Transportation recently released its own study of the performance of the eight federally aided rail systems built in the last 15 years. The systems projected versus actual capital costs show the average cost over-runs of 43 percent. If our rail system follows suit, and the indications are it will be further than that, it will mean at least an extra \$484 million in capital costs. The federal government does not share in cost over-runs, so this will have to be funded locally.

"With the opening of the rail system will come the shock that riders are not showing up as projected. The other systems that were built only achieved 38 percent of their forecast. There have been three other rail ridership projections made for Honolulu besides the City and County's. There are those made by UCLA's Gordon & Wilson, by Robert Brennecke in his 1987 Hawaii Department of Transportation study, and the Department of Transportation's own internal study made by Flannery & McLoide. These three ridership forecasts average only 38 percent of the city's projections. Our city officials will tell you that the Urban Mass Transit Administration considers the city's ridership figures to be conservative. They do not tell you that UMTA also approved the ridership projections for the eight cities that achieved only 38 percent of their forecasts.

"After the ridership shock, we will be faced with the operating cost shock. The actual operating cost for the other cities was, as stated before, 83 percent higher than projected. And before the dust is settled comes the devastating after-shock. The Honolulu rail system, as elsewhere, will have virtually no effect on traffic congestion. With that will come the dawning realization that some individuals will have had the benefit of a construction project while the rest of us are now stuck with paying the bills.

'In the end as elsewhere will come the scrambling for funds to cover the unexpected transit deficit. Sometimes the scrambling is not fast enough. The fiscal crisis in Buffalo resulted in a complete shutdown of the transit system just last month. The state is not immune because it will be a city and county system. In crises elsewhere, the city involved has called on the county or state for help and because of political necessity that help is given. Buffalo restarted its transit system only because the county imposed a real estate sales tax to cover the deficit.'

"Mr. President, we can continue to ignore the rail critics and refuse to consider the validity of their charges. If we do, it will be the ultimate triumph of hope over experience.

"This article was written by Mr. Cliff Slater who is the chairman of the Small Business Hawaii Transportation Committee and a member of the Chamber of Commerce of Hawaii Land Transportation Committee.

'Painting a picture black is not easy or pleasant, but when we have the experience of virtually all of the systems on the Mainland built within the last 15 years to look at, I am frankly amazed that no safeguard to prevent a cost over-run has been built into this legislation. I'm surprised that there has been no detailed addressing of the para-transit alternatives or of the operating and maintenance costs that we know are going to exceed \$100 million a year. None of that is addressed in this legislation. We're passing this on the slogan, on the faith, on the premise that mass transit will solve the problem.'

"The experience has proven precisely the opposite that unless you implement all of the transit alternatives and control your costs very carefully, you do not solve a problem, Mr. President, you only create another one.

"Mr. President, it is for all of these reasons that I will be voting 'no' and I hope not to come back next year or the year after and say, why didn't we listen in 1990, because the first cost over-run that hits us in the face should cause all of us to stop and think how much more are we going to ask of the taxpayers of Hawaii, how deep are we going to consider their pockets, and how long are we going to continue to tax them for a fiscal black hole.

"Thank you."

Senator Blair also spoke against the measure and said:

"Mr. President, I'll limit my remarks to Senate Bill 1719, C.D. 1, and speak very briefly on only two things about the bill. I am speaking in opposition to it.

"First of all, on page 5, lines 20 and 21, we provide that development agreements will be approved after 60 days, if not disapproved by the Legislature. I believe that this abdicates our proper role as an appropriating body.

"Secondly, at the top of page 6 we provide, or at least we purport to provide, that future legislatures will take certain actions. That is not something which we cannot in fact do. My objection is that where we have a role and responsibility we abdicate it, and where we don't we pretend that we do.

"For those two reasons, I will be voting against S.B. 1719, C.D. 1."

At 7:52 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 7:57 o'clock p.m.

Senator Matsuura spoke in support of the measure and said:

"Mr. President, I just want to say a few words in favor of mass transit.

"Although I don't live on this island, I think anyone who lives on this island must realize that we do have a problem. I was going to Mililani the other day and I was surprised that even at 6:30 in the morning the cars were all bumper-to-bumper. So you do have a problem on this island and I think that it's time that we took action to resolve this problem.

"Several years ago the federal government would have paid 80 percent of the cost; now it's down to 30 percent. If we wait any longer there will not be any federal subsidy. The reason I say that we gotta take action now is primarily because I think that we have forty years supply of oil. It's not going to take too long before the price of oil is going to start moving up rapidly. It just takes the Arab nations to get together and you are going to see the doubling of the oil price. We have already moved in the direction of making methanol in anticipation of the pending crisis yet to come. We will be putting up a methanol demonstration plant in Maui. But that's only a minor solution to a major problem. I have a computerized rationing program in my file cabinet because I know the shortage is going to hit in the near future.

"I'm not refuting the Senator from Palolo in terms of construction and operational over-runs and extension of the tax period. There is a great possibility that it is going to happen. However, one thing is for sure. If we don't act now, we are going to get bigger problems. We do have a problem now and we have to address the problem now. I'd rather take the chance of cost over-runs and just do it. I am against making more studies and more studies and the problems get bigger and bigger. It's time that we just do it and I think this bill will initiate action. Thank you."

Senator McCartney also rose to speak in support of the bill and remarked:

"Mr. President, I'd like to say that it's easy to continue to throw stones and throw stones and it's hard to build a house, and I choose to build a house, that is, to build the mass transit system.

"I believe we have to paint a positive picture and the bill that we have in front of us does paint a positive picture. It gives us the opportunity and ability to build a mass transit system without any tax. And that's why I'm supporting this bill because it does give us that opportunity. It does commit state funds to pay for the system and it does put together a comprehensive plan. The people of Hawaii deserve that chance and we need to take that risk.

"Mr. President, we need to look at the long-term future. We cannot build more and more roads and put more and more cars on those roads. If we look at our transportation problem statewide, island-wide, for the next 10, 20, 30 years from now we're going to have a problem and we have to have vision, we have to have foresight and make some tough decisions. I'm not happy with the tax, but, Mr. President, our mass transit system is important. It's important for our state and that's why I think this package is a comprehensive package and it doesn't say that we're going to tax the people. It only sets up the possibility for the counties to levy the tax if private funding is not available.

"I feel comfortable with this bill and I think that my colleagues should support it because we need to look at the long-term future to relieve our traffic problems. Thank you, Mr. President."

Senator Crozier also supported the bill and stated:

"Mr. President, already we have the Friday afternoon gridlocks right here in the heart of Honolulu. More accidents are being caused because people are frustrated and some of them are already disoriented because they're trapped in traffic for so many hours.

"Mr. President, the 1990s is the decade to build mass transit because if we do not build mass transit, this is also the decade of growth. We need to keep up with the growth that's going to take place. We need to make sure that the Friday afternoon gridlocks do not become work-day or work-afternoon gridlocks, then work-morning gridlocks. We have to do something now, Mr. President.

"We can try and create with smoke and mirrors an image that we can get away from solving the mass transit by not having to pay for it. I'm sorry to inform my colleagues that that is impossible. There is no free lunch. We have to pay for what we want. I support mass transit and I ask my colleagues to do also. Thank you."

Senator George also rose to speak in support of the bill as follows:

"Mr. President, rapid transit has no more ardent supporter in this chamber than I. Since I was first elected to the Honolulu City Council in 1968, I can't tell you how many thousands and thousands and thousands of pages I've read analyzing rapid transit in all the various permutations that it's gone through since it was first proposed, and that predates my service on the council.

"I have some arguments (as I think is well known) with the way in which it is proposed to be funded, but I think I have to keep my eye on the main problem which is the no-build alternative. Everytime I think of the number of lanes of cement, concrete that we're going to have to lay on this little island in order to accommodate the increasing traffic that is bound to come as our numbers increase, I think we're going to ruin where we live.

"I think we have to build rapid transit and the sooner we get with it, the better off we are."

Senator B. Kobayashi also supported the measure and said:

"Mr. President, the previous speaker mentioned the number of lanes of cement. I'm speaking in favor of the bill, because the number of lanes of cement as calculated in the HALI 2,000 Study was approximately six lanes of cement from Pearl Harbor into downtown Honolulu. In addition to those six lanes of cement, that study also calculated that we might have to double-deck four lanes of highway on parts of Nimitz and four more lanes of highway in parts of Kakaako.

"Everyone knows we don't have the land for six lanes of cement between Pearl Harbor and downtown Honolulu, even if we had the money and even if we had the patience to bear the construction burdens and delays that go along with six lanes added to our highway system.

"In addition to all these, the HALI 2,000 Study suggested, among other things, that there might be a tunnel somehow under Pearl Harbor connecting Leeward Oahu, the growth area of Kapolei, with downtown Honolulu. That, of course, is somewhat imaginative but I

would think, logistically, considering the military importance of Pearl Harbor, a fairly far-fetched idea.

"In all, the HALI 2,000 alternative painted a very bleak picture of what might be expected if we went the highway alternative, building the lanes of cement referred by the previous speaker. The no-build alternative is just as bad.

"The situation that we face is one of changing human behavior. If we could change our lifestyles and hence our behavior patterns by carpooling, by giving up our personal automobiles, by somehow rearranging our schedules, many of these highway alternatives may be possible. Changing human behavior, of course, is an arduous and a very, very difficult task. I'm not sure that a legislature is a good place to talk about changing human behavior because we would have to literally coerce individuals by force of law to somehow change their behavior. That, I think, would run anathema to what many of us feel is possible and desirable.

"On another point, a prior speaker mentioned that the rail transit will only lessen the rate of increase of traffic congestion. Mr. President, if rail transit can lessen the rate of increase, it would have done its job. I don't think anyone in this room or in any other body who has studied rail transit and highway transit expect that traffic congestion will be lessened from today's level unless perhaps by some extraordinary means the population of Honolulu is lessened from today's level. So if rail transit does indeed lessen the rate of increase of traffic, it would have done a good job.

"In all, I would say this is a tough bill to vote upon, but we don't have any other real, solid alternatives before us. That no-build option is not an option, I think. It is simply hiding our heads in the sand. The highway option is probably impossible if only for lack of land, cost, the sheer difficulty of building six additional lanes from Pearl Harbor into downtown, and of course, as we know after you get into downtown you have that other problem of getting from the main feeder highways of Pali, H-1, through the side streets into some sort of parking arrangement.

"So, we have an alternative before us which is difficult, which is fraught with a great many uncertainties, but it is at least a hope and an opportunity which I think we should steal ourselves to take, because if we don't take this opportunity, the alternatives are likely to be much, much worse. Thank you."

Senator Ikeda also supported the measure and remarked:

"Mr. President, it was not my intention to do so but having listened to the argument, I feel that I should.

"It appears to me, Mr. President, when the proposal for mass transit first came before us I had some reservations about it. If you will recall, I said that we needed to bite the bullet because it was now or never. My reservations stemmed from the fact that we didn't have, as far as I was concerned, enough information to make an informed judgment on the matter and yet we were ready to commit a tax to pay for it because we needed a dedicated source of revenue in order to secure federal funds.

"I feel a lot more comfortable with this measure before us today and that's because it gives us the time to take a look at what will evolve and then make a decision. And as one who will be running in '92, I guess I am one of those who'll bite the apple the second time and at risk for that very reason, but I think we are here to do what we

feel is right and as some of the previous speakers have indicated I too feel that we have reached the point where there is no other alternative.

"The things that have been mentioned as possible alternatives, most have been tried and all of them utilize roads and gasoline and, therefore, will not remove the congestion that we now face, nor improve the situation.

"Therefore, it seems to me only prudent that we move along these lines. We, at least, will get this plan into motion. We will have an opportunity to look at the proposals. We will find out whether or not there is interest in the private sector and commitment of monies, and if at that point we then find that it's falling through and that we can't afford it, then I'm afraid we're going to have to take another bold step and say so. But at this point I see no other alternative, and I am very mindful of the fact that while we have a traffic congestion, a horrendous one out in my area, and that this proposed guideway will not go out there, I still feel that it's very indicative to me that any time we have a problem and a massive traffic jam elsewhere it does impact on our side as well. There is a domino effect that is clearly felt. And so if we can relieve some of the gridlock that we are now facing on the opposite end of the island, it will certainly help to alleviate the problems on our side of the island.

"We are a community; we are a state; we need to do something to relieve and find a solution to a problem. I see no other at this point but to try what is before us. And that's one reason why I will be voting in favor of this bill."

Senator Tungpalan also supported the measure and said:

"Mr. President, I was looking over my old notes. As I spoke on this the second time around about the bill at that time being a shell and am very happy with how it was worked on and presented finally to this body.

"My feelings about the bill not only emanate from the fact that I am a Senator from the Leeward District and, of course, I, daily, have to commute and see the problems that we are faced with. The projected 132,800 people who will be residing in the Leeward Oahu district in the next 20 years also moves me to rise to speak about this measure.

"I do not believe that we've really comprehensively, or at least some of the previous speakers have really comprehensively looked at what we've done this year. My hat is off to the Transportation chairs and the various chairs who addressed the total problem and that was when we voted on and passed the establishment of satellite centers in three major districts here on Oahu in addition to two neighbor islands, and when we also improved telecommunications centers in the same districts here. All these measures will also mitigate the flow into Honolulu.

"I think we can also consider that ... you know, we've really tried to improve the way our H-1 works from the Leeward Oahu district into town by putting in shoulder lanes and reducing the number or carpool riders to just two occupants as opposed to three. This has increased the capacity on the other lanes immeasurably and I'm very thankful that Mr. Hitata is in the audience and I can also extend my mahalo to him. We certainly hear a lot of support of those measures and we are indeed looking forward to mitigation of traffic with the establishment of these other measures that we passed. So I look at this as just one of the many approaches that we are taking to reduce traffic and I think when you look at the total picture, perhaps it will do wonders in reducing traffic, especially for our Leeward residents.

"I want to thank all of you for supporting this measure and allowing us to have this opportunity to vote on it. I do hope that those of you who right now are 'kanalua' on the measure would vote 'yes' because I can assure you that it cannot do anything but help our people. Thank you."

Senator Cobb, speaking against the measure, then responded:

"Very briefly, Mr. President. I just wanted to address a couple of items.

"In the suggestions that I made it is not a 'no build' alternative. It is not a 'highway only' alternation, and it's definitely not more buses. I think we've almost reached the saturation point of buses.

"But when we mentioned on the floor of this Senate that we needed to change human behavior, ladies and gentlemen, a train alone will not change human behavior. Costs, changes in configuration, parking, and real monetary incentives will be needed to help change human behavior.

"The tragedy of this bill today, Mr. President, is that we are not providing in detail any mid-cost alternatives for our commuters to take, whether it is in the form of jitneys, syncopated buses, 25- or 15-passenger taxis or other items, even as a stop gap, even as an incentive. We continue to keep monopolies in place and then tell our commuters you only have a choice of a train, bus or your own car. Yet we have a monopoly at the airport; we have a monopoly on the bus system, and we simply refuse to allow for private enterprise alternatives to give our own commuters the basic choices they need in form of alternatives. That's all I'm saying we should be looking, plus the cost over-runs and financing that I alluded to earlier. Thank you."

Senator Ikeda, speaking in support of the bill, then said:

"A brief rebuttal, Mr. President.

"I think it's time that we moved ahead into the 21st century. As I said earlier, the alternatives that we have discussed have been tried and all of the alternatives discussed still use gasoline and still require roads. If we really want to go backwards, then probably the best way to do it is to go back to the horse-and-buggy or walk or take a bicycle. But I don't think that that's going to solve our problems. If we're going to move ahead into the 21st century, then let's do it and let's vote for this bill."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 164 was adopted and S.B. No. 1719, S.D. 1, H.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TRANSPORTATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, 2 (Blair, Cobb). Excused, 1 (Menor).

Conf. Com. Rep. No. 165 (S.B. No. 3128, S.D. 2, H.D. 2, C.D. 2):

Senator Yamasaki moved that Conf. Com. Rep. No. 165 be adopted and S.B. No. 3128, S.D. 2, H.D. 2, C.D. 2, having been read throughout, pass Final Reading, seconded by Senator Fernandes Salling.

Senator Reed rose to speak in opposition to the measure as follows:

"Mr. President, I voted for the rapid transit measure that we just passed. I rise to speak against the tax increase and the method of paying for it.

"Mr. President, this bill will allow a general excise tax increase in 1992. The excise tax hits hardest at those least able to afford it.

"To vote for a tax increase two years down the road out of fear of not being re-elected is political cowardice. To pretend it's not a tax increase is dishonest. A tax increase delayed is still a tax increase.

"Hawaii is already recognized nationally as a tax hell. This tax increase will simply turn up the heat. I'm voting 'no.'"

Senator Blair, at this time, interjected:

"Mr. President, I just raise a caveat that Section 11 does not seem to fit under the title of the bill. Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 165 was adopted and S.B. No. 3128, S.D. 2, H.D. 2, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO TAXATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 18. Noes, 6 (Blair, Cobb, McMurdo, George, Koki, Reed). Excused, 1 (Menor).

Conf. Com. Rep. No. 166 (S.B. No. 2597, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Fernandes Salling and carried, Conf. Com. Rep. No. 166 was adopted and S.B. No. 2597, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO INCOME TAXATION," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Menor).

Conf. Com. Rep. No. 167 (S.B. No. 2376, S.D. 1, H.D. 1, C.D. 1):

On motion by Senator Yamasaki, seconded by Senator Fernandes Salling and carried, Conf. Com. Rep. No. 167 was adopted and S.B. No. 2376, S.D. 1, H.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TAX CREDITS," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Menor).

Conf. Com. Rep. No. 213 (H.B. No. 1718, S.D. 2, C.D. 1):

Senator A. Kobayashi moved that Conf. Com. Rep. No. 213 be adopted and H.B. No. 1718, S.D. 2, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator Yamasaki.

Senator Reed rose to speak against the measure as follows:

"Mr. President, I oppose this pay raise for judges because it includes a 27% pay raise for a judiciary employee who has been prosecuted, tried and found guilty on 13 counts of ticket fixing.

"Tom 'Fat Boy' Okuda has been convicted of crimes committed in his role as deputy courts administrator. It is outrageous that he is still in that position, still on the public payroll.

"I oppose this pay raise because the judges have failed to force the chief justice to do the right thing by removing Okuda and his influence from the judiciary.

"The Legislature has a history of giving Okuda whatever he wants -- including the passage of legislation making Okuda the only deputy administrator in the state with civil service protection. To now give Okuda a 27% pay raise and a \$21,000 retroactive bonus is absurd.

"The judiciary claims to want to avoid even the appearance of impropriety. But for the judges to lobby for a pay raise bill that includes a raise and a bonus for a person convicted of abusing the judiciary to give breaks to cronies is clearly improper.

"For the Legislature to go along with this is to remain a part of and encourage the good old boy system that still dominates all three branches of government in Hawaii. I'm voting 'no.'"

Senator Crozier rose to speak in support of the measure and said:

"Mr. President, first of all, I'd like to congratulate the Conference Committee chairs for the hard work that they did to finally bring this bill to fruition. Mr. President, I remember a few years ago in 1985 when a pay bill did not survive and I always felt the burden of how many individuals' lives and families were impacted because they did not get their pay raise.

"I'm glad that both the Senate and the House stuck to their guns and worked out some kind of compromise because these judges deserve the pay raise. Their families need to be educated. Their children need to have the opportunities the rest of us do. These judges have given up lucrative practices so that they can serve the public. I salute the chairs of the Conference Committee and I hope my colleagues support the measure. Mahalo."

Senator A. Kobayashi rose to speak in support of the bill as follows:

"Mr. President, I rise to speak in favor of this bill. I would like to add that this bill gives pay raises to positions and not people.

"Last Friday, Mr. President, was the deadline for decking bills for the adjournment on Monday and that decking deadline passed and no judicial pay raise bill was decked. After four years, while our hotel workers, teachers, U.H. faculty, all public employees were receiving pay raises, for four years the judges did not get a pay raise. Then the session was extended and Monday was another decking deadline, and Monday passed and still no judicial pay raise.

"Now, what would we have gained by remaining in a deadlocked position with the House. How many years would it take before this deadlock is broken and the judges are able to get a pay raise.

"Finally, on Tuesday the House and Senate met and Representative Wayne Metcalf was very eager to talk and we were eager to talk and we hammered out what I think is a very good solution, a really good House-Senate solution.

"This solution, Mr. President, No. 1, gives us the confirmation on the retention of circuit court judges which has been discussed since I was a staffer here. And No. 2, a very comprehensive study which will settle once and for all the question of confirmation of district court judges, and this study will be finished and the findings given to the Legislature before the 1991 session and the House has agreed to settle once and for all this question of confirmation of district court judges.

"But best of all, Mr. President, the judges receive their very well deserved pay raise, and I urge all of you to vote 'yes.' Thank you."

Senator Cobb also spoke in support of the measure and said:

"Mr. President, I rise to speak in favor of the measure.

"Recently, I was advised by some media channels to loosen the conversation so I'd like to say publicly, Mr. President, I'm glad that if you're going to pass the train bill you don't leave the judges waiting back at the station. It might make it a little hazardous for any legislator to get a traffic ticket of any kind because the last thing in the world you'd want to have is some unhappy jurist. But I'm convinced the judges do need a pay raise. In fact, two judges that I've spoken with personally, off the record, not as a matter of lobbying but by seeking their opinions had indicated they may have to give up their seats because they had children in college or other heavy expenses to bear and they have not kept up with the cost of living. And we provide, as a matter of law, that once a person becomes judge, that's the only state income or any type of income that they're allowed. Divestment is required. Other state employment and other state income is barred, and in support of what the previous speaker said any raise goes to the position, not to the individual. And there are so many individuals here deserving of this.

"Yes, I would like to see confirmation of district court judges. I stood by that and I still stand by it. I support not only the women of the Senate but the Senate position that says we should have a confirmation right on district court judges because they impact on so many people's lives, far more so than the circuit court or the supreme court and the intermediate court of appeals. If you're looking for the impact on the daily lives of our people, it's at the district court level. But that issue has been resolved and I think the compromise reached is a fair one and I think the judges are deserving of the pay raise on the merits and that's how I'll be voting. Thank you, Mr. President."

Senator McMurdo also rose to speak in support of the bill as follows:

"Mr. President, I think it's an excellent compromise. I too was absolutely opposed to it and it came to be at a deadlock state. I would really like to especially thank Senator Ann Kobayashi who I think really spearheaded this drive to arrive at this compromise. That's why I will be voting up on it and I urge everybody else to do so."

Senator McCartney also rose to support the measure and remarked:

"Mr. President, I rise to speak in favor of the bill and echo the previous statements. I would also like to personally commend the Majority Policy Leader for being a good negotiator, working out a bill that's good for the people of Hawaii and working out a bill that will attract and retain the best and the brightest to serve on the bench. I thank her very much, publicly, for working that out. Thank you, Mr. President."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 213 was adopted and H.B. No. 1718, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE JUDICIARY," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Reed). Excused, 1 (Menor).

At 8:27 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 8:33 o'clock p.m.

#### RECONSIDERATION OF ACTION TAKEN

Conf. Com. Rep. No. 24 (H.B. No. 2258, H.D. 2, S.D. 2, C.D. 1):

Senator Hagino moved that the Senate reconsider its action taken on May 1, 1990, in the passage on Final Reading of H.B. No. 2258, H.D. 2, S.D. 2, C.D. 1, seconded by Senator Aki and carried.

On motion by Senator Hagino, seconded by Senator Aki and carried, Conf. Com. Rep. No. 24 and H.B. No. 2258, H.D. 2, S.D. 2, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO LEGISLATIVE MANAGEMENT," were recommitted to the Committee on Conference.

At 8:36 o'clock p.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 8:37 o'clock p.m.

#### FINAL READING

Conf. Com. Rep. No. 214 (H.B. No. 2258, H.D. 2, S.D. 2, C.D. 2):

Senator Hagino moved that Conf. Com. Rep. No. 214 be adopted and H.B. No. 2258, H.D. 2, S.D. 2, C.D. 2, having been read throughout, pass Final Reading, seconded by Senator Aki.

Senator Hagino rose to speak in support of the bill as follows:

"Mr. President, just speaking briefly for the bill. I would like to thank you for making a correction to the mistake that I made.

"The reason why the C.D. 1 was recommitted was that it contained a technical flaw. In our zeal to pass that measure we had given authority to the Speaker and the President to appoint members of the committee within 15 days after the start of the '91 session and at the very end of the bill we had asked for a report from that very same committee 20 days before the start of that session. So that bill had to be corrected.

"Thank you."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 214 was adopted and H.B. No. 2258, H.D. 2, S.D. 2, C.D. 2, entitled: "A BILL FOR AN ACT RELATING TO LEGISLATIVE MANAGEMENT," having been read throughout, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Koki, Menor).

#### MATTERS DEFERRED FROM EARLIER ON THE CALENDAR

S.C.R. No. 66, S.D. 1, H.D. 1 (Hse. Com. No. 872):

On motion by Senator Levin, seconded by Senator Blair and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 66, S.D. 1, and S.C.R. No. 66, S.D. 1, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION REQUESTING A FISCAL AND MANAGEMENT AUDIT OF THE MAUI BRANCH OF THE SHERIFF'S OFFICE," was finally adopted.

S.C.R. No. 243, H.D. 1 (Hse. Com. No. 874):

On motion by Senator Levin, seconded by Senator Blair and carried, the Senate agreed to the amendments proposed by the House to S.C.R. No. 243, and S.C.R. No. 243, H.D. 1, entitled: "SENATE CONCURRENT RESOLUTION URGING RETAILERS TO REFRAIN FROM SELLING 'ZIG-ZAG' BRAND AND OTHER CIGARETTE ROLLING PAPERS," was finally adopted.

#### SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 255 to 262) were read by the Clerk and were disposed of as follows:

Senate Resolution:

No. 255 "SENATE RESOLUTION RECOGNIZING WITH GRATITUDE EACH OF THE MINISTERS OF RELIGION WHO OPENED A DAY OF THE SENATE, FIFTEENTH LEGISLATURE OF THE STATE OF HAWAII, REGULAR SESSION OF 1990, WITH AN INSPIRATIONAL INVOCATION."

Offered by: Senators Hagino, George.

On motion by Senator Blair, seconded by Senator Reed and carried, S.R. No. 255 was adopted.

No. 256 "SENATE RESOLUTION EXPRESSING DEEPEST APPRECIATION TO THE MEMBERS OF THE VARIOUS MEDIA FOR THEIR COVERAGE OF THE ACTIVITIES OF THE FIFTEENTH LEGISLATURE, REGULAR SESSION OF 1990."

Offered by: Senators Hagino, George.

On motion by Senator Blair, seconded by Senator Reed and carried, S.R. No. 256 was adopted.

No. 257 "SENATE RESOLUTION RETURNING ALL BILLS, CONCURRENT RESOLUTIONS, AND RESOLUTIONS TO THE CLERK'S DESK."

Offered by: Senators Hagino, George.

On motion by Senator Blair, seconded by Senator Reed and carried, S.R. No. 257 was adopted.

No. 258 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THE SIXTY-FIRST, SIXTY-SECOND AND SIXTY-THIRD DAYS."

Offered by: Senators Hagino, George.

On motion by Senator Blair, seconded by Senator Reed and carried, S.R. No. 258 was adopted.

No. 259 "SENATE RESOLUTION RELATING TO THE PRINTING OF THE JOURNAL OF THE SENATE."

Offered by: Senators Hagino, George.

On motion by Senator Blair, seconded by Senator Reed and carried, S.R. No. 259 was adopted.

No. 260 "SENATE RESOLUTION REGARDING COMPLETION OF THE WORK OF THE FIFTEENTH LEGISLATURE SUBSEQUENT TO THE ADJOURNMENT THEREOF."

Offered by: Senators Hagino, George.

On motion by Senator Blair, seconded by Senator Reed and carried, S.R. No. 260 was adopted.

No. 261 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO DESIGNATE THE EMPLOYEES WHO WILL WORK AFTER ADJOURNMENT."

Offered by: Senators Hagino, George.

On motion by Senator Blair, seconded by Senator Reed and carried, S.R. No. 261 was adopted.

No. 262 "SENATE RESOLUTION INFORMING THE HOUSE AND GOVERNOR THAT THE SENATE IS READY TO ADJOURN SINE DIE."

Offered by: Senators Hagino, George.

On motion by Senator Blair, seconded by Senator Reed and carried, S.R. No. 262 was adopted.

Senator George then delivered her end of session remarks as follows:

"Mr. President, here we are again.

"You may remember, Mr. President, that on the opening day of this session I paid some attention to your remarks of a decade earlier. As you probably guessed, I browsed once again through the ten-year-old Journal hoping for equal inspiration in closing comments.

"I was astonished to be reminded, Mr. President, of the impressive list of problems we solved in that distant session. Excerpting from your valedictory statement, here's the 'creditable record of accomplishments':

Our fiscally responsible budget provided funds for land banking, for the accelerated repair and maintenance of state facilities, for water resources, for the Aloha Tower Complex, for the HVB. We came up with a pensioners' bonus, a compromise for funding OHA, a housing program. We strengthened our criminal laws.

"I almost forgot -- we also funded (again) a reliever airport.

"I'm always surprised at the durability of the problems we file as solved. So many of the decade-old list of issues we felt we'd handled keep turning up. And I wonder how many of this session's accomplishments will turn up as priority problems in a future session, saying 'Gotcha!'

"We all need reminding occasionally that politics works as a continuum rather than a list of jobs to be accomplished.

"However ephemeral the solutions, we have enjoyed working on them -- even the ones where the minority approach hasn't prevailed.

"As always, Mr. President, the loyal minority worked hard, was stretched fearsomely thin, but left footprints, sometimes anonymously, throughout the session.

"We offer our help after adjournment, especially in finding ways to avoid the pandemonium of trying to close out our sessions.

"Ten years ago, Mr. President, we concluded our accomplishments on the 66th day. At least we've improved by a pair of days -- but there HAS to be a better way to get that gavel down.

"Thank you."

The President then addressed the members of the Senate with the following closing remarks:

"Members of the Senate, I wasn't going to say anything but since the opportunity has been afforded me to make a few remarks, I will take that opportunity.

"The hour is late. Very soon this 1990 legislative session will draw to a close and pass into history.

"Over the last four months, I believe we have set a solid record of accomplishments. I would like to take some time to mention just a few:

- We established a funding mechanism for the proposed Honolulu Mass Transit System. As a proponent for mass transit for many years, I am especially gratified by the work of the Legislature and the commitment to this project.
- We have provided for a quick administrative procedure for revoking the licenses of drunk drivers. Much credit should be given to our Transportation Committee chairman after two arduous years of commitment to this legislation. Hopefully, this will help to save lives and make our streets safer.
- We provided for the continuation of the state's innovative A+ program which is a model for the nation. Additionally, we gave strong support for education, both at the lower and higher levels.
- We approved pay raises for judges which will, hopefully, help attract and retain the best qualified people for our courts and thus improving the quality of justice for our people.
- We gave tax relief to the people - a \$60 tax rebate as well as increasing the tax credit to \$55.
- We addressed the problem of the homeless in our community with over \$9 million for various programs including some \$6 million for homeless shelters. I think that, if anything else, has been our major accomplishment.

The list is long and I can continue on in much greater detail. However, in the interest of brevity, I will stop now and just say to all of you, my fellow Senators, mahalo for your contributions to the work of this legislative session. Each and every one of you played an important role, even being the 'devil's advocate,' in the shaping of the work product of this legislative session and I want to acknowledge your service to this body, to your constituents and to all the people of Hawaii.

"There were a lot of compromises, a lot of give-and-take. I don't think any of us will leave here completely satisfied. Still, I think the bills that we finally passed make up a good package, a solid package that we can all take pride in and credit for.

"As we prepare to adjourn, I know that many of you will soon be out on the campaign trail -- either seeking re-election back to the Senate or perhaps seeking higher office. My best wishes to all of you!

"Before we adjourn, I would like to acknowledge our hard-working Senate staff. They are the ones who work behind the scene to keep the legislative process moving forward while we politicians either bask in the limelight or try to stay away from controversy. To the staff, mahalo to you all!

"In closing, my fellow Senators, I would like to thank you again for bestowing on me the honor of serving as your president for this 15th Legislature. I take this opportunity to particularly thank Senator Aki for presiding in the sessions during my absence. I look forward to working together with you again next year. Until then, mahalo and aloha!"

Senator Cobb on a point of inquiry stated:

"Mr. President, this has been an extraordinary year in many respects but also a year touched by sadness in the passing of two good friends and servants of Hawaii, and, as we adjourn sine die, I would like to request that we do so in honor of the late Bernard Akana and Spark M. Matsunaga."

The Chair so ordered.

#### ADJOURNMENT

Senator Blair moved that the Senate of the Fifteenth Legislature of the State of Hawaii, Regular Session of 1990, adjourn Sine Die, on a moment of silence in memory of the late United States Senator Spark M. Matsunaga and Hawaii County Mayor Bernard Akana, seconded by Senator Reed and carried.

At 8:48 o'clock p.m., the President rapped his gavel and declared the Senate of the Fifteenth Legislature of the State of Hawaii, Regular Session of 1990, adjourned Sine Die.