

VETO MESSAGE ON HB 2080-S

June 16, 1995

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 2(2); 105(2); 106 (lines 3-10); 107 (lines 14-18); 207(1); 207(2); 207(3); 207(4); 208(4); 217 (lines 26-27); 217 (lines 32-33); 217(17); 228(2); 228(4); 305; 504; 529; 531; 532; 537; 539; 540; 542-557; 559 and 560, Second Engrossed Substitute House Bill No. 2080 entitled:

"AN ACT Relating to transportation funding and appropriations;"

The provisions of Second Engrossed Substitute House Bill No. 2080 not meeting my approval are addressed as follows:

Section 2(2), page 2, Transportation Appropriations

This proviso states that legislation with a fiscal impact enacted in the 1995 session that is not assumed in this bill is not funded in the transportation budget. The language is ambiguous and I am concerned that this administrative restriction sets a bad precedent. Several bills could meet this criterion, including Substitute Senate Bill 5119, Cost-Of-Living Allowances For Retirement Purposes. Failure to veto this proviso could disrupt pension systems that are funded by the transportation agencies included in this budget bill.

Section 105(2), page 4, Task Force on Office of Marine Safety

This language requires the Legislative Transportation Committee to convene a task force to study the cost savings associated with the transfer of the Office of Marine Safety into the Department of Ecology, examine any funding shortfalls in the Oil Spill Administration Account, and evaluate ongoing oil spill planning and prevention needs. Because the legislature may conduct studies at any time without such specific direction, I am vetoing this subsection. However, I recognize that there is a significant problem with the revenues for the Oil Spill Administration Account.

Therefore, I am directing the Office of Financial Management, the Department of Revenue and the Department of Ecology to coordinate a study on oil spill funding, including the issue of the tax credits and whether current distribution of the nickel-per-barrel tax that funds the two oil spill accounts is adequate.

Section 106, lines 3-10, page 5, Transfer to the Tort Claims Revolving Fund

This proviso limits the transfer of transportation funds to the tort claim revolving fund only as claims are settled or adjudicated to final conclusion. Current law requires that the tort claim revolving fund be used only to pay claims resulting from incidents on or before June 30, 1990. This change would return us to the administrative inefficiencies and costs associated with the "pay as you go" system for tort claims that was in place prior to 1990, adding a new layer of complication to an already complicated system. The reconciliation and reporting requirement would likely

delay both settlement and judgment payments, and also could increase the cost of claims by requiring penalty interest payments. In addition, the state could lose an otherwise advantageous settlement opportunity if we are unable to meet time requirements on settlement demands. In order to limit administrative burdens, I will direct the Department of General Administration to transfer the amount specified in this proviso for motor vehicle and marine operating accounts into the tort claims revolving fund based on actuarial projections of claims settlements. The transfers shall be made quarterly into the tort claim revolving fund, or as necessary to meet cash flow needs.

Section 107, lines 14-18, page 5, State Parks and Recreation Commission - Operating Maintenance

This proviso limits expenditure of state funds by the State Parks and Recreation Commission for maintenance, repair, or snow and ice removal on county or private roads. I believe the intent was to limit the \$927,000 motor vehicle fund appropriation in this section. However, the way the section is written allows for much broader interpretation. I am concerned that this proviso could restrict expenditure of any funds appropriated to the Parks Commission to maintain county or private roads. The Commission often signs mutually beneficial agreements with cities and counties for snow removal or road maintenance, which allows the Commission to remove snow or maintain a limited portion of city or county roads. Such agreements may save taxpayer dollars in such instances as providing access to Snow Parks for snowmobile riders and cross country skiers. The Commission needs to maintain the flexibility to make such beneficial decisions.

Section 207(1) and 207(2), page 9, Transportation Commission Work Days

This proviso limits Washington State Transportation Commission members to seven working days per month and limits the Commission Chairperson to 9.5 working days per month. In addition, the total appropriation for Commission member work days is limited to \$45,000 in fiscal year 1997, which further reduces member working days to only five days per month. This type of limitation on state boards is unprecedented and will hinder statewide coordination of transportation issues.

The Transportation Commission is a class four board as defined by RCW 43.03.250. The Commission has rule-making authority, performs quasi-judicial functions, and is responsible for the administration, budget, and policy direction of a major state department. These duties are sensitive and vital to the operation of the state and place a significant demand on each member's time - usually in excess of 100 hours per year. Commission members should not be limited to a specified number of work days to carry out their duties as long as their overall operating budget expenditures are within the appropriation level provided.

Section 207(3), page 9, Transportation Commission Studies

This proviso prohibits the Washington State Transportation Commission from conducting studies or hiring consultants without

prior approval from the Legislative Transportation Committee. This represents an unprecedented attempt by the legislature to exercise ongoing management control over an executive branch function. The legislature has already reduced the agency's budget 42 percent from 1993-95 levels. As long as the Commission stays within its available appropriation, Legislative approval on individual expenditures is unnecessary.

Section 207(4), page 9, Transportation Commission Meetings Outside the State

This proviso will prohibit the Washington State Transportation Commission from holding meetings outside of the state. It is overly restrictive and unnecessary. Although I have ordered state employees to limit their out-of-state travel, I support the Transportation Commission's leadership role in statewide and regional transportation issues. Our transportation needs do not end at the state's borders. Transportation Commission members must have the flexibility to meet with policy makers from such places as Oregon, Idaho and British Columbia, as long as travel costs remain within the agency's total budget.

Section 208(4), page 10, Selling and Purchase of State Patrol Aircraft

This proviso to the Washington State Patrol appropriation forbids the sale and purchase of aircraft pending a Legislative Transportation Commission study of the statewide air fleet and the feasibility of consolidation. This proviso unnecessarily delays and reduces savings to the state that would occur from the sale of the State Patrol jet. Further, the proviso does not set forth a date for completion of the study. This lack of certainty could indefinitely prohibit the Patrol from buying and selling aircraft, which impinges on appropriate executive administrative responsibilities.

The legislature had sufficient time during the regular session and two special sessions to study the merits of selling the State Patrol jet. Taxpayers should not have to pay extra for equipment that exceeds the requirements of the agency. I take this action today because the longer we delay, the less we stand to save.

Section 217, lines 26-27 and lines 32-33, page 14, Highway Improvements

Section 217(17), page 19, Highway Improvements - HOV Lanes

Section 531, pages 62-64, and Section 532, page 64, Funding Sources for HOV Lanes

These provisions dedicate an appropriation of High Capacity Transportation Account and Central Puget Sound Public Transportation Account revenues for high occupancy vehicle (HOV) lane construction projects. The two accounts were created for high capacity transportation programs provided by local transit agencies and should not be transferred for any other use.

Section 228(2), page 31, Federal Enhancement Grants

This subsection designates federal enhancement grants for abandoned freight rail corridors and improvements to the King

Street Station in Seattle. Identifying specific projects in the appropriation bill circumvents an established public review and citizen-involved project selection process based on regional priorities. When the Intermodal Surface Transportation Efficiency Act (ISTEA) passed in 1991, local and state jurisdictions in Washington mutually agreed upon a procedure for project prioritization and selection for this federal funding source. This process has been successfully in place since that time. With this proviso, the enhancement project selection process is sidestepped - contrary to the spirit of ISTEA. A veto of this language gives the project selection authority back to the committee that has already approved and prioritized a list of eligible projects for the 1995-97 biennium.

The funding provided in section 228(2) remains appropriated to the Department of Transportation, the pass-through agency for grants awarded by the Enhancement Selection Committee, as they deem appropriate.

Section 228(4), page 31, Transportation Related Studies

This proviso lists several studies selected by the Legislature costing \$1,430,000. The funding source used in this section is dedicated by statute for statewide studies that mutually benefit cities, counties and the Department of Transportation. This year, for the first time, the three jurisdictions had no say in how this money would be spent.

In addition, the proviso specifies \$750,000 for a regional mobility alternative plan related to the Regional Transportation Authority (RTA). This is not an appropriate expenditure of these funds and is not necessary since the Puget Sound Regional Council approved its 1995 Update to VISION 2020 and the 1995 Metropolitan Transportation Plan as required by the federal Intermodal Surface Transportation Efficiency Act.

I have directed the Department of Transportation to place the \$1,430,000 in unallotted reserve. At the end of the biennium, the funds shall be refunded to the individual jurisdictions as provided by RCW 46.68.110(2) and RCW 46.68.120(3).

Section 305, page 37, General Administration -- Capital

This section appropriates \$2.5 million motor vehicle account appropriation to cover the Department of Transportation's share of the cost of repairing the plaza garage. However, this amount can only be spent if the capital budget provides \$1.7 million to the Department of General Administration for elevator and escalator repairs in the transportation building. The 1995-97 capital budget does not include such an appropriation; therefore this condition cannot be met, leaving the \$2.5 million for repairing the plaza garage unavailable. Completing structural and other improvements to the plaza garage, including the area commonly known as the DOT garage, is an important project and design work must begin immediately. Therefore, I have asked the Office of Financial Management and the Department of General Administration to work with the Department of Transportation, the Legislative Transportation Committee, the House Capital Budget Committee and the Senate Ways and Means Committee to identify an affordable

approach to resolving the safety concerns in all garage areas, and to address accessibility concerns in the transportation building.

Section 504, page 45, Consolidation of Financial Functions

This proviso calls for a study of the feasibility of combining the financial accounting systems for the Department of Transportation, the Transportation Improvement Board and the County Road Administration Board. I see no advantage in performing this study unless the work is done by an independent consultant or another non-transportation agency. Since funding was not provided for an independent study, and the financial systems in place for all three agencies appear to function adequately, this study is not necessary.

Section 529, page 57-61, Passenger Ferry Account

This proviso removes Kitsap County from the high capacity transit tax authority of the Regional Transportation Authority. It is identical to Section 538 of this legislation and is therefore unnecessary.

Sections 537, 539, 540, 542-557, 559 and 560 Regional Transportation Authority

These sections repeal the Regional Transportation Authority (RTA) and amend substantive portions of the High Capacity Transportation Act of 1990 (RCW 81.104) and the RTA enabling legislation (RCW 81.112). Such a significant shift in state policy in resolving the mobility problems in the central Puget Sound region must be done prudently in a bill directly dealing with this issue, and after thorough consideration of the long-range implications.

I also believe it is premature at this point to change the structure of the regional authority. I am concerned that the RTA be given sufficient time and funds to continue its mandated tasks and that voters be given an opportunity to review a revised regional transportation plan. Rather than a repeal of the RTA, I urge the RTA to work with the Department of Transportation, the Legislative Transportation Committee, counties, cities and transit districts in the area to develop a viable proposal. Should future revision of RTA responsibilities, structure and authority of these agencies be necessary, specific legislation should be introduced to accomplish the agreed-upon changes.

For these reasons, I have vetoed sections 2(2); 105(2); 106 (lines 3-10); 107 (lines 14-18); 207(1); 207(2); 207(3); 207(4); 208(4); 217 (lines 26-27); 217 (lines 32-33); 217(17); 228(2); 228(4); 305; 504; 529; 531; 532; 537; 539; 540; 542-557; 559 and 560 of Second Engrossed Substitute House Bill No. 2080.

With the exception of sections 2(2); 105(2); 106 (lines 3-10); 107 (lines 14-18); 207(1); 207(2); 207(3); 207(4); 208(4); 217 (lines 26-27); 217 (lines 32-33); 217(17); 228(2); 228(4); 305; 504; 529; 531; 532; 537; 539; 540; 542-557; 559 and 560, Second Engrossed Substitute House Bill No. 2080 is approved.

Respectfully submitted,
Mike Lowry

Governor