

July 2, 1998

Honorable Alfred W. Speer  
Clerk of the House of Representatives  
State Capitol  
Baton Rouge, LA 70804

RE: **House Bill No. 1** by Mr. LeBlanc

An Act making appropriations for the ordinary expenses of the executive branch of state government, pensions, public schools, public roads, public charities, and state institutions and providing with respect to the expenditure of said appropriations.

Dear Mr. Speer:

As authorized by Article III, Section 18(B), and more particularly, Article IV, Section 5(G)(1) of the Constitution of Louisiana, I have exercised my right to veto 10 items or provisions of the General Appropriation Bill.

**VETO MESSAGE NO. 1:**

Page 5, lines 28 through 30 and page 6, lines 1 through 3

This amendment would provide \$21,000,000 in general fund payment to the Office of Risk Management contingent upon recognition of additional revenue by the Revenue Estimating Conference. Article VII Section 10(E), of the Louisiana Constitution provides that appropriations by the legislature shall not exceed the official forecast in effect at the time the appropriations are made. As I have noted in the past when I have vetoed similar contingency items, an appropriation such as this appears inconsistent with the intent of this constitutional provision. Additionally, if revenue becomes available later, it should be appropriated to address needs which exist at the time it is recognized. At that time this payment will get appropriate consideration.

**VETO MESSAGE NO. 2:**

Page 50, lines 26 through 30

This item would provide \$111,893 in the Commissioner of Insurance's budget for the transfer of the administrative law judge function for insurance matters to the Department of Insurance. R.S. Mr. Speer  
Page Two  
July 2, 1998

49:992 provides for the Division of Administrative Law (DAL) in the Department of Civil Service to handle all adjudications in the manner required by the Administrative Procedure Act. Although certain state agencies, boards, and commissions were exempted from the provisions of this statute in Act 739 of the 1995 Regular Session, the Act which created the DAL, the Department of Insurance was not exempted. Later, in separate substantive legislation, the legislature recently declined to exempt the department from hearings by the DAL. Finally, during the 1998 Regular Session, the House of Representatives adopted House Resolution No. 86 urging the veto of the item. In view of this legislative history, it would be more appropriate for this matter to be addressed by the legislature in a separate legislative instrument amending R.S. 49:992.

**VETO MESSAGE NO. 3:**

Page 53, lines 18 through 19

This item, in the Department of Economic Development budget, would provide that the number of authorized positions be increased by four. Since funding was not provided for these positions by the legislature, the additional positions would only inflate the number of authorized positions in the department by inaccurately reflecting the number of positions that can actually be filled.

**VETO MESSAGE NO. 4:**

Page 57, lines 44 through 49

This item, in the Department of Economic Development budget, would provide \$8,300,000 from revenues recognized by the Revenue Estimating Conference over and above the amount contained in the official forecast of June 1, 1998. Article VII, Section 10(E) of the Louisiana Constitution provides that appropriation by the legislature shall not exceed the official forecast in effect at the time the appropriations are made. As previously noted, an appropriation such as this appears inconsistent with the intent of this constitutional provision. Additionally, if revenue becomes available later, it should be appropriated to address needs which exist at the time it is recognized. At that time the matter will get appropriate consideration.

**VETO MESSAGE NO. 5:**

Page 103, lines 28 through 42

This amendment, in the Department of Health and Hospitals budget, would provide \$200,000 to the Medical Vendor Administration program for a professional services contract to update the costs of

outpatient hospital ambulatory surgery procedure codes. Funding for hospital rate rebasing was provided in the executive budget recommendation, and should be adequate to cover these costs.

Mr. Speer  
Page Three  
July 2, 1998

**VETO MESSAGE NO. 6:**

Page 106, lines 24 through 28

This item would direct the Department of Health and Hospitals to reduce Medicaid payments to out-of-state providers so that they would not be paid more for services than an in-state provider would have received for providing the identical service. While the department is sympathetic with the intent of the amendment, its implementation would have required the department to perform a costly and research-intensive survey of all in-state and many out-of-state providers to determine the least expensive rate for certain services. This would have been an extreme administrative burden to place on the department, essentially for the benefit of only one hospital located near the Mississippi border. Additionally, the language is contrary to federal regulations relating to access to care in border regions.

**VETO MESSAGE NO. 7:**

Page 124, lines 39 through 42

This amendment would provide \$350,000 to the Office for Citizens with Developmental Disabilities to contract with Families Helping Families for the validation of the MR/DD waiver waiting list. The Department of Health and Hospitals agrees that the MR/DD waiver waiting list must be validated and will validate the list using existing resources. DHH believes that it is more appropriate for the department to undertake this important activity rather than an advocacy group.

**VETO MESSAGE NO. 8:**

Page 140, lines 44 through 46

This item would provide \$100,000 in general funds for the Rapides Children's Advocacy Center for operating expenses. The item is local in nature and there is no explanation as to how services are to be provided with these funds. The state should not provide for annual recurring operating expenses for local programs such as this, even where worthy.

**VETO MESSAGE NO. 9:**

Page 164, lines 40 through 42

This item, in the Department of Wildlife and Fisheries budget, would provide \$90,000 for restoration of three (3) positions in the Fur and Refuge Division. Positions in this program were not included in the

recommended budget because they were vacant for the majority of the last fiscal year. The recommended level in the executive budget provides sufficient funding and positions for this program to accomplish its objectives based upon staffing levels of the program over the last year compared to the program's performance levels. If activities in this division warrant additional positions this situation can be addressed by the department allocating positions from elsewhere in the program or by a mid-year budget adjustment.

Mr. Speer

Page Four

July 2, 1998

**VETO MESSAGE NO. 10:**

Page 268, lines 36 through 39

This item, in the Department of Education, would provide \$100,000 for the North Baton Rouge Tutorial Program. No detailed justification was provided for this program. The Department of Education already provides tutorial services through the church-based tutorial network and local school systems offer tutoring and remediation through various federal programs. Further, this local program should be eligible to receive funding through the Office of Urban Affairs and Development.

Sincerely,

M.J. "Mike" Foster, Jr.

cp

Attachments