



THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE

Charlotte Amalie, V.I. 00802
340-774-0001

May 15, 2017

VIA MESSENGER

The Honorable Myron D. Jackson
President
32nd Legislature of the Virgin Islands
Capitol Building
St. Thomas, U.S.V.I. 00802

Re: Governor's Bills Sent to the Legislature for Special Session on May 10, 2017

Dear Mr. President:

As you know, I called the Legislature into Special Session on May 10, 2017. During the Committee on the Whole hearing of that session, many members of the Senate railed upon me and accused me of sending a set of legislative bills and proposals fraught with errors and contradictions.

In consideration of the representations made during the Special Session concerning the accuracy of the proposed bills; I asked my Chief Legal Counsel to review the matter and inform me what happened. My Chief Legal Counsel compared the bills that I transmitted on May 4, 2017, May 8, 2017, and May 9, 2017¹ against the bills that were introduced on the Senate Floor and subsequently transmitted to various legislative committees.

To my chagrin, the proposed bills prepared by Government House and submitted to the 32nd Legislature of the Virgin Islands were not the bills before the Legislature. What is even more troubling is that the bills the Legislature numbered, authored as "Request of the Governor" and subsequently voted to send to committees were not the proposals I sent to you and each member of the Legislature. The review of my Chief Legal Counsel and his staff found that the bills introduced at the Special Session, contained errors, technical and substantive, and some contained considerable contradictions to what I sent to the Legislature for consideration. Further review found that these errors, omissions and simple "*dicta*" language were caused and occurred in the

¹ On May 9, 2017, I sent a Notice of Substituted Bill in the Governor's Call for Special Session on May 10, 2017 regarding the authorization for the purchase of certain real property re: Paul E. Joseph Stadium Project. My substituted bill was not included and introduced to the body in the Special Call session held on May 10, 2017, as required to be included and introduced, pursuant to Section 7(a) of the Revised Organic Act of 1954, as amended.

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Legislature's Legal Counsel's Office. How could such substantial mistakes occur when 1) as a courtesy, each Member of the Senate received a package of the May 8th and May 9th proposals directly from Government House even though it is a function of your office as President to forward my communications to the Senate to each Member of the Legislature, and 2) upon request, my Legal Counsel's office always provides the "word" version of my proposals to your Legal Counsel's office to make transcription of proposals easy and error free?

I am greatly concerned by the number of errors made to my proposed bills by the Legislature's legal staff and considered by the full Senate during the Special Session. The bills I submitted in my special call and the bills that were introduced and debated on the Senate floor were significantly different bills. These errors, which were widely and publicly discussed by Senators appear largely due to errors made by your Legal Counsel's staff. The question now is: are the bills which have been sent to the legislative committees legally there? These bills or proposals are not my bills. The bills voted on by the Senate on May 10, 2017 are substantively different than the proposals I transmitted to the Legislature.² These errors are serious and these mistakes cannot be deemed "drafting" or "construction" errors subject to administrative correction.

My staff and I remain committed to sending you accurate and well drafted proposals. We will review our protocols to ensure the veracity of the process. I must encourage you to launch a review at the Senate, compare the drafts submitted by Government House to you and each Member of the Senate to what was introduced, considered on the Senate Floor and ultimately acted upon.

Mr. President, this is a serious matter and this should not happen again. These errors substantially changed the content of or excluded language contained in my original proposals. The bills prepared by the Legislature's Legal Counsel's office now require extensive corrections before they can even be considered by the committees to which they were sent. Am I required to call another special session and submit my original submission of proposed bills for proper action by the Senate?

As an example, here is some of what we found. Bill No. 32-0093 - Anti-doping – The most glaring, substantive mistakes were on Page 8 of the introduced bill where the percentages of the distributions of the Horse Racetrack Casino Revenue Fund proceeds were different than what was provided in my proposed bill. My proposal **did not** include a line item allocation to the Virgin Islands Olympic Committee. The bill introduced on the Senate floor added a section allocating a percentage of the revenues to the Virgin Islands Olympic Committee, and changing the percentages for the other line items, thereby proposing to allocate more than 100% of the available revenues. This is a material and substantive change of my proposed bill; this bill of errors was acted upon by the senate; it was not the Bill I sent to the Legislature or one sponsored by a Member of the Legislature.

² Every proposal introduced on the Senate Floor at the Special Call stated that the bill was proposed by the Governor; however those bills were all altered in some way by legislative staff, and did not reflect the proposals I submitted.

Section 7(a) of the Revised Organic Act of 1954, as amended, authorizes the Governor to call Special Sessions of the Legislature **"at any time when in his opinion the public interest may require it. No legislation other than that specified in the call therefor or in any special message by the Governor to the Legislature while in such session."** There is no doubt that in my opinion the measures I submitted were required in the public's interest. However, I do have grave concerns that the bills introduced to the Members of the Legislature at the Special Session, were not my bills and therefore, not in compliance with section 7(a)'s mandate. How does a bill titled "Sponsored by [a Member of the Senate]" end up on an agenda of a Governor's Special Call? The Members of the Legislature voted to forward the bills introduced at the Special Session to committees. Those bills contained so many substantive and technical errors so as to make them something other than my proposals, and therefore not in compliance with the Revised Organic Act.³

How could Members of the Legislature spend hours discussing bills in the Special Session that were not the bills I sent to the Senate? What follows is the format of my proposals in the same form and manner that they were submitted in my Special Session Call:

1. A proposed bill to amend the V.I. Horse Racing Industry Assistance Act of 2010 to include anti-doping provisions, create a territorial horseracing commission and to allocate revenues;
2. A proposed *amended* bill to authorize the acquisition of certain real property for construction of a new Paul E. Joseph Stadium project;
3. A proposed bill to amend Act No. 7897 Section 1 to increase the appropriation to the Department of Human Services to provide for an increase in the VI government's Medicaid match and to authorize the Virgin Islands Public Finance Authority to finance, the construction, acquisition, rehabilitation and/or equipping of a senior residential skilled nursing facility on the island of St. Thomas;
4. A proposed bill to increase the Internal Revenue Matching Fund contribution to the General Fund in FY 2017. This measure also provides for the re-appropriation of certain capital projects territory wide to provide a \$3 million appropriation to the Juan F. Luis Hospital and Medical Center for emergency repairs and replacement of its sewer infrastructure, such funds to remain available until expended;
5. A proposed bill to provide for the re-appropriation of certain funds for capital projects in the V.I. Department of Education;

³ Of note, the Special Session included a bill sponsored by another Senator, and its inclusion on the Special Call Agenda is in direct contravention to the mandates of the Section 7(a) of the Revised Organic Act of 1954, as amended, as its inclusion added and considered a measure other than that specified by the Governor's Special Call, and was not even my bill.

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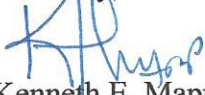
6. A proposed bill to provide for the re-appropriation of certain funds for capital projects in the V.I. Department of Sports Parks and Recreation; and
7. A proposed bill for the re-appropriation of certain capital projects Territory-wide to provide a \$545,634.00 appropriation to the Schneider Regional Medical Center ("SRMC") for emergency repairs and replacements to its chill water system; steam lines system; and hot water production and distribution system, such funds to remain available until expended.

I acknowledge that there was an error in the bill summary in my proposal concerning the increase in the contribution from the Internal Revenue Matching Fund contribution to the General Fund in FY 2017. I regret this error and I assure you that there was no "trickery" involved in this oversight. The testimony of my financial team made clear the intent of the appropriation request and acknowledged the error. In addition, the total amount referenced in my proposal calling for the re-programming of funds needed for the capital projects in the V.I. Department of Education requires revision which can be accomplished by an amendment during the consideration of the bill. These, along with one minor typographical error, were the only non-fatal errors in the seven proposals sent to the Body by me for consideration.

I write to you because this is most important. Only elected representatives of the people are empowered to place matters before the Legislature for its consideration. Today, it's typographical errors; tomorrow someone may intentionally insert unauthorized language in legislation being considered by the Senate.

Please provide me with your recommendation(s) on how we should correct the reality that the 32nd Legislature considered and voted to transmit bills to committees other than those bills submitted by a Governor in his special session call consistent with the Revised Organic Act of 1954, as amended.

Sincerely,



Kenneth E. Mapp
Governor

Enclosures