



OFFICE OF THE
SENATE PRESIDENT

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THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE

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

SENATOR
MYRON D. JACKSON

May 4, 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 Call for Special Session on May 10, 2017

Dear Mr. President:

Pursuant to Section 7 of the Revised Organic Act of 1954, as amended, for the Virgin Islands of the United States, I hereby call the Thirty-Second Legislature of the Virgin Islands into a Special Session to be held on **Wednesday, May 10, 2017 at 10:00am, at the Legislature's Chambers in Charlotte Amalie, St. Thomas.** I have enclosed for consideration of the Members of the Thirty-Second Legislature of the Virgin Islands several proposed bills for which immediate action is necessary:

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 bill to authorize the acquisition of certain real property for constructing of the 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; and,

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.

Amendments to the Virgin Islands Horse Racing Industry Assistance Act of 2010:

On January 11, 2017, I forwarded proposed amendments to the Virgin Islands Horse Racing Industry Assistance Act of 2010. My administration developed a comprehensive approach to modernize and promote the horse racing industry in the U.S. Virgin Islands. We identified a private investor/operator with nationally recognized experience in the horse racing industry willing to invest nearly \$30 million in private capital to build modern state-of-the-art racetracks and related facilities on both St. Thomas and St. Croix. We negotiated a tough, but fair agreement that imposes specific obligations on the new operator. Today, I am disappointed that I must tell you that the delay in completing our contractual obligations caused by a lack of timely action of the Legislature is putting this \$30 million private investment in jeopardy. In short, we may lose this deal because we are not fulfilling our end of the agreement to provide a statutory environment for clean, transparent and legal horseracing.

The Senate delay in making it an illegal act to "dope" horses racing in Virgin Islands horseracing facilities also jeopardizes other critical benefits under our arrangement. The benefits to be lost include:

- New revenues and fees to the Government;
- Increased revenues for the Horsemen Associations;
- Increased number of race days on both St. Thomas and St. Croix;
- Increased purse sizes, starting at \$2 million per annum;
- New training and scholarships for our young people;
- Stringent and transparent reporting requirements on gaming;
- New jobs;
- A thoroughbred breeders program under the local Dept. of Agriculture; and,
- Performance guarantees.

In ratifying the Franchise Agreement with VIGL, Inc., the 31st Legislature made certain fatal amendments to the Virgin Islands Horse Racing Industry Assistance Act of 2010 and struck

key, but very necessary provisions submitted in my proposed legislation that were also a part of our contract with our new partner and investor. The 31st Legislature chose to retain two district Horse Racing Commissions, in effect having two independent regulators regulating a single operator. In effect, multiple and at times contradictory regulations may be imposed upon a single operator. Additionally, the Senators voted to remove the ban on using illegal substances to enhance the performance of the horses participating in the races. Who would invest \$30 million in racing facilities in a jurisdiction that would permit and, by your deletion, promote the doping of horses with illegal substances to enhance the horse's performance? Finally, the 31st Legislature further amended the proposed bill, removing the distribution and disbursement of funds from the increase in casino fees to other activities, charities and government entities that would have codified responsibilities under the new Act. In sending down my initial proposed bill in January of this year, I sought to correct these deficiencies which are critical for the investor and the Government to move forward in implementing our now ratified agreement. I had hoped that by the time the Carnival races occurred this year, these corrections would have been addressed by the Senate. Our partner, VIGL, has purchased property on St. Thomas to expand the Clinton Phipps Track, however, VIGL continues to express its serious concern that the Legislature does not grasp the importance of correcting the harmful changes made in the 31st Legislature and time is running out.

The proposed bill in my special session call proposes to create a single regulatory structure by consolidating the two existing District Commissions and establishing one commission within the Department of Sports, Parks and Recreation, called the Virgin Islands Horse Racing Commission ("Commission"). The Commission would be composed of nine voting members, with four from St. Croix and four from St. Thomas-St. John (with one member from St. John), each appointed by the Governor and confirmed by the Senate. The Commissioner of Sports, Parks and Recreation will serve as the ninth member. The amendments enhance the Commission's regulatory powers and implement much needed conflict of interest rules. In order to attract the best candidates, the amendments increase the stipend for each Commission member to \$500 for each race day. Having two district Racing Commissions regulating a territorial racing operator is tantamount to having two district Public Service Commissions regulating the single Water & Power Authority. Having two commissions is nothing more than a recipe to create bedlam.

Second, the proposed bill requires the racetrack operator to comply with best practices in the horse racing industry, including compliance with federal and local anti-doping rules, to ensure that horse races in the Virgin Islands are conducted safely and with integrity. This is a very important and significant provision of the proposed legislation. Failure to enact this provision would most certainly KILL THIS DEAL! It would prevent the Government of the Virgin Islands and the Franchise holder from moving forward to implement the Franchise Agreement and begin construction of the new racing facilities. Illegal doping of horses in horse racing and a \$30 million private sector investment to build new horse racing facilities are not compatible.

Every US jurisdiction with a thriving horse racing industry has adopted and enforces strong anti-doping statutes. We should not try to get the same positive results by giving way to the illegal doping of horses.

Third, while the Legislature increased the casino fees from 19 ¼% to 25%, legislation is needed to make sure it is paid into a separate and distinct special fund called the "Horse Racetrack Casino Revenue Fund." This nearly 30% increase in casino fees should be distributed as follows:

- 50% to the General Fund of the Virgin Islands Treasury;
- 30% to the respective horsemen's associations in both island districts, evenly divided;
- 3% to a newly established Thoroughbred Fund for use in the Certified Thoroughbred Program to improve facilities and breeding stock in the horse racing industry;
- 3% to a newly established Hospitality Fund for hospitality training in the tourism industry;
- 5% to the Agriculture Revolving Fund established and administered pursuant to 33 V.I.C. §3018, for the purchase and cultivation of fresh fruits and vegetables for consumption within the Territory;
- 4% to the Department of Agriculture for the treatment of horses who are injured or retirement of horses no longer racing; and,
- 5% to the Department of Sports, Parks and Recreation for the development of youth and sports activities in the Territory.

This proposed legislation evidences my Administration's commitment to revitalizing and improving the horse racing industry in the Territory. Both Horsemen Associations in the Territory agree and are on board as they have executed racing agreements with VIGL.

On behalf of the people of the Territory, I invite the Legislature to join us and provide the final catalyst for the sound development of an expanded part of sports tourism.

Authorization for the Purchase of Certain Real Property re: Paul E. Joseph Stadium Project:

The proposed bill authorizes the Government of the Virgin Islands, through the Department of Property and Procurement, to negotiate with owners and purchase certain real property in furtherance of the completion of the Paul E. Joseph Stadium Project. Further, that the funds for the purchase of the properties shall come from any available funds in the Community Facilities Trust Account for an amount not to exceed \$450,000, and such sums shall remain available until expended. Following the results of the topographical studies of the project, this measure will allow

us to move the footprint of the Paul E. Joseph Stadium Project more east placing it on a better footing and providing that runoff from the La Grange gut flow out to sea and not into the town of Frederiksted. The Garcia family is willing to sell the Government the acreage provided for in the proposed measure.

Increase of D.H.S Appropriation to Increase the Medical Assistance Program and to Provide for Authorization for the VIPFA to Finance, Construct, Acquire, Rehabilitate, and/or Equipping of a Residential Skilled Nursing Facility on the island of St. Thomas:

My proposed legislation increases the appropriation to the Department of Human Services by an additional ten million dollars (\$10,000,000.00) for this fiscal year to provide our local match for the Medical Assistance Program ("MAP"). As you may be aware the annual local match for the MAP program is approximately \$13 million per fiscal year. In the current fiscal year budget, the Legislature only appropriated \$5 million. Currently, 22,000 Virgin Islanders rely on the MAP program to access health care services. The current \$5 million appropriation is almost exhausted and we are a bit above the half way point in the fiscal year.

Increasing the appropriation for the MAP program will provide the necessary match to permit our hospitals, doctors and community health centers access to federal funds to pay 55% of the health care costs of our residents. I should note that I have submitted an application to the Centers of Medicare & Medicaid Services (CMS) to expand eligibility to the local MAP program. Approval of this appropriation will allow the Territory to meet its match requirement, ensure that there is no interruption in health services and allow a greater number of residents access to paid medical services.

This proposed legislation also provides the Public Finance Authority authorization on behalf of the Government to finance, construct, acquire, rehabilitate and/or equip a residential skilled nursing facility on the island of St. Thomas. As our community ages and individuals are living longer, the need for certified senior living residential and rehabilitative facilities is critical. We have an opportunity to provide better care, expand services and open new beds. Time is of the essence.

Increase contribution from the Internal Revenue Matching Fund to the General Fund:

This proposed bill is summarized as follows:

Section 1 of the proposed bill increases the total appropriation to the General Fund from the Internal Revenue Matching Fund in Fiscal Year 2017, by \$13,000,000. This additional funding will be transferred from additional \$18.2 million in Internal Revenue Matching Fund revenues resulting from the adjustment of the rum cover over rate from \$10.50 per proof gallon to \$13.25 per proof gallon in Fiscal Year 2016.

Section 2 of the proposed bill provides a contribution of two million dollars (\$2,000,000.00) from the Tourism Advertising Revolving Fund to the General Fund as part of balancing this fiscal year's budget.

Section 3 of the proposed bill appropriates three million dollars (\$3,000,000.00) for the purpose of addressing emergency sewer repairs and line replacements at the Juan F. Luis Hospital and Medical Center ("JFLH"). The source of funds will come from the reprogramming of certain Gross Receipt Tax Bonds and Matching Fund Bonds, as well as, funds from the Community Facilities Trust Account. In an update given to me by the Acting Chief Executive Officer of the JFLH, one-half of the hospital building's sewage is being removed by machines and pumped into trucks. This is but a band-aid on a very serious issue that must be addressed and quickly. The proposed reprogrammed bond funds have been languishing at the PFA for over four (4) years and no longer needed for the original projects designated.

VI Department of Education Reprogramming of Funds:

This proposed bill seeks the reprogramming of certain fund balances from bond proceeds from completed capital projects. The reprogramming will address major issues affecting the infrastructural life and safety issues throughout the VI Department of Education's ("VIDOE") supporting facilities which cannot be funded through the Department of Interior—Office of Insular Affairs' grant currently funded through the ABCs Deferred Maintenance Program. The reprogramming of these funds will allow for the VIDOE to provide safer learning and working environments for students, teachers and other support staff.

VI Department of Sports, Parks and Recreation Reprogramming of Funds:

This proposed bill seeks the reprogramming of certain funds from the Community Facilities Trust Account which previously funded the Emancipation Gardens park improvement project, which is now completed and left a balance of funds. The reprogramming of those funds will allow for the Department of Sports, Parks and Recreation ("DSPR") to use the reprogrammed funds to make repairs to the Kirwan Terrace Ballpark, the Joseph Aubain Ballpark and the Emile Griffith Ballpark. These necessary repairs would substantially benefit the community and all residents and visitors who use the parks for recreational activities.

As always, members of my Administration remain available to discuss any concerns or questions you may have regarding the Agreement. I thank you and the Members of the Thirty-Second Legislature for their prompt consideration of the enclosed bills and for their continued cooperation in working on behalf of the People of the Virgin Islands.

Sincerely,


Kenneth E. Mapp
Governor