



THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE

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

April 26, 2016

VIA MESSENGER

The Honorable Neville James
President
Thirty First Legislature of the Virgin Islands
Capitol Building
St. Thomas, VI 00802

**Re: Governor's Action on Bills numbered 31-0224, 31-0264, 31-0270, and
31-0330**

Dear Mr. President:

I write to advise you that, pursuant to Section 9(d) of the Revised Organic Act of the Virgin Islands of 1954 as amended, I have today acted on Bills numbered 31-0224, 31-0264, 31-0270, and 31-0330.

I have approved Bill No. 31-0330, an act amending Title 7 Virgin Islands Code, chapter 1, to provide for the Virgin Islands Department of Agriculture, the University of the Virgin Islands, and other selected universities to cultivate industrial hemp for research purposes and providing for deferred authority for the commercial cultivation of industrial hemp contingent upon congressional authorization, making a \$75,000.00 appropriation to the Department of Agriculture. This measure would permit research into the commercial hemp business to move forward.

I have approved Bill No. 31-0224; but I have line-item vetoed Section 3 of the measure. Bill No. 31-0224 amends Act No. 7453, Section 2(B) to create and expand the scope of the "2012 Police Fleet Project" to provide funds for and acquire vehicles and equipment for the VI Police Department, the VI Fire Service, the VI Department of Health, the Office of the Medical Examiner within the VI Department of Justice, the VI Bureau of Corrections, the Department of Public Works and the Government of the Virgin Islands. The Bill authorizes the establishment of a revolving credit facility, with a maximum principal amount outstanding at any time not to exceed \$10,000,000 called the "Emergency First Responder, Vehicles and Equipment Credit Facility".

This measure will provide for effective management of our first responder fleets and provide much needed resources to departments and agencies so they can get their jobs done and provide critical services to the people of the Virgin Islands.

With the enactment of this bill, the government need not purchase an entire fleet of police cars, ambulances, fire trucks, prison transport vans, tow trucks, etc. all at once. When we do this, all of the fleets expire at the same time, need replacement and the cash outlays are significant. Through the multiple appropriations authorized in this credit facility, the government can now stagger our purchase of fleet vehicles to keep the equipment modern, within compliance of our contractual agreements and up to date with technological advances. The Department of Health, is no longer restricted to having basic ambulances, but can now add trauma response units when needed as well. I thank the members of the Senate for working with the members of my cabinet and passing this proposal.

I have, however, vetoed Section 3 of the bill which prohibits the purchase of official or ceremonial vehicles for the Offices of the Governor and Lieutenant Governor. While this addition to the bill was directed at the Governor and Lieutenant Governor specifically, the addition of this language also prohibits the purchase of much needed vehicles for critical and revenue collection work codified under the offices of the Governor and Lieutenant Governor.

Would anyone argue that all vehicles purchased by the Government of the Virgin Islands are not official vehicles of the Government of the Virgin Islands? Purchasing vehicles when needed, for the Office of Veterans' Affairs, the Law Enforcement Planning Commission, the VI Energy Office, the Division of Personnel, the Office of Management & Budget, the Bureau of Information Technology, the Office of the Tax Assessor, the Division of Corporations and Trademarks, the Division of Banking & Insurance, the Division of Tax Collector, the Division of the Recorder of Deeds, the Division of Property Appraisers, the Office of the Cadastral and others would all be prohibited using this revolving credit facility if Section 3 were to become law. I do not believe that this is the intent of the Legislature as the vetoed language defeats the purpose of amending the original proposal to insert the language, "vehicles for the Government of the Virgin Islands". Further, without a line item veto of Section 3, the measure would create a clear conflict by providing for the purchase of vehicles and equipment for the Virgin Islands Fire Service in Section 1 of the bill, but then prohibiting such purchases in Section 3 since the Virgin Islands Fire Service is established as an entity within the Office of the Governor.

In addition, without a veto of Section 3, I would be forced to ask the Legislature to appropriate funds from the General Fund of the Government of the Virgin Islands to provide the necessary transportation for the employees within these units to perform their duties.

I have approved Bill No. 31-0270, an act amending Title 18 Virgin Islands Code, sections 492 and 523 relating to the form of ballot and eliminating voting by party symbol on the electronic voting system. I have also vetoed Bill No. 31-0264 seeking to amend Title 18 V.I.C., Chapter 27, by adding a new section 857 establishing election offenses.

Offering an historical perspective, and contrary to popular belief, the US Constitution did not guarantee citizens the "right to vote" – the understanding was that only certain individuals would make those decisions when it came to government. In 1789, when George Washington was elected president, only 6% of the population could vote! It was only after the sacrifice, often of

life and limb, of many citizens over the span of two centuries that the US Government recognized the “right to vote” of each and every citizen without considering whether or not they were a property owner, their race or their gender.

In 1984, the Virgin Islands passed the Election Reform Act of 1984, set forth in Title 18, which abolished the paper ballot system of voting and replaced it with an electronic voting system. In 2002, Congress passed the Help America Vote Act (HAVA), which requires states and territories to comply with a federal mandate for provisional ballots, disability access, centralized and computerized voting lists, and electronic voting. In the 2014 gubernatorial election, the party symbol language in Title 18 created confusion and controversy that threatened the rights of Virgin Islands’ voters to *electronically* cast a vote for their chosen candidate, have their votes *electronically* counted, and almost had their votes voided by being labeled, “spoiled ballots”. Then candidates Osbert Potter and I were forced to seek relief through the Supreme Court of the Virgin Islands from democratic party zealots, who were pursuing their preconceived notion of what the results of the gubernatorial elections should be, despite the intent of the voters.

In short, the amendment proposed by Bill 31-0270 eliminates the threat of derailing the voters’ intent by the confusing language contained in Title 18, Sections 492 and 523. The new law now provides that each voter may choose whom they wish to vote for notwithstanding that the voters’ choice of candidates may be persons of varying political persuasions. I commend the Democratic Party Senators of the legislature who voted to protect the voting rights of the people of the Virgin Islands over political party interest. BRAVO!

I have vetoed Bill No. 31-0264. This bill seeks to make it unlawful for “any person while being elected” to the office of Governor, Lieutenant Governor or Senator to vote in any election for public office outside the Territory. The sanction for doing so is mandatory forfeiture of the office and a fine of not more than \$5,000 and not less than \$500.

“Hello, Ken Mapp here. Really? *Circa* 1989 my friends. The full voting rights of American citizens living in the Virgin Islands is a right we all wish to exercise as members of the family of American Citizens. Yesterday, at Government House on St. Croix, the US Secretary of Veterans Affairs, the Honorable Robert A. McDonald joined me in paying tribute to Mr. John “Johnny” Tranberg, a Virgin Islands Veteran who turned 100 years of age and five (5) other Virgin Islands’ Korean War veterans. Mr. Tranberg was born in 1916, and served in World War II in 1945. Mr. Tranberg, since returning home, has been unable to participate in any election to choose a President since being deemed an American citizen in 1927.

While I am aware that the current construction of the US Constitution makes no provision for American citizens living in the territories to participate in presidential elections; I yearn to have a say in choosing my American President. As Governor, I can tell you that many Virgin Islands’ residents share this desire. I will not join with the legislature to condemn or punish any Virgin Islander who seeks to or participates in a national election.

In addition, I do not believe that the Legislature has the power to enact legislation to remove a Governor, Lt. Governor or Senator from office outside the limitations of the Revised Organic Act of 1954, as amended. The bill as constructed is confusing. In what forum would the Governor, Lt. Governor or Senator be found "guilty" of voting? While I recognize that persons can be found guilty of voter fraud; I have been unable to find any jurisdiction in America where a person can be found "guilty" of voting. I must also point out that for naturalized persons who vote in foreign elections; there already exists a penalty as those individuals place their naturalized citizenship in jeopardy by violating their oath to the United States: to renounce the country of their birth.

Section 12 of the Revised Organic Act of 1954, as amended, expressly sets forth the manner in which elected officials may be removed from office. In establishing the recall remedy, Congress contemplated factors which would render an elected official unable to serve. These provisions reflect the importance and respect of the vote of the people of the Territory and an acknowledgement that the vote should not be regarded lightly nor undone by other than the electorate. In addition, it is settled law that the Legislature retains the power to determine the qualifications of any of its members to serve in the Senate at any time it is in session. Thus, while the Legislature may correctly establish voting outside the Territory as an offense and establish appropriate penalties, it is without authority to establish a removal remedy for the Governor, Lieutenant Governor or Senator that is inconsistent with the Revised Organic Act of 1954, as amended.

As always, I thank each Member of the Legislature for your continued work on behalf of the people of the Virgin Islands.

Sincerely,



Kenneth E. Mapp
Governor

Enclosures