

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

Proposed
THE CONSTITUTION OF THE
VIRGIN ISLANDS OF THE UNITED STATES
FIFTH CONSTITUTIONAL CONVENTION

PREAMBLE

We, the people of the Virgin Islands, grateful to Almighty God for our creation, preservation, freedom, and Divine Guidance, mindful of our Virgin Islands heritage and uniqueness, assuming the responsibilities of self-government as an unincorporated territory of the United States, in order to promote more unity among our islands for ourselves and our posterity, promote the general welfare, protect the fundamental rights and freedoms of the individual, ensure political, social and economic justice, maintain a republican form of government, protect our culture and natural resources, and preserve the identity of the Virgin Islands.

Whereas we recognize the original indigenous peoples who inhabited these islands. We especially recognize the significant hardships endured by the enslaved Africans during the period of European colonial rule which precipitated the 1733 revolution on St. John, the successful 1848 Emancipation Insurrection, the 1878 Fireburn on St. Croix, and the 1892 Coal Workers' Strike on St. Thomas.

Whereas the transfer of the former Danish West Indies to the United States of America through the Treaty of Cession of 1917 confirmed that the civil rights and political status of the inhabitants of the islands shall be determined by the United States Congress.

Whereas the adoption of the United States Nationality Act of 1940 identified the natives of the Virgin Islands who resided in the islands on January 17, 1917, and whose descendants are ancestral Virgin Islanders.

Whereas the enormous contributions to the socio-economic and political development of the Virgin Islands by those who migrated to the territory from countries of the wider Caribbean, who endured significant hardships as a result of prevailing U.S. immigration and labor laws, and who came to form an integral part of the Virgin Islands society; we especially recognize those who migrated from Puerto Rico, the French, Dutch, and the British West Indies whose contributions have been integral to the political, economic and social development of Virgin Islands society.

Whereas the applicability of the United Nations Charter confirms the principle of equal rights and self-determination of peoples and the requirement for the development of full self-government; we affirm that the establishment of local constitutional self-government pursuant to this Constitution shall not preclude or prejudice the further exercise by the people of the Virgin Islands of the right of self-determination regarding the attainment of a permanent political status; Now Therefore, we do ordain and establish this Constitution.

ARTICLE I BILL OF RIGHTS

Section 1 Fundamental Rights

~~(a) The dignity of the human being is inviolable. No person shall be deprived of life, liberty or property without due process of law or be denied the equal protection of the laws. Legislative measures designed to protect or assist persons or categories of persons, disadvantaged by discrimination may be undertaken.~~

Deleted: No person shall be deprived of life, liberty or property without due process of law or be denied the equal protection of the laws. No person shall be discriminated against on account of race, color, and sex, and gender, place of birth, socio-economic class, origin, political religious belief, age or disability.

Formatted: Font: CG Omega, 11 pt

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

1 (b) No person shall be discriminated against on account of race, color, and sex, and
2 gender, place of birth, socio-economic class, origin, political religious belief, age or
3 disability.

Formatted: Space After: 6 pt

4 **Section 2** **Freedom of Religion, Speech, Media, Assembly and Petition**

Deleted: ¶
Page Break

5 No law shall be enacted respecting an establishment of religion, or prohibiting the free
6 exercise thereof, or abridging the freedom of speech or of the press, or the right of the
7 people peaceably to assemble, and to petition the Government for the redress of
8 grievances.

9 **Section 3** **Right of Privacy**

10 A person has the right to a reasonable expectation of privacy in the conduct of personal
11 affairs and communications and it shall not be infringed.

12 **Section 4** **Right to Know**

13 A person shall have the right to examine any public document and to observe the
14 deliberation of any agency of government subject only to exceptions provided by law and
15 the right of individuals to privacy in their personal affairs.

16 **Section 5** **Searches and Seizures**

17 A person shall have the right, subject only to warrant, to be secure in their person,
18 dwelling, papers, possessions and privacy, and such right shall not be abridged by
19 unreasonable search and seizure. No warrant for arrest or search shall be issued except
20 upon probable cause, supported by oath or affirmation, and particularly describing the
21 place to be searched, thing to be seized, or person to be arrested. Evidence obtained in
22 violation of the rights of the accused shall not be admissible as affirmative evidence
23 against the accused in a criminal trial.

24 **Section 6** **Rights of the Accused**

25 (a) In all criminal prosecutions, the accused shall be presumed innocent unless and until
26 proven guilty beyond a reasonable doubt, shall have the right to a speedy, public trial, and
27 trial by impartial jury, if a penalty may be imprisonment for more than six months; to be
28 informed of the nature and cause of the accusation, to have the assistance of counsel, and
29 where the accused may be imprisoned, the assistance of counsel at public expense, if
30 necessary; to have compulsory process for obtaining witnesses, and to confront the
31 witnesses against the accused.

32 (b) Any person who is subjected to a custodial police interrogation shall, before he is
33 questioned, be advised that he has a right to remain silent, that any statement that he
34 makes may be used as evidence against him, and that he has the right to the presence of
35 an attorney, either retained or appointed.

36 (c) Excessive bail shall not be required, nor excessive fines imposed, nor cruel or
37 unusual punishment inflicted. All persons shall be presumed to be bailable, and such
38 presumption shall be overcome only by a preponderance of the evidence, established by
39 the Government that the accused may flee the jurisdiction or that the granting of bail
40 would constitute a danger to the community.

41 (d) No person shall be twice put in jeopardy for the same offense or be compelled in any
42 criminal case to be a witness against himself. The failure of an accused to testify shall not
43 be taken into consideration or commented upon to the detriment of the accused.

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

- 1 (e) All civil rights may be restored to a person convicted of an offense upon the
- 2 completion of any sentence served and any period of probation or parole, subject to
- 3 reasonable limitation as may be proscribed by law.

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

Rights of Victims

Victims of crime shall have the right to be treated with fairness, respect, dignity, and be free from intimidation, harassment, or abuse throughout the criminal justice. Subject to reasonable limitations imposed by law, victims shall be informed and allowed to be present and to be heard during all sentencing or probation hearings involving the crime including the right to file a "Victim Impact Statement," as provided by law. They shall have the right to receive the return of any property, taken during the investigation or recovered, returned as soon as possible after trial.

Section 8 Prohibition of Slavery

Slavery and involuntary servitude are prohibited, except in the latter case as a punishment for crime after the accused has been duly convicted.

Section 9 No Imprisonment for Debt

No person shall be imprisoned or suffer forced labor for debt.

Section 10 Habeas Corpus

All persons have the right to apply for a writ of habeas corpus and such shall not be unreasonably denied.

Section 11 Labor

- (a) All persons shall have the right to organize and bargain collectively, to strike and to picket, and to engage in other lawful concerted activities subject to reasonable limitations to protect health, welfare, and safety.
- (b) Public employees engaged in services essential to the public health or safety may have the right to strike in accordance with law.
- (c) All public employees and all employees of an individual private employer shall have the right to equal pay for equal work: provided, however, that the phrase equal pay for equal work shall not be construed as requiring the equality of salaries, compensation, or benefits between public employees doing substantially equal work represented by different labor organizations.
- (d) All employees shall have the right to reasonable protection against injuries in work or employment.
- (e) The employment of children in any occupation injurious to their health, morals, or general welfare, or which places them in jeopardy of life or limb is prohibited.
- (f) Waiver of any law or judicial review shall not be a condition for employment.

Section 12 Protection of Property

Private property shall not be taken for public use without the payment of just compensation. Private property shall only be taken for a substantial and direct public benefit.

Section 13 Restrictions of Legislation

No ex post facto law, bill of attainder, or law impairing the obligation of contracts shall be enacted.

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

1
2 Section 2. A Native Virgin Islander is a person born in the Virgin Islands after June 28,
3 1932.

4 **ARTICLE IV SUFFRAGE AND ELECTIONS**

5 **RIGHT TO VOTE**

6 Section 1. Every citizen of the United States and the Virgin Islands eighteen (18) years
7 of age or older and registered to vote in the Virgin Islands shall have the right to vote.
8 No other qualifications or requirements may be imposed except a period of residency
9 may be required by law. Persons who are adjudged mentally incompetent or who serves
10 a sentence after conviction of a felony may be disqualified from voting.

11 **REGULAR GENERAL ELECTION**

12 Section 2. The regular general election of the Virgin Islands shall be held on the first
13 Tuesday following the first Monday of November in each even numbered year. All
14 executive branch officers and members of the Senate shall be elected at a regular general
15 election. Other elections, initiative, referenda, and matters with respect to election
16 procedures shall be as provided by law.

17 **DATE OF TAKING OFFICE**

18 Section 3. The Governor and Lieutenant Governor elected in a regular election shall
19 take office the first Tuesday following the first Monday in January following the election.
20 All other public officials elected at the regular general shall take office as provided by
21 law.

22 **OATH OR AFFIRMATION**

23 Section 4. No political or religious test, other than an oath or affirmation to support the
24 Constitution and laws of the Virgin Islands, and the Constitution and laws of the United
25 States, shall be required as a qualification for public office.

26 **COMPENSATION**

27 Section 5. Compensation for Certain Government Officials

28 (a) Compensation for the Governor, Lieutenant Governor, Senators and members of
29 the Judiciary shall be as recommended by the Compensation Commission.

30 (b) The Compensation Commission, which shall be appointed within one hundred
31 eighty days of the effective date of this Constitution and every eight years thereafter,
32 shall submit its recommendation to the Senate, the Chief Justice, and the Governor within
33 one hundred twenty days and then shall dissolve. It shall have seven members:

- 34 (1) five shall be appointed by the Governor four of which shall be appointed with
35 the advice and consent of the Senate;
36 (2) one appointed by the President of the Senate; and
37 (3) one appointed by the Chief Justice of the Supreme Court.

38 (c) The recommended compensation shall not be amended, and shall become
39 effective unless it is disapproved within thirty days of submission by (1) a two-thirds vote
40 of the Senate or (2) the Governor.

41 (d) If the recommendation is disapproved, there shall not be any changes in
42 compensation unless it is recommended by the next Compensation Commission that shall
43 only be convened as provided herein.

Deleted: a person or the descendants of a person, who was born in the U.S. Virgin Islands, prior to the year 1932.¶

Formatted: Indent: Left: 1"

Formatted: Font: Not Bold

Deleted: –

Deleted: , or the descendants of a person, who was

Deleted: U.S.

Deleted: <#>Resident Virgin Islander – one who currently resides in the Virgin Islands, and has resided in the Virgin Islands for 5 years or more, and has registered to vote. ¶

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

1 (e) No law shall become effective increasing the compensation of Senators during
2 the term of its enactment to law.

3

4 **ARTICLE V LEGISLATIVE BRANCH**

5 **Legislative Power and Authority**

6 Section 1. The legislative power and authority of the Virgin Islands is vested in a
7 unicameral body designated the Senate of the Virgin Islands and shall extend to all
8 subjects of legislation consistent with this Constitution and the Constitution and laws of
9 the United States. This Constitution shall be the supreme law of the Virgin Islands.

10 **Composition of the Senate**

11 Section 2. (a) The Senate shall consist of no less than eleven and no more than
12 fifteen persons, as the number and districts may be determined by law, who shall be
13 called Senators. The Senate shall consist of Senators that are elected At-Large and by
14 Districts. One-half of the Senators elected At-Large shall be residents of the District of
15 St. Croix, and one-half of the Senators elected At-Large shall be residents of the District
16 of St. Thomas-St. John.

17 (1) Effective with the election of 2012, the Senate shall consist of fifteen
18 Senators with : (a) six elected At-Large, three who are residents of St. Croix and three
19 who are residents of either St. Thomas or St. John, elected in alternate years by the
20 electors of all the Virgin Islands, (b) two elected from each of two ~~districts~~ to be
21 established in St. Croix, (c) two elected from each of two ~~districts~~ to be established in
22 St. Thomas, and one elected from St. John. Senators shall be residents of the ~~districts~~
23 from which elected, and shall be elected by the electors of that ~~district~~.

Deleted: sub-

Deleted: sub-

Deleted: sub-

Deleted: sub

24 (2) Senators elected At-large shall be elected for a term of four years and
25 Senators elected by ~~districts~~ shall be elected for a term of two years.

Deleted: -

Deleted: sub-

26 (b) At least once every ten years and within one hundred and twenty days of publication
27 of an official census, the Senate shall appoint a reapportionment commission. The
28 commission shall provide a plan for the reappointment of At-Large and ~~district~~ senate
29 seats that are contiguous and compact areas. The areas shall be constituted as to give, as
30 nearly as is practicable, representation in proportion to the census population. The plan
31 shall provide for at least one Senator from St. John. If the Senate fails to establish a
32 reapportionment commission in accordance with this section within 120 days of the
33 release of the official census or if the Senate fails to reapportion within 240 days of the
34 release of the official census, the Supreme Court shall have original and exclusive
35 jurisdiction to promulgate and enact a reapportionment plan.

Deleted: sub-

36 **QUALIFICATIONS OF SENATORS**

37 Section 3. A Senator shall be:

38 a) an elector of the Virgin Islands,

Deleted: for at least five years immediately preceding the date of filing for office

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39

- b) at least 18 years of age,
- c) domiciled in the legislative district or sub-district for at least one year immediately preceding the first date of filing for office, and,
- d) be a citizen of the United States and the Virgin Islands.

Deleted: twenty-three

Deleted: and

Deleted: .

Deleted: C

Deleted: s

RESTRICTION OF ACTIVITIES

Section 4. Activities of Members of the Senate shall be restricted as follows:

- a) Until such time as Local Government is implemented, Senators shall devote their full time to their duties and not (1) engage in any employment, trade, or profession, and (2) not hold any other paid public position unless authorized specifically by law.
- b) Upon the implementation of Local Government the Compensation Commission, established herein, shall adjust the compensation of Senators commensurate with the required service.
- c) Within one year of leaving the Senate, a Senator shall neither be appointed to any salaried public position which was created by the Senate during the previous term nor benefit from any compensation which was increased by the Senate during the Senators last term of office unless the salary change was recommended by the Commission on Legislative, Executive and Judicial Salaries.

Vacancy

Section 5. If a vacancy occurs in the Senate the President of the Senate shall, within thirty days, appoint the next available person from among those candidates considered in order of the highest number of votes received for that seat in the last election. If there is no available candidate, the vacancy shall be filled as provided by law.

Legislative Immunity

Section 6. A Senator shall not be held to answer in any place except the Senate for a statement made in any Senate proceeding. A Senator shall, except in cases of treason, felony, or breach of the peace, be privileged from arrest in the Senator's travel to , from or during a session of the Senate.

Organization and Procedure

Section 7. A majority of the Senate shall constitute a quorum. The Senate shall have all authority inherent in a legislative assembly; shall be the judge of the qualifications of its members, and shall have the power to institute and conduct investigations, issue subpoenas, and administer oaths. The Senate, upon the vote of two-thirds of its members, may discipline any member for cause. The Senate shall maintain a daily journal of its proceedings, which shall include a record of all votes taken and shall be published within thirty days and made available to the public upon request.

Regular and Special Sessions

Section 8. Sessions of the Senate:

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

- 1 a) The first Regular sessions of each term of the Senate shall be held in
2 the capital of the Virgin Islands beginning on the second Monday in
3 January.
- 4 b) A special session of the Senate may be called by the Governor or by
5 the President of the Senate upon request by two-third's (2/3) of its
6 members. Only the business specified in the call shall be considered
7 at a special session.
- 8 c) All sessions of the Senate shall be open to the public.

9 **ENACTMENT OF LAWS**

10 Section 9. Senate shall have the authority to enact laws:

- 11 (a) A law may be enacted only by bill, and a bill shall not be enacted unless it is
12 circulated, read, and passed by a majority of the members present. The full text
13 of each bill or amendment must be read in its entirety at least once during
14 legislative consideration. This reading can only be waived by a three quarters
15 majority of all members present.
- 16 (b) Each bill passed by the Senate shall be presented to the Governor. If the
17 Governor signs or fails to return a bill within ten days (Sundays excepted) of
18 presentation, it shall become law. If the Governor vetoes a bill, it shall be
19 returned to the Senate within ten days (Sundays excepted) of its presentation with
20 a statement of reasons for the veto. The Governor may veto an item of an
21 appropriation bill and sign the remainder of the bill, in which event the vetoed
22 item shall be returned to the Senate within ten days (Sundays excepted) of its
23 presentation with reasons for the veto.
- 24 (c) A bill or section of an appropriation bill vetoed by the Governor may be
25 reconsidered by the Senate upon the motion of any Senator no later than the end
26 of the next legislative session and shall become law as originally passed upon a
27 vote of two-thirds of the Senate.
- 28 (d) The Senate shall pass a balanced budget. The Senate is authorized to consider
29 and pass biennial budgets.
- 30 (e) All senatorial documents, including draft bill proposals, shall be open public
31 records subject to the open records act of the Virgin Islands.

32 **IMPEACHMENT**

33 Section 10. The Senate may impeach for cause any elected official upon a vote of
34 two-thirds (2/3) of its members. The Supreme Court shall determine, by a two-thirds
35 vote, whether to remove from office an elected official impeached by the Senate, and a
36 person so removed shall not be immune from criminal charges or civil action.

37 **ARTICLE VI. EXECUTIVE BRANCH**

38 **EXECUTIVE POWER AND AUTHORITY**

39 The Executive power and authority of the Virgin Islands are vested in the
40 Governor.

41 **COMPOSITION; OFFICERS ENUMERATED**

42 Section 1. There shall be an executive branch composed of a Governor, Lieutenant
43 Governor, executive departments and agencies.

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

ELECTION OF EXECUTIVE OFFICERS

Section 2. The Governor and Lieutenant Governor shall be elected jointly by the electors of the Virgin Islands upon receiving a majority of the votes cast. Runoff elections shall be as provided by law. A Governor may not serve more than two successive full terms and may not serve as Lieutenant Governor immediately following two successive full terms.

QUALIFICATIONS FOR GOVERNOR AND LIEUTENANT GOVERNOR

Section 3. The Governor and Lieutenant Governor each shall

(a) ~~be~~ an elector of the Virgin Islands for at least ten (10) years,

(b) ~~be~~ at least thirty-five (35) years of age, ~~(c) be~~ a domiciliary of the Virgin Islands for at least fifteen (15) years, ten (10) of which must immediately precede the date of filing for office,

~~(d) be an Ancestral or Native Virgin Islander, and,~~

~~(e) not have dual citizenship.~~

Deleted: be

Deleted:)

Deleted: and¶

Deleted:

Formatted: Indent: Left: 0.23",
First line: 0"

Deleted: .

Section 4. POWERS AND DUTIES OF THE GOVERNOR

(a) The Governor shall:

(1) exercise full authority over the executive branch except as otherwise provided by this Constitution and shall be responsible for the faithful execution of the laws of the Virgin Islands;

(2) after obtaining a background investigation on the candidate and with the advice and consent of a majority of the Senate, appoint all executive department heads. Any nomination not acted upon by the Senate within 60 working days after the receipt of the nomination shall be deemed to have received the advice and consent of the Senate;

(3) report, no later than the 31st of January of each year, to the Senate on the state of the Territory and, may at any time, recommend bills or other measures for actions by the Senate. Within six months of taking office, the Governor shall present a plan to the Senate that outlines his goals for the Territory;

(4) prepare and submit to the Senate, at a time prescribed by law, a balanced budget for the ensuing fiscal year. The budget shall state the estimated funds available for appropriation and the estimated receipts, expenditures, and obligations for every department, agency, and government instrumentality. The budget shall also be summarized per District. The budget shall state the public debt and contingent liabilities and shall include biennial projections and other information as may be required by law; and

(5) have the power to issue executive orders consistent with the law.

(b) Except in cases of impeachment, the Governor shall have the power to grant reprieves, commutations and pardons. Each exercise of this power shall be reported to the Senate, to the public and if practicable to the victim or victim's immediate family.

(c) In the event of a natural disaster, invasion, or insurrection, or imminent danger thereof, the Governor may call out the militia or, when the public safety requires,

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

1 proclaim martial law. Upon such proclamation, the Senate shall meet forthwith and may,
2 upon the affirmative vote of two-thirds of its members, revoke the proclamation of
3 martial law then or at any other time. During an emergency, the Governor may order the
4 executive branch to be moved temporarily.

5 (d) The Governor shall execute such other functions, powers, and duties of the
6 executive branch offices, agencies, and instrumentalities as may be provided by law.

7 **Section 5. Powers and Duties of the Lieutenant Governor**

8 The Lieutenant Governor shall have custody of the seal of the Virgin Islands, shall
9 countersign and affix the seal to official documents, record and preserve the laws of the
10 Virgin Islands, and have additional such other duties as may be assigned by the Governor
11 or provided by law.

12 **Section 6 Official Residences**

13 The official residence of the Governor and Lieutenant Governor shall be in the Virgin
14 Islands. The Governor and Lieutenant Governor, at the expense of the government, shall
15 be provided appropriate housing and utilities in properties owned by the Government at
16 the time of their initial election.

17 **Section 7 Restrictions on Activities**

18 The Governor and Lieutenant Governor shall devote full time to their duties and not (1)
19 engage in any employment, trade, or profession, or (2) not hold any other paid public
20 position unless authorized specifically by law.

21 **Section 8 Order of Succession**

22 In the case of the temporary or permanent disability of the Governor or Lieutenant
23 Governor, the position shall be replaced in the following order of succession to the office,
24 the Lieutenant Governor, the President of the Senate, Vice-President of the Senate, and
25 such other public official of the Virgin Islands as may be designated by law.

26 **Section 9 Disability and Permanent Vacancy of Elected Officials**

27 (a) The Governor or Lieutenant Governor shall declare a disability to discharge the duties
28 of office by transmitting to the Senate a written declaration of disability. In the event of
29 the temporary disability of the Governor, the Lieutenant Governor shall act as Governor.
30 If the Lieutenant Governor is unable to act as Governor, the order of succession shall be
31 the President of the Senate, Vice-President of the Senate, and such other public official of
32 the Virgin Islands as may be designated by law. The Governor or Lieutenant Governor
33 shall resume office upon submitting a written declaration of termination of the disability.

34 (b) Upon the affirmative vote of two-thirds of its members, the Senate may raise the
35 question of the temporary or permanent disability of any elected official. The Supreme
36 Court of the Virgin Islands shall determine all questions raised by the Senate or otherwise
37 raised, as provided by law, with respect to the temporary or permanent disability of any
38 elected official.

39 (c) If the Supreme Court declares a vacancy in an executive branch office due to
40 permanent disability then the vacancies in the following offices shall be filled as follows:

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

- 1 (1) Governor or Lieutenant Governor - the order of succession shall be followed.
- 2 (2) Attorney General or Auditor General - if the remaining term is less than one year,
3 the Governor within sixty days of the determination, with the advice and consent
4 of the Senate, shall appoint a new Attorney General or Auditor General to fill the
5 remaining term. If the remaining term is more than one year, it shall be filled by a
6 special election to be held within sixty days of the declaration of the disability.
- 7 (d) In the event of a permanent disability of any of elected official not yet installed then
8 the office shall be declared vacant and the vacancy shall be filled by a special election to
9 be held within sixty days of the declaration of the disability.

10 **Section 10 Attorney General**

11 (a) There shall be an Attorney General, who shall be appointed by the Governor with the
12 advice and consent of the Senate, and at the time of the appointment must:

- 13 (1) have resided in the Virgin Islands at least five (5) years
14 next preceding his election;
- 15 (2) be at least thirty five (35) years old;
- 16 (3) be licensed to practice law in the U.S. Virgin Islands; and
- 17 (4) have other qualifications as provided by law.

18

19 (b) The Attorney General shall prosecute all criminal violations of the laws of the U.S.
20 Virgin Islands; prosecute and defend all other legal matters in the name of the people of
21 the U.S. Virgin Islands, provide legal advice to the government, and have other duties
22 and responsibilities as provided by law.

23 **Section 11 Auditor General**

24 (a) There shall be an Auditor General, who shall be appointed by the Governor with the
25 advice and consent of the Senate, who shall serve a term of six years and at the time of
26 the appointment must:

- 27 (1) be an elector of the U.S. Virgin Islands;
- 28 (2) have resided in the Virgin Islands at least five (5) years
29 preceding his election;
- 30 (3) be at least thirty five (35) years old when elected; and
- 31 (4) have other qualifications as provided by law.

32 (b) The Auditor General shall have the authority to audit and investigate all revenues,
33 accounts, expenditures, contracts, liabilities, debts, and programs of the government, its
34 departments, offices, agencies, instrumentalities and local governments; on his or hers
35 own initiative or at the request of the Governor or Senate.

36 (c) The Auditor General shall report the findings of any audit or investigation to the
37 Governor, Senate and the public.

38 (d) In the performance of official duties the Auditor General shall have the authority to
39 administer oaths, take evidence, and compel the attendance of witnesses and the
40 production of books, letters, documents, papers, records, and anything else necessary to
41 the performance of those duties.

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

1 (1) Nominate Justices and Judges: Within sixty days of any judicial vacancy, the
2 Commission shall present to the Governor, for each vacancy, a list of three
3 persons qualified to fill the vacancy. No person may be listed to fill more than
4 one open vacancy.

5 (2) Removal, Censure or Discipline Justices and Judges: The Commission shall
6 have the power to discipline, censure, suspend, remove or retire for disability any
7 justice or judge of any court for misconduct, malfeasance, misfeasance, a crime
8 of moral turpitude, disability or for a violation of a criminal law. Any decision
9 made pursuant to this subsection by the judicial commission shall be appealable
10 in a manner as provided by law.

11 (b) Composition: The Commission shall have nine members and composed of by:

12 (1) Two members appointed by the Governor of the Virgin Islands, one of whom
13 shall not be a lawyer;

14 (2) Two members appointed by the Senate, only one of whom shall be a lawyer;

15 (3) One member appointed by the Board of Governors of the Virgin Islands Bar
16 Association, who shall have been engaged in the practice of law in the Virgin
17 Islands for at least five successive years preceding his or her appointment;

18 (4) Two members appointed by the Supreme Court of the Virgin Islands, who
19 shall be current or former judges or justices in a court of record in the Virgin
20 Islands; and

21 (5) Two members appointed by the Superior Court of the Virgin Islands and who
22 shall be current or former judges or justices in a court of record in the Virgin
23 Islands.

24 (c) The Commission shall choose annually, from among its members a Chairperson
25 and such other officers as it may deem necessary and may adopt such rules of procedure
26 consistent with this Article as may be necessary to govern the business of the committee;

27 (d) Vacancies on the Commission shall be filled for the remaining unexpired term, in
28 the same manner in which the original appointment was made.

29 (e) Members of the Commission shall not be compensated for their service on the
30 Commission.

31 (f) The Chairperson and any other officers of the Judicial Commission shall be
32 chosen annually, from among its members.

33 (g) Meetings of the Commission may be called by the Chairperson or by a majority
34 of the members after ten day written notice to Commission members. The Commission
35 meetings may be closed to the public.

36 **Section 7** **Judicial Appointments**

37 The Governor shall fill a vacancy in the judiciary by appointing one of the three persons
38 nominated by the Judicial Commission.

39 **Section 8** **Terms**

40 The regular term of a justice of the Supreme Court shall be twelve years. The regular
41 term of a judge of the Superior Court shall be ten years. The regular term of any other
42 judge shall be set in the enabling law.

43 **Section 9** **Compensation**

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

1 The salary and allowances of a justice or judge shall be recommended by the
2 Compensation Commission and may not be decreased during his or her tenure.

3 **Section 10** **Restrictions on Activities**

4 No person who holds a judicial or magistrate office shall be employed , hold any other
5 paid office, engage in a trade or in the practice of law.. Any justice, judge or magistrate
6 who files or announces his or hers candidacy for elective office shall immediate forfeit
7 and vacant the judicial office.

8 **ARTICLE VIII LOCAL GOVERNMENT**

9 **Section 1** **Political Subdivisions; Creation, Powers**

10 The Senate shall create three political subdivisions embodying St. John, St. Croix and St.
11 Thomas, and provide for the framework for the government thereof. **Section 2**

12 **Local Government**

13 Each political subdivision shall have the power to adopt its own framework for local
14 government within such limits and under such procedures as may be provided by law.
15 The framework for local government shall be created by a commission composed of
16 members elected from said subdivision established by law. The Senate shall provide for
17 the election of commissions within one year of ratification of this Constitution.

18 **Section 3** **Mandates, Accrued Claims**

19 No law shall be passed mandating any political subdivision to pay any claim accrued
20 prior to the establishment of the local government.

21 **Section 4** **General Laws**

22 The legislative power of the Senate shall always be superior to any legislative authority
23 that may be granted to any local government.

24 **ARTICLE IX EDUCATION**

25 **Educational Philosophy**

26 It is the goal of the Virgin Islands to provide its citizens with a free, high-quality, public
27 education system that does not discriminate against any citizen, preserves the African
28 history, culture and traditions of the people of the Virgin Islands, and prepares its citizens
29 to compete globally.

30 **Section 1. Public Education System**

31 (a) The government shall provide for a free, high-quality, public education system
32 that includes early childhood, elementary, middle, secondary, career and technical higher
33 education.

34 (b) The early childhood, elementary, middle education and secondary education shall
35 be compulsory and shall begin at the earliest age when a child has the mental and
36 physical capacity for classroom learning.

37 (c) The system shall maintain state of the art technology and up-to-date textbooks in
38 the classrooms.

39
40
41
42
43
44
45

Deleted: a

Deleted: The Senate may not create a political subdivision within any of the islands, except with the approval of the majority of the electors voting on the question on the island, which is to be subdivided. Each political subdivision shall have and exercise such powers as shall be conferred by law.¶

Deleted: Section 1 . . . ¶
The Government shall provide its citizens a free, high-quality public educational system that does not discriminate against any citizen, provides for the study of African and Caribbean history, culture and traditions; and the study of the history of all other people of the Virgin Islands who have contributed to the history of the Virgin Islands and prepares its students to compete in a global economy. ¶

Section 2 . . . Public Educational System¶

(a) The government shall provide for a public educational system that includes early childhood, elementary, middle, secondary, career, and technical and higher education.¶
(b) The government shall establish mandatory standards for the public school system that shall:¶

(1) provide for the compulsory age for school attendance including the compulsory early childhood education to begin when children have the earliest ability to learn;¶

(2) include and maintain classrooms with "state of the art;"¶

(3) provide a maximum class size formulated not to exceed the national standard for class size; and¶

Section 3 . . . Funding¶

(1) . The Government shall establish and maintain a segregated account to provide the funding necessary to obtain and maintain a free, high-quality public educational system. ¶

(2) . The segregated fund shall be called "The Virgin Islands Fund for

Education."The fund shall be used exclusively by the Virgin Islands Board of Education for the operations of the public school system and it shall not be reprogrammed ¶

(3) . The Government shall annually appropriate at least thirty percent of the general fund revenue and fifty percent of the revenue from the Virgin Islands lottery to the Fund.¶

Section 4 . . . Virgin Islands Board of Education¶

The Virgin Island Board of Education shall be established by law and shall operate under the following terms: ... [1]

Deleted: <#>¶

Formatted: Font: 11 pt

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

1 (d) The system shall maintain the smallest class size possible to ensure that each
2 student receives a high-quality education, but in any case, the class size shall not have
3 more than 20.

4
5
6 **Section 2.** Funding

7
8 (a) The Virgin Islands Legislature shall provide the funding necessary to obtain and
9 maintain a free, high-quality, public education system.

10
11 (b) The Virgin Islands Legislature shall establish and maintain the Virgin Islands
12 Fund for Education.

13
14 (c) The fund shall be supported by appropriations and allotments from the General
15 Fund which shall include at least 50 percent of all earnings derived from legal and illegal
16 games of chance in the territory.

17
18 (d) The Virgin Islands Fund for Education shall, to the greatest extent possible, be
19 guaranteed an annual budget of not less than thirty percent (30%) of the general revenues
20 of the territory, designated only for the support of the objectives stated in these
21 provisions, that shall not be reprogrammed.

22
23 **Section 3.** Virgin Islands Board of Education

24 (a) A Board of Education for the Virgin Islands shall be established by law and shall
25 operate under the following terms:

26
27 (1) Members. The Board shall consist of fourteen (14) members elected by the
28 citizens of the Virgin Islands.

29
30 (2) Terms. Members of the Board shall be elected for terms of four(4) years. The
31 terms of office shall be staggered.

32
33 (3) St. Croix and St. Thomas/St. John Districts. The two electoral districts of
34 St.Croix and St.Thomas/St.John shall each elect seven(7) members to the Board,
35 provided that one board member elected from the district of St.Thomas/St.John shall
36 be domiciled in St. John regardless of the definition of districts.

37
38 (4) Chairman and Vice Chairman. The members of Virgin Islands Board shall elect
39 a Chairman and a Vice-Chairman from among its number at the first meeting after
40 each election.

41
42 (5) Vacancy. When a vacancy occurs on the Virgin Islands Board, the Chairman of
43 the Board shall name a replacement from the next person in line with the highest
44 number of votes, within thirty(30) days of the vacancy. The person named shall serve
45 for the remainder of the term.

46
47
48 (b) The Virgin Islands Board of Education shall have the following powers
49 and duties:

Formatted: Font: 11 pt

Formatted: Bullets and Numbering

Formatted: Font: 11 pt

Formatted: Bullets and Numbering

Formatted: Font: 11 pt

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

Formatted: Font: 11 pt

Formatted: Bullets and Numbering

Formatted: Font: 11 pt

Formatted: Font: 11 pt

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49

- (1) Function as the State Board of Education with all the responsibilities and duties required by the United States Department of Education; ← --- **Formatted:** Bullets and Numbering
- (2) Be responsible for the policy, management and operation of the education system; ← --- **Formatted:** Bullets and Numbering
- (3) Hire a Superintendent for each district who shall administer the policies of the Board; ← --- **Formatted:** Bullets and Numbering
- (4) Hire a Director of Human Resources, a Director of Curriculum and Instruction, and a Director of Capital Projects; ← --- **Formatted:** Bullets and Numbering
- (5) Ensure that classroom size shall, to the greatest extent possible, be no greater than the median size ratios of public school systems of high quality by the year 2012; ← --- **Formatted:** Bullets and Numbering
- (6) Ensure that African and Caribbean history, the culture and history of the Virgin Islands and its original people are included in the curriculum of study. ← --- **Formatted:** Bullets and Numbering
- (7) Set the school calendar for all public schools in the territory; ← --- **Formatted:** Bullets and Numbering
- (8) Act as the Virgin Islands Board of Technical and Career Education; ← --- **Formatted:** Bullets and Numbering
- (9) Certify all educational professionals and schools, public and non-public, in the territory to ensure a high-quality education is provided; ← --- **Formatted:** Bullets and Numbering
- (10) Have oversight of the Territorial Scholarship Program; ← --- **Formatted:** Bullets and Numbering
- (11) Shall present an annual report to the Virgin Islands Legislature on the state of the Education System of the Virgin Islands by August 1st of each year; ← --- **Formatted:** Bullets and Numbering
← --- **Formatted:** Font: 11 pt
- (12) Require the compulsory teaching of African and Caribbean history, culture and vocational education in schools from elementary to twelfth grade, ← --- **Formatted:** Bullets and Numbering
← --- **Formatted:** Font: 11 pt
- (13) Any other such powers or duties established by law. ← --- **Formatted:** Bullets and Numbering

Section 4. District Boards of Education

- (a) Boards of Education for each of the districts of the Virgin Islands shall be established by law and shall operate under the following terms: ← --- **Formatted:** Bullets and Numbering

 - (1) Districts. There shall be two District Boards : one for the island of St. Croix, and one for the islands of St. Thomas/St. Johns.
 - (2) Members. Each of the District Boards shall have seven (7) members elected by the citizens of each of the electoral districts of the Virgin Islands.
 - (3) St. Thomas/St. Johns District. The St. Thomas/St. Johns District must have at least one member who is a resident of St. Johns.

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

1 (4) Chairman and Vice Chairman. The members of each District Board shall elect a
2 Chairman and a Vice-Chairman from among the members of that District at the
3 first meeting after each election.

4 (5) Vacancy. When a vacancy occurs on the District Board, the Chairman of the
5 District Board shall name a replacement from the next person in line with the
6 highest number of votes in the district, within thirty(30) days of the vacancy.
7 The person named shall serve for the remainder of the term.

8
9 (b) The District Boards of Education shall have the following powers and duties:

10 (1) Each District shall hire a Director of Budget and Management, a Director of ← --- **Formatted: Bullets and Numbering**
11 Maintenance, and a Director of Nutrition and Food Service.

12 (2) Any other such powers or duties established by law.

13 **Section 5. Commission on Civics.**

14
15
16 (a) A Commission on Civics for the Virgin Islands shall be established by law. ← --- **Formatted: Bullets and Numbering**

17 (b) The Commission shall have the following powers and duties:

18
19 (1) Develop and coordinate programs in collaboration with schools to educate ← --- **Formatted: Indent: Left: 0.31"**
20 students in the importance of governance and democracy and citizen involvement in
21 the representative democracy;

22
23 (2) Any other such powers or duties established by law.

24
25 (c) The Commission shall remain effective for a period of five (5) years after ← --- **Formatted: Bullets and Numbering**
26 establishment.

27 (d) The members of the commission shall elect a chairman, vice chairman, and such
28 other officers as it shall determine;

29 (e) A member of the commission shall serve without compensation for his services, but
30 may receive a per diem and be reimbursed for reasonable and necessary travel and
31 other expenses actually incurred on business of the commission;

32 (f) The commission shall hold meetings at least every quarter upon the call of the
33 chairman or the majority of the members. The initial meeting of the commission
34 shall be called by the president of the Virgin Islands Legislature;

35 (g) Staff and facilities needed by the commission to accomplish its purposes shall be
36 provided by the Virgin Islands Legislature from its existing resources.

37
38 **ARTICLE X YOUTH**

39
40
41 **Section 1.**

42
43 (a) The Legislature shall establish laws and regulations to govern the employment of
44 children in the Virgin Islands including a minimum age required for employment.

45
46 (b) Graduates with four (4) years residency, from a Virgin Islands secondary public
47 school may be eligible for free tuition for higher education if the student:

48
49 (1) Applies within a number of years of graduation from secondary school ← --- **Formatted: Bullets and Numbering**
50 specified by law, is admitted and attends a Virgin Islands public institution of
51 higher education;

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

- (2) Pursues an associate or bachelor degree in a degree field that has been determined to be of need by the Virgin Islands Department of Personnel.;
- (3) Becomes an employee of the government in the area of need for double the years of study following the graduation from the institution of higher education as established by law; or the tuition shall be owed, and repayment shall commence six (6) months after graduation and paid in full after four (4) years; A Graduate who does not complete a degree shall begin repayment of the tuition six (6) months after terminating pursuit of the degree.
- (4) Any other such requirements established by law.

Formatted: Indent: Left: 0.75"

Article XI TAXATION, FINANCE AND COMMERCE

Section 1 Power to Tax

The Senate shall have the exclusive power to tax and may apportion revenues among the political subdivisions.

Section 2 Tax Review Commission

There shall be a tax review commission, which shall be appointed as provided by law on or before July 1, 2011, and every five years thereafter. The Commission shall submit to the Senate (a) an evaluation of the tax structure and (b) recommend policy for revenue and taxes. The Commission shall dissolve upon the delivery of the report. The Senate shall not make changes to the tax code until it has received the evaluation of the Commission.

Section 3 Taxpayers' Bill of Rights

By law the Senate shall prescribe and adopt a Taxpayers' Bill of Rights in clear and concise language that defines taxpayers' rights and fair treatment of taxpayers.

Section 4 Local Government Taxation and Finance

The power to tax shall be reserved to the Senate. A political subdivision may petition the Senate to impose a tax for the benefit of the local government.

Section 5 Real Property Tax

The Senate by law may provide for the levy and collection of taxes on real property in accord with the following:

- (a) The value of real property shall be assessed at the time of purchase and remain fixed for the period of ownership.
- (b) Real property transferred to a descendant shall not be reassessed.
- (c) Improvements shall be assessed when built and added to the original assessment without otherwise affecting the original assessment.
- (d) Real property tax shall be levied on the basis of fair market value as specified by law.
- (e) Real property shall be divided into one or more classes, with all real property in the same class subject to the same millage rate.
- (f) Real property millage rates shall be set by the tax review commission and approved by the Senate; and

Deleted: .

Deleted: .

Deleted: .

Deleted: .

Deleted: .

Deleted: .

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

1 (g) No Real Property tax shall be assessed on the primary residence or undeveloped land
2 of an Ancestral native Virgin Islander.

3 **Section 6** **Tax Ceiling**

4 It is hereby established that the total amount of taxes which may be imposed by the
5 Senate in any fiscal year on the taxpayers shall be limited as recommended by the tax
6 review commission and approved by the Senate.

7 **Section 7** **Disposition of Excess Revenues**

8 The Government shall provide a refund to taxpayers when the general fund fiscal year
9 balance for two successive years exceeds five percent of the general fund revenues.

10 **Section 8** **General Fund Expenditure Ceiling**

11 Notwithstanding any other provision to the contrary, the Senate shall establish a general
12 fund expenditure ceiling which shall limit the rate of growth of general fund
13 appropriations, excluding federal funds received by the general fund, to the estimated rate
14 of growth of the territory's economy as provided by law. No appropriations in excess of
15 such ceiling shall be authorized during any legislative session unless the Senate shall, by
16 a two-thirds vote of the members, set forth the dollar amount and the rate by which the
17 ceiling will be exceeded and the reasons therefor.

18 **Section 9** **Public Debt Limitation**

19 The Senate shall provide the method, restrictions and the authorization for the issuance
20 of public debt through bonds or other obligations to be issued on behalf of the
21 Government either for (i) a public improvement or public undertaking or (ii) other
22 purposes in the public interest for economic development. Such bonds or obligations
23 shall be payable solely from revenues directly derived from and attributable to such
24 public improvement, public undertaking, or other project. The Senate may obligate
25 bonds as a general obligation of the Government.

26 **Section 10** **Accounting for Public Moneys**

27 The Senate shall provide by law for the annual accounting for all public moneys, and may
28 provide by law for interim accounting. The Department of Finance shall issue this report
29 (within one year) after the close of each fiscal year. The report shall be compliant with
30 the requirements of law.

31 **ARTICLE XI** **ECONOMIC DEVELOPMENT**

Deleted:

32 **Section 1** **Economic Development Opportunities**

33 The Government shall provide for the economic development of the Virgin Islands that
34 promotes economic opportunity through technology, use of natural resources and other
35 methods for the benefits of all citizens, especially for unemployed and disadvantaged
36 persons; and encourage growth in areas experiencing insufficient economic growth. The
37 Government shall set forth by law a plan to (a) reduce the Virgin Islands dependence on
38 imports, (b) increase the development of local business and industries, and (c) create
39 economic opportunities. The Government shall establish laws to govern the employment
40 of children under the age of fifteen.

41 **Section 2** **Preservation of Natural Resources**

42 The Government shall have the power to manage, control and develop the natural and
43 marine resources comprising of submerged lands, inlets and cays; reserves to itself all
44 such rights to internal waters between the individual islands, claim sovereignty over its

Deleted: shall provide for the preservation of the natural resources of land and ocean, and shall not without public hearing sell, alter, transfer or encroach upon any natural resource

Deleted: .

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

1 inter-island waters to the effect that territorial waters shall extend 12 nautical miles from
2 each island coast up to international boundaries. This is an alienable right of the people of
3 the Virgin Islands of the U.S. and shall be safeguarded. Section 3

Deleted: ¶

4 **Energy Efficiency**

5 The Government shall enable legislation to stimulate, encourage, promote and assist in
6 the development of renewable and alternative energy resources, and the efficient use of
7 energy.

8 **Section 4 Use of Technology**

9 The Government shall provide “state of the art” technology for use in government,
10 economic development, education, health and welfare of the people of the Virgin Islands.

11 **Article XIII PUBLIC HEALTH, SAFETY AND WELFARE**

12 **Section 1 Health, Safety and Welfare of Citizens**

13 The Government shall provide for the health, safety and welfare of the Virgin Islands and
14 its citizens and provide for:

- 15 (a) The victims of crimes to have the opportunity to be heard, in fair and
16 dignified manner, during the prosecution of the crime in which they were a
17 victim, as provided by law;
- 18 (b) The protection of the citizens, properties and ports within its borders;
- 19 (c) A health system that provides its citizens with healthcare and a clean
20 environment;
- 21 (d) The protection and welfare of its children, elderly, unemployed and disabled
22 without regard to the race, sex, sexual preference or national origin of its
23 citizens; and
- 24 (e) The mitigation of any disasters and provide assistance to the victims of
25 disasters.

26 **ARTICLE XIV CULTURE**

Deleted: II

27 **Section 1 Cultural Development**

28 The Government shall provide for the protection, promotion and preservation of the
29 culture, music, traditions, customs and intellectual property of the Virgin Islands. The
30 Government may enact Cultural development legislative measures designed to protect or
31 assist cultural tradition bearers, or persons disadvantaged by discrimination.

32 **Section 2 Virgin Islands Cultural Heritage Institute**

33 (a) The Virgin Island Cultural Heritage Institute shall be charged with the protection,
34 preservation and study of African and Caribbean history, culture, arts, and traditions; and
35 all other people of the Virgin Islands who have contributed to the history of the Virgin
36 Islands. The Commission shall:

- 37 (1) make recommendation to the Senate on the manner by which the Government
38 shall preserve and protect the history, culture, arts, traditions, artifacts and
39 intellectual property of the Virgin Islands;
- 40 (2) have voice in the consideration of land use elements and development of land
41 that may substantially affect any history, culture, artifact or other traditions of the
42 people of the Virgin Islands; and

Deleted: Commission

Deleted: on

Deleted: for the Preservation and
Protection

Formatted: Space Before: 6 pt

Deleted: ¶

Deleted: of the
Culture, History, and Traditions of the
People

Deleted: The Government shall
establish a commission

Deleted: for

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

1 (3) in conjunction with the Board of Education recommend a curriculum for the
2 study of African and Caribbean history, culture , arts and traditions; and all other
3 people of the Virgin Islands who have contributed significantly to the history of
4 the Virgin Islands.

5 ~~(b) No law shall be passed that abridges the preservation and development of the Virgin~~
6 ~~Islands culture, language, history, traditions or customs.~~

7 ~~(c) (The government may take action to protect citizens who are the cultural tradition~~
8 ~~bearers of the Virgin Island from discrimination and adverse action that affects the~~
9 ~~culture and traditions of the Virgin Islands~~

Deleted: (b) .

Formatted: Indent: Left: 0",
Hanging: 0.31", Tabs: 0.31", List tab
+ Not at 0.83"

Formatted: Bullets and Numbering

Deleted: I

ARTICLE XV PROTECTION OF ENVIRONMENT

Section 1 Agriculture/Mariculture Authority

12 The Government shall establish an Agriculture/Mariculture Authority for the following
13 purposes: (a) for acquiring lands for agricultural purposes, (b) for the development of the
14 marine science industry, (c) for scientific research and development and production, (d)
15 for redistribution by lease to the people of the Virgin Islands for agricultural or
16 homestead purposes, and for other related public purposes as provided by law.

Section 2 Environmental Protection

18 There shall be established the Land, Air and Water Preservation Commission, that shall
19 develop a comprehensive plan for the preservation and enjoyment of land, air, water,
20 spiritual and medicinal plants, animals and other natural resources. The Commission shall
21 further provide for the enjoyment of the Virgin Islands' natural beauty, cultural, economic
22 viability of the natural resources and the quality of life of the people of the Virgin
23 Islands.

Section 3 Open Beaches

25 All beaches and shorelines of the Virgin Islands, including cays and inlets, shall be public
26 and open to public access. Where access to a beach or shoreline is not available, the
27 government shall, to the greatest extent possible, provide public access from a public
28 road in perpetuity. All rights of the property owner shall be protected, and no law shall be
29 enacted to disenfranchise a property owner of the lawful use of the property.

Section 4 Submerged, Filled and Reclaimed Lands

31 Submerged lands, filled and reclaimed lands in the Virgin Islands are public lands
32 belonging collectively to the people of the Virgin Islands, and shall not be sold nor
33 transferred. The Virgin Islands of the United States cannot be sold nor transferred.

ARTICLE XVI INITIATIVE, REFERENDUM AND RECALL

35 All political power is inherent in the people, who reserve the power to propose, adopt, or
36 reject laws, and also the power to adopt or reject any act or section of any act passed by
37 the Senate. Initiative and referendum is the power of the electors to propose the
38 enactment, amendment, or repeal laws of the Virgin Islands, except public exigency laws
39 and laws involving operating expenses.

Section 1 Initiative

41 (a) An initiative shall be instituted by a petition containing the full text of the proposal,
42 and be signed by at least 10% of the electors who voted in the last gubernatorial election

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

1 within each legislative district or by 12% of the electors of the Virgin Islands. The
2 petition once started must be filled or concluded within 180 days.

3
4 (b) The initiative shall be filed with the Supreme Court who shall review it for legal
5 sufficiency within sixty days. Upon the approval for legal sufficiency or if the Supreme
6 Court fails to act within sixty days, the initiative shall be submitted to the Senate. If
7 adopted by the Senate within thirty days of the filing of the petition, the proposal
8 contained in the petition shall take effect in accordance with its terms. If the Senate fails
9 to act within thirty days, or votes against the initiative, the proposal shall be submitted to
10 the Supervisor of Elections for vote in the next general election or at a special election
11 held before the next general election.

12 (c) An initiative or referendum shall take effect upon the affirmative vote of a
13 majority of the electors of the Virgin Islands voting on the question. An initiative or
14 referendum adopted by the people shall not be vetoed by the Governor, and shall not be
15 amended or repealed by the Senate in office when the petition was filed.

16 **Section 2** **Referendum**

17 The Senate may submit to the Supervisor of Elections for vote of the electors a
18 proposition for enactment into law upon a majority vote of the electors voting on the
19 proposition. The proposition shall be written in a clear and concise manner and in a form
20 required by law. Upon approval the proposition shall become law and shall not be
21 amended by the Senate or vetoed by the Governor. All referendum shall be binding.

22 **Section 3** **Recall**

23 (a) Elected public officials of the Virgin Islands may be recalled by the electors. A
24 recall petition shall identify the official to be recalled by the name and office, and be
25 signed by at least 30 percent of the number of votes cast for that office. The petition shall
26 state the reasons for recall and be filled or concluded within sixty (60) days of its
27 initiation.

28 (b) A special recall election shall be held within sixty days of the filing of the recall
29 petition. An official shall be recalled upon the affirmative vote of two-thirds of those
30 voting on the question.

31 (c) A recall petition may not be filed during the first year of the first term of office
32 of an elected official, and not less than three months before a general election; nor more
33 than once a year except for cause.

34 **ARTICLE XVII** **CONSTITUTIONAL AMENDMENT**

35 **Section 1** **Proposal of Amendments**

36 Amendments to this Constitution shall maintain the principles of a republican form of
37 government and may be proposed by initiative, a constitutional convention, or the Senate.

38 **Section 2** **General Constitutional Convention**

39 (a) The Senate, by the affirmative vote of two-thirds of its members, may submit to the
40 electors of the Virgin Islands at a regular general election the question, "Shall there be a
41 constitutional convention to propose amendments to the Constitution?" This question
42 shall be submitted by the Senate to the electors of the Virgin Islands within ten years after
43 the effective date of this Constitution and at least once every ten years thereafter.

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

1 (b) An initiative petition may submit to the electors of the Virgin Islands the question,
2 "Shall there be a constitutional convention to propose amendments to the Constitution?"
3 The petition shall be signed by at least 15 percent of the electors of each legislative
4 district of the Virgin Islands or by 25 percent of the qualified electors of the Virgin
5 Islands. The question shall be submitted to the electors at the first regular election held
6 not less than ninety days after filing of the initiative petition.

7 (c) If a majority of those voting on the question of a constitutional convention favors
8 holding such a convention, the Senate shall convene a convention within one hundred and
9 twenty days after approval of the petition.

10 (d) Delegates to a constitutional convention shall be elected on a nonpartisan ballot as
11 provided by law. A constitutional convention may propose an amendment to the
12 Constitution only upon the affirmative vote of two-thirds of its members.

13 **Section 3 Legislative Proposal**

14 The Senate may propose an amendment to this Constitution upon the affirmative vote of
15 two-thirds of its members.

16 **Section 4 Initiative**

17 The people may propose an amendment to this Constitution by initiative. An initiative
18 petition shall contain the full text of the proposed amendment and shall be signed by 15
19 percent of the electors of each legislative district of the Virgin Islands or by 25 percent of
20 the electors of the Virgin Islands.

21 **Section 5 Limited Constitutional Conventions**

22 A constitutional amendment proposed by the Senate or by initiative may provide, in
23 accordance with its terms, for direct ratification by the electors of the Virgin Islands or
24 for the convening of a constitutional convention limited to the issues raised by the
25 proposed amendment. If a majority of those voting on the question of a limited
26 constitutional convention favors holding such convention, the Senate shall convene a
27 limited constitutional convention within one hundred and twenty days, subject to the
28 same restrictions on membership and adoption of any proposed amendment as those
29 imposed on a general constitutional convention.

31 **Section 6 Constitutional Review Commission**

32 Within five years after the effective date of this Constitution and at least once every ten
33 years thereafter, a constitutional review commission shall be established by law. The
34 commission shall, within one hundred and twenty days of its establishment, make a
35 public report to the Senate with its proposals, if any, for revision of the Constitution.
36 Members of the commission shall be qualified electors of the Virgin Islands.

37 **Section 7 Ratification of Amendments**

38 Each proposed amendment to this Constitution shall be submitted to the electors of the
39 Virgin Islands for ratification at the first regular general election or at a special election
40 called by the Senate. A proposed amendment shall take effect in accordance with its
41 terms upon the affirmative vote of a majority of those voting on the amendment.

42
43 **TRANSITIONAL SCHEDULE RATIFICATION AND**
44 **EFFECTIVE DATE OF THE CONSTITUTION**

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

1 Section 1. This Constitution, as finally approved or modified by the Congress of the
2 United States under Section 5 of Public Law 94-584 (October 12, 1976), shall be
3 submitted to the electors of the Virgin Islands and shall be ratified upon the affirmative
4 vote of a majority of those voting on the question. The Constitution shall take effect one
5 hundred and twenty days after ratification, except as provided in Sections 2 and 5 of this
6 Transitional Schedule.

7 **ELECTIONS**

8 Section 2. Except as otherwise specifically set forth within any other provision of
9 this Constitution, all elected officials shall be elected in accordance with this Constitution
10 at the first general election after the effective date of this Constitution.

11
12 **CONTINUITY OF LAWS**

13 Section 3. Laws, executive orders, and regulations in force in the Virgin Islands on
14 the effective date of this Constitution that are consistent with this Constitution shall
15 continue in force until they expire, are amended, or repealed. Laws, executive orders, and
16 regulations that have been enacted or issued by the Senate of the Virgin Islands or by
17 local executive authorities, respectively that are inconsistent with this Constitution shall
18 be void to the extent of such inconsistency.

19 **CONTINUITY OF GOVERNMENT EMPLOYMENT AND**
20 **OPERATIONS**

21 Section 4. Employees of the Government of the Virgin Islands on the effective date
22 of this Constitution shall be employees of the constitutional government on the same
23 terms and conditions of employment as were in effect and enforceable previously, unless
24 otherwise provided by law. Employees of the Government of the Virgin Islands shall
25 have the same functions and duties after becoming employees of the constitutional
26 government unless otherwise provided by law.

27 **CONTINUITY OF JUDICIAL MATTERS**

28 Section 5. The Supreme Court of the Virgin Islands and the Superior Court of the
29 Virgin Islands shall continue as the appellate court and the trial court of jurisdiction,
30 respectively, in the same manner as existed prior to the date of adoption of this
31 Constitution until and unless changed by law. The qualifications for justices and judges
32 set forth in this Constitution shall not be retroactively applied to any sitting justice or
33 judge of the Supreme or Superior Courts. All rules of the judicial system consistent with
34 this Constitution and in effect upon the adoption of this Constitution shall continue or
35 may be modified or terminated in the same manner as existed prior to the adoption of this
36 Constitution until and unless changed by law or by rule.

37 **PROSPECTIVE OPERATION OF RIGHTS**

38 Section 6. All rights or obligations, procedural or substantive, created for the first
39 time by this Constitution shall be prospective and not retroactive.

40 **SUCCESSION**

41 Section 7. The constitutional government of the Virgin Islands shall succeed to all
42 rights and obligations of the Government of the Virgin Islands that existed prior to the
43 effective date of this Constitution. The validity of all public and private bonds, debts, and

DRAFT CONSTITUTION
AS AMENDED 5-13-09 PLENARY

1 contracts, and of all claims, actions, and causes of action shall continue as if no change
2 had taken place.

3 Signed and Witnessed by the Delegates to the Fifth Constitutional Convention of
4 the Virgin Islands, at Charlotte Amalie, St. Thomas, United States Virgin Islands, on this
5 _____ day of _____, 2009.

6

7

8

9

10

11

12

13

14

15

Section 1

The Government shall provide its citizens a free, high-quality public educational system that does not discriminate against any citizen, provides for the study of African and Caribbean history, culture and traditions; and the study of the history of all other people of the Virgin Islands who have contributed to the history of the Virgin Islands and prepares its students to compete in a global economy.

Section 2 Public Educational System

(a) The government shall provide for a public educational system that includes early childhood, elementary, middle, secondary, career, and technical and higher education.

(b) The government shall establish mandatory standards for the public school system that shall:

(1) provide for the compulsory age for school attendance including the compulsory early childhood education to begin when children have the earliest ability to learn;

(2) include and maintain classrooms with "state of the art;"

(3) provide a maximum class size formulated not to exceed the national standard for class size; and

Section 3 Funding

(1) The Government shall establish and maintain a segregated account to provide the funding necessary to obtain and maintain a free, high-quality public educational system.

(2) The segregated fund shall be called "The Virgin Islands Fund for Education." The fund shall be used exclusively by the Virgin Islands Board of Education for the operations of the public school system and it shall not be reprogrammed

(3) The Government shall annually appropriate at least thirty percent of the general fund revenue and fifty percent of the revenue from the Virgin Islands lottery to the Fund.

Section 4 Virgin Islands Board of Education

The Virgin Island Board of Education shall be established by law and shall operate under the following terms:

(a) **Members.** The Board shall consist of fourteen (14) members elected by the electors of the Virgin Islands.

Terms. Members of the Board shall be elected for terms of four years. The terms of office shall be staggered as prescribed by law.

Districts. The two electoral districts of St. Croix and St. Thomas/St. John shall each elect seven members to the Board, provided that one board member elected from the district of St. Thomas/St. John shall be domiciled on the island of St. John.

Chairman and Vice Chairman. The members of Board shall elect a Chairman and a Vice-Chairman from among its number at the first meeting after each election.

Vacancies. If a vacancy occurs on the Board, the Chairman of the Board shall, within thirty days of such vacancy, appoint the person from among those candidates not elected to that seat in the last election who received the highest number of votes. If there is no available candidate, the vacancy shall be filled as provided by law.

(b) The Board of Education shall have the following powers and duties:

Function as the State Board of Education with all the responsibilities and duties required by the United States Department of Education;

Be responsible for the policy, management and operation of the educational system;

(3) Appoint for each District a: (a) Superintendent of Schools, who shall administer the policies of the Board and manage the District staff, (b) Director of Human Resources, Director of Curriculum and Instruction, and Director of Capital Projects;

Have budgetary and operational management of the Virgin Islands Fund for Education, provided that it shall not use more than twenty-five percent of the fund in any school year for administrative cost.

Ensure that the public school system and students meet or exceed the minimum standards required by the Government for classroom size;

Provide by which graduates of its secondary schools may obtain free higher education in fields of study determined to be in need by the Virgin Islands Department of Personnel.

Ensure that the schools provide students with an education on governance and democracy;

Set the school calendar for all public schools in the territory;

Certify school personnel as applicable;

Act as the Virgin Islands Board of Technical and Career Education;

Certify all schools, public and non-public, in the territory to ensure a high-quality education is provided; and

Any other such powers or duties established by law.

Section 4

District Boards of Education

There shall be District Boards of Education for each of the district of the Virgin Islands and shall operate under the following terms:

Districts. There shall be two District Boards, one for the island of St. Croix and one for the islands of St. Thomas/St. John;

Members. Each of the District Boards shall have seven (7) members be elected upon a majority vote of the electors of each of the Districts;

The St. Thomas/St. John District shall have at least one member who is a resident of St. John;

Chairman and Vice Chairman. The members of each District Board shall elect a Chairman and a Vice-Chairman from among the members of that District at the first meeting after each election;

Hiring: The District Board shall hire District Managers of : (a) Budget and Management, (b) Maintenance, and Nutrition;

Vacancy. If a vacancy occurs on the Board, the Chairman of the Board shall, within thirty days of such vacancy, appoint the person from among those candidates not elected to that seat in the last election who received the highest number of votes. If there is no available candidate, the vacancy shall be filled as provided by law.

