

THE TWENTY-SIXTH LEGISLATURE OF AMERICAN SAMOA

Second Regular Session

**Begun and held at Fagatogo, Tutuila American Samoa
on Monday, the twelfth day of July
one thousand nine hundred and ninety nine**

AN ACT ESTABLISHING PROVISIONS LIMITING THE LIABILITY OF PRIVATE INDIVIDUALS FROM LIABILITY RELATING TO CLAIMS BASED ON YEAR 2000 [Y-2K] ERRORS BY THEIR COMPUTER-BASED SYSTEMS AND PROVIDING FOR AN EARLY EFFECTIVE DATE; CREATING A CHAPTER 53 UNDER TITLE 43 ASCA.

Preamble:

The Legislature finds that virtually every business and consumer in American Samoa is potentially affected by the practice in many computer-based systems of utilizing the two low order digits to represent a four digit year. While this is common practice for handwriting dates, such as "1/1/98" as an abbreviation of January 1, 1998, it will lead to errors in computer-based systems that handle date data in and after the year 2000. This practice, along with the use of other erroneous date-related computer logic, came to be known as the "year 2000 problem."

The Legislature further finds that in the absence of remedial legislation, the usual methods of determining responsibility and providing remedies for Y-2K-related errors through the courts are likely to result in a multitude of lawsuits and the expenditure of substantial time and money in the litigation process. Additionally, the Legislature finds that businesses are diverting money and other resources away from programs to remedy the Y-2K problem at this critical time to work on litigation-defense and claims preservation strategies. This diversion of resources has the potential to impair completion of these essential Y-2K compliance programs. The pervasive nature and fixed deadline of the Y-2K problem creates a unique situation which justifies a modification to the usual legal rights, remedies, and dispute resolution procedures available under the law. This act is intended to provide protection for persons who exercise commercially reasonable efforts to identify and find solutions for computer-based systems that may be affected by Y-2K errors.

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

Section 1. There is created a Chapter 53 under Title 43 ASCA which read:

**“Chapter 53
Y-2K COMPLIANCE**

43.5301 Definitions.

As used in this chapter, unless the context clearly requires otherwise:

(1) "Y-2K error" is the failure of a computer-based system to accurately store, display, transmit, receive, process, calculate, compare, or sequence date and time data from, into, or between the twentieth and twenty-first centuries, the years 1999 and 2000 and beyond, and leap year calculations.

(2) "Computer-based system" includes any computer or other information technology system, and any electronic device that controls, operates, monitors, or assists in the operation or functioning of equipment, machinery, plant, or a device using an embedded or installed microprocessor or chip.

(3) "Consumer" means a natural person who, primarily for personal, family, or household purposes, purchases, attempts to purchase, or is solicited to purchase goods or services.

(4) "Core activities" means those business activities of a person which are supported by computer-based systems and which have been identified by the person, based on reasonable internal criteria, as being central to the continued operation of the business.

(5) "Remediation steps" for a person addressing potential Y-2K errors generally consist of awareness, assessment, renovation, validation, and implementation. The reasonableness of those steps will be determined by the circumstances, including the sophistication of and resources available to the person carrying them out.

(A) The awareness step generally includes providing supervisory personnel with information about the Y-2K problem and the designation of personnel to deal with the potential for Y-2K errors.

(B) The assessment phase generally includes a determination of the impact of potential Y-2K errors on the person (including those caused by computer-based

systems controlled by the person and those controlled by others), identification of core activities, a physical inventory of potentially affected computer-based systems supporting core activities, prioritization of items with potential Y-2K errors to create a remediation schedule, determining whether the item records dates or processes date information, identifying and obtaining resources to address potential Y-2K errors, the development of a remediation strategy for each item with the potential for Y-2K errors, and the development of a recovery plan to handle those Y-2K errors which are reasonably likely to occur.

(C) The renovation step generally includes the conversion, upgrade, replacement, or elimination of computer-based systems supporting core activities which are subject to Y-2K errors.

(D) The validation step generally includes validating existing, converted, or replaced computer-based systems supporting core activities, "validating" means:

(i) Testing the item to actually simulate the transition from December 31, 1999 to January 1, 2000, the processing of other date data which may reasonably be expected to trigger a Y-2K error, and a determination that no Y-2K error occurs; and

(ii) Where the item has been renovated to correct known or suspected Y-2K errors, testing to assure that the item continues to properly perform its functions without error. This testing includes but is not limited to integration and acceptance testing. When testing is not reasonably possible, the validation step consists of securing documentation from the developer or vendor of a computer-based system supporting core activities that it is free of potential Y-2K errors. This includes vendors of core business functions, services, or supplies to understand the risk posed by the person's supply chain.

(E) The implementation step generally includes the placing of renovated or replaced computer-based systems into production use. Where a computer-based system cannot reasonably be renovated, the implementation step generally includes the implementation of a work-around designed to avoid the effect of the potential Y-2K errors. Additionally, this step includes the implementation of contingency or recovery plans for those Y-2K errors which are reasonably likely to occur. Where applicable, the person's highest level of management should determine what efforts are to be made and what resources are to be used in carrying out the remediation steps, and monitoring the progress of the remediation steps.

(6) "Claimant" is the plaintiff in a lawsuit or a person otherwise asserting a claim.

(7) "Respondent" is the defendant in a lawsuit or a person otherwise defending against a claim, and includes those persons who are liable on a claim, but who were not made a party to the lawsuit or other assertion of the claim.

(8) "Board" means any agency, board, commission, authority, or committee of the American Samoa Government or its political subdivisions that is created by constitution, statute, rule, or executive order to have supervision, control, jurisdiction, or advisory power over specific matters.

(9) "Government employee" includes an officer or employee of the ASG, or board, including a person acting on behalf of a board in an official capacity, temporarily or permanently, whether with or without compensation.

(10) "Joint tort-feasors" refers to two or more persons jointly or severally liable in tort for the same injury to person or property.

43.5302 Applicability.

(a) The following claims shall be excluded from the error dispute resolution process and the limitations on liability provisions contained in sections 43.5303 and 43.5304: Claims properly filed by consumers in the small claims division of the District Court.

(b) The following claims shall be excluded from the error dispute resolution process provisions contained in section 43.5305: Claims alleging physical injury as the direct and proximate result of a Y-2K error.

(c) The provisions in this chapter shall not apply to claims asserted by or against the American Samoa Government, a board, or a government employee, arising out or relating to a Y-2K error produced, calculated, or generated by a government computer system or other computer-based system, regardless of the cause for the Y-2K error, provided that nothing in this subsection shall be deemed to apply to any claim asserted against a government employee to enforce a mortgage obligation or other similar personal obligation of the government employee which is unrelated to the government employee's employment.

(d) The provisions in sections 43.5303 and 43.5304 may be modified or waived by express agreement. Any such modification or waiver shall be explicit, and no intent to modify or waive these protections shall be inferred.

43.5303 Blanket protections.

(a) No punitive or exemplary damages, and no statutory minimum or treble damages shall be awarded under any theory of recovery, including contract and tort

law, for claims arising out of a Y-2K error unless one of the following is found to have occurred in addition to the other facts necessary for the award of such damages:

(1) The Y-2K error was intentionally created by the respondent with the intent to cause damage or injury;

(2) The respondent had entered into an agreement to discover or remedy Y-2K errors with the intent to defraud the claimant; or

(3) The damage or injury was caused by the dissemination of corrupted data to recipients:

(A) With actual knowledge that errors were occurring;

(B) Without reasonable efforts at warning; and

(C) Without reasonable efforts to correct the cause of the errors.

(b) Noneconomic damages (including, but not limited to, physical and emotional pain, suffering, physical impairment, emotional distress, mental anguish, disfigurement, loss of enjoyment, loss of companionship, services, and consortium, and other nonpecuniary losses) shall not be awarded under any theory of recovery for any claim arising out of a Y-2K error except for physical injury directly and proximately caused by a Y-2K error. In any physical injury claim, the amount recoverable for noneconomic damages shall be limited to a maximum award of \$375,000.

(c) Joint tortfeasors shall not be held jointly and severally liable under any theory of recovery for any claim arising out of a Y-2K error.

43.5304 Limitation of actions.

Any other provision of law notwithstanding, all claims arising out of a Y-2K error shall be brought no later than two years after the claimant discovers, or through the use of reasonable diligence should have discovered, the damage or injury, but in any event not more than four years after the date of the alleged Y-2K error.

43.5305 Error dispute resolution requirement.

(a) Arbitration of disputes. At the request of any party, any dispute in which a Y-2K error is alleged in good faith as a claim or a defense shall be submitted to nonbinding arbitration. Unless otherwise agreed by the parties, the arbitrator shall be bound by the substantive and procedural provisions of this chapter, but shall not be bound by rules of evidence, whether or not set out by statute, except for provisions

relating to privileged communications. The arbitrator shall permit discovery as provided for in the American Samoa rules of civil procedure; provided that the arbitrator may restrict the scope of such discovery for good cause to avoid excessive delay and costs to the parties.

(b) Determination of unsuitability. At any time within twenty days of being served with a written demand for arbitration, any party so served may apply to the High Court for a determination that the subject matter of the dispute is unsuitable for disposition by arbitration. In determining whether the subject matter of a dispute is unsuitable for disposition by arbitration, a court may consider:

(1) The magnitude of the potential award, or any issue of broad public concern raised by the subject matter underlying the dispute;

(2) Claims where court regulated discovery is necessary;

(3) The fact that the matter in dispute is a reasonable or necessary issue to be resolved in pending litigation and involves other matters not covered by or related to this chapter;

(4) The fact that the matter to be arbitrated is only part of a dispute involving other parties or issues which are not subject to arbitration; or

(5) Any matters of dispute where disposition by arbitration would not afford substantial justice to one or more of the parties.

(c) Any such application to the High Court shall be made and heard in a summary manner and in accordance with procedures for the making and hearing of motions. If the application is denied, the prevailing party shall be awarded its attorneys' fees and costs in an amount not to exceed \$750.

(d) Selection of arbitrator:

(1) Once the parties have agreed to suitability or suitability has otherwise been determined, the parties shall proceed to select one arbitrator to hear the case. If the parties cannot agree on an arbitrator, they shall make a request in writing to the High Court of American Samoa who shall appoint an arbitrator. The parties and court shall endeavor to select the best qualified arbitrator for the issues to be tried, which arbitrator need not be an attorney. The parties may also select an administering agency such as the American Arbitration Association, at the discretion of the parties.

(2) Once selected, the arbitrator and parties shall cooperate to process the arbitration expeditiously and as informally as possible so that the arbitration hearing commences within six months after selection of the arbitrator. The arbitrator shall have the power and authority to sanction any party who does not so cooperate.

(3) The parties shall deposit the estimated fee and expenses of the arbitrator prior to the commencement of the arbitration hearing in equal pro rata amounts.

(e) Award; confirming award; attorneys' fees and costs:

(1) Within seven days after the conclusion of the arbitration hearing, the arbitrator shall serve copies of the award on the parties or their attorneys of record. Awards shall be in writing and signed by the arbitrator. The arbitrator shall determine all issues raised by the pleadings that are subject to arbitration under this chapter, including a determination of comparative fault, if any, damages, if any, and costs. Findings of fact and conclusions of law are not required. After an award is made, the arbitrator shall return all exhibits to the parties who offered them during the hearing.

(2) The award of any costs of arbitration, expenses, and legal fees shall be in the sole discretion of the arbitrator, and the determination of costs, expenses and legal fees shall be binding upon all parties.

(f) Judgment on award. If no party has served a written request for a trial de novo within ten days after the award is served upon all parties, any party may apply under Title 43 to have a judgment entered on the award. Once a judgment is so entered, it shall have the same force and effect as a final judgment, but may not be appealed.

(g) Trial de novo:

(1) The submission of any dispute to arbitration shall in no way limit or abridge the right of any party to a trial de novo.

(2) Written demand for a trial de novo by any party desiring a trial de novo shall be made upon the other parties within ten days after service of the arbitration award upon all parties.

(3) All discovery permitted during the course of the arbitration proceedings shall be admissible in the trial de novo subject to all applicable rules of civil procedure and evidence.

(4) The award of arbitration shall not be made known to the court at a trial de novo, except that the award shall be made available to the court by the clerk of court upon the rendering of judgment by the trier of fact for the purpose of determining whether the party which demanded trial de novo must pay costs, expenses, and fees under paragraph 6.

(5) No arbitration award shall be admitted into evidence in any subsequent trial, nor shall any party to the arbitration, or the counsel or other representative of such party, refer to or comment on the award or any statement or testimony made in the course of the arbitration hearing in an opening statement, an argument, or at any other time, to the court or jury.

(6) In any trial de novo, if the party demanding a trial de novo does not improve its position by thirty per cent or more, the party demanding the trial de novo shall be

charged with all reasonable costs, expenses, and attorneys' fees of the trial. When there is more than one party on one or both sides of an action, or more than one issue in dispute, the court shall allocate its award of costs, expenses, and attorneys' fees among the prevailing parties and tax such fees against those losing parties who demanded a trial de novo in accordance with the principles of equity.

43.5306 Limitation of liability.

(a) Determination of commercially reasonable efforts by claimant and respondent. All arbitration awards and all judgments in a court proceeding which award damages on a claim arising out of a Y-2K error shall state whether the claimant and the respondent engaged in commercially reasonable efforts to avoid the impact of Y-2K errors.

(b) The trier of fact shall make an independent determination that the actions taken by a claimant or respondent constitute commercially reasonable efforts, based on the totality of the circumstances, and notwithstanding that the party's efforts failed to avoid all Y-2K errors affecting its computer-based systems. In making the determination, the trier of fact shall examine the party's efforts as a whole, and shall take into consideration the sophistication of any resources available to the party. The burden of proof shall be on the party claiming that it engaged in commercially reasonable efforts, and the standard of proof shall be a preponderance of the evidence.

(c) A claimant or respondent shall be presumed to have undertaken commercially reasonable efforts if it has, at minimum:

- (1) Implemented the remediation steps; and
- (2) Complied with any data formats established by a government regulation, a governing body (such as the National Automated Clearing House Association for certain financial transactions) or reasonably requested by the other party where the parties exchange electronic information which was impacted by the alleged Y-2K error.

(d) Effect of finding. Except for claims where physical injury was directly and proximately caused by a Y-2K error, upon a finding that either:

- (1) A claimant did not engage in commercially reasonable efforts; or
- (2) The respondent engaged in commercially reasonable efforts, the respondent's liability will be limited to recovery of the claimant's actual out-of-pocket damages directly caused by the Y-2K error, and no consequential damages, such as loss of

business opportunities or loss of profits, or other special damages shall be awarded under any theory of recovery.

(e) Allocation of liability based on exercise of commercially reasonable efforts. The amount awarded to any claimant will be reduced to the extent that the claimant's failure to engage in commercially reasonable efforts contributed in whole or part to the damages sustained. Where two or more respondents are found liable for the claimant's damages, the proportion of liability assessed against each respondent will be proportionately adjusted based on the extent to which it engaged in commercially reasonable efforts.

43.5307 Effect on insurance.

Nothing in this act is intended to affect the indemnity and defense coverage rights and obligations under any contract of insurance.

43.5308 No intent to create causes of action.

This act shall not be deemed to impose any increased obligation, duty, or standard of care than is otherwise applicable under federal or American Samoa law. It is not intended to create any new cause of action or remedy.

43.5309 Remedial intent.

The intention of this act is to protect the people of American Samoa against harm which is pervasive and which was generally unknown to businesses and consumers. For that reason, its provisions are remedial, and shall be read to provide the greatest level of protection.

43.5310 Severability.


If any provision of this act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.


43.5311 Preemption.


If any portion of this act is found to be preempted by federal law or regulation, the remainder shall remain in full force and effect to the fullest extent consistent with the preemption.”

Sec 2. Effective date.

This act is effective immediately upon passage by the Legislature and approval by the Governor due to the need to immediately provide immunity from suit as relates to the Y-2K computer system errors. Provided that it shall not affect any claim which has been filed in the courts on the date of its enactment.


Tuilefano M. Vaela'a
PRESIDENT PRO TEMPORE


Aina Saoluaga T. Nua
SPEAKER OF THE HOUSE

Hereby Approved this 1st day of OCTOBER, 1999

Governor of American Samoa

NOFOA'IGA LUASEFULU-ONO FONO FAITULAFONO O AMERIKA SAMOA

Fono Tele Lona Lua

Nofoa ma usua i Fagatogo, Tutuila, Amerika Sāmoa
 Aso Gafua, aso sefulu-lua o Iulai
 tasi le afe iva selau iva sefulu iva

O SE TULAFONO E FA'ATULAGA AI AIAIGA E FA'ATAPULA'A AI AVEGA TAU'AVE FA'ALE-TULAFONO A TAGATA TUA MAI FATUAIGA FA'ALE-TULAFONO E FA'ATATAU I TALOSAGA E FA'AVAE I MEASESĒ O LE TAUSAGA 2000 (T-2A) E ONA TULA'I MAI I FELAVASA'IGA O MASINI KAMUPIUTA 'AUTU MA SAUNIA AI MO SE ASO TAUALOA VAVE; FA'AVAEINA AI SE MATA'UPU 53 I LALO O LE ULUTALA 43 TTAS.

Fa'atomuaga:-

Ua silafia e le Fono Faitulafono ua toeitiiti lava aofia uma pisinisi ma tagata fa'atau o Amerika Samoa i a'afiaga o taualumaga i le tele o felavasa'iga o kamupiuta 'autu i le fa'aaogaina o le fa'atulagaga maualalo o fuainumera e lua e sui ai tausaga e ta'i fa fuainumera. O le tulaga masani leni mo le tusilimaina o aso, e' pei o le "1/1/98" o le tusi fa'apu'upu'uina o Ianuari 1, 1998, o le a avea ma mea-sesē i felavasa'iga o kamupiuta 'autu e taulimaina le fa'amaumauga o aso i, ma pe a mavae le tausaga 2000. O leni faiga, fa'atasi ai ma le fa'aaogaina o isi manatu fa'avae sesē fa'ale-maufaufau i le fa'atulagaina o aso i kamupiuta, o le a tula'i mai e avea ma "fa'afitauli o le tausaga 2000."

Ua silafia fo'i e le Fono Faitulafono o le leai o se tulafono e puipui ai, o auala masani e iloiloaina ai fatuaiga ma saunia ai ni puipuiga mo measesē tau le T-2A e ala atu i fa'amasinoga e tula'i mai ai le anoanoa'i o tagi atoa ma le fa'aaluina o taimi tāua ma tupe i taualumaga o iloiloga. Fa'aopoopo i ai, ua silafia fo'i e le Fono Faitulafono o le a fa'aaogaina e pisinisi tupe ma isi tamaoiga e 'ese mai porokalama e fo'ia ai fa'afitauli o le T-2A i leni taimi tāua e galue ai se puipuiga mai tagi ma fuafuaga o le fa'asaoina o talosagā. O le fa'aaogaina o tamaoiga i isi tulaga e 'ese mai ai e i ai le malosi e fa'atama'ia ai le fa'aleleia atoatoa o ia porokalama tāua tausisia o le T-2A. O le natura fa'atama'ia ma le taimi fa'atapula'aina ua atofaina o fa'afitauli o le T-2A

o le a fofoa mai ai se tulaga tutasi o le a fa'amaonia ai se suiga i 'aiā masani fa'ale-
tulafono, puipuia ma taualumaga avanoa o i'ugafono fa'afinauina i lalo o le tulafono.
O lenei tulafono ua fuafuaina e saunia ai se puipuiga mo tagata o lo'o fa'aaogaina
taumafaiga talafeagai fefa'ataua'iga e iloa tino ma sa'ili ai tali mo felavasa'iga o
kamupiuta 'autu e ona a'afia i measesē o le T-2A.

IA FA'ATULAFONOINA E LE FONO FAITULAFONO O AMERIKA SAMOA:

Maga 1 Ua fa'avacina se Mata'upu 53 i lalo o le Ulutala 43 TTAS e faitauina:

"Mata'upu 53 MULIMULITA'I I LE T-2A

43.5301 Fa'auigaga

E pei ona fa'aaogaina i lenei mata'upu, vagana ai e mana'omia se fa'aupuga e
'ese mai ai:

(1) "Measesē o le T-2A" o le masei o se felavasa'iga 'autu e teu lelei,
fa'aalia, tu'uina atu, maua, fa'atinoaina, fuafua, fa'atusatusa, po'o le fa'asoloaina sa'o o
aso ma fa'amaumauga o taimi mai, i ai, po'o i le va o lona luasefulu ma le luasefulu-
tasi seneturi, o tausaga o le 1999 ma le 2000 ma'ōna talatu, ma fuafuaga o le tausaga
fa'aopoopo.

(2) "Felavasa'iga o kamupiuta 'autu" e aofia ai so'o se kamupiuta po'o isi
felavasa'iga o fa'amatalaga tau metotia fa'asaienisi aogā, ma so'o se isi masini
atonika (electronic) e pulea, fa'agaoioi, mata'ia, pe fesoasoani i le galueaina po'o le
fa'agaoioiga o mea faigaluega, masini, fale gaosimea, po'o se masini e fa'aaogaina se
tōtōga ua avea ma vaega tāua pe ua fa'atulagaina e tu'ufa'atasia porokalama i
kamupiuta. (microprocessor) po'o se pusa atonika (chip).

(3) "Tagata fa'atau" o lona uiga o se tagata soifua o se, e fa'apatino i le
tagata, aiga po'o fa'amoemoega tau le aiga, fa'atauga, taumafaiga e fa'atau pe
talosagaina le fa'atauina o oloa po'o tautua.

(4) "Gaoioiga tāuā" o lona uiga o gaoioiga tau pisinisi a se tagata ua
lagolagoina e felavasa'iga kamupiuta 'autu ma o ia gaoioiga ua iloaitino e lenei tagata,
ua fa'avacina i tulafono tausisia talafeagai i totonu ua avea ma i'oimata i le
fa'agaoioiga fa'aauau pea o le pisinisi.

(5) “La’asaga o puipuiga” mo se tagata e mafai ona tōlauina measesē o le T-2A e aofia ai le iloaitino (awareness), iloiloina (assessment), toefuata’ina (renovation), fa’amaoniga (validation), ma le galueaina (implementation). O le alagata’au lelei o ia la’asaga o le a iloiloina i ō latou tulaga, e aofia ai le fa’afinauga fa’aluafesasi (sophistication) ma tamaoiga avanoa i le tagata e fa’ataunu’uina ai.

(A) O le la’asaga masani o le iloaitino e aofia ai le saunia o tagata galulue e va’ava’aia fa’atasi ai ma fa’amatalaga e uiga i le fa’afitauli o le T-2A ma le fa’asinoina ma’oti o tagata galulue e taulimaina ma le agava’a mo measesē o le T-2A.

(E) O le la’asaga masani o le fuafuaina e aofia ai se iloiloiga o le malosia o le alia’i mai o measesē o le T-2A i le tagata (e aofia ai i latou e mafua mai i felavasa’iga ‘autu o kamupiuta e pulea e le tagata ma isi e pulea e isi), o le mautinoa o le gaoioiga fa’apitoa, o le iloaitino lea o felavasa’iga o kamupiuta ‘autu ua iloa ua afaina o lo’o lagolagoina gaoioiga fa’apitoa, fa’amaumauina o mea ta’itasi i measesē ua alia’i mai i le T-2A inā ia fa’atulaga ai se fa’asologa o puipuiga, e iloiloina ai po’o fa’amaumauga ta’itasi o aso po’o le fa’amaumauina o le fa’amatalaga o aso, fa’avasegaina ma le sa’ilia o ‘autu e talifuaitau ai i measesē o le T-2A ua alia’i mai, o le fa’atulagaina o se fuafuaga o puipuiga mo mea ta’itasi fa’atasi ai ma le alia’i mai o measesē o le T-2A, ma le fuafuaina o se fuafuaga e fa’aleleia ai e puipuia ai ia measesē o le T-2A e foliga ō le a tula’i mai.

(I) La’asaga o le toe fuata’ina e masani ona aofia ai le fa’āliliiina, fa’aleleia, toe fa’atulagaina, po’o le fa’alēaogaina o felavasa’iga o kamupiuta ‘autu e lagolagoina gaoioiga fa’apitoa e a’afia i measesē o le T-2A.

(O) La’asaga taualoaina e masani ona aofia ai tulaga ua taualoaina, fa’alūaina, po’o le toe fa’atulagaina o le felavasa’iga o kamupiuta ‘autu ua lagolagoina ai gaoioiga fa’apitoa “taualoaina” o lona uiga:

(m) Su’esu’eina o mea ta’itasi pe o le a tau’aveina le suiga mai ia Tesema 31, 1999 ia Ianuari 1, 2000, le fa’amaumauina o isi aso e fa’amoemoe e mafai ona tula’i mai ai se measesē i le T-2A, ma le fa’amoemoe o le a leai se measesē e tupu mai i le T-2A; ma

(mm) O mea ta’itasi ua fa’afouina e fa’asa’o ai mea ua iloa po’o measesē ua masalomia o le T-2A, o le a su’esu’eina ina ia mautinoa o lea mea o le a fa’aauau pea ona fa’agaoioi talafeagai ana fatuaiga e aunoa ma se measesē. O lena su’esu’ega e aofia ai ae lē fa’atapula’aina i le tu’ufa’atasia ma le taliaina o su’esu’ega. Afai o su’esu’ega e lē alagata’au, o le la’asaga o le fa’aaogaina o le malosia taualoa e aofia ai le aumaia o fa’amaumauga mai lē na faia po’o lē na fa’atauina atu se felavasa’iga o kamupiuta e lagolagoina ai gaoioiga fa’apitoa e sa’oloto mai le alia’i mai o measesē o le T-2A. E aofia ai pisinisi fa’atauina atu fatuaiga o pisinisi fa’apitoa, tautua, po’o sapaalai ina ia malamalama i le fa’alētonu e tula’i mai i le fa’asologa o sapaalai a le tagata.

(U) O le fa'atinoina o la'asaga lautele e aofia ai le fa'atulagaina o le fa'afouina po'o le toe suia o felavesa'iga o kamupiuta 'autu i mo le fa'aaogaina i fa'asalalauga. Afai e lē mafai ona fa'afouina talafeagai se felavesa'iga o kamupiuta 'autu, o le la'asaga o le fa'atinoina e masani ai ona aofia ai le galueaina o se suiga-o galuega fuafuaina e taofia ai le afaina o le tula'i mai o measesē i le T-2A. Fa'aopoopo i ai, o leni la'asaga, e aofia ai le galuea'ina o fuafuaga e mafai ona fa'ataunu'u pe maua mo ia measesē o le T-2A e foliga mai e mafai ona tupu. I tulaga e mafai ona fa'aaogaina ai, o le tulaga mao'e e puleaina ai e le tagata e tatau ona fuafua o taumafaiga o le a faia ma auala o le a fa'aaogaina e fa'ataunu'u ai la'asaga e puipuia ai, ma va'ava'aia le taualumaga o la'asaga o puipuiga.

(6) "Tagata-talosaga" o le itu-talosaga i se tagi po'o se tagata e 'ese mai ai e faia ma le mautinoa se talosaga.

(7) "Tagata-ua-tuaina" o se tagata-ua-molia i se tagi po'o se tagata e 'ese mai ai na te puipuia se talosaga, ma e aofia ai ia tagata ua fa'asaga i ai se talosaga, ae o i latou e le fa'atulagaina aloa'ia o se itu i le tagi po'o isi tua'iga o le tagi.

(8) "Komiti" o lona uiga o so'o se ofisa, komiti, komisi, pulega, po'o se komiti o le Malo o Amerika Samoa, po'o isi vaega lagolago fa'alemalo ua fa'avaeina e le fa'avae, tulafono aiaia, tulafono ta'iala, po'o se poloa'iga fa'amalosī, tulafono mo se va'ava'aiga, pulea, malosī, po'o se malosī faufautua i se mata'upu ma'oti.

(9) "Tagata faigaluega a le Malo" e aofia ai se ali'i/tama'ita'i po'o se tagata faigaluega o le Malo o Amerika Samoa, po'o se komiti, e aofia ai se tagata o lo'o galue mo se komiti i se tulaga taualoa, mo se taimi-pe tumau fo'i, pe totagi pe leai.

(10) "Tagata molia fa'atasi i se tagi" e fa'atatau i tagata e to'alua pe sili atu ua fa'atasa i se tagi pe ua tua'ina 'ese'ese i se tagi i se afaina i se tagata po'o meatotino.

43.5302 Fa'aaogaina.

(a) O talosaga ua ta'ua i lalo o le a le aofia ai mai i le fa'afinauina o measesē i taualumaga o i'ugafono ma tapula'a o aiaiga o fatuaiga fa'ale-tulafono i le maga 43.5303 ma le 43.5304; o Talosaga ua lelei ona failaina i le vaega o tagi laiti o le Fa'amasino Itumalo.

(e) O talosaga ua fa'aalia i lalo o le a lē aofia ai mai measesē o aiaiga o taualumaga o i'ugafono fa'afinauina o i ai i le maga 43.5305; O talosaga e tōlauina ai se manu'a o se tagata o se mafua'aga patino na tula'i i se measesē o le T-2A.

(i) O aiaiga i lenei mata'upu o le a le fa'atatau i talosaga ua tōlauina pe fa'asaga i le Malo o Amerika Samoa, se komiti, po'o se tagata faigaluega o le malo, na mafua mai pe fa'atatau i se measesē o le T-2A na faia, fuafuaina, pe na tula'i mai i se felavasa'iga o kamupiuta a le malo po'o isi felavasa'iga 'autu o kamupiuta, e lē afaina ai le mafua'aga mo measesē o le T-2A, pe afai e leai se mea i lenei soamaga e foliga mai e fa'atatau i so'o se talosaga e aumaia e fa'asaga i se tagata faigaluega o le malo e fa'amalosia ai se fatuaiga o se mokesi po'o isi fatuaiga totino fa'apena a le tagata faigaluega o le malo e leai se feso'ota'iga ma le galuega a le tagata faigaluega a le malo.

(o) O aiaiga i le maga 43.5303 ma le 43.5304 e mafai ona suia pe fa'agafua i se maliliega fa'aalia. So'o se suiga po'o se fa'agafuaga ia manino, ma e leai se fa'amoemoe e suia ai pe fa'agafua ai ia puipuiga o le a fautuaina.

43.5303 Puipuiga malu.

(a) E leai se tau tupe e fa'atagaina pe fa'asalaina ai, ma e leai se tulaga maualalo fa'ale-tulafono, tau tupe se tele e mafai ona tu'uina atu i lalo o so'o se fuāfuaga o le tauia, e aofia ai se feagaiga ma tulafono o measesē mo talosaga na tula'i mai i se measesē o se T-2A vagana se tasi o mea ua ta'ua i lalo ua iloaitino na tula'i mai e fa'aopoopo i isi mea moni, e mana'omia mo le tauia o mea ua fa'aleagaina:

(1) O measesē o le T-2A na faia ma le fa'amoemoe i ai lē-ua-molia ma le manatu e mafua ai se fa'aleagaina pe fa'amanu'alia ai se tasi;

(2) O lē-ua-molia na ōsia se feagaiga e sa'ilia pe fo'ia ai measesē o le T-2A ma le fa'amoemoe e taufa'asese i le tagata-talosaga; po'o

(3) O le fa'aleagaina po'o le fa'amanu'alia sa mafua mai le fa'asalalauina o fa'amaumauga sesē i tagata e mauaina:

(A) O i ai malamalamaga moni e tula'i mai measesē;

(E) E aunoa ma ni taumafaiga talafeagai e lapata'ia; ma

(I) E aunoa ma ni taumafaiga tatau e fa'asa'o le mafua'aga o measesē.

(e) Fa'aleagaina e le tau o le tamaoaiga (e aofia ai, ae lē fa'atapula'aina i, tigā o le tino po'o lagona, mafatiaga, afaina o le tino, lagona atuatuvaile, ōi o le mafaufau, fa'aleagaina o foliga, lē maua o se fiafia, leai o se soa, tautua, ma le

fa'agafuaina o le aia fa'aleulugali'i, ma isi fa'agafuaga e lē tauia i tupe) e lē mafai ona tauia i lalo o so'o se manatu fa'avae e tauia mo so'o se talosaga e mafua mai se measesē o le T-2A vagana ai mo manu'aga o le tino na mafua patino ma a'afiaga o se measesē o le T-2A. I so'o se talosaga o manu'a o le tino, o le aofa'iga e tauia ai mea ua afaina e lē tau i le tamaoaiga o le a fa'atapula'aina i le tau ai aupito maualuga e \$375,000.

(i) Tagata molia fa'atasi i se talosaga o measesē o le a lē tuaina fa'atasi ma fa'a'ese'eseina i lalo o so'o se manatu fa'avae o le tauia mo so'o se talosaga e tula'i mai i se measesē o le T-2A.

43.5304 Fa'atapula'aina o'tagi.

So'o se isi aiaiga o le tulafono e lē afaina ai, o talosaga uma e tula'i mai ona o se measesē o le T-2A o le a mafai ona aumaia e lē tuai nai le lua rausaga na iloa ai e le tagata talosaga. pe ala i le fa'aaogaina o le sogasogā tatau na maua ai, le afaina po'o le fa'amanu'alia, ae i so'o se tulaga ia lē silia nai le fa'ausaga ina ua mavae le fa'aalia o le measesē o le T-2A.

43.5305 Mana'oga o i'ugafono fa'afinauina o measesē.

(a) Puipuiga o finauga. E ala i se talosaga a so'o se itutagi, o so'o se fa'afinauga e ta'ua ai se measesē o le T-2A ma le agaga fa'amaoni i se talosaga po'o se puipuiga o le a tu'uina atu i se su'esu'ega ma iloiloga e leai ni tu'utu'uga. Vagana ai ua malilie i ai itū o le talosaga e 'ese mai ai, o le fa'amasino filifilia o le a ia tausisi i aiaiga ta'ua ma taualumaga o lenei mata'upu, ae o le a le tausisi i tulafono ta'iala o mau fa'amaonia, pe na fa'atulagaina e le tulafono pe leai, vagana ai mo aiaiga e fa'atatau i feso'otaiga o tulaga fa'apitoa. O le fa'amasino o le a fa'atagaina le sa'iliiliga e pei ona fa'atulagaina mai le tulafono ta'iala a Amerika Samoa o taualumaga sivili; pe afai o le fa'amasino e mulimulita'i i le si'omaga o ia su'esu'ega mo mafua'aga lelei e alo'ese mai ai i le tolopō so'o ma tau e fa'ae'eina atu i itū fa'amasinoga.

(e) Iloiloina o tulaga lē talafeagai. I so'o se taimi i totonu o le luasefulu aso e taua'aina atu ai se mana'oga tusitusia mo le su'esu'eina ma iloiloga, e mafai e so'o se itū fa'amasinoga ona talosaga i le Fa'amasinoga Sili mo se iloiloga e fa'apea o le mata'upu fa'afinauina e lē talafeagai mo se fa'ai'uga e su'esu'eina ma iloiloina e le tagata filifilia. I le iloiloina pe mata o le mata'upu ua fa'afinauina e lē talafeagai mo se fa'ai'uga o le tagata filifilia, e mafai e se fa'amasinoga ona iloilo:

(1) O le aofa'i o le tauia moni, po'o so'o se mata'upu o popolega i le salafa lautele e alia'i mai i le mata'upu iloiloa ta'ua i le finauga;

(2) O talosaga e mana'omia ai su'esu'ega a le fa'amasinoga;

(3) O le mea moni o le mata'upu ua fa'afinauina e alagatau pe o se mata'upu e tatau ina ia puipuia iloiloga ua tolopoina ma e a'afia ai isi mata'upu e le o aofia ai pe fa'atatau i lena mata'upu;

(4) O le mea moni e fa'apea o le mata'upu su'esu'eina ma iloiloa ua na o se vaega o se finauga e a'afia ai isi itū fa'amasinoga po'o mata'upu e le a'afia i su'esu'ega ma iloiloga e faia e tagata filifilia; po'o

(5) So'o se mata'upu finauina o se fa'ai'uga o se iloiloga e faia e tagata filifilia o le a le aumaia ai se fa'ai'uga amiotonu i se tasi po'o isi o itū fa'amasinoga.

(i) So'o se talosaga i le Fa'amasinoga Sili o le a faia ma iloiloa i le tulaga o 'oto'otoga ma e tusa ma taualumaga mo le faia ma le iloiloa o mau taufa'aofi. Afai ae te'ena le talosaga, o le itū fa'amasinoga manumalo o le a na tu'uina atū le tologi o le loia ma tau fa'ae'e o le fa'amasinoga i se aofa'iga e le silia i le \$750.

(o) Filifilia o se fa'amasino.

(1) Afai ua malilie itū fa'amasinoga i le talafeagai po'o le talafeagai, ina ua uma ona iloiloa, ona ālo atu loa lea o itū e filifili se fa'amasino se tasi e iloilo le mata'upu. Afai e le tasi se itū i se fa'amasino, e mafai ona latou talosaga atu i se tasi i le Fa'amasinoga Sili o Amerika Samoa ma o le a na tofia se fa'amasino. O itū ma le fa'amasinoga o le a taumafai e sa'ili se fa'amasino sili ona tauagava'aina mo le mata'upu ua fa'afinauina, ma o lea fa'amasino e le tau-tuliina o se loia. E mafai fo'i e itū ona filifili se ofisa lautele e pei o le Asosi o Su'esu'ega ma Iloiloga a Amerika, i le faitalia a itū.

(2) A filifilia loa, o le a galulue fa'atasi le fa'amasino ma itū e faia taualumaga vave o le su'esu'ega ma iloiloga ma fa'atulagaina i se fa'agasologa lelei e mafai e amatalia ai iloiloga o su'esu'ega i totonu o le ono masina pe a uma le filifilia o le fa'amasino. O le fa'amasino o le a i ai le malosia ma le pule e anuilagi ai so'o se itū e le galulue fa'atasi.

(3) O le a tu'uina atu e itū le tau fuafuaina ma le tologi fa'ae'e o le fa'amasino ae le'i amatalia le iloiloga o su'esu'ega i aofa'iga tutusa.

(u) Tau; tauia ua fa'amaonia; tologi o le loia ma tau o le fa'amasinoga;

(1) I totonu o le fitu aso pe a mae'a le fa'ai'uga o iloiloga su'esu'e, o le fa'amasino o le a na tu'uina atu kopi o i'uga i itū po'o i loia o itū ua fa'amaumauina. O le i'uga e tatau ona faia tusitusia ma sainia e le fa'amasino. O le fa'amasino o le a na iloiloa mata'upu uma e tōlauina i talosaga e a'afia i le iloiloga o su'esu'ega i

lalo o lenei mata'upu, e aofia ai se iloiloga o masei fa'atusatusa, pe afai e i ai, tupe totogi, pe afai e i ai ma tau fa'ae'e. Sa'iliga o mea moni ma fa'ai'uga tau tulafono e lē mana'omia. A mae'a ona faia se tau, ia fa'afo'i atu e le fa'amasino fa'aaliga o mau fa'amaonia uma i-itū na ofoina mai i le taimi o le iloiloga.

(2) O le i'uga o so'o se tau o le iloiloga o le su'esu'ega, tupe fa'aalu, ma tau fa'ae'e fa'ale-tulafono o le a avea ma fatuaiga patino a le fa'amasino, ma o le iloiloina o tu, tupe fa'aalu ma tau fa'ae'e fa'ale-tulafono ia noatia ai itū uma.

(f) Fa'ai'uga o tau. Afai e leai se itū na tu'uina atu i ai se talosaga tusitusia mo se iloiloga fou i totonu o aso e sefulu pe a uma ona tu'uina atu le tau i itū uma, e mafai e so'o se itū ona talosaga i lalo o le Ulutala 43 e faia se i'uga i le tau. Afai e fa'aulufaleina se i'uga, o le a i ai i lea i'uga le malosi ma le a'afiaga e pei o se i'uga fa'ai'u. ae le mafai ona apiliina.

(g) Iloiloga fou:

(1) O le tu'uina atu o so'o se fa'afinauga e iloiloina e se fa'amasino filifilia o le a leai se ala e muta ai pe ave'esea ai le 'aiā o so'o se itū mo se iloiloga fou.

(2) Talosaga tusitusia mo se iloiloga fou a so'o se itū e mana'omia se iloiloga fou e tatau ona tu'uina atu i isi itū i totonu o le sefulu aso. pe a uma oña taua'aoina le i'uga o le iloiloga i itū uma.

(3) O sa'iliiliga uma fa'atagaina a'o faia taualumaga o iloiloga su'esu'e o le a fa'atagaina i iloiloga fou ma e a'afia i tulafono galue taualoa o taualumaga-sivili ma fa'amaoniga.

(4) O le i'uga o le iloiloga a le fa'amasino filifilia o le a le fa'alauteleina i le fa'amasinoga i se iloiloga fou, vagana ai o le a fa'aavanoaina i le fa'amasinoga i le failautusi o le fa'amasinoga mo le tu'uina atu o le i'uga e le fa'amasino e iloiloina mea moni mo le fa'amoemoe o le iloiloina pe mata o le itū na talosagaina le iloiloga fou e tatau ona totogiina le tau, tupe fa'aalu, ma tau fa'ae'e i lalo o le parakalafa 6.

(5) E leai se i'uga o iloiloga o le a fa'atagaina e fai ma fa'amaoniga i so'o se iloiloga e faia mulimuli ane, po'o so'o se itū i le iloiloga, po'o le loia fautua po'o isi sui o ia itū, ua fa'asino i ai po'o ta'ua i le i'uga po'o so'o se fa'amatalaga po'o se molimau na faia i le taualumaga o le iloiloga o su'esu'ega i se saunoaga amata, se fa'afinauga, po'o i so'o se isi taimi, i le fa'amasinoga po'o le siuri (jury).

(6) I so'o se iloiloga fou, afai o se itū e mana'omia se iloiloga fou e lē mafaia ona fa'alelei lona tulaga i le tolu-sefulu pasene pe sili atu, o le a fa'ae'eina atu i lē na talosagaina le iloiloga fou tau talafeagai uma, tupe fa'aalu, totogi o loia o le fa'amasinoga. Afai e sili atu i le tasi tagata i le itū po'o le sili atu i itū uma o le fa'amasinoga, pe sili ai nai le tasi mata'upu ua fa'afinauina, o le a fa'asoasoaina lana i'uga o le tau, tupe fa'aalu, ma totogi o loia i itū manumalo ma fa'alafogaina ia totogi e fa'asaga ia i latou o itū ua malolo na talosagaina se iloiloga fou e tusa ma le mata'upu o le aumaia o le mea tonu.

43.5306 Tapula'a o fatuaiga fa'ale-tulafono.

(a) O le iloiloina o taumafaiga talafeagai tau fefa'ataua'iga e tagata talosaga ma le tagata-molia. O i'uga uma o iloiloga e faia e se fa'amasino filifilia ma fa'ai'uga uma i se taualumaga fa'afa'amasinoga e tu'uina atu ai se i'uga o mea ua fa'aleagaina i se talosaga e tula'i mai i-se measese o le T-2A ia fa'amatalatala mai ai pe na galulue le tagata talosaga ma tagata molia i taumafaiga talafeagai tau fefa'ataua'iga e 'alo'ese mai ai i a'afia o measese o le T-2A.

(e) O le fa'amasino o mea moni o le a na faia se fa'ai'uga tuma'oti e fa'apea o gaoioiga na faia e se tagata talosaga po'o tagata molia ua fa'amautu ai ni taumafaiga talafeagai tau fefa'ataua'iga, e fa'avae i le aotelega o tulaga e si'omia ai, ma e le afaina ai pe le'i manuia taumafaiga a le itū e 'alo'ese mai i measese uma o le T-2A ua afaina ai ana felavasa'iga atu o kamupiuta atoa, ma ia iloiloina o faiga taufa'asese ma auala o lo'o avanoa i le itū. O le avega tau'ave o le fa'amaoniaina o le a i luga o le itū o lo'o auē na a'afia i taumafaiga talafeagai tau fefa'ataua'iga, ma o le fua o le fa'amaoniga o le a i le fulisia o fa'amaoniga.

(l) O se tagata talosaga po'o se tagata molia e mafai ona talitonuina na a'afia i taumafaiga talafeagai tau fefa'ataua'iga pe afai na i ai, i le tulaga maualalo.

(1) Galueina o la'asaga e puipuia ai, ma

(2) Usita'i ma so'o se fa'atulagaga o fa'amaumauga ua fa'atuina e se poloa'iga a le malo, se fa'alapotopotoga e puleaina (e pei o le Asosi Fa'amamaina Fa'aauapea a le Malo Tele mo nisi o taualumaga tau tupe) po'o le talosagaina tataua e le isi itū i le fesuia'iga o fa'amatalaga eletonika ua fa'aofia e measese ua fa'aioa mai i le T-2A.

(o) A'afia o le iloaitino. Vagana ai mo talosaga o manu'a o le tino na mafua tonu ma mai i se measese o le T-2A, ma ua mautinoa fo'i o lena:

(1) O se tagata talosaga e le'i a'afia i taumafaiga talafeaga tau fefa'ataua'iga; po'o le

(2) O le tagata molia na a'afia ai i taumafaiga talafeagai tau fefa'ataua'iga, o le fatuaiga a le tagata molia o le a fa'atapula'aina o le sa'ilia o fa'aleagaina mai le taga moni a le tagata talosaga e mafua mai i measese o le T-2A, ma e leai se fa'aleagaina e mulimuli mai ai, e pei o afaina o avanoa o pisinisi po'o le le maua o porofiti, po'o isi fa'aleagaina fa'apitoa o le a tauia i lalo o so'o se manatu o tau.

(u) O le fa'asoasoina o fatuaiga fa'ale-tulafono e fa'avaeina i le fa'aaogaina o taumafaiga tau fefa'ataua'iga. O le aofa'iga e tu'uina atu i so'o se

tagata talosaga o le a fa'aitiitia i le tulaga o le lē a'afia ai o le tagata talosaga i taumafaiga talafeagai tau fefa'ataua'iga e tu'uina atu ai le atoa po'o se vaega o afaina na feagai ai. Afai e to'alua pe sili tagata molia ua maua e a'afia ai i le fa'aleagaina o le tagata talosaga, o le vaega o fatuaiga fa'ale-tulafono o le a fa'ae'eina atu e fa'asaga i tagata molia ta'itasi ma o le a fuafuaina tataua i ai i le tulaga na a'afia ai i taumafaiga talafeagai tau fefa'ataua'iga.

43.5307 A'afiaga o inisiua.

E leai se mea i lenei-tulafono ua fuafuaina e afaina ai le totogiina ma puipuiga o 'aiā tau puipuiga ma fatuaiga i lalo o so'o se feagaiga o inisiua.

43.5308 Leai se fa'amoemoe e fa'atuina mafua'aga o tagi.

O lenei tulafono e lē fuafuaina e fa'ae'eina atu so'o se fatuaiga fa'aopoopo, tiute, po'o se fua o le tausiga nai lo lē 'ese mai i tulaga ua taualoaina i lalo o tulafono a le malo tele po'o Amerika Samoa. E le'i fuafuaina e fa'atuina so'o se mafua'aga fou tagi po'o puipuiga.

43.5309 Fa'amoemoega tau puipuiga.

O le fa'amoemoega o lenei tulafono e puipui ai tagata o Amerika Samoa e fa'asaga i afaina e lē tonu ma e lē silafia patino e pisinisi ma tagata fa'atau. Mo lena fa'amoemoe, o ona aiaiga e puipuia ai, ma o le a faitauina e saunia ai se tulaga maoa'e o le puipuiga.

43.5310 Talafeagai ma le fa'alēaogāina.


Afai e i ai so'o se aiaiga o lenei tulafono, po'o lona fa'aaogaina i so'o se tagata po'o se tulaga e lē taualoaina, o le lē taualoaina o le a lē afaina ai isi aiaiga po'o le fa'aaogaina o lenei tulafono e mafai ona tu'uina atu le malosi e aunoa ma lea suiga po'o le fa'aaogaina e lē taualoa, ma o lea i'uga o aiaiga o lenei tulafono e māvaevae.

43.5311 Suitulaga

Afai o se vaega o lenei tulafono ua maua ua suia i se tulafono feterale po'o se poloa'iga, o le vaega o totoe o le a tumau pea lona malosi atoa ma a'afiaga i le tulaga atoatoa e o'gatasi ma le suiga.

Maga 2. Aso taualoa.

O leni tulafono o le a taualoa vave pe a pasia e le Fono Faitulafono ma fa'amaonia e le Kovana ona o se mana'oga fa'anatinati e saunia ai pui puiga mai tagi e fa'atatau i measese o felavasa'iga o kamupiuta o le T-2A. Ae peita'i, o le a le afaina ai so'o se talosaga na failaina i le aso na fa'atulafonoina ai.


Tuilefano M. Vaela'a
SUI PERESETENE, MAOTA MAUALUGA


Aina Saoluaga T. Nua
FOFOGA FETALAI, MAOTA O SUI

Hereby Approved this 1st day of OCTOBER, 19 99


Governor of American Samoa