

THE THIRTIETH LEGISLATURE OF AMERICAN SAMOA

Third Special Session

Begun and held at Fagatogo, Tutuila, American Samoa
on Monday, the first day of December
two thousand and eight

AN ACT PROVIDING END-OF-LIFE HEALTH CARE GUIDELINES;
PROVIDING FOR ADVANCED DIRECTIVES, HEALTH CARE SURROGATES,
AND FOR OTHER PURPOSES; CREATING A CHAPTER 08 UNDER TITLE 13
A.S.C.A.

Preamble:

The Fono hereby finds that a person, as a matter of right, rationally may decide as to the extent of medical treatment she/he will receive in the event that his or her physical state reaches the point of deterioration that she/he is in a terminal state and there is no reasonable expectation that life can be continued with dignity and without pain. A person has a fundamental right to determine whether or not life-sustaining procedures, which would cause prolongation of life beyond natural limits, should be used or withdrawn. The public interest requires that a patient's wishes regarding end-of-life health care decisions be respected, and guidelines be established to ensure that medical care is provided when it is requested and withheld when it is rejected.

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

Section 1. There is created a Chapter 08 under Title 13 A.S.C.A. which reads:

**"CHAPTER 08
HEALTH CARE DECISIONS
Part I—Health Care Representatives**

Sections:

- 13.0801 Appointment of a Health Care Representative.**
- 13.0802 Capacity of principal.**
- 13.0803 Responsibility of the representative.**

Part II—Health Care Advanced Directives

Sections:

- 13.0804 Procedure for making a living will.**
- 13.0805 Procedure for living will.**
- 13.0806 Procedure in absence of living will.**

13.0807 Determination of patient condition.

13.0808 Mercy killing or euthanasia not authorized—Suicide distinguished.

Part I—Health Care Representatives

13.0801 Appointment of a health care representative.

(a) A written document appointing a representative to make health care decisions for a principal shall be signed by the principal in the presence of two subscribing witnesses. A principal unable to sign the instrument may, in the presence of witnesses, direct that another person not a witness to the instrument sign the principal's name as required herein. An exact copy of the instrument shall be provided to the representative.

(b) The person appointed as representative shall not act as witness to the execution of the instrument appointing the health care representative. Both witnesses must be at least 18 years of age, and at least one person who acts as a witness shall be neither the principal's spouse nor relative by blood or adoption.

(c) An instrument appointing a health care representative may also appoint an alternate representative provided the appointment is explicit. The alternate representative may assume his or her duties as representative for the principal if the original representative is unwilling or unable to perform his or her duties. The principal's failure to appoint an alternate representative shall not invalidate the appointment of the original representative.

(d) Unless the instrument states a time of termination, the appointment shall remain in effect until revoked by the principal.

(e) A written appointment of a health care representative executed pursuant to this section establishes a rebuttable presumption of clear and convincing evidence of the principal's appointment of the representative.

13.0802 Capacity of principal.

(a) A principal is presumed to be capable of making health care decisions for himself or herself unless she/he is determined to be incapacitated. Incapacity may not be inferred from the person's voluntary or involuntary hospitalization for mental illness or from his or her mental retardation.

(b) If a principal's capacity to make health care decisions for himself or herself is in question, the attending physician shall evaluate the principal's capacity and, if the physician concludes that the principal lacks capacity, enter that evaluation in the principal's medical record. If the attending physician has a question as to whether the principal lacks capacity, another physician also shall evaluate the principal's capacity, and if the second physician agrees that the principal lacks the capacity to make health care decisions, the health care facility shall enter both physicians' evaluations in the principal's medical record. If the principal has appointed a health care representative, the facility shall notify such

health care representative in writing that his or her authority under the instrument has commenced.

(c) The representative's authority shall commence upon a determination under subsection (b) that the principal lacks capacity, and such authority shall remain in effect until a determination that the principal has regained capacity. Upon commencement of the representative's authority, a representative who is not the principal's spouse shall notify the principal's spouse and adult children of the principal's appointment of the representative. In the event the attending physician determines that the principal has regained capacity, the authority of the representative shall cease, but shall recommence if the principal subsequently loses capacity as determined pursuant to this section.

(d) A determination made pursuant to this section that the principal lacks capacity to make health care decisions shall not be construed as a finding that the principal lacks capacity for any other purpose.

(e) In the event the representative is required to consent to withholding or withdrawing life-prolonging procedures, the provisions of part II shall apply.

13.0803 Responsibility of the representative.

(a) The representative, in accordance with the principal's instructions, unless such authority has been limited expressly by the principal, shall:

(1) Have the authority to act for the principal and to make all health care decisions for the principal during the principal's incapacity;

(2) Consult expeditiously with appropriate health care providers to provide informed consent, and make only health care decisions for the principal which she/he believes the principal would have made under the circumstances if the principal were capable of making such decisions. If there is no indication of what the principal would have chosen, the representative may consider the principal's best interest in deciding that proposed treatments are to be withheld or that treatments currently in effect are to be withdrawn;

(3) Provide written consent using an appropriate form whenever consent is required, including a physician's order not to resuscitate;

(4) Be provided access to the appropriate medical records of the principal;

(5) Apply for public benefits, such as Medicare and Medicaid, for the principal and have access to information regarding the principal's income and assets, and banking and financial records, to the extent required to complete the application.

(b) The representative may authorize the release of information and medical records to appropriate persons to ensure the continuity of the principal's health care and may authorize the admission, discharge or transfer of the principal to or from a health care facility or other facility or program licensed to provide long-term, tertiary or hospice care.

(c) If, after the appointment of a representative, a court appoints a guardian, the representative shall continue to make health care decisions for the principal, unless the court has modified or revoked the authority of the representative pursuant to this section. The representative may be directed by the court to report the principal's health care status to the guardian.

(d) In the event a guardian is appointed for a principal who has executed an instrument appointing a health care representative, the court appointing the guardian shall specify in its order of guardianship what authority, if any, the guardian shall exercise over the representative. The court may, with notice to the representative and any other appropriate parties, modify or revoke the authority of the representative to make health care decisions for the ward, if the court finds the representative unfit to exercise the appointed duties.

Part II—Health Care Advanced Directives

13.0804 Procedure for making a living will.

(a) Any competent adult may, at any time, make a living will or written declaration and direct the providing, withholding, or withdrawal of life-prolonging procedures in the event that such person has a terminal condition, has an end-stage condition, or is in a persistent vegetative state. A living will must be signed by the principal in the presence of two subscribing witnesses, one of whom being neither a spouse nor relative by blood or adoption of the principal. If the principal is physically unable to sign the living will, one of the witnesses must subscribe the principal's signature in the principal's presence and at the principal's direction.

(b) It is the responsibility of the principal to provide for notification to his or her attending physician that the living will has been made. In the event the principal is physically or mentally incapacitated at the time the principal is admitted to a health care facility, any other person may notify the physician or health care facility of the existence of the living will. An attending or treating physician or health care facility which is so notified shall promptly make the living will or a copy thereof a part of the principal's medical records.

(c) A living will, executed pursuant to this section, establishes a rebuttable presumption of clear and convincing evidence of the principal's wishes.

13.0805 Procedure for living will.

(a) If a person has made a living will expressing his or her desires concerning life-prolonging procedures, but has not appointed a representative pursuant to this part I, the attending physician may proceed as directed by the principal in the living will. In the event of a dispute or disagreement concerning the attending physician's decision to withhold or withdraw life-prolonging procedures, the attending physician shall not withhold or withdraw life-prolonging procedures for 7 calendar days, during which time the party

disputing the attending physician's decision may seek review in the High Court. If a review of a disputed decision is not sought within 7 calendar days following the attending physician's decision to withhold or withdraw life-prolonging procedures, the attending physician may proceed in accordance with the principal's instructions.

(b) Before proceeding in accordance with the principal's living will, it must be determined that:

(1) The principal does not have a reasonable medical probability of recovering capacity so that the right could be exercised by the principal;

(2) The principal has a terminal condition, has an end-stage condition, or is in a persistent vegetative state; and

(3) Any limitations or conditions expressed orally or in a written declaration have been considered carefully and have been satisfied.

13.0806 Procedure in absence of living will.

(a) In the absence of a living will, the decision to withhold or withdraw life-prolonging procedures from a patient may be made by a health care representative appointed by the principal pursuant to part I unless the instrument limits the representative's authority to consent to the withholding or withdrawal of life-prolonging procedures.

(b) Before exercising the incompetent patient's right to forego treatment, the representative must be satisfied that:

(1) The principal does not have a reasonable medical probability of recovering capacity so that the right could be exercised by the principal; and

(2) The principal has a terminal condition, has an end-stage condition, or is in a persistent vegetative state.

13.0807 Determination of patient condition.

In determining whether a patient has a terminal condition, has an end-stage condition, or is in a persistent vegetative state, or may recover capacity, or whether a medical condition or limitation referenced in an advanced directive exists, the patient's attending or treating physician and at least one other consulting physician must separately examine the patient. The findings of each such examination must be documented in the patient's medical records and signed by each examining physician before life-prolonging procedures may be withheld or withdrawn.

13.0808 Mercy killing or euthanasia not authorized—Suicide distinguished.

(a) Nothing in this chapter shall be construed to condone, authorize, or approve mercy killing or euthanasia, or to permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying.

(b) The withholding or withdrawal of life-prolonging procedures from a patient in accordance with any provision of this chapter shall not, for any purpose, constitute a suicide."

Sec 2. Severability.

If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall 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 declared to be severable.

Lolo M. Moliga
LOLO M. MOLIGA
President of the Senate

Savali Talavou Ale
SAVALI TALAVOU ALE
Speaker, House of Representatives

[Signature]
Hereby Approved this 22 day of Dec. 20 08
Governor Of American Samoa

NOFOAIGA TOLUSEFULU FONOFAITULAFONO A AMERIKA SAMOA

Fono Fa'apitoa Lona Tolu

Nofolia ma usuia i Fagatogo, Tutuila, Amerika Samoa
Aso Gafua, aso muamua o Tesema
lua afe ma le valu

O SE TULAFONO E FAATULAGA AI TA'IALA TAU LE TAUSIA O LE SOIFUAMALOLOINA MO TOE TAIMI O LE TAGATA; FAI AI NI AIAIGA MO NI MANA'OGA FAI VAVE; TOFIA O NISI E SUITULAGA MO LE TAUSIA O LE SOIFUAMALOLOINA, MA ISI LAVA MAFUAAGA; AMATA AI SE MATAUPU 08 I LALO O LE ULUTALA 13 T.T.A.S.

Fa'atomuaga:

Ua iloa nei e le Fono e tatau lava ona i ai le aia o se tagata e faaali ai ona mana'o i le ituaiga o togafitiga tau falemai e faia mo ia aua taimi e oo atu ai ia i se tulaga ua tuga lona gasegase ma ua leai foi se faamoemoë mausali e mafai ona toe foi i se lelei le gasegase e aunoa ma fita ma tiga. E i ai le aia tatau o le tagata e faia ai lana lava faaiuga pe mata e finagalo ia e faaumi atu lona soifua e ala i le faaaogaina o masini pe leai foi. O le mea lava e matele i ai faanaunaga o le lautele, ia talia le mana'o o se gasegase mo faaiuga faapea i ona toe taimi, ma ia faavae ai ni ta'iala e mautinoa ai e maua le tausiga tau falemai pe afai e talosagaina ae ia taofia foi le toe faia o ia tausiga pe afai ua teena mai.

IA FAATULAFONOINA E LE FONO FAITULAFONO O AMERIKA SAMOA:

Maga 1. Ua faavae nei se Mataupu 08 I lalo o le Ulutala 13 T.T.A.S. e faitauina faapea:

**“MATAUPU 08
FAAIUGA MO TAUSIGA TAU LE SOIFUAMALOLOINA**

Vaega I—Sui mo le Tausiga o le Soifuamaloloina

Maga:

13.0801 Tofia o Sui mo le Tausia o le Soifuamaloloina.

13.0802 Tulaga o le tagata lea e faatatau tonu i ai lenei tulafono.

13.0803 Matafaioi a le sui lea e tofia.

Vaega II—Mana’oga (mavaega ola) mo le tausia o le soifuamaloloina

Maga:

13.0804 Aiaiga mo le faia o se mavaega ola.

13.0805 Aiaiga mo le mavaega ola.

13.0806 Aiaiga pe afai e leai se mavaega ola.

13.0807 Faia o le faaiuga mo le tulaga o le gasegase.

13.0808 Le faatagaina le faauma faamalosi o le soifua ona ua leai se faamoemoe—E eseese lea ma le pule i le ola.

Vaega I—Sui mo le tausia o le soifuamaloloina.

13.0801 Tofia o se sui e tausia le soifuamaloloina.

(a) O se pepa tusitusia e tofia ai se sui na te faia faaiuga mo le tausiga o le soifuamaloloina, e sainia e le gasegase i luma o ni molimau se to’alua. Afai e le mafai e le gasegase ona saini le pepa, e mafai ona ia faatonu ina ia sainia lona suafa e se tasi tagata e le o se molimau i luma o molimau e pei ona manaomia ai. Ia faia se kopi tutusa lelei o lea pepa mo le sui.

(e) O le tagata lea ua tofia e fai ma sui e le mafai ona fai ia ma molimau i le sainiga o le pepa lea. O molimau uma e toalua a laiti mai ia ta’i 18 o la tausaga, ma a itiiti mai ia toatasi le molimau e le o se to’alua o le gasegase poo se tagata foi tautoto pe aiga e ala I le faatamafai, i le gasegase.

(i) E mafai lava foi i le uili ola lea e tofia ai le sui mo le tausia o le soifuamaloloina ona tofia ai ma se isi sui faaleoleo ae ia matua ta’u manino mai lea tulaga. O le sui faaleoleo lea e mafai ona tau’avea le galuega e fai ma sui o le gasegase pe afai e le mana’o le sui muamua na te faia lea tiute pe ua le gafatia foi e ia ona fai. O le le tofia o se sui faaleoleo e le faapea o le a le faaaogaina ai le tofiga o le uluai sui.

(o) Sei vagana ai o ta’utino mai i le uili lea se taimi e faamuta ai, o le a faaaauau pea ona taualoaina le tofiga lea sei oo i le taimi e faaleaogaina ai e le gasegase poo le foi na ia faia.

(u) O le tofiga tusitusia o se sui mo le tausia o le soifuamaloloina e faia ina ia tusa ai ma lenei maga e faavae ai se molimau mautu e faaono mafai foi ona teena, o le tofia e se tasi o sona sui.

13.0802 Tulaga o le tagata lea e faatatau tonu I ai lenei tulafono.

(a) O le tagata lea e faatatau i ai le tulafono lenei e i ai le manatu o loo mafai e ia ona faia o faaiuga tau le soifuamaloloina mo ia lava sei vagana ai ua i ai se faaiuga ua faia ua leai sona malosi. O le tulaga lea i le leai o se malosi, e le faapea e mafua mai ona ua faataotolia i gasegase o le mafaufau poo se tulaga foi ua solomuli lona mafaufau.

(e) Afai e fesiligia le i le mafai e le tagata ona faia o ni faaiuga lea mo lona soifuamaloloina, ia suesueina e lana fomai lea itu, ma afai e aumai le faaiuga a le fomai ua le mafai ona tuu lea e le fomai le faaiuga lea a ia i totonu o faamaumauga o le gasegase. Afai e fesiligia e le fomai pe mata e moni le tulaga lea o le gasegase, ona faia lea o se isi suesuega a se tasi fomai, ma afai e ioe foi le fomai lona lua lea ua leai se malosi o le gasegase e faia ai ni faaiuga mo le tausia o lona soifuamaloloina, ona tuu uma lava lea e le falemai o faaiuga uma ia e lua i totonu o faamaumauga o le gasegase. Afai ua uma ona tofia e le gasegase o sona sui mo le vaaia o lona soifuamaloloina, ona logo lea e le falemai o le sui lea e ala i se tusi e ta'u atu ai o lea ua amata ona tiute e pei ona tofia ai.

(i) O le a amata le pule a le sui i le taimi lava e faia ai se faaiuga i lalo o le soamaga (e) e faapea mai ai ua le mafai ona faia e le gasegase se faaiuga, ma o lea la pule o le a aloa'ia pea sei vagana ai ua faia se faaiuga e faapea ua toe maua le malosi o le gasegase. O le taimi e amata ai le pule a le sui-tofia, o le a logoina loa e le sui e le o faletua/alii o le gasegase lona to'alua ma le fanau matutua. Afai ae faapea mai le fomai ua toe malosi le gasegase, o le a muta loa foi le pule a le sui, ae toe faaauau pe afai foi ua faia se faaiuga ua le toe lava lona malosi e tusa ai lava ma lenei maga.

(o) O se faaiuga e faia e tusa ai ma lenei maga e faapea ua leai se malosi o le tagata lea e faatatau i ai le tulafono na te faia ai ni faaiuga mo le tausia o lona gasegase e le tatau ona faapea o se faaiuga lea ua leai se malosi o se gasegase mo se isi lava mafuaaga.

(u) Afai e oo i se tulaga ua manaomia ai le sui ina ia ioe atu e aveese masini o loo faaaoga e faaola ai le gasegase, o le a faaaoga aiaiga o le vaega II.

13.0803 Tuite tauave o le sui.

(a) O le sui, ina ia tusa ai ma faatonuga a le gasegase sei vagana ai ua faatapulaa manino mai lea pule, o le a:

(1) E ia te ia le pule e fai ai ma sui o le gasegase ma faia uma faaiuga mo le tausia o lona soifuamaloloina;

(2) Faafesootai vave vaega latou te faia auaunaga tau le soifuamaloloina ina ia maua mai ai se maliega faavaeina lelei, ma faia na o faaiuga e talitonu ia o faaiuga foi na e faia e le gasegase pe a na faapea o loo mafai e le gasegase ona faia o na faaiuga. Afai ae le iloga mai se filifiliga semanu e faia e le gasegase, ona mafaufau lea o le sui i le mea sili ona lelei mo le gasegase pe mata e tatau ona taofia o ni togafitiga o loo faatu mai ina ia faia pe aveese foi togafitiga o loo faia i lena taimi;

(3) Faia se maliega tusitusia e faaaoga ai se pepa talafeagai lelei i soo se taimi e manaomia ai se maliega, e aofia ai ma se faatonuga a le fomai e aua nei toe taumafai e toe faaola mai;

(4) Ia faataga e vaai i faamaumauga faafomai o le gasegase;

(5) Talosaga mo alamanuia lautele, e pei o le *Medicare* ma le *Medicaid*, mo le ua gasegase ma ia mafai ona vaai i faamatalaga tau tupe maua ma meatotino

(asetā) a le gasegase, o faamaumauga tau faletupe ma tupe, e moomia mo le faamae'aina o le talosaga.

(e) E mafai ona faatagaina e le sui o le tuuina mai o faamatalaga ma faamaumauga tau falemai i tagata e tatau ai ina ia mautinoa ai le faaaauau pea o le tausiga o le soifuamaloloina o le ua gasegase, ma faataga foi le taofia i le falemai, ole te'a i tua poo le ave foi o le gasegase ma toe aumai mai se falemai poo se isi lava nofoaga poo se porokalama laiseneina e tausia ai mo se taimi umi gasegase ua faalagolago i isi.

(i) Afai ae uma ona tofia o se sui ae toe tofia e le faamasinoga se tasi e vaavaaia le gasegase, o le a faaaauau pea e le sui ona faia o faaiuga mo le tausia o le soifua o le gasegase, sei vagana ua fai ni suiga pe faaleaogaina foi e le faamasinoga le pule a le sui e tusa ai ma lenei maga. E mafai ona faatonu e le faamasinoga o le sui e lipoti atu le tulaga o le gasegase i le tagata lea na te vaaia.

(o) Afai ua tofia se tagata na te vaaia se gasegase ua uma ona ia tofia o sona sui mo le tausia o lona soifuamaloloina, ona faataatia manino mai lea e le faamasinoga i lana faatonuga poo le a tonu le pule, pe afai e i ai, a le tagata lea ua tofia e vaaia le gasegase i le sui. E mafai e le faamasinoga, faatasi ai ma se faaaliga e avatu i le sui ma nisi uma lava itu, ona suia pe faaleaoga foi le pule a le sui na te faia ai ni faaiuga mo le soifuamaloloina o le gasegase, pe afai e iloa e le faamasinoga ua le aoga le sui ona ia tau'ave ona tiute e pei ona tofia ai.

Vaega II—Mavaega ola mo le Tausia o le Soifuamaloloina

13.0804 Faagasologa o le faia o se mavaega ola.

(a) E mafai e soo se tagata matua lava i soo se taimi, ona faia o sana mavaega ola poo se folafolaga tusitusia foi ma faatonuina ai le faia, le taofia poo le aveesea foi o ni faiga o loo faaumi ai le ola i taimi e tulai mai ai se gasegase ua leai se faamoemoe e toe manuia, o se gasegase ua oo atu i ona toe taimi, poo se tulaga foi ua le mafai ai e le tagata lea ona toe gaoioi. O se mavaega ola e tatau ona sainia e le ana le mavaega i luga o ni molimau se to'alua, o se tasi o ia molimau ia le o le to'alua poo se aiga tautoto foi pe ala i le faatamafai a le ana le mavaega. Afai e le mafai e le tagata matua lea ona saina lana mavaega ola, e mafai e se tasi o molimau ona ia sainia le suafa o le tagata e ana le mavaega i ona luma ma ia fai foi e tusa ona faatonuina ai e le tagata lea.

(e) O le tiute o le gasegase lona ta'u i lana fomai ua uma ona fai o lana mavaega ola. Afai e oo atu i le taimi lea e taofia ai i se falemai le tagata e ana le uili/mavaega ae ua i le tulaga ua le mafai ona gaoioi le tino pe faaletonu foi le mafaufau, e mafai e soo se isi lava tagata ona faailoa i le fomai poo le falemai foi e i ai le mavaega ua uma ona fai. O le a faia loa e le fomai poo le falemai foi lea ua logoina se kopi pe faaoga foi lava le mavaega ola ma tuu i totonu o faamaumauga tau falemai a le gasegase ma fai ai ma vaega o ia faamaumauga.

(i) O se mavaega ola e faaaoga e tusa ai ma lenei maga, ua faavae ai se molimau manino ae mafai lava foi ona tetee iai, o mana'oga lava ia o le ua gasegase.

13.0805 Faagasologa o le mavaega ola.

(a) Afai ua uma ona faia o se mavaega ola a se tagata e ta'u mai ai mea e finagalo ia e fai e faatatau i le faaaogaina o ni masini e faaola ai, ae lei tofia sona sui e tusa ai ma lenei vaega I, e mafai lava e le fomai ona faia o ana gaoioiga e pei ona faatonuina ai i totonu o le mavaega ola. Afai e tulai mai se feeseesea'iga poo se faafinauga e tusa ai ma le faaiuga a le fomai e taofia pe aveesea foi masini oloo faaumi ai le soifua o le gasegase ona taofi lea e le fomai le se'iina o masini mo aso faakalena e 7, o le taimi lea e mafai ai ona saili o itu ia e faatuiese mo se tali mai le Faamasinoga Mauaialuga. Afai e siliga le 7 aso faakalena e lei saili itu tetee i se iloilogaga a le Faamasinoga ona faia lava lea e le fomai e tusa ai ma faatonuga a le ua gasegase.

(c) A o lei faia la gaoioiga e tusa ai ma le mavaega ola sa fai, e tataua ona fai muamua mea nei:

(1) Ua leai se faamoemoe e toe fo'i i se lelei le gasegase ina ia mafai ai lava e ia ona fai o lana lava faaiuga;

(2) E tuga le gasegase e le toe foi, ua oo le gasegase i ona tulaga mulimuli, poo ua matua le mafai lava ona gaoioi; ma

(3) O tapulaa uma poo ni tulaga foi ua uma ona faamatala mai pe tusitusia foi ua faamalieina uma ia itu.

13.0807 Faia o le faaiuga mo le tulaga o le gasegase.

I le faia o se faaiuga pe mata o le gasegase e le toe foi i se lelei, ua oo le gasegase i ona tulaga mulimuli, poo ua le aoga, pe mata foi e toe faafoisia le malosia, poo i ai foi se tulaga tau gasegase poo se tapulaa o loo ta'ua i le mavaega ola, e tataua i le fomai o loo gafa ma le gasegase ma se isi foi fomai o loo faafesootai mo tulaga o le gasegase ona tofi la'ua ma suesuega o le gasegase. O faaiuga taitoatasi a fomai ia e toalua e tataua ona tusitusia i totonu o faaumauga o le gasegase ma saina uma ai lava la'ua ae lei oo ina taofia pe se'i foi masini.

13.0808 O le faaoo o le oti ona o le tiga alofa ona ua tuga le gasegase e le faatagaina—E ese ai lava foi le pule i le ola.

(a) E leai se mea i totonu o lenei mataupu e mafai ona faapea ai e lagolagoina, faatagaina pe ioeina foi le faaoo o le oti ona ua tiga alofa mo le gasegase, pe faatagaina foi soo se gaoioiga lava e faaoo ai le oti, sei vagana lava le faatagaina o le faasolo lava ina maliu le tagata ona ua oo mai lona lava taimi.

(e) O le taofia poo le se'iina o masini e faaumi ai le ola mai se gasegase ina ia tusa ai ma soo se aiaiga o lenei mataupu, o le a le mafai lava ona faapea o se pule i le ola."

Vaega 2. Tu'umavaevaeina.

Afai e le faaaogaina soo se aiaiga o lenei tulafono poo lona faaaogaina foi i soo se tagata poo se tulaga foi e aliali mai, o le a le afaina ai lava la isi aiaiga o le tulafono e mafai ona faaaoga ma taualoa e ese mai ai ma le aiaiga lea ua le faaaogaina, ma i lea lava la mafuaaga ua folafolaina ai aiaiga o lenei tulafono ina ia tuumavaevae ma faavasega eseese.

Lolo M. Moliga
LOLO M. MOLIGA
Peresetene, Maota Maua-luga

Savali Talavou Ale
SAVALI TALAVOU ALE
Fofoga Fetalai, Maota o Sui

Hereby Approved this 32 day of Dec. 2008
[Signature]
Governor Of American Samoa

THE THIRTIETH LEGISLATURE OF AMERICAN SAMOA

Third Special Session

Begun and held at Fagatogo, Tutuila, American Samoa
on Monday, the first day of December
two thousand and eight

AN ACT EXPANDING THE DESIGNATION OF CAPITAL PROJECTS
APPROVED FOR FUNDING WITH PROCEEDS OF THE AMERICAN
SAMOA GOVERNMENT LOAN AUTHORIZED BY P.L. No. 30-5, P.L. NO.
30-14 AND P.L. No. 30-29; PROVIDING FOR SPECIFIC PROJECT
EXPENDITURE AMOUNT; AMENDING SECTION 7.1444.5 A.S.C.A.

Preamble:

Due to the urgent need to provide for critical and urgently needed capital projects required in the Manu'a, Western, and Eastern Districts of the Territory, this act shall become effective immediately upon passage by the Legislature and approval by the Governor.

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

Section 1. 7.1444.5 is amended to read:

"7.1444.5 Loan to American Samoa Government—Renovations of Capital Improvements and Projects.

(a) In accordance with the provisions of section 7.1444(g)(3), which limits any investment in obligations or other instruments issued or guaranteed by the government to no more than seventeen and one-half percent of Fund assets at cost, the Governor, on behalf of the American Samoa Government (ASG), and the Board of Directors of the American Samoa Government Employees' Retirement Fund (ASGERF) are authorized to enter into a loan agreement whereby the ASGERF will lend and ASG will borrow an amount not to exceed \$20,000,000.

(b) The Governor is authorized to utilize the \$20,000,000 loan amount in financing the costs of acquiring, improving, equipping or renovating all or a portion of the following capital projects: harbor dredging projects in Tutuila and Manu'a, port office/fire department buildings, port tug boat, KVZK antennae, customs bond warehouse, executive office building-annex (Territorial Energy Office, Election Office, and the Office of Protection and Advocacy for the Disabled), executive office building-tax office extension, executive office building-roof, territorial registrar's office, library extension,

immigration office building, procurement warehouse, airport hangar, airport terminal and jet-way, seawalls, animal pound and veterinary clinic, Fono building, funding the Pacific Arts Festival, fiber optic cable, Lee Auditorium, stream realignment, bridge and soil stabilization/retaining wall, purchase of ten school buses, capital projects for the American Samoa Districts, and repairs to and refurbishment of the MV Sili. Unless a specific amount is appropriated for a particular project, improvement or acquisition, the Governor shall determine the application of available loan proceeds as between the various improvements set forth in this section (the "Improvements") so as to accomplish, as nearly as may be, all of such Improvements. If an amount is specifically appropriated for an Improvement, said amount shall act as a ceiling for expenditures on that particular Improvement. If the Governor shall determine that it has become impractical to accomplish any of such Improvements or portions thereof for any reason, including changed conditions, lack of funding or costs substantially in excess of those estimated, the Governor shall not be required to finance all of such Improvements. Any remaining proceeds of the loan amount may be used to finance additional capital projects as approved by the Legislature.

(c) Such loan shall be a general obligation of the American Samoa Government and the Governor is authorized to pledge the full faith and credit of the American Samoa Government to the full and prompt payment of the principal of and interest on such loan. The Governor, and/or his designee(s), are authorized to negotiate the terms of the loan, including an interest rate, repayment terms and such other terms and conditions as may be required, except that the interest rate shall be fixed at seven and one-half percent (7.5%). The Governor and the ASGERF Board are further authorized to execute all instruments and documents necessary to conclude the transaction, including promissory notes which evidence the indebtedness of ASG. The Governor is authorized to pledge the Full Faith and Credit of ASG as well as to provide collateral as required by the ASGERF Board to secure the loan.

(d) Interest and principal payments on the loan authorized in this section shall be amortized over a ten-year term and payments made quarterly.

(e) There is appropriated such sums from the Government's general funds necessary for repayment of the loan authorized in this section, in order to finance the costs of acquiring, improving, equipping or renovating all or a portion of the following capital projects: harbor dredging projects in Tutuila and Manu'a, port office/fire department buildings, port tug boat, KVZK antennae, customs bond warehouse, executive office building-annex (Territorial Energy Office, Election Office, and the Office of Protection and Advocacy for the Disabled), executive office building-tax office extension,

executive office building-roof, territorial registrar's office, library extension, immigration office building, procurement warehouse, airport hangar, airport terminal and jet-way, seawalls, animal pound and veterinary clinic, Fono building, for funding the Pacific Arts Festival, fiber optic cable, Lee Auditorium, stream realignment, bridge and soil stabilization/retaining wall, purchase of ten school buses, capital projects for the American Samoa Districts, and repairs to and refurbishment of the MV Sili.

(f) Funds shall be made available from the following sources as identified below, for repayment of the loan authorized in this section to finance the costs of acquiring, improving, equipping or renovating all or a portion of the following capital projects: harbor dredging projects in Tutuila and Manu'a, port office/fire department buildings, port tug boat, KVZK antennae, customs bond warehouse, executive office building-annex (Territorial Energy Office, Election Office, and the Office of Protection and Advocacy for the Disabled), executive office building-tax office extension, executive office building-roof, territorial registrar's office, library extension, immigration office building, procurement warehouse, airport hangar, airport terminal and jet-way, seawalls, animal pound and veterinary clinic, Fono building, for funding the Pacific Arts Festival, fiber optic cable, Lee Auditorium, stream realignment, bridge and soil stabilization/retaining wall, purchase of ten school buses, capital projects for the American Samoa Districts, and repairs to and refurbishment of the MV Sili:

(1) Forty percent (40%) of the excise taxes collected on beer and malt extract as imposed pursuant to A.S.C.A., section 11.1002(a)(1)(A).

(2) Twelve and one-half percent (12.5%) of the excise taxes collected on alcoholic beverages as imposed pursuant to A.S.C.A., Section 11.1002(a)(1)(B).

(3) Twenty percent (20%) of the excise taxes collected on tobacco products as imposed pursuant to A.S.C.A., section 11.1002(a)(1)(C).

(4) All of the revenues collected from the Customs Entry Declaration Forms Processing Fee as imposed pursuant to A.S.C.A., section 27.1014(a)(5)."

Sec 2. Appropriation of revenue.

There is appropriated such sums from the Government's general funds necessary for repayment of the loan authorized in this section, in order to finance the costs of acquiring, improving, equipping or renovating all or a portion of the following capital projects in addition to those projects authorized by P.L. No. 30-5, P.L. No. 30-14 and P.L. No. 30-29:

Capital Projects for American Samoa Districts:

Manu'a District	\$1,000,000
Western District	\$1,000,000
Eastern District	\$1,000,000

Sec 3. Source of funding.

Funds shall be made available from the following sources as identified below, for repayment of the loan authorized by P.L. No. 30-5, P.L. No. 30-14 and P.L. No. 30-29 to finance the costs of acquiring, improving, equipping or renovating all or a portion of the following additional capital projects: Capital Projects for American Samoa Districts: \$1,000,000 each for Manu'a, Western and Eastern District Capital Projects:

(1) Forty percent (40%) of the excise taxes collected on beer and malt extract as imposed pursuant to A.S.C.A., section 11.1002(a)(1)(A).

(2) Twelve and one-half percent (12.5%) of the excise taxes collected on alcoholic beverages as imposed pursuant to A.S.C.A., Section 11.1002(a)(1)(B).

(3) Twenty percent (20%) of the excise taxes collected on tobacco products as imposed pursuant to A.S.C.A., section 11.1002(a)(1)(C).

(4) All of the revenues collected from the Customs Entry Declaration Forms Processing Fee as imposed pursuant to A.S.C.A., section 27.1014(a)(5).

Sec 4. Effective date.

Due to the urgent need to provide for critical and urgently needed capital projects required in the Manu'a, Western, and Eastern Districts of the Territory, this act shall become effective immediately upon passage by the Legislature and approval by the Governor.

Lolo M. Moliga

LOLO M. MOLIGA
President of the Senate

Savali Talavou Ale

SAVALI TALAVOU ALE
Speaker, House of Representatives

Hereby Approved this 27 day of Dec, 2008
[Signature]
Governor Of American Samoa

NOFOAIGA TOLUSEFULU FONOFAITULAFONO A AMERIKA SAMOA

Fono Fa'apitoa Lona Tolu

Nofoia ma usuiā i Fagatogo, Tutuila, Amerika Samoa
Aso Gafua, aso muamua o Tesema
lua afe ma le valu

O SE TULAFONO E FAAOPOOPO AI GALUEGA TETEELE E FAATAGA ONA FAATUPEINA I LE NOGATUPE A LE MALO O AMERIKA SAMOA E PEI ONA FAATAGAINA MAI I LE TULAFONO LAUTELE 30-5, TL 30-14 MA LE TL 30-29; AIAIA AI AFOAIGA FAAPITOA E FAAALU I GALUEGA; SUIA AI LE MAGA 7.1444.5 TTAS.”

Faatomuaga:

Talu ai le manaoga vave ina ia maua se faatagaga e faia ai e le Malo o Amerika Samoa se maliliega ma le Tupe o le Litaea mo se nogatupe e faatupe ai le faagaioia ma faaleleia o ofisa o le malo ma isi galuega tetele o lea o le a taualoa ai lenei tulafono i le taimi lava e pasia ai e le Fonofaitulafono ma faamaonia e le Kovana.

IA FAATULAFONOA E LE FONOFAITULAFONO O AMERIKA SAMOA:

Maga 1. Ua faavae nei se maga 7.1444.5 e faitauina faapea:
“7.1444.5 Tupe nono e le Malo o Amerika Samoa—Toe faaleleia o Galuega Tetele.

(a) Ina ia tusa ai ma aiaiga o le maga 7.1444(g)(3), lea e faatapulaa ai soo se inivesi i aitalafu poo isi tupe e tuuina mai pe faamauiina e le malo ia le sili atu i le 17.5% o aseta a le Litaea i le tau na faatau mai ai, e faatagaina le Kovana, e fai ai ma sui o le Malo (ASG) ma le Komiti Faafoe o le Tupe o le Litaea (ASGERF) e faia se maliliega o se nogatupe e faa'une mai ai e le ASGERF i le Malo (ASG) se tupe e le silia i le \$20,000,000.

(e) E faataga le Kovana na te faaaga le tupe lea e \$20,000,000 e faatupe ai le tau o le faia o galuega toe faaleleia poo se vaega foi o galuega ia o le a ta'ua: faalolotoina o uafu i Tutuila ma Manu'a, fale mo ofisa o le taulaga ma le tineimu, vaa tosovaa, poufaasalalau a le KVZK, faleteuolua a le tiute, faaopoopoga o le fale mo ofisa o le malo (Ofisa o le Enetia, Ofisa o Palotaga ma le Ofisa o le Puipuiga ma Fautuaga mo tagata e le atoatoa le malos), faaopoopoga mo le ofisa o lafoga, le tauluga o le fale o ofisa o le malo, ofisa o

le lesitala, faaopoopoga o le faletusi, ofisa o femalaga'iga, faleteuolooa mo oloa a le malo, faleteuvaalele, fale o le Malaevaalele ma le auala savali ile vaalele, taligalu, fale e tuu ai meaola ma le ofisa o le foma'imanu, Falefono ma le faatupeina o le Faaaliga o aganuu a le Pasefika, o le uaea o fesootaiga (fiber optic), Falelaumei, toe faataotoina o alavai, o le papuipui e taofi ai le palapala ma le alalaupapa, faatauina o pasia'oga, galuega tetele mo Itumalo o Amerika Samoa; ma le lipea ma le toe faaleleia o le MV Sili. Sei vagana ai se aofaiga faapitoa e faasoaina mo se galuega, poo le faaleleia foi, o le Kovana lava e aumai ai le faaiuga i le faaaogaina o ni tupe o le nogatupe e fuafua lava i galuega o loo ta'ua i lenei maga (o le "Faaleleia") ina ia mafai ona faataunuu ai le tele o galuega e mafai ona faia. Afai e manatu le Kovana ua le talafeagai nisi galuega faaleleia poo se vaega foi o ia galuega poo le a lava se mafuaga, e aofia ai ni suiga e faia, le le lava o le tupe poo ua taugata tele foi ua sili mamao atu nai lo le mea sa fuafua ai, ona le moomia lea o le Kovana e faatupe ia Galuega faaleleia. O ni tupe e totoe mai le nogatupe e mafai ona faaaoga e faatupe ai nisi galuega e pasia atu e le Fonofaitulafono.

(i) O le nogatupe lea o le tiute aoao lava o le Malo o Amerika Samoa ma e faataga le Kovana e na te folafola atu le faamaoni o le Malo o Amerika Samoa e totogi atoa lenei nogatupe faatasi ai ma le pasene o le tupe tului. E faataga le Kovana, ma/poo lona sui sui, e feutaga'ia aiaiga o le nogatupe, e aofia ai le pasene o le tului, o aiaiga o le toe totogiina ma isi aiaiga ma tuutuuga e faaono manaomia, vagana ai o le pasene o le tupe tului e tamau i le 7.5%. E toe faatagaina foi le Kovana ma le Komiti faafoe latou te faagaioia laasaga uma ma pepa e tataui ai mo le faamae'aina o lenei fefaataua'iga, e aofia ai tusi folafola e faamaonia ai le nofoaitalafu o le Malo o Amerika Samoa. E faatagaina le Kovana na te folafola le Faamaoni atoatoa o le Malo atoa foi ma le tuuina atu o se mea e faamau ai le aitalafu e tusa ona manaomia e le Komiti Faafae o le Tupe o le Litaea, ina ia faamausali ai le nogatupe.

(o) O le pasene tului ma le toe totogiina o le tino o le nogatupe o loo faatagaina i lenei maga e faataga lea i luga o se tuutuuga e 10 tausaga ma e totogi ta'i kuata.

(u) E faasoa mai i teugatupe tetele a le Malo aofaiga e tusa ai mo le toe totogiina o le nogatupe o loo faatagaina i lenei maga, ina ia faatupe ai le tau o le faia, o le faaleleia, ma le toe faaleleia uma poo se vaega foi o galuega tetele nei o le a ta'ua: le faalolotoina o uafu i Tutuila ma Manu'a, fale mo ofisa o le taulaga/fale tinamu, vaa tosovaa, poufaasalalau a le KVZK, faleteuolooa o le tiute, faaopoopoga o fale mo ofisa o le malo (Ofisa o le Enetia, Ofisa Palota, Ofisa o le Puipui ma Fautuaga mo gasegase o le tino ma le mafaufau), faaopoopoga o le ofisa o lafoga, taualuga o le fale o ofisa o le malo, ofisa o le lesitala, sosooga o le faletusi, ofisa o femalaga'iga, faleteuolooa o le malo, fale teuvaalele, fale o le Malaevaalele ma le ala savali o vaalele, taligalu, fale e tuu ai manu ma le faletalavai o meaola, Fale Fono, Faaaliga o Tu ma

Aga a le Pasefika, uaea o fesootaiga, Falelaumei, toe faata'otoina o alavai, alalaupapa ma le papuipui e taofi ai le palapala, pasia'oga e 10, galuega tetele mo Itumalo o Amerika Samoa, galuega mo le toe faaleleia o le MV Sili.

(f) O tupe o le a faaavanoa mai i alatupe o le a faailoa atu i lalo mo le toe totogiina o le nogatupe ua faataga i lenei maga e faatupe atoa ai poo se vaega foi o galuega tetele nei: faalolotoina o uafu I Tutuila ma Manu'a, fale mo ofisa o le taulaga/fale tinamu, vaa tosovaa, pōou faasalalau a le KVZK TV, faleteuoloo o le tiute, faaopoopoga o fale mo ofisa o le malo (Ofisa o le Enetia, Ofisa Palota, Ofisa o le Puipuia ma Fautuaga mo gasegase o le tino ma le mafaufau) faaopoopoga o le ofisa o lafoga, taualuga o le fale o ofisa o le malo, ofisa o le lesitala, sosooga o le faletusi, ofisa o femalaga'iga, faleteuoloo o le malo, faleteuvaalele, fale o le Malaevaalele ma le ala savali o vaalele, taligalu, fale e tuu ai manu ma le faletalavai mo meaola, Fale Fono, Faaaliga o Tu ma Aga a le Pasefika, uaea o fesootaiga, Falelaumei, toe faataotoina o alavai, alalaupapa ma le papuipui e taofi ai le palapala, faatauina o pasia'oga e 10, galuega tetele mo Itumalo o Amerika Samoa, ma le toe faaleleia o le MV Sili.

(1) 40% o le lafoga oloa o loo aoina mai le pia ma le molo e pei ona faaee ai e tusa ma le maga 11.1002(a)(1)(A), TTAS.

(2) 12.5% o lafoga oloa o loo aoina mai le 'avamalosi poo taumafa alakaholo e pei ona faaee i le Maga 11.1002(a)(1)(E), TTAS.

(3) 20% o lafoga oloa o loo aoina mai oloa tau tapaa e pei ona faaee ai i le Maga 11.1002(a)(1)(I) TTAS,

(4) O tupemaua uma e aoina mai le totogi o Pepa Ulufale a le Tiute e pei ona faaee ai i le maga 27.1014(a)(5) TTAS."

Maga 2. Faasoasoina o tupemaua.

Ua faasoaina tupe e talafeagai ai mai totonu o teugatupe tetele a le Malo e toe totogi ai le nonogatupe o loo ua faatagaina i lenei maga, ina ia faatupe ai galuega poo se vaega foi o galuega tetele o le a ta'ua i lalo e faaopoopo atu i galuega ua uma ona faataga i le Tulafono Lautele (T.L.) Nu. 30-5, TL 30-14 ma le TL 30-29:

Galuega Tetele mo Falelima (Itumalo) o Amerika Samoa:

Itumalo o Manu'a	\$1,000,000
Falelima i Sisifo	\$1,000,000
Falelima i Sasa'e	\$1,000,000

Maga 3. O le mea e sau ai le tupe.

O tupe o le a faaavanoa mai mo le toe totogiina o le nogatupe o loo faataga i le TL Nu. 30-5, TL 30-14 ma le TL 30-29 mo le faatupeina o galuega tetele poo se vaega foi o ia galuega mo Falelima (Itumalo) o Amerika Samoa:

ta'i \$1,000,000 mo falelima uma o Manu'a, Sisifo ma Sasa'e, e sau i alatupe nei o le a ta'ua:

(1) 40% o le lafoga oloa o loo aoina mai le pia ma le molo e pei ona faaee ai e tusa ma le maga 11.1002(a)(1)(A), TTAS.

(2) 12.5% o lafoga oloa o loo aoina mai le 'avamalosi poo taumafa alakaholo e pei ona faaee i le Maga 11.1002(a)(1)(E), TTAS.

(3) 20% o lafoga oloa o loo aoina mai oloa tau tapaa e pei ona faaee ai I le Maga 11.1002(a)(1)(I), TTAS.

(4) O tupemaua uma e aoina mai le totogi o Pepa Ulufale a le Tiute e pei ona faaee ai i le maga 27.1014(a)(5), TTAS..”

Maga 4. Aso e taualoa ai.

Talu ai le faanatinati o le manao ina ia ona faagaoioi galuega tetele o loo manaomia I Manu'a, o Falelima i Sisifo ma Sasa'e o lea o le a taualoa ai lenei tulafono i le taimi lava e pasia ai e le Fonofaitulafono ma sainia e le Kovana.

Lolo m. moliga
LOLO M. MOLIGA
Peresetene, Maota Maua luga

Savali Talavou Ale
SAVALI TALAVOU ALE
Fofoga Fetalai, Maota o Sui

Hereby Approved this 22 day of Dec. 2008
[Signature]
Governor Of American Samoa