

THE THIRTIETH LEGISLATURE OF AMERICAN SAMOA

Fourth Regular Session

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

AN ACT INCREASING THE CIVIL JURISDICTION OF THE DISTRICT COURT OF AMERICAN SAMOA; CLARIFYING THE ARREST WARRANT POWERS OF THE DISTRICT COURT JUDGE; AND INCREASING THE MAXIMUM DETENTION LIMIT FOR MISDEMEANOR PROBATIONERS; AMENDING SECTIONS 3.0208, 3.0302, 46.0802, 46.0804, 46.0807 AND 46.2206 A.S.C.A.

Preamble:

WHEREAS, the limited resources of the High Court of American Samoa would be best utilized if focused on felony cases, land and title disputes and major civil actions exceeding \$15,000.00; and

WHEREAS, the expansion of the civil jurisdiction of the District Court would mean that the bulk of civil cases currently filed with the High Court would be transferred to the District Court for disposition; and

WHEREAS, although the High Court of American Samoa by court decision has granted the District Court Judge the authority to issue arrest warrants, such authority of the District Court Judge needs to be clarified by statute in order to eliminate any possible ambiguities; and

WHEREAS, the courts must have at their disposal varying allowable periods of detention as an option for probation for misdemeanor offenses in order to have effective and closely supervised rehabilitative counseling and work release programs which may dramatically decrease the level of recidivism in alcohol and other drug related offenses and domestic violence offenses; and

WHEREAS, 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. 3.0208 is amended to read:

"3.0208 Jurisdiction of divisions.

(a) The trial division of the High Court shall be a court of general jurisdiction with the power to hear any matter not otherwise provided for by statute. Notwithstanding the foregoing, the trial division of the High Court shall have original jurisdiction of the following classes of cases and controversies:

(1) civil cases in which the amount in controversy exceeds \$5,000 \$15,000, except land and titles matters as provided in subsection (b);

(2) criminal cases in which a felony is charged;

(3) admiralty and maritime matters, of which the trial division shall have both in rem and in personam jurisdiction;

(4) juvenile cases;

(5) the probate of wills and administration of estates;

(6) domestic relations, except adoptions and actions arising under the Uniform Reciprocal Enforcement of Support Act;

(7) all writs; and

(8) all matters of which the trial division has jurisdiction by statute.

(b) The land and titles division of the High Court shall have exclusive jurisdiction:

(1) in all matters relating to matai titles; and

(2) in all controversies relating to land.

(c) The appellate division of the High Court shall have jurisdiction to review, on appeal, final decisions of the trial and land and titles divisions of the High Court, matters on appeal from the District Court as provided in 3.0309, appeals of administrative decisions as provided in 4.1040 through 4.1044 and appeals of other matters specifically provided for by statute."

Sec 2. 3.0302 is amended to read:

"3.0302 Jurisdiction.

(a) The District Court has jurisdiction of the following matters: civil cases or controversies other than actions involving land or matai titles, in which the amount in controversy shall not exceed \$5,000 \$15,000; criminal cases in which the offense charged is a misdemeanor or any offense punishable by not more than 1 year of imprisonment; traffic cases except those involving a felony; initial appearances and preliminary examinations in all criminal cases; adoptions; actions arising under the Uniform Reciprocal Enforcement of Support Act, 42.0404 through 42.0454; actions arising under the Occupational Health and Safety Act; and public health offenses arising under 25.2001 et seq.

(b) The District Court is a court of limited jurisdiction and does not have jurisdiction over those matters under 3.0208 of which the High Court has original jurisdiction."

Sec 3. 46.0802 is amended to read:

"46.0802 Examination of complainant—Affidavit.

(a) When a complaint is laid before the Chief Justice, the Associate Justice or any aAssociate or District Court Judge, for the commission of a public offense triable in American Samoa, the justice or judge must examine the complainant under oath and take his affidavit in writing and cause it to be subscribed by him.

(b) The affidavit must set forth the facts stated by the complainant tending to establish the commission of the offense and the guilt of the defendant. If necessary, such affidavit may be made upon the information and belief of the affiant, provided the facts and the source of the information are stated in the affidavit."

Sec 4. 46.0804 is amended to read:

"46.0804 Warrant of arrest and commitment—Form.

(a) A warrant of arrest and commitment is an order in writing, in the name of the government, signed by the Chief Justice, Associate Justice or an Associate or District Court Judge, commanding the arrest of the defendant by the Chief of Police or any other police officer of American Samoa. The warrant must specify the offense charged and the name of the defendant. If the defendant's name is unknown to the official issuing the warrant, the defendant may be designated therein by any name.

(b) The affidavit of the complainant or prosecutor shall be upon, or attached to, the warrant.

(c) If the offense is bailable, the warrant shall so provide, stating the amount of bail which may be posted, designating the particular court before which the defendant is to appear, and specifying that appearance is to be made at the next sitting of the court.

(d) The warrant may be in substantially the following form:

THE GOVERNMENT OF AMERICAN SAMOA WARRANT OF ARREST AND COMMITMENT

American Samoa

The Government of American Samoa to the Chief of Police or any other police officer of American Samoa:

-- Information on oath having been this day laid before me by _____, that the crime of _____ has been committed, and accusing _____ thereof, you are hereby commanded forthwith

to arrest the above named _____, and to commit him to prison to answer said charge, unless he shall give bail in the sum of \$ _____, to appear at the next sitting of the _____ (Name of court).

Dated this _____ day of _____, 1920 _____.

Signed:

Chief Justice of American Samoa
Associate Justice of American Samoa
Associate Judge of American Samoa
District Court Judge of American Samoa
(Cross out two three of above)"

Sec 5. 46.0807 is amended to read:

"46.0807 Arrest without warrant—Affidavit and application for warrant.

(a) Any police officer or other person making an arrest without a warrant in accordance with this chapter shall immediately thereafter make an affidavit and apply to the Chief Justice, Associate Justice, District Court Judge, or an Associate Judge of the High Court for a warrant of arrest and commitment of the person under arrest.

(b) Nothing in this section may be so construed as to prevent the detention for not to exceed 36 hours of any person lawfully arrested by a police officer when the arresting officer deems the same necessary for the safety of the person arrested or the public."

Sec 6. 46.2206 is amended to read:

"46.2206 Detention condition of probation.

Except in infraction cases, when probation is granted, the court, in addition to conditions imposed under 46.2205, may require as a condition of probation that the defendant submit to a period of detention in an appropriate institution at whatever time or intervals within the period of probation, consecutive or nonconsecutive, the court shall designate.

(1) In misdemeanor cases, the period of detention under this section may not exceed ~~15 days~~:

(A) 15 days for a class C misdemeanor;

(B) 45 days for a class B misdemeanor; and

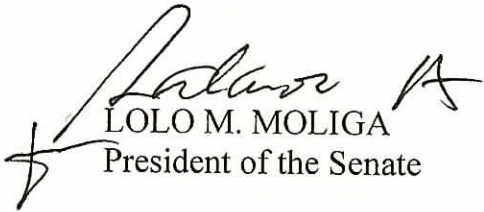
(C) 90 days for a class A misdemeanor.

(2) In felony cases, the period of detention under this section may not exceed one third of the maximum prescribed term of imprisonment for the crime of which the defendant has been convicted, or, where the maximum prescribed term is life imprisonment, 15 years.

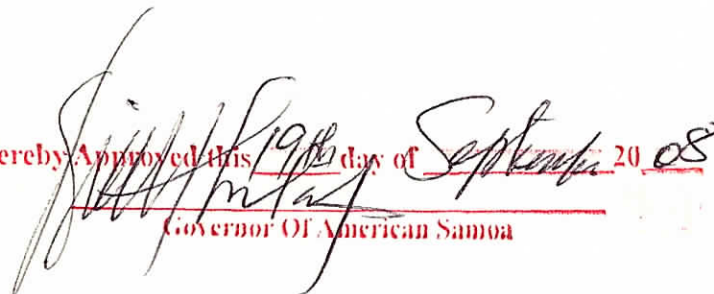
(3) If probation is revoked and a term of imprisonment is served by reason of it, the time spent in a jail or other institution as a detention condition of probation is credited against the prison or jail term served for the offense in connection with which the detention condition was imposed."

Sec 7. Effective date.

This act shall become effective immediately upon passage by the Legislature and approval by the Governor.


LOLO M. MOLIGA
President of the Senate


SAVALI TALAVOU ALE
Speaker, House of Representatives

Hereby Approved this 19th day of September 2008

Governor Of American Samoa

NOFOA'IGA TOLUSEFULU FONOFAITULAFONO A AMERIKA SAMOA

Fono Tele Lona Fa

Nofoia ma usuia i Fagatogo, Tutuila, Amerika Samoa
Aso Gafua, aso sefulufa o Iulai
lua afe ma le valu

O SE TULAFONO E FAAOPOPO AI LE MALOSI O LE VAAIGA A LE FAAMASINOGA MAULALO/FAAITUMALO A AMERIKA SAMOA; FAAMANINO AI LE TULAGA O LE MALOSI O TUSI SAISAI A LE FAAMASINO O LE FAAMASINOGA MAULALO; MA SIITIA AI LE TAPULAA O FAASALAGA AUPITO MALOSI MO TAGATA NOFO VAAVAAIA ONA O SOLITULAFONO MAMA; SUIA AI MAGA 3.0208, 3.0302, 46.0804, 46.0807 MA LE 46.2206 T.T.A.S.

Faatomuaga:

- TALUAI, ona o le tapulaa o mea/tagata e tagolima pe faaoga foi e le Faamasinoga Mauuluga a Amerika Samoa e sili atu ai ona tuutasi le malosi lea mo solitulafono mamafa, o faamasinoga o fanua ma sua ma mataupu savili e aafia ai ni tupe e silia i le \$15,000.00; ma
- TALUAI, o le faaopoopoina o le malosi faasavili o le Faamasinoga Maulalo o le a mafai ai ona ia fofogaina le tele o mataupu o loo faaulu nei i le Faamasinoga Mauuluga; ma
- TALUAI, e ui ina ua tuuina atu i le faamasino o le Faamasinoga Maulalo e ala i se faaiuga a le Faamasinoga Mauuluga o Amerika Samoa le pule na te faia ai tuisaisai, ae o loo manaomia pea le faamanino o lea lava pule e ala i se tulafono ina ia taofia ai se faaluafesasi e ono tulai mai; ma
- TALUAI, e tata lava ona i ai o ni taimi e tuu i le faamasinoga e fetuutuuna'ia ai e latou lava ia ni faasalaga mo solitulafono mama ina ia mafai ai ona sologamalie ma lelei le ta'ita'ia o porokalama faufautua ma le faamatuuina atu o tagata faasala e galulue i ni galuega ao nofo vaavaaia ma atonu e faaititia ai le toe foi i le inu'ava ma le solitulafono e mafua ona o le aafia i vaila'au faasaina atoa ai foi ma le faapisapisao ma le fasitagata i totonu o le aiga; ma

TALUAI, o lenei tulafono e amata taualoa i le taimi lava e pasia ai e le Fono ma faamaonia e le Kovana.

IA FAATULAFONOINA E LE FONOFAITULAFONO A AMERIKA SAMOA:

Maga 1. 3.0208 ua suia nei ina ia faitauina e faapea:

“3.0208 Pule a vaega.

(a) O le vaega tau faamasinoga a le Faamasinoga Maua-luga o le a avea ma faamasinoga e faalautele lana vaaiga ma le malosi na te fofogaina ai soo se mataupu e le o aiaia mai i se tulafono. E ui lava la i lea, o le vaega tau faamasinoga a le Faamasinoga Maua-luga o le a i ai lava le uluai vaaiga o mataupu nei o le a ta’ua:

(1) mataupu savili e silia i le \$5,000 \$15,000, vagana ai mataupu tau fanua ma suafa e pei ona aiaia ai i le soamaga (e);

(2) faamasinoga o moliaga mo solitulafono mamafa;

(3) mataupu tau tulafono i luga o le sami/vasa lea e vaaia uma ai e le vaega tau faamasinoga mataupu faasaga i se meatotino pe faasaga foi i tagata;

(4) mataupu faasaga i tamaiti e lei atoa le 18 tausaga;

(5) mataupu i uili ma le pulea o esetete;

(6) mataupu tau aiga, vagana ai le vaetamaina/faatamafai ma mataupu e mafua ona o le Tulafono o le Faamalosi o le Fetausia;

(7) mataupu uma tau faatonuga poo se faasaina foi o se mea e fai; ma

(8) mataupu uma lava o loo faatulafonoina e vaaia e le vaega tau faamasinoga.

(e) O le vaega mo mataupu tau fanua ma suafa o le Faamasinoga Maua-luga e vaaia e latou mea nei:

(1) mataupu uma lava e faatatau i suafa matai; ma

(2) feeseeseaiga uma tau fanua.

(i) O le Vaega o Apili o le Faamasinoga Maua-luga e i ai le pule e iloilo ai apili o faaiuga a vaega tau faamasinoga faapea foi ma mataupu tau fanua ma suafa a le Faamasinoga Maua-luga, o mataupu o loo apili mai le Faamasinoga Maulalo/faaitumalo e pei ona aiaia i le 3.0309, apili o faaiuga tau galuega e pei ona aiaia i le 4.1040 e oo i le 4.1044 ma apili o ni isi lava mataupu o loo aiaia faapitoa i le tulafono.”

Maga 2. 3.0302 ua suia nei e faitauina faapea:

“3.0302 Pule/Vaaiga.

(a) O le Faamasinoga Maulalo e vaaia mataupu nei: faamasinoga savili poo feeseesea’iga e ese mai ai i mataupu tau fanua ma suafa matai, e le silia i le \$5,000 \$15,000 le tupe o loo faafinauina; o faamasinoga o solitulafono mama poo soo se solitulafono lava e le silia lona faasalaga i le 1 le tausaga e falepuipui ai; faamasinoga tau taavale vagana ai e aafia se solitulafono mamafa; le oo atu muamua ma le suesuega e sosoo ai o mataupu uma lava tau soligatulafono;

faatamafai; mataupu e tupu mai ona o le Tulafono o le Faamallosia o le Fetausia, 42.0404 e oo i le 42.0454; mataupu tau le Tulafono o le Soifuamaloloina ma le Saogalemu i Galuega (OSHA); ma solitulafono tau le soifuamaloloina lautele i lalo o le 25.2001 ma maga e sosoo mai ai.

(e) O le Faamasinoga Maulalo/Faaitumalo e tapulaa lana vaaiga ma e le oo atu ia i mataupu o loo i lalo o le 3.0208 lea e muamua ona vaaia e le Faamasinoga Mauaialuga.”

Maga 3. 46.0802 ua suia nei e faitauina faapea:

“46.0802 Su’esu’eina o le o loo tagi—Tautoga tusitusia.

(a) A oo atu se tagi i luma o le Faamasino Sili ona o se solitulafono e mafai ona fofogaina i Amerika Samoa e tatau i le Sui Faamasino Sili poo se isi faamasino lagolago poo le faamasino a le faamasinoga maulalo, ona suesueina o le na tagi ina ua faatautoina ma faia ai sana faamatalaga tusitusia e ta’u na faia lava e ia.

(e) O le faamatalaga tusitusia lea ua faia ai lana tautoga e tatau ona ta’ua ai tala moni a le tagata na tagi e ta’u mai ai le solia o lea tulafono atoa ai ma le ta’usalaina o le tagata e faasaga i ai le tagi. Afai e tatau ai, o lea faamatalaga tusitusia ia faia i luga o faamatalaga ma le talitonuga o le tagata e ana le faamatalaga, pe afai o tala ma le mea na sau ai faamatalaga o loo ta’ua i totonu o le tusitusiga tautoina.”

Maga 4. 46.0804 ua suia nei e faitauina faapea:

“46.0804 Tusi saisai ma le taofia—Pepa e faia ai.

(a) O le tusi saisai ma le taofia o se faatonuga tusitusia, i le igoa o le malo, e sainia e le Faamasino Sili, Sui Faamasino Sili poo se Faamasino Lagolago poo le Faamasino o le Faamasinoga faaitumalo, e faatonu ai le avefaapagota o le tagata e le pule leoleo poo se isi leoleo a Amerika Samoa. E tatau ona ta’utino i le tusi saisai le solitulafono ua molia ai ma le igoa o le faasaga i ai le moliaga. Afai e le iloa le igoa o le ua molia e le tagata o loo ia faia le tusi saisai, e mafai lava ona filifili soo se igoa mo ia.

(e) O le faamatalaga tusitusia ua uma ona faatauto ai le o loo tagi poo le loia e tatau ona faapipii faatasi ma le tusingaisai.

(i) Afai o se solitulafono e mafai ona totogi se tupe e tatala ai i tua le tagata ua molia, o le a faapena lava ona ta’ua i totonu o le tusingaisai, e ta’u atu ai le aofai o le tupe e mafai ona totogi, ta’u atu ai ma le faamasinoga e tatau ona oo atu i ai le ua molia, ma ta’u atu ai foi le taimi tonu e tatau ai ona oo atu i luma o lena faamasinoga.

(o) O le tusingaisai e tele lava ina tusia i se pepa e pei o lenei:

TUSI SAISAI A LE MALO O AMERIKA SAMOA MA LE TAOFIA

Amerika Samoa

Malo o Amerika Samoa i le Pule Leoleo poo se isi lava leoleo o Amerika Samoa:
Faamatalaga tauto ua oo mai i o'u luma e _____, o le solitulafono
o le _____ ua faia, ma ua tuua'ia ai _____, ua faatonuina
nei oe ina ia pu'e faapagota le tagata ua ta'ua i luga lona igoa _____, ma
ave i le falepuipui e tali i le moliaga, sei vagana ua ia totogi se tupe e
\$ _____, ma oo atu ai i le isi taimi e sosoo ai nei le nofoia o le
_____. (Igoa o le faamasinoga).

Faia i le _____ aso o _____, 1920.

Sainia:

Faamasino Sili o Amerika Samoa
Sui Faamasino Sili o Amerika Samoa
Faamasino Lagolago o Amerika Samoa
(Kolosi ese le lua tolu o e o i luga)"

Maga 5. 46.0807 ua suia e faitauina faapea:

"46.0807 Pu'e faapagota e aunoa ma se tusinga—Tusinga tauto ma le
talosaga mo le tusinga.

(a) Soo se leoleo poo se isi lava tagata e pu'e faapagota se tasi e aunoa ma
se tusinga e tusa ai ma lenei mataupu o le a ia faia loa lava se ta'utinoga
tusinga ma talosaga i le Faamasino Sili, Sui Faamasino Sili, Faamasino o le
Faamasinoga Maulalo, poo se Faamasino Lagolago o le Faamasinoga Maulalo
mo se tusinga ma le taofia o le tagata le ua pu'e faapagota.

(e) E leai se mea o ta'ua i lenei maga e mafai ona faapea ai e taofia le
faasalaina e le silia atu i le 36 itula o se tagata na pu'e faapagota e tusa ma ala o
le tulafono e se leoleo pe afai e manatu lava le leoleo ia e talafeagai lena mo le
saogalemu o le tagata ua pu'eina poo le mamalu lautele."

Maga 6. 46.2206 ua suia ina ia faitauina faapea:

"46.2206 Tuutuuga mo le faasala e nofo vaavaaia.

Sei vagana ai mataupu tau le solia o se tulafono, ae afai e talia se
faanofavaavaaia, e le gata i tuutuuga o loo ta'ua i le 46.2205, e mafai foi e le
faamasinoga ona fai o se isi foi tuutuuga e manaomia ai le tagata lea e ave se
taimi o lona faasalaga i se nofoaga talafeagai ai e ta'u mai e le faamasinoga, i soo
se taimi poo vaitaimi foi ao faanofavaavaaia, pe tuli faatasi pe leai foi ma le taimi
o loo nofoavaavaaia ai.

(1) I faamasinoga o solitulafono mama, o le taimi e faasala ai i lalo o lenei
maga e le silia le 15 aso;

(A) 15 aso mo le solitulafono mama i le vasega I;

(E) 45 aso mo le solitulafono mama i le vasega E; ma

(1) 90 aso mo le solitulafono mama i le vasega A.

(2) I faamasinoga o solitulafono mamafa, o le faasalaga i lalo o le maga lenei e le silia le tasi-vae-tolu o le taimi aupito umi o loo faatulafonoina e falepuipui ai mo le solitulafono ua nofosala ai, poo, le falepuipui foi i le 15 tausaga pe afai o loo faapea mai le tulafono o le faasalaga aupito tele o le soloatoa i le falepuipui.

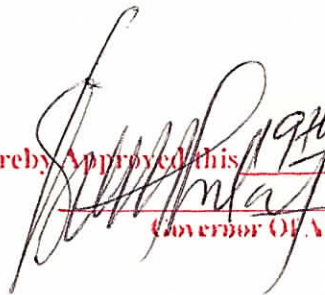
(3) Afai e faaleaogaina le faanofovaavaaia ma avea ma mea ua falepuipui ai, e to'ese le taimi ua uma ona tuli i se falepuipui poo se isi foi nofoaga ona o se tuutuuga o le nofovaavaaia mai le taimi lea ua faafalepuipui ai ona o le solitulafono lea na ala ai ona faia o le tuutuuga lea."

Maga 7. Aso e taualoa ai.

O lenei tulafono o le a taualoa i le taimi lava e pasia ai e le Fonofaitulafono ma faamaonia e le Kovana.


LOLO M. MOLIGA
Peresetene, Maota MauaLuga


SAVALI TALAVOU ALE
Fofoga Fetalai, Maota o Sui


Hereby Approved this 19th day of September 2008
Governor Of American Samoa

THE THIRTIETH LEGISLATURE OF AMERICAN SAMOA

Fourth Regular Session

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

AN ACT APPROPRIATING THE SUM OF \$849,000.00 FROM
UNOBLIGATED AND UNEXPENDED REVENUES FROM FISCAL YEAR
2008 TO SUPPLEMENT THE FY 2008 BUDGET.

Preamble:

Due to the urgent need to assist in providing adequate funding for government operations, this act shall be effective immediately upon passage by the Legislature and approval by Governor.

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

Section 1. Appropriation of revenue.

There is appropriated the sum of \$849,000.00 for the following purposes:

Legislature of American Samoa	\$669,000
Office of the Governor	\$180,000
Total	\$849,000

Sec 2. Source of funding.

Funds of \$849,000.00 shall be made available to the respective departments and agencies for this act from unobligated and unexpended revenues from Fiscal Year 2008 to supplement the FY 2008 budget and providing for an early effective date:

Legislature of American Samoa	\$669,000
Office of the Governor	\$180,000
Total	\$849,000

Sec 3. Effective date.

Due to the urgent need to assist in providing adequate funding for

government operations, this act shall be 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 27th day of September 2008
[Signature]
Governor of American Samoa

NOFOAIGA TOLUSEFULU FONOFAITULAFONO A AMERIKA SAMOA

Fono Tele Lona Fa

Nofioia ma usuia i Fagatogo, Tutuila, Amerika Samoa
 Aso Gafua, aso sefulufa o Iulai
 lua afe ma le valu

O SE TULAFONO E FA'ASOA ATU AI LE AOFA'IGA E \$849,000.00 MAI
 TUPEMAUA E LE'I FA'ASOASOAINA MA FA'ATULAGAINA MAI LE
 TAUSAGA TUPE 2008 E FA'APOPOO I LE PAKETI O LE TAUSAGA TUPE
 2008.

Fa'atomuaga:

Taluai ona o se mana'oga fa'anatinati e fesoasoani e saunia ai se fa'atupega ia
 lava mo le fa'agaoioiga o le malo, o le a taualoa vave ai lenei tulafono pe a pasia e le
 Fono Faitulafono ma fa'amaonia e le Kovana.

IA FA'ATULAFONOINA E LE FONOFAITULAFONO A AMERIKA SAMOA:

Maga 1. Fa'asoasoaga o tupemaua.

Ua fa'asoasoaina atu le aofa'iga e \$849,000.00 mo fa'amoemoega ua ta'ua
 i lalo:

Fono Faitulafono a Amerika Samoa	\$669,000
Ofisa o le Kovana	\$180,000
Aofa'iga	\$849,000

Maga 2. Alatupe e fa'atupe ai.

O le aofa'iga o tupe e \$849,000.00 o le a fa'aavanoaina e fa'aaoga i
 matagaluega fa'apitoa ma ofisa mo lenei tulafono mai tupemaua e le'i
 fa'atulagaina ma fa'asoasoaina atu mai le Tausaga Tupe 2008 e fa'alava ai le
 paketi o le Tausaga Tupe 2008 ma saunia mo se aso taualoa vave:

Fono Faitulafono a Amerika Samoa	\$669,000
Ofisa o le Kovana	\$180,000
Aofa'iga	\$849,000

Maga 3. Aso taualoa.

Taluai ona o se mana'oga fa'anatinati e fesoasoani e saunia ai se fa'atupega ia lava mo le fa'agaoioiga o le malo, o le a taualoa vave ai lenei tulafono pe a pasia e le Fono Faitulafono ma fa'amaonia e le Kovana.

Lolo M. Moliga
LOLO M. MOLIGA
Peresetene, Maota Mauualuga

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

Hereby Approved this 27th day of September 20 08
[Signature]
Governor Of American Samoa