

**STATEMENT OF THE HONORABLE ENI F.H. FALEOMAVAEGA
BEFORE THE AMERICAN SAMOA LEGISLATURE
REGARDING FEDERAL FUNDING**

FEBRUARY 1, 2011

I would like to begin my remarks today by thanking you for this opportunity to discuss federal funding for American Samoa, especially in light of Governor Togiola's recent State of the Territory Address which was reported by Samoa News on January 11, 2011.

According to Samoa News, "the Governor says the government is forecasting a \$7.2 million shortfall in local revenues for the current fiscal year (FY 2011)." To offset this shortfall, "Togiola told lawmakers that he is proposing a 2 percent increase on the local minimum income tax" and possibly a tax increase on cigarette, alcohol, and even bottled water. "If that will not happen," he says he "already has in place a plan to reduce working hours if the proposal...does not collect the needed revenues or does not pass muster in the Legislature."

As also reported by Samoa News, Governor Togiola "blamed the federally mandated minimum wage increase...as a contributing factor to the drop in government revenues" and Samoa News states that this is a "similar message he delivered in his 2010 State of the Territory Address, where he pointed to the COS Samoa Packing closing in 2009, StarKist Samoa cutting its workforce, and small businesses that cater to the canneries having no choice but to close down."

While I do not normally weigh-in on how ASG manages its budget given that my job is to get the federal funds and the Governor's job is to manage both federal and local funds, I do feel the need to offer some insights that I believe will be helpful to our Legislature as it considers the options proposed by the Governor.

1. Minimum Wage

Since Governor Togiola has stated that minimum wage is one of the contributing factors of ASG's shortfall, I would like to address this point first. For the past 50-years, everyone in this Territory knows that American Samoa was given a free pass in having our wages kept low for the sake of our tuna canneries. But when minimum wage was raised all across America in 2006, Congress determined that it was time to raise minimum wage in American Samoa and CNMI which were the only two remaining U.S. Territories which were not up to federal minimum wage standards even though our cost of living is as high as, or higher than, the mainland.

While I was supportive of a one-time federally mandated increase of \$0.50 cents per hour, I did not support further increases because there was never any report that provided an accurate accounting of the economy of the Territory. However, I am pleased that our lowest-

paid government workers and also our cannery workers finally got a \$1.50 increase in their hourly wages after years and years and years of being treated unfairly. And, frankly speaking, I believe the people of American Samoa stand with me on this point because they, too, understand that we have a moral and spiritual obligation to take care of the poorest among us, in particular, when each of us has benefited from the hard work and dedication of our tuna cannery workers who do so much to keep our economy stable and made StarKist and Chicken of the Sea two of the most profitable brands of canned tuna in the U.S.

To be clear about minimum wage’s impact on the tuna industry in the Territory, I would refer the Legislature to the GAO report issued last year which clearly showed that before minimum wage ever went into effect in American Samoa, our canneries were already operating at about a \$7.5 million loss per year. In other words, our tuna canneries were already in the hole not because of minimum wage but because the tuna industry itself has dramatically changed with Chicken of the Sea and Bumble Bee adopting a business model of outsourcing tuna preparation to cheap foreign labor and then bringing the almost finished product into small U.S. operations for final packaging. A cannery like StarKist that cleans whole fish in American Samoa simply cannot compete against canneries that buy loins from low-wage rate countries like Thailand that pay their fish cleaners \$0.75 cents and less per hour.

So contrary to the Governor’s assertions, the primary factor is not our wage rates but the wage rates of foreign countries. Other factors that impacted our tuna industry include higher fish costs, higher shipping costs, higher fuel costs, and better local tax incentives offered by Lyons, Georgia as well as Thailand.

I also might add that Tri-Marine chose to invest in our Territory knowing that our wage rates have been increased by \$1.50 per hour which undercuts Governor Togiola’s argument that minimum wage increases have collapsed our tuna industry or led to ASG’s fiscal failure.

2. Federal Funds

Regarding ASG’s fiscal failure, I would like to point out that from 2004-2009 ASG received over \$905 million or nearly \$1 billion from the federal government (see Table 1). These funds went directly to ASG for agriculture, commerce, education, energy, health, labor, transportation, etc.

Table 1: Payments to ASG for FY2004-FY2009

PAYMENTS TO ASG	FY04	FY05	FY06	FY07	FY08	FY09	TOTALS
Agriculture	14,294,000	16,955,000	16,303,000	19,123,000	17,209,000	28,431,000	112,315,000
Commerce	2,900,000	3,800,000	4,200,000	5,700,000	3,100,000	1,357,000	21,057,000
CNCS	491,943	915,312	1,386,530	817,196	1,172,796	1,487,329	6,271,106
CPB	427,177	536,156	536,256	645,833	628,479	654,000	3,427,901
Education	20,430,758	33,136,803	31,391,531	26,437,054	27,204,187	14,003,000	152,603,333
EAC	2,319,361				115,000	100,000	2,534,361

Energy	227,000	227,000	170,000	235,000	160,000	19,421,000	20,440,000
EPA	4,621,800	1,932,200	3,149,400	2,121,300	2,488,600	7,841,100	22,154,400
HHS	20,025,637	19,303,795	21,349,245	23,523,952	24,341,549	28,655,603	137,199,781
Homeland Security	38,619,224	4,279,493	5,159,239	3,597,304	3,003,671	3,351,432	58,010,363
HUD	1,419,752	1,404,409	1,380,328	1,316,476	1,414,407	100,000	7,035,372
Interior	30,261,571	28,349,987	31,026,348	31,251,591	30,715,280	34,684,000	186,288,777
Justice*	7,760,000	7,382,000	7,773,000		782,000	4,929,000	28,626,000
Labor	1,314,907	1,375,912	1,419,566	1,531,141	1,626,199	2,483,000	9,750,725
Museum & Library Services	140,340	109,831	120,172	105,990	105,680	171,000	753,013
National Archives		18,280					18,280
NEA	247,040	250,140	253,155	252,055	284,355	312,000	1,598,745
NEH	304,566	250,558	242,671	289,450	248,600	326,200	1,662,045
Social Security Administration	104,633	104,633	86,655	70,304	140,184	140,184	646,593
Transportation	14,614,433	18,854,819	6,484,956	14,531,903	16,703,482	40,545,000	111,734,593
Treasury (Mil Cover-overs)							-
Universal Service Fund	4,124,497	4,210,194	4,541,788	4,237,439	4,189,874		21,303,792
Subtotals (ASG)	164,648,639	143,396,522	136,973,840	135,786,988	135,633,343	188,991,848	905,431,180

Additionally, during the same time period, the federal government made payments of over \$32 million to entities in American Samoa other than ASG, including the National Park Service, the U.S. Postal Service, the Small Business Administration, etc. (see Table 2).

Table 2: Payments to other than ASG FY 2004-FY2009

PYMTS TO OTHER THAN ASG	FY04	FY05	FY06	FY07	FY08	FY09	TOTALS
HHS	840,520	1,140,948	1,792,383	778,145	1,945,302	1,007,478	7,504,776
Interior (NPS)	1,481,000	1,763,000	2,200,000	1,806,000	1,831,000	1,904,000	10,985,000
Interior (USGS)	114,000	114,000	133,000	83,000	42,000		486,000
SBA	7,244,999	576,699	664,999	199,999	199,999	234,999	9,121,694
U.S. Postal Service	726,093	1,036,439	758,449	773,683	765,926	745,676	4,806,266
Subtotals (Other than ASG)	10,406,612	4,631,086	5,548,831	3,640,827	4,784,227	3,892,153	32,903,736

The federal government also paid out more than \$577 million directly to the people of American Samoa for Social Security payments, veteran benefits, federal retirement benefits, additional child tax credits, procurement contracts, etc. (see Table 3).

Table 3: Individual Payments and Contracts

INDIVID. PYMTS & CONTRACTS	FY04	FY05	FY06	FY07	FY08	FY09	TOTALS
Social Security Payments	37,000,000	38,000,000	37,000,000	40,000,000	42,000,000	46,690,000	240,690,000
Federal Retirement & Disability*	5,778,000	4,866,000	5,107,000	3,547,000	3,493,000	3,420,000	26,211,000
Veterans Benefits*	5,452,000	5,614,000	5,875,000	7,732,000	8,127,000	8,282,000	41,082,000
Other Individual Benefits*	66,000	66,000	167,000	173,000	190,000	147,000	809,000
Procurement Contracts*	16,603,000	32,075,000	30,891,000	36,920,000	34,131,000	2,390,000	153,010,000
Salaries & Wages*	9,225,000	9,512,000	5,417,000	5,443,000	6,481,000	79,972,000	116,050,000
Subtotals (Ind. Pymts & Contracts)	74,124,000	90,133,000	84,457,000	93,815,000	94,422,000	140,901,000	577,852,000

Simply put, since 2004, the American Samoa Government has received almost a billion dollars in federal funding for a population of only about 70,000 people and, collectively, the government and the people have received over \$1.5 billion (see Table 4).

Table 4: Total of Federal Expenditures to American Samoa for FY2004-FY2009

	FY04	FY05	FY06	FY07	FY08	FY09	TOTALS
GRAND TOTALS	249,179,251	238,160,608	226,979,671	233,242,815	234,839,570	333,785,001	1,516,186,916

This accounting does NOT include the \$24 million National Emergency Grant we received after the tsunami from the Department of Labor to put American Samoa back to work.

It does not include over \$155 million which has been projected by FEMA for tsunami clean-up.

It does not include over \$239 million the federal government has set aside for American Samoa from the American Recovery and Reinvestment Act.

Add these federal funds together and no one can conclude that the American Samoa Government is broke.

3. ASG Local Revenues

According to an audit, from 2007-2009 ASG collected about \$225 million in local revenues from corporate taxes, individual income taxes, soda tax, military cover-overs, etc. It is estimated that ASG will collect approximately \$138 million from 2010-2011 (see Table 5).

Table 5: American Samoa Total Revenue (FY 2007 – FY 2011)

Revenue Sources	Actual FY 2007 Audited	Actual FY 2008 Audited	Actual FY 2009 Audited	Estimated FY 2010 Estimated	Estimated FY 2011 Estimated
Taxes:					
Corporate Taxes	11,627,126	14,387,397	10,588,725	8,000,000	10,000,000
Individual Income Taxes	16,875,609	19,605,421	18,856,874	14,100,000	17,412,000
Excise Taxes - general	15,912,115	18,200,989	17,388,805	16,500,000	17,000,000
Soda Tax	1,835,174	2,088,694	1,901,921	1,800,000	2,000,000
Cover-Over	1,082,200	1,039,324	911,742	1,350,000	900,000
Sub-Total Taxes	47,332,224	55,321,825	49,648,068	41,750,000	47,312,000
Licenses and Permits	1,382,906	992,767	912,787	1,000,000	1,000,000
Fees and Fines	2,376,449	2,785,895	2,811,199	2,600,000	2,525,000
Charges for Services:					
Port Administration	2,262,555	3,615,683	3,466,662	3,400,000	3,150,000
Rents & Leases	880,865	889,054	995,544	1,150,000	800,000
Sports Complex		180,375	280,373		250,000
Others	996,066	1,194,859	1,351,317	535,000	900,000
Sub-Total Charges for Services	4,139,486	5,879,971	6,093,896	5,085,000	5,100,000
Miscellaneous:					
Interest Income	-	-	379,204	175,000	200,000
Retirement Loan Proceeds	-	9,982,121	-	-	-
Others	1,510,053	683,269	1,044,584	1,100,000	1,000,000
Sub-Total Miscellaneous	1,510,053	10,665,390	1,423,788	1,275,000	1,200,000
Interdepartmental Charges					
Indirect Cost	3,451,493	6,541,933	6,065,493	11,815,000	6,500,000
Sub-Total Interdepartmental Charges	3,451,493	6,541,933	6,065,493	11,815,000	6,500,000
Transfers-In:					
JROTC Reimbursement (Federal Grants)	428,045	483,301	453,095	575,000	525,000
Communications to Debt Service	-	1,206,356	1,100,000	0	850,000
School Repair	1,058,417	1,199,097	1,139,183	1,000,000	1,000,000

Debt Service Fund - Excise Tax	1,979,119	2,332,669	2,108,658	1,000,000	2,000,000
Debt Service Fund - Port Fees	1,133,349	177,679	91,440	1,000,000	200,000
Sub-Total Transfers In	4,598,930	5,399,102	4,892,376	3,575,000	4,575,000
Total Revenues	64,791,541	87,586,883	71,847,607	67,100,000	68,212,000

While I am not privy to how ASG manages its local funds, what I do know is that ASG's local budget is generously subsidized by the federal government and, while it is not my decision to make, I do not know how this Legislature can support the Governor's proposal to tax the people or reduce their working hours to cover a shortfall that should not exist.

4. CIP/Operations Funds

I also want to speak to the issue of Capital Improvement Projects, or CIPs. On an annual basis, the American Samoa Government (ASG) receives about \$10 million per year from the U.S. Department of the Interior (DOI) for Capital Improvement Projects (CIP). These federal funds pay for projects administered through several departments including Health, Education, Water, Wastewater, Port, and Public Safety.

ASG also receives an annual grant of more than \$33 million per year that is allocated for its basic operations, LBJ Hospital, and the High Court. To this day, American Samoa continues to be the only State or Territory that receives federal funds for the operations of its local government.

In the past four years, between FY 2006 and FY 2010, American Samoa received a total of \$49.3 millions in CIP funds and \$113.8 millions in Operations grants (see Table 6) which are part of the collective total I mentioned under the federal funds section of this report.

Table 6: ASG CIP Funds and Operations Grants FY06-FY11

<u>Fiscal Year</u>	<u>CIP Funds</u>	<u>Operations</u>
2006	\$9,542,000	\$22,770,000
2007	\$10,543,000	\$22,880,000
2008	\$10,429,000	\$22,623,000
2009	\$9,380,000	\$22,752,000
2010	\$ 9,383,000	\$22,752,000
2011*	\$10,500,000	\$22,752,000
TOTAL	\$ 59,777,000	\$136,529,000

** FY 2011 CIP is pending; FY 2011 Operations has been awarded through March 4, 2011 in the amount of \$9,514,000.*

For the current fiscal year, ASG is scheduled to receive a total of \$10.5 millions in CIP and \$22.8 millions in Operations grant.

5. American Recovery and Reinvestment Act (ARRA) Funds

Also, as of January 7, 2011, about \$240 million in funds from the American Recovery and Reinvestment Act have been obligated for ASG to carry out several infrastructure projects in American Samoa that are critical to economic development, including more than \$81 million in grant funding to ASTCA under the Distance Learning, Telemedicine, and Broadband Program (see Table 7).

The scope of additional projects includes airport extensions, renovation and modernization of school buildings, and improvements in roads and telecommunications.

Table 7: ARRA Funds for American Samoa

Federal Agency	Amount Available	Amount Paid Out
Agriculture*	\$85,218,447.00	\$1,983,587.00
Education	\$58,507,020.00	\$7,116,151.00
Energy	\$29,345,206.00	\$9,069,993.00
Health and Humans Services	\$14,772,444	\$9,988,795
Treasury	\$30,778,500	\$16,350,844.00
Transportation	\$8,468,599.00	\$8,420,599.00
Justice	\$4,286,358	\$921,301
EPA	\$4,036,999	\$300,639
HUD	\$1,376,451.00	\$69,943.00
Commerce	\$1,900,496	\$255,690.00
Labor	\$732,417	\$606,299
Corp. for National and Community Service	\$424,459.00	\$375,793.00
National Endowment for the Arts	\$25,000	\$14,384
Grand Total	\$239,872,396.00	\$55,474,018.00

** Includes more than \$81 million in grant funding to ASTCA under the Distance Learning, Telemedicine, and Broadband Program*

Of the more than \$240 million available, ASG has only drawn down about \$55 million. Why?

6. FEMA Funds

The same can be said about FEMA funds. In response to the tsunami that struck American Samoa and devastated our villages and islands, FEMA has projected that the federal projected share for housing, infrastructure, hazard mitigation, and other assistance is about \$156 million. As of September 17, 2010, ASG has drawn down about \$46 million (see Table 8).

Table 8: FEMA Funds for American Samoa

Individual Assistance		
<u>Projected</u>	<u>Obligated</u>	<u>Disbursed</u>
\$44,709,489	\$37,476,716	29,883,307

(Includes Housing Assistance, Other Needs Assistance, Immediate Needs Assistance, Unemployment Assistance, Crisis Counseling, Disaster Legal Services).

Infrastructure

<u>Projected</u>	<u>Obligated</u>	<u>Disbursed</u>
\$77,325,000	\$15,462,974	\$7,475,079

Hazard Mitigation

<u>Projected</u>	<u>Obligated</u>	<u>Disbursed</u>
\$18,626,000	\$479,384	\$90,934

Direct Federal Assistance

<u>Projected</u>	<u>Obligated</u>	<u>Disbursed</u>
\$16,515,000	\$12,350,000	\$7,475,079

While a federal match is required for some of this funding, FEMA did indicate that it would review the possibility of waiving the match, or lowering the match, if ASG submitted the request. I am not aware if ASG has done so.

7. U.S. DOL National Emergency Grants (NEGS)

Regarding recent comments made about cannery closures and lay-offs and its impact on the local economy, in May of 2009, I met with U.S. Department of Labor (DOL) officials regarding national emergency grants (NEGS) in response to Chicken of the Sea's announced closure. I forwarded this information to Governor Togiola in a letter dated May 7, 2009, providing the Governor with the contact information necessary to request national emergency grants and informing the Governor and the public that any request put forward must originate with the Governor.

With DOL support, ASG then began working on submitting an application that could be helpful to our displaced workers. While the national emergency grant for our displaced cannery workers at Samoa Packing was never finalized by ASG, the DOL informed my office that its regional office in San Francisco preemptively and immediately reached out to ASG when the tsunami struck and informed the Governor's office that ASG could also apply for a *disaster* national emergency grant.

The DOL then assisted ASG in preparing and processing a disaster national emergency grant application and, on October 20, 2009, DOL awarded American Samoa over \$24 million to assist with clean-up and recovery following the tsunami that struck our islands on September 29, 2009. These funds were used to create temporary jobs, and DOL informed my office that our Samoa Packing cannery workers were eligible for these jobs.

DOL also informed my office that the disaster NEG could be extended, if necessary, for Samoa Packing workers but that a new NEG would need to be submitted for StarKist lay-offs. However, to date, ASG has not submitted a NEG for our cannery workers who may be eligible for stipends and retraining but I do continue to be hopeful that ASG will pursue this federal funding since only the Governor is authorized by law to request these funds.

8. Medicaid Funding

On March 23, 2010, President Obama signed into law the Patient Protection and Affordable Care Act (PPACA, P.L. 111-148), which provides critical assistance to strengthen the nation's health care system. As a result of a joint effort by the Congressional Delegates, the Territories were included in this historic legislation.

Most significant, all the territories under PPACA will receive an extra \$6.3 billion in Medicaid caps over the next nine years, 2011-2019. Based on the current allocation (3%), American Samoa will have a \$285.5 million cap over the 9-year period (see Table 9). How this cap will be split up for each fiscal year is to be determined by the Department of Health and Human Services (DHHS).

Table 9: Medicaid Funding and Percentage Allocation for Territories (2011-2019)

<u>Territory</u>	<u>% of \$6.3 billion</u>	<u>Actual funding cap</u>
Puerto Rico	87%	\$8,624,549,884
Guam	4%	\$422,602,944
USVI	4%	\$431,227,494
American Samoa	3%	\$285,534,205
CNMI	2%	\$157,706,055
TOTAL	100%	\$6.3 billion

The new law also provides for an increase in federal matching responsibility under the Federal Medicaid Assistance Program (FMAP). The previous federal matching ratio of 50:50 has been increased to 55:45.

The centerpiece of PPACA is the Health Care Exchange program. American Samoa may opt in to the Exchange and receive funding to create a competitive insurance marketplace for quality/affordable healthcare. To fund this exchange program, the territories were allocated \$1 billion. Of this amount, \$925 million is allocated for Puerto Rico while the remaining territories split \$75 million—from which American Samoa should receive about 25%, or \$18.75 million.

This actual split is also yet to be determined by DHHS. Should American Samoa opt out, the funding may be redirected towards Medicaid. There are several other provisions of PPACA that DHHS is working to implement and I will continue to follow and report.

9. Legislative Initiatives for the 112th Congress

Regarding legislative issues for the 112th Congress, I will be working on matters affecting tuna, immigration, the high court, and other high priority initiatives for the Territory.

A. 30A

For more than 20 years, during my watch, I am pleased to report that we have been able to keep federal tax breaks in place so that our tuna industry could succeed. During this time, StarKist and Samoa Packing received more than a hundred million dollars in federal tax breaks.

However, I will continue to work on revising 30A so that new companies, like Tri-Marine, can take advantage of these tax breaks since 30A only currently applies to companies previously eligible for IRS 936 benefit.

It is my hope, too, that we can modify 30A so that it will be helpful to companies operating at a profit or a loss. Right now, 30A is only helpful if the company is profitable.

Recently, Mr. Renato Curto, Chairman of the Board and majority shareholder of Tri-Marine, requested to meet with me to share his long-term plans for doing business in American Samoa. We met in my Washington office on Tuesday, January 11, 2011, and we have agreed to work closely together in revising 30A. We have also agreed to work on other initiatives that will keep our tuna industry operating in American Samoa for years to come.

I also met with Chairman Kim of the Dongwon Group in November of last year and, last week, StarKist's current CEO has also requested an appointment and we will be meeting soon.

The people of American Samoa can be assured there is a joint effort underway to revitalize American Samoa's tuna industry, and I am hopeful that the Fono will be a part of this process which will include keeping wages at 2010 rates now that our cannery workers have received a \$1.50 per hour increase.

B. USDA Buy America Program

Last year, it came to my attention that the USDA was considering changing its requirements so that Bumble Bee and Chicken of the Sea could bid to supply America's school lunch program, even though both companies have adopted business models of outsourcing tuna preparation to cheap foreign labor and then bringing the almost finished product into small U.S. operations for final packaging.

Should the USDA have given way and changed its Buy America policy in order to accommodate Bumble Bee and Chicken of the Sea's practice of outsourcing American jobs to low-wage countries, like Thailand and Fiji, StarKist would have been forced to leave American Samoa.

Thankfully, StarKist and I were successful in making certain that the USDA does not change its Buy America domestic tuna requirements. For now, StarKist and Tri-Marine are the only canneries that clean or will clean whole fish in America.

Neither Bumble Bee nor Chicken of the Sea should be rewarded for outsourcing, which is contrary to the underlying principles of the USDA's Buy America program, and we will be working again in the 112th Congress to make sure that we safeguard American Samoa's interests, particularly when it comes to our tuna industry.

C. Immigration

Immigration remains a major issue in the Territory. Over the years, I have introduced legislation to simplify the naturalization process for U.S. Nationals living in American Samoa. The purpose is to waive specific requirements in order for U.S. nationals to apply for U.S. citizenship from American Samoa. By waiving the existing federal requirements, it would make the application process easier for U.S. nationals to apply for U.S. citizenship from American Samoa rather than having to travel to the U.S., wait 6 months to establish state residency, and take a civics examination although much of it is taught in the local education curriculum.

There was some strong opposition from the local leaders to the bill that I introduced in 2008 (HR 6191), based on misinformation that it would apply automatic U.S. citizenship to those born in American Samoa and would cause an increase of foreigners to live in American Samoa. However, the legislation I proposed would not have made citizenship automatic. It would simply have expedited the process for those who choose to apply for citizenship. At many public forums held in American Samoa, many local residents voiced their support of this legislation and, so, I intend to reintroduce similar legislation this year.

I also intend to include or have a separate bill which would allow legal permanent residents of American Samoa who have lived here for 15 or more years to apply for U.S. national status. Currently, there is no application process for U.S. national status except for the U.S. passport application that grants eligible individuals U.S. national status under the “one-parent” law. My office is working with Legislative Counsel to help draft this legislation.

D. High Court

The lingering legal and economic question surrounding the proper jurisdiction and venue of violations of federal law that occur solely in American Samoa continues to be a critical issue in the Territory.

To address this issue, I met with the Fono to discuss the establishment of a federal district court and, on May 26, 2005, submitted a draft bill to Governor Togiola and the Fono for their consideration. Based on those discussions and a Congressional survey conducted in 2001 which showed that more than 76% of those surveyed agreed that American Samoa should be provided with a federal district court with limited jurisdiction, I introduced H.R. 4711 on February 8, 2006.

Even though H.R. 4711 specifically limited the jurisdiction of the court and made certain that the court was not allowed to address issues involving communal land tenure or the adjudication of traditional chieftain or matai titles, there was strong opposition to the bill from the Fono and several traditional leaders.

As a result, I deferred hearings on the bill and, with the support of Natural Resources Committee Chairman Richard Pombo and Ranking Democratic Member Nick Rahall, I requested the Government Accountability Office (GAO) to conduct a comprehensive review of the current judiciary system in American Samoa.

On June 2008, the GAO released its report and, for the first time, there was a comprehensive review of American Samoa's Judicial System. Findings of the report were the subject of a Subcommittee on Insular Affairs hearing on September 18, 2008 at which Senate President Lolo Moliga and Speaker Savali Talavou testified, while testimony from Governor Togiola Tulafono and Chief Justice Michael Kruse were submitted for the record.

After reviewing the report and testimony, I appreciated Chief Justice Kruse's assessment that perhaps a simpler solution for consideration would be to establish by Act of Congress, or even Secretarial Order, a federally appointed prosecutor's office in the Territory to prosecute all criminal activity under either local or federal statutes, pursuant to applicable local procedures in the High Court. Utilizing the High Court in this fashion would alleviate local concerns that a U.S. District Court poses risk to the delicate balance between the U.S. Constitution and the *fa'asamoa*.

I would only add that the federal prosecutor should only be allowed to prosecute federal crimes and that the Congress would need to specify what areas of jurisdiction can be given to the High Court for adjudication on other federal matters, leaving the Attorney General to prosecute local issues.

Based on these key considerations, I introduced H.R. 2789 in 2009. Among other things, H.R. 2789 expands jurisdiction of the High Court to include violations of federal criminal laws originating in American Samoa; prescribes an appeals process for federal matters; authorizes the Department of Interior to appoint 2 or more additional justices to the High Court; and authorizes the Department of Justice to appoint a federal solicitor in American Samoa. In making these appointments, consideration would be given to the individual's knowledge and understanding of local customary laws.

The bill was referred to the U.S. House Committee on Judiciary, and after consultation with committee staff, a request for further review was made with the Judicial Conference of the United States (Judicial Conference). In response, the Judicial Conference raised several issues and made other suggestions that are critical, and I intend to incorporate these suggestions in an improved version of our bill to be introduced later in this Congress. My office is working with Legislative Counsel to draft legislation after which I will provide the Governor and the Fono with a copy for consideration.

As always, I welcome any recommendations our Fono might have about this or other upcoming legislative initiatives for the 112th Congress, and my door is always open for further input and discussion.

10. Conclusion

The issues outlined in this report are representative of the work that continues to be underway for and on behalf of the people of American Samoa, and it is my sincere hope that the information provided in this report will assist our Fono in making the decisions it has been called upon to make at the local level.