

THE TWENTY-NINTH LEGISLATURE OF AMERICAN SAMOA

FIRST REGULAR SESSION

Begun and held at Fagatogo, Tutuila, American Samoa
on Monday, the tenth of January
two thousand and five

AN ACT PROVIDING FOR AN EXCISE TAX CREDIT ON THE SALE OF DIESEL FUEL TO SHIPPING FLEETS THAT PATRONIZE PAGO PAGO HARBOR FOR THEIR FUELING REQUIREMENTS IN ORDER TO ENCOURAGE THE CONTINUED PATRONAGE OF THE FISHING FLEETS; AMENDING SECTION 11.1002 A.S.C.A.

Preamble:

WHEREAS, the American Samoa Government levies an excise tax of three and one-half cents (\$0.035) per gallon on all imported diesel fuel pursuant to A.S.C.A. Section 11.1002(a)(4)(B); and

WHEREAS, it is desirable in the public interest to protect and improve the economic benefits to the Territory brought by the presence of the commercial fishing fleet; and

WHEREAS, the American Samoa Government wishes to waive this tax to the extent that it applies to diesel fuel sold to commercial fishing vessels in order to make the sale of diesel fuel to commercial fishing vessels more competitive.

Due to the urgent need to improve and strengthen the economic benefits which accrue to the Territory by commercial enterprise brought about by the patronage of commercial fishing vessels, 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. 11.1002 is amended to read:
"11.1002 Amount of tax on certain items.

(a) The tax on each item is:

(1) beer, malt extract, alcoholic beverage, tobacco products and smoking accessories:

(A) one hundred ninety percent of the basis of beer as defined in 27.0501(6), and malt extract, except that any person 21 years of age or over may bring into American Samoa tax free an amount of any alcoholic beverage as defined in 27.0501(1) or 27.0501(6) not to exceed 1 liter per trip if such alcoholic beverage is for his personal use and consumption and not for resale; and except further that any alcoholic beverage and tobacco products brought into American Samoa for export at the duty free shop at Pago Pago International Airport is also tax free; one hundred fifty percent (150%) of the basis of beer or malt extract shall be deposited in the general fund and shall be available for appropriation by the Legislature; and forty percent (40%) of the basis of beer or malt extract shall be deposited in the general fund in an account earmarked for and dedicated to the repayment of the government loan approved in 7.1444.3. Upon full repayment of said loan, the assessment and collection of this forty percent (40%) tax shall be repealed;

(B) alcoholic beverages as defined in 27.0501(1) shall be taxed as follows: fifteen (0.15) cents per one percent (1%) of alcohol by weight per liter, with a minimum tax of two dollars (\$2.00) per liter.

Of the revenues collected from the tax on alcoholic beverages, fifty percent (50%) shall be appropriated to fund the Feleti Barstow Public Library; twenty-five percent (25%) shall be appropriated to fund the Office of Administrative Law Judge; twelve and one-half percent (12.5%) shall be deposited in the general fund and shall be available for appropriation by the Legislature; and twelve and one-half percent (12.5%) shall be deposited in the general fund in an account earmarked for and dedicated to the repayment of the government loan approved in 7.1444.3. Upon full repayment of said loan, the twelve and one-half percent (12.5%) dedicated to repayment of the loan shall be deposited in the general fund and shall be available for appropriation by the Legislature.

Twelve point five cents per cigarette, per cigar, or per 10 grams of smoking tobacco, except that any person 21 years of age or over may bring into American Samoa tax free tobacco products not to exceed either 200 cigarettes or 100 cigars and or 2 kilograms of smoking tobacco per trip if such tobacco products are for his personal use and consumption and not for resale; and twenty percent (20%) shall be deposited in an account earmarked for and dedicated to the repayment of the government loan approved in 7.1444.3. Upon full repayment of said loan, the assessment and collection of this twenty percent (20%) tax shall be reverted into the general fund subject upon appropriation by the Legislature.

(2) one hundred fifty percent of the basis of firearms and firearm ammunition:

(3) motor vehicles:

(A) twenty-five percent of the basis of motor bicycles, automobiles, trucks, and vans, to be used for commercial purposes;

(B) notwithstanding the provisions of paragraph (A), the tax levied on motor bicycles, automobiles, trucks, and vans, imported into American Samoa for personal or family use shall be 10 percent of the basis thereof. If a motor bicycle, automobile, truck or van, are converted to commercial use after being imported for personal or family use, it shall then be subject to the balance of the applicable tax imposed under paragraph (A).

(C) No tax exemption, including that provided by Title 11, Chapter 16, shall be granted for any motor vehicle. All other motor vehicles not taxed under this subsection shall be subjected to the tax under 11.1002(a)(7);

(4) petroleum products:

(A) thirty-five cents a gallon on fuel manufactured for use in motor vehicles, other than diesel fuels, 1.5 cents of this to be used for revenue for the driver's training control school and 10 cents of it to be placed in an earmarked revenue fund for road maintenance;

(B) three and one-half cents a gallon on fuel manufactured for use in diesel engines, other than aircraft fuels. An express exception is made for the purpose of extending a full three and one-half cent excise tax credit for fuels which, subject to verification by the Treasurer of American Samoa, were sold to any commercial fishing vessel for the purpose of refueling. For purposes of this section, "Commercial Fishing Vessels" shall be defined as all purse seiners and longliner vessels actively engaged in commercial fishing in excess of five tons dead weight, plus reefers or "Mother Ships" that are used to transship fish products, plus diesel fuel tankers that provide fuel at sea to the commercial fishing vessels;

(C) one and one-half cents a gallon on kerosene and similar petroleum products;

(D) fifteen percent of the basis of lubricating oils;

(E) one cent a gallon on jet and other aircraft fuels, to be placed in the enterprise fund for the operation of Pago Pago International Airport;

(F) three cents a pound of liquified petroleum gas such as butane and propane or mixtures thereof, and ethane;

(G) thirty-one and one-half cents per gallon, to be collected by the petroleum supplier at the point of sale, on fuel manufactured for use in diesel engines, excluding diesel fuel used by stationary boilers or burners, stationary generators of electric power and marine vessels.

(5) forty percent of the basis of all construction materials, as defined in 26.1501 et seq., which are of a lesser quality than the standard grades established under such chapter;

(6) fifteen cents per 12 fluid ounces or fraction thereof on all soft drinks or nonalcoholic carbonated beverages, to be applied to the measure of the container in which it is offered for sale by the importer.

(7) five percent of the basis of all items not listed in subsections (a) (1) through (a)(6) of this section or exempted by this section which are imported for commercial use or resale purposes. The revenues received from the three percent excise tax shall be deposited in the general fund and shall be available for appropriation by the Legislature, except that \$500,000 is appropriated for the student financial aid provided for in 11.0605.

(b) The minimum tax shall be 25 cents.

(c) Items otherwise taxable under subsection (a)(1) and (a)(7) of this section are exempted from the taxes imposed by this section when they are brought into American Samoa for export sale for consumption outside American Samoa; provided that importation and sale of these items are made pursuant to rules promulgated by the Treasurer under the Administrative Procedures Act 4.1001 et seq., that require, among other things, separate storage of these items clearly identified for export sale and a system of delivery to the purchaser ensuring their exportation.

(d) Payment of the taxes imposed by this section on items brought into American Samoa for consumption within American Samoa may be postponed pursuant to rules promulgated by the Treasurer under the Administrative Procedures Act, 4.1001 et seq., that require, among other things, separate storage of those items clearly identified for domestic sale and consumption and a system of delivery to the importer ensuring payment of the taxes at the time of delivery.

(e) The Treasurer shall promulgate rules under the Administrative Procedures Act, 4.1001 et seq., to ensure that the taxes imposed when the exception set forth in subsection (a)(7) of this section is inapplicable are paid.

(f) One percent (1%) of the five percent excise tax shall be earmarked for the repairs, renovations and upgrading of all public schools facilities and equipment in American Samoa beginning in the fiscal year 1995.”

Sec 2. Method of payment or refund.

The Treasurer shall continue to collect excise taxes on all diesel fuel when it is imported into the Territory. Suppliers may claim a refund on all proven and verifiable sales of diesel fuel to commercial fishing vessels. Suppliers may offset refunds due to them against payments due to ASG for excise taxes payable for diesel fuel as it is imported into the Territory.

The Treasurer shall promulgate rules and procedures which govern the verification process which he shall adopt. Refunds and credits may be approved on a monthly basis.

Sec 3. Effective date.

Due to the urgent need to improve and strengthen the economic benefits which accrue to the Territory by commercial enterprise brought about by the patronage of commercial fishing vessels, 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

Matagi R. Ma'ilo McMoore
MATAGI RAY MA'ILO MCMOORE
Speaker of the House

Hereby Approved this 15 day of April 2008
[Signature]
Governor Of American Samoa

NOFOA'IGA LUASEFULU-IVA FONO FAITULAFONO A AMERIKA SAMOA
FONO TELE MUAMUA

Nofoia ma usua i Fagatogo, Tutuila, Amerika Samoa
Aso Gafua, aso sefulu o Ianuari
Lua afe ma le lima

O SE TULAFONO E AIAIĀ AI SE LAFOGA OLOA FA'AE'E
FA'AAITALAFU I LE FA'ATAUGA O TISO I FUĀVA'A LA'U OLOA O
LO'O FA'AAOGAINA LE TAULAGA O PAGO PAGO MO O LATOU
MANA'OGA E UTUINA VA'A INA IA U'UNA'IA AI LE FA'AAUAUINA
PEA O FUAVA'A FAGOTA; SUIA AI LE MAGA 11.1002 T.T.A.S."

Fa'atomuaga

TALUAI, ua fa'ae'e atu e le Malo o Amerika Samoa se lafoga oloa o le tolu
ma le afa sene (\$0.035) i le kalone i oloa tiso uma e auina mai e tusa
ma le T.T.A.S. Maga 11.1002(a)(4)(E); ma

TALUAI, e mana'omia i le tulaga lautele ona puipuia ma fa'aleleia le tulaga
manuia tau le tamaoaiga i le Teritori ua aumaia e ala i le fa'atasi mai
o fuava'a fagota o fefa'ataua'iga; ma

TALUAI, ua i ai le fa'amoemoe o le Malo o Amerika Samoa e fa'agafua lenei
lafoga i le tulaga e fa'atatau i tiso e fa'atau atu i va'a fagota o
fefa'ataua'iga ina ia aveia ma fa'atauga e sili atu ona fa'atauva i ai
va'a fagota o fefa'ataua'iga.

Ona o se mana'oga fa'anatinati e fa'alelei ma fa'amalosia ai tulaga manuia
tau le tamaoaiga ua fa'aopoopoina i le Teritori e ala i taumafaiga tau fefa'ataua'iga
ua aumaia i le fa'aaogaina o va'a fagota tau fefa'atauaiga, o le a taualoa vave ai
lenei tulafono taufa'aofi pe a pasia e le Fono Faitulafono ma fa'amaoniaina e le
Kovana.

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

Maga 1. 11.1002 ua suia e faitauina:

“11.1002 Aofa'i o lafoga i nisi o mea ta'itasi.

(a) O le lafoga i mea ta'itasi e:

(1) pia, molo fa'amama, mainu akaholo, oloa tapa'a ma oloa fa'aopoopo;

(A) tasi le selau ivasefulu pasene o le fa'avae o pia e pei ona fa'amatalaina i le 27.0501(6), ma molo fa'amama, vagana ai o so'o se tagata ua 21 tausaga le matua pe sili atu e mafai ona ia aumaia i totonu o Amerika Samoa e le fa'alafogaina se aofa'iga o so'o se mainu akaholo e pei ona fa'amalamalamaina i le 27.0501(1) po'o le 27.0501(6) e le silia ma le 1 lita i le malaga pe afai o lena mainu akaholo mo lona fa'aaogaina totino ma meataumafa ma e le toefa'atauina atu; ma vagana fo'i o so'o se mainu akaholo ma oloa tapa'a ua aumaia i totonu o Amerika Samoa mo le auina atu i fafo i le faleoloa e leai se tiute i Malaeva'alele Fa'avaomalo i Pago Pago e leai fo'i se lafoga; tasi selau limasefulu pasene (150%) o le fa'avae o pia po'o molo fa'amama o le a teuina i le teugatupe lautele ma o le a avanoa mo le fa'asoasoaga a le Fono Faitulafono; ma o le fasefulu pasene (40%) ile fa'avae o pia po'o molo fa'amama o le a teuina i se teugatupe ua fa'ailogaina mo ma e fa'asaina mo le toetotogia o le nogatupe a le malo sa fa'amaoniaina i le 7.1444.3. Pe a uma ona totogi atoa lea nogatupe, o le fa'ae'eina atu ma le aoina o lenei lafoga fasefulu pasene (40%) o le a soloia;

(E) o mainu akaholo e pei ona fa'amalamalamaina i le 27.0501(1) o le a fa'alafogaina e pei ona ta'ua i lalo: o le sefululima sene (\$0.15) i le tasi pasene (1%) o akaholo i le mamafa i le lita e tasi, fa'atasi ai ma le lafoga aupito maualalo o le lua tala (\$2.00) i le lita;

O tupemaua e aoina mai le lafoga o mainu akaholo, o le limasefulu pasene (50%) o le a fa'asoasoaga atu e fa'atupe ai le Faletusi Lautele a Feleti Barstow; luasefulu-lima pasene (25%) o le a fa'asoaga atu e fa'atupe ai le Ofisa o le Fa'amasino o Tulafono Fa'alepulega; sefulu-lua ma le afa pasene (12.5%) o le teuina i le teugatupe lautele ma o le a fa'aavanoaina mo fa'asoasoaga a le Fono Faitulafono; ma o le sefulu-lua ma le afa pasene (12.5) o le a teuina i le teugatupe lautele i se fa'aputugatupe fa'ailogaina ma'oti mo ma e fa'asaina mo le toetotogiaina o le nogatupe a le malo sa fa'amaoniaina i le 7.1444.3 Pe a uma ona totogi atoa lea nogatupe, o le sefulu-lua ma le afa pasene (12.5%) ua fa'asaina mo le toetotogiaina o le nogatupe o le a teuina i le teugatupe lautele ma o le a fa'aavanoaina mo fa'asoasoaga a le Fono Faitulafono.

(I) Sefulu-lua tesi ma le lima sene i le sikareti, i le sika, pe i le 10 kalama o tapa'a ulaula, vagana ai e fa'apea o so'o se tagata ua 21 tausaga le matua pe sili atu e mafai ona ia aumai i totonu o Amerika Samoa oloa tapa'a e le fa'alafogaina e le silia ma le 200 sikareti po'o le 100 sika ma po'o le 2 kilokorama o tapa'a ulaula i le malaga pe afai o ia oloa tapa'a e mo lona fa'aaogaina totino ma fa'aaogaina ma e le mo le toefa'atauina atu; ma o le luasefulu pasene (20%) o le a teuina i se fa'aputugatupe ua fa'asinoina ma'oti mo ma fa'asaina mo le toetotogiaina o le nogatupe a le malo i le 7.1444.3. Pe a uma ona totogi atoa lea nogatupe, o le fa'ae'eina atu ma le aoina o lenei lafoga luasefulu pasene (20%) o le a toefa'afo'i atu i le teugatupe lautele ma e a'afia i le fa'asoasoaga a le Fono Faitulafono.

(2) tasi le selau lima-sefulu pasene o le fa'avae o fana ma ututau o fana;

(3) ta'avale afi;

(A) luasefulu-lima pasene o le fa'avae o uila afi, ta'avale afi, loli, ma veni, e fa'aaogaina mo fa'amoemoega tau fefa'ataua'iga;

(E) e le afaina ai aiaiga o le parakalafa (A), o le lafoga ua fa'ae'eina atu i uila afi, ta'avale afi, loli, ma veni, ua auina mai i totonu o Amerika Samoa mo le fa'aaogaina totino po'o mo le fa'aaogaina e le aiga, o le a 10 pasene o lona fa'avae. Afai o se uila afi, ta'avale afi, loli po'o se veni, e fa'aliliuina mo le fa'aaogaina i tulaga tau fefa'ataua'iga pe a uma ona auina mai mo le fa'aaogaina totino po'o mo le fa'aaogaina e le aiga, o le a a'afia la i le paleni o lafoga e fa'atatau i ai ua fa'ae'eina atu i lalo o le parakalafa (A).

(I) E leai se lafoga fa'agafua, e aofia ai i lena ua aiaia i le Ulutala 11, Mata'upu 16, o le a tu'uina atu mo so'o se ta'avale afi. O isi ta'avale afi uma e le fa'alafogaina i lalo o lenei soamaga o le a a'afia i le lafoga i lalo o le 11.1002(a)(7);

(4) oloa suau'u:

(A) tolusefulu-lima sene i le kalone o suau'u gaosi mo le fa'aaogaina i ta'avale afi, e 'ese mai ai tiso, 1.5 sene o lenei o le a fa'aaogaina mo tupemaua mo le a'oga pulea fa'amasani a aveta'avale ma le 10 sene o lea aofa'iga o le a teuina i se teugatupe o tupemaua fa'ailogaina ma'oti mo le fa'aleleia o auala;

(E) tolu ma le afa sene i le kalone o suau'u gaosi mo le fa'aaogaina i afi tiso, e 'ese mai ai kesilini o va'alele. O se fa'aagafuaga fa'aalia ua faia mo le fa'amoemoe e fa'aopoopoina ai se tolu ma le afa sene atoa i lafoga oloa fa'ae'e fa'aaitalafu mo suau'u/kiso/kesi e a'afia i le fa'amaoniga e le Teutupe a Amerika Samoa, e fa'atauina atu i so'o se va'a fagota o fefa'ataua'iga mo le fa'amoemoe e toeutuina. Mo fa'amoemoega o lenei maga, "O Va'a Fagota o Fefa'ataua'iga" o le

a fa'amatalaina o va'a fagota upega ma va'a fagota afaloloa o lo'o a'afia i faigafaiva tau fefa'ataua'iga e sili atu i le lima tone o le uta a le va'a, fa'aopoopo iai ma va'a pusaaisa po'o "Tina o Va'a" e fa'aaogaina e auina atu ai oloa i'a, fa'aopoopo iai ma va'a suā'u e sauniaina suau'u i le sami mo va'a fagota tau fefa'ataua'iga;

(I) tasi ma le afa sene i le kalone o kerosini ma oloa suau'u fa'apena;
(O) sefulu-lima pasene o le fa'avae o suau'u e fa'asuau'u ai mea;
(U) tasi le sene i le kalone o penisini va'alele saosaoa ma isi va'alele, e teuina i se teugatupe fa'aleoleo mo le fa'agaoioiga o le Malaeva'alele Fa'avaomalo o Pago Pago;

(F) tolu sene i le pauna o penisini suau'u ua fa'aliu suavaia e pei o le piutane ma propoane po'o le tu'ufa'atasiga o ia mea; ma le etane;

(G) tolusefulu-tasi ma le afa sene i le kalone, e aoina e le kamupani suau'u i le nofoaga o fa'atauga, i penisini gaosi mo le fa'aaogaina i afi tiso, e le aofia ai penisini tiso e fa'aaogaina i poila po'o ogaumu tumau, po'o afi tumau o malosi fa'aletisi ma va'a o gataifale;

(5) fasefulu pasene o le fa'avae o meafaufale uma, e pei ona fa'amalamalamaina i le 26.1501 ma isi, e itiiti lona tulaga lelei nai lo vaega fa'atulagaina ua fa'avaeina i lalo o ia mata'upu;

(6) sefulu-lima sene i le 12 aunese suavaia po'o lona vaegamea i mainu uma po'o mainu e leai se akaholo e iai le ea, e fa'aaogaina i le fua o pusa e ofoina atu mo fa'atauga e pisinisi e aumaia oloa.

(7) lima pasene o le fa'avae o mea ta'itasi uma e lisiina i soamaga (a) (1) e o'o i le (a)(6) o lenei maga po'o ua fa'agafua e lenei maga ua suia mai mo le fa'aaogaina i fefa'atauaiga po'o fa'amoemoega e toefa'atau atu. O tupemaua e maua mai ai i le tolu pasene o lafoga oloa o le a teuina i le teugatupe lautele ma o le a avanoa mo le fa'asoasoaga a le Fono Faitulafono, vagana ai le \$500,000 ua fa'asoasoaina atu mo fesoasoani tau tupe mo tama/teine a'oga e pei ona aiaia i le 11.0605.

(e) O le lafoga aupito maualalo o le 25 sene.

(i) O mea ta'itasi e 'ese mai ai ua fa'alafogaina i lalo o le soamaga (a)(1) ma (a)(7) o lenei maga ua fa'agafua mai lafoga ua fa'ae'eina atu i lenei maga pe afai e aumai i totonu o Amerika Samoa mo fa'atauga i fafo mo le fa'aaogaina i fafo o Amerika Samoa; pe afai o le aumaia ma le fa'atauga o ia mea taitasi ua faia e tusa ma tulafono ua fa'aalia e le Teutupe i lalo o le Tulafono o Tualumaga Fa'alepulega 4.1001 ma isi, e mana'omia, fa'atasi ai ma isi mea, teu 'ese'eseina o ia mea ta'itasi ua manino ona fa'ailogaina mo fa'atauga i fafo ma se auala e tiliva atu ai i ē ua fa'atauina ina ia mautinoa lo latou auina atu.

(o) O le totogia o lafoga ua fa'ae'eina atu i lenei maga i mea ta'itasi ua aumaia i totonu o Amerika Samoa mo le fa'aaogaina i totonu o Amerika Samoa e mafai ona tolo e tusa ma tulafono galue ua fa'aalia e le Teutupe i lalo o le Tulafono o Tualumaga Fa'alepulega, 4.1001 ma isi., e mana'omia ai, fa'atasi ai ma isi mea, o le teu'ese'eseina o ia mea ta'itasi ua fa'ailogaina ma'oti mo fa'atauga lotoifale ma le fa'aaogaina fa'apea ma le auala e tiliva atu ai i pisinisi e aumaia oloa e mautinoa ai le totogia o lafoga i le taimi e tiliva atu ai.

(u) O le Teutupe o le a na fa'aalia fa'alaua'itele tulafono galue i lalo o le Tulafono o Tualumaga Fa'alepulega, 4.1001 ma isi., ina ia mautinoa ai o lafoga ua fa'ae'eina atu pe afai o le fa'agafuaga ua fa'atulagaina i le soamaga (a)(7) o lenei maga e le fa'atautu iai ua totogia.

(f) Tasi le pasene (1%) o le lima pasene o le lafoga oloa o le a fa'ailogaina mo le toe ripeaina, toefa'afouga ma le fa'aleleia o fale a'oga a le malo ma meafaigaluega i Amerika Samoa e afua i le tausaga tupe 1995."

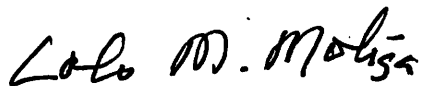
Maga 2. Auala e totogi ai pe toefa'afo'i atu ai.

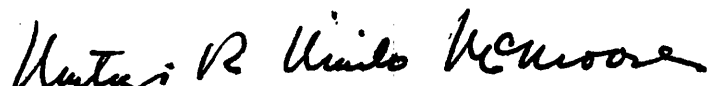
O le Teutupe o le a fa'aauauina ona ao lafoga oloa i penisini tiso uma pe afai ua aumaia i totonu o le Teritori. O kamupani e mafai ona talosagaina se toefa'afo'iga atu o tupe i fa'atauga uma ua fa'amaoniaina ma lagolagoina o penisini tiso i va'a fagota o fefa'atauaiga. O kamupani e mafai ona suia tupefa'afo'i e tataua ona latou maua e fa'atautu i tupetotogi ua aitalafu ai i le Malo o Amerika Samoa mo lafoga oloa e totogi atu mo penisini tiso e aumai i totonu o le Teritori.

O le Teutupe o le a na fa'aalia fa'alaua'itele tulafono galue ma tualumaga e pulea ai tualumaga o fa'amaoniga e fa'amaoniaina e ia. Tupefa'afo'i ma aitalafu e mafai ona fa'amaoniaina i se tulaga fa'avae fa'alemasina.

Maga 3. Aso taualoa.

Ona o le mana'oga fa'anatinati e fa'aleleia ma fa'amalosia alagamanuia tau le tamaoiga fa'aopoopoina i le Teritori e ala i gaoioiga tau fefa'ataua'iga e aumaia e ala i pisinisi ma gaoioiga a va'a fagota tau fefa'ataua'iga, o le a taualoa vave ai lenei tulafono taufa'aofi pe a pasia e le Fono Faitulafono ma fa'amaoniaina e le Kovana.


LOLO M. MOLIGA
Peresetene, Maota Maualuga


MATAGI RAY MA'ILO MCMOORE
Fofoga Fetalai, Maota o Sui