

**STATEMENT OF THE HONORABLE ENI F.H. FALEOMAVAEGA
AT THE HEARING ON S.1237, THE OMNIBUS TERRITORIES ACT,
BEFORE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES**

July 11, 2013

Chairman Wyden & Ranking Member Murkowski:

I want to take this opportunity to thank you for holding this hearing on S. 1237, the Omnibus Territories Act. This bipartisan legislation is critical in addressing the many issues that residents of our U.S. territories have faced for many years. For American Samoa, S.1237 will provide the necessary tools for Governor Lolo and his new administration to help the Territory move forward.

Section 15. Benefit to cost ratio study for projects in American Samoa.

Included for American Samoa is a section requesting the Comptroller of the United States to study and provide a report on the benefit-to-cost ratio formula used to determine funding for federal projects in American Samoa. This comprehensive study is necessary to address the discrepancies that American Samoa faces compared to other Territories. Due to our remote location, small population and single-industry economy, it is very difficult for American Samoa to meet any threshold for federal projects, especially federal agencies and departments that rely solely on the benefit-to-ratio formula.

Because American Samoa does not meet the criteria, which I believe is discriminatory, American Samoa is the only U.S. territory without an airport tower even though American Samoa is an international destination and has one of the longest runways in the U.S. While making tourism a priority, it would be difficult for the local government to attract foreign carriers provided the airlines would not be comfortable with their planes landing at an international airport that does not have a physical control tower. Given the recent Asiana crash landing at San Francisco International Airport last week, a responsive and communicating physical presence is also essential to our residents.

The benefit-to-cost ratio also affects our harbors. For now, we are unable to qualify for federal support for additional harbors but, with the increase in traffic in the Pago Pago harbor, building and creating harbors on other parts of Tutuila Island will improve and expand inter-island commerce and build-up needed infrastructure.

Having a GAO study to determine alternative methods to the benefit-to-cost ratio will help Congress better understand and provide for one of our most vulnerable communities.

Section 16. Waiver of local matching requirements.

I am in strong support of waiving local matching requirements for non-competitive grants received by our U.S. territories. Currently, federal departments and agencies that provide grant funding to the Territories are able to waive local matching requirements. Congress intended to waive such requirements in order to help support the local governments with improving infrastructure and programs. The current amount waived of \$200,000 has not changed since 1983 when the Congress decided to increase it from \$100,000 to \$200,000.

It is very unfortunate that the amount waived has not been increased even with inflation and the higher cost-of-living in the U.S. Thirty years later, our U.S. territories continue to struggle to provide for their residents given the global recession that affected all of us within the past 10 years. With the current push for reduction in federal spending, it will make it even far more difficult for our Territorial governments to provide for their residents.

Section 17. Fishery endorsements.

While the language for this section may need to be revised, the intent of the language is to restore fishery endorsements to U.S. tuna boats that are 100% U.S. built, 100% U.S. owned, and that offload the majority of their fish in American Samoa.

We have some tuna boats that meet the above criteria but which have lost their fishery endorsement because they were repaired in a foreign shipyard meaning these boats are no longer permitted to fish in the U.S. EEZs in the South Pacific Tuna Treaty Area. This language corrects this problem and allows these vessels to fish where all other 100% U.S. built tuna boats are allowed to fish.

This fix is critical to our economy because these boats supply the majority of their fish to American Samoa's canneries and, as this Committee knows, American Samoa's economy is a single-industry economy which is almost entirely dependent on the U.S. fishing and processing industry.

I also want to add that this legislative fix does not affect Hawaii waters or waters in the mainland U.S. The waters related to this language are restricted to U.S. EEZs within the South Pacific Tuna Treaty Area.

I might also add that the original law which required that U.S. boats to be repaired in U.S. shipyards if they want to retain their fishery endorsement has been in force since 1956 to protect the U.S. steel industry. I believe the law is somewhat antiquated.

Section 18. Effects of Minimum Wage differentials in American Samoa.

The Fair Labor Standards Act of 1938 was amended in 1956 to exempt the tuna industry from paying workers in American Samoa in accordance with federal minimum wage laws. Consequently, Special Industry Committees were established to determine wage rates in American Samoa.

From then to now, American Samoa to date has 16 different wage rates based on industry classification including retailing, tour and travel services, fish canning and processing, publishing, private hospitals, government employees, etc. , although the original intent of the law was for wages among industry classifications to mesh into one.

I believe the time has come for us to set this matter right because I feel it is discriminatory to pay some minimum wage workers less just because they work in the hotel industry, for example, versus the tuna industry. I believe anyone in American Samoa should have access to a set minimum wage rate because the cost of living is the same for all workers across industry sectors.

A GAO report on the effects of minimum wage differentials in American Samoa will help us determine how we can best proceed to make the necessary corrections for the benefit of our workers.

Section 19. American Samoa Citizenship Plebiscite Act.

The citizenship plebiscite provision in the Senate Territorial bill will provide for a federally authorized plebiscite in American Samoa on the question of citizenship. The U.S. District Court for the District of Columbia reaffirmed just last month in the case of *Tuaua v. U.S.* that Congress has the plenary power to grant citizenship to persons living in the U.S. territories. The plaintiffs in *Tuaua* argued that U.S. citizenship should automatically apply to anyone born in American Samoa.

The decision to become U.S. citizens should be decided by the people of American Samoa by an election. Once the decision is made by a majority of American Samoan voters to become citizens, I will work with my colleagues in Congress to draft legislation to provide citizenship to persons born in American Samoa.

American Samoans have been struggling with the question of citizenship for over 70 years, and the time has come for the people to decide whether they want to become U.S. citizens. If we choose to do nothing, outside forces will decide our future for us, as is the case in *Tuaua*.

The decision for American Samoans to become U.S. citizens has been complicated because of concerns of the impact of citizenship on our traditional way of life. However, history has shown examples of other U.S. territories that have preserved their traditional culture and still receive citizenship by an act of Congress.

I am hopeful Congress will enact this important provision to allow the American Samoan people to decide whether they want to become U.S. citizens.

Conclusion

Chairman Wyden and Ranking Member Murkowski, I want to thank you again for holding this hearing and for allowing me to testify before the distinguished committee. I look forward to answering any questions you or members of the Committee may have.