

FINAL DRAFT

CONSTITUTION OF

AMERICAN SAMOA

2010

REVISED CONSTITUTION OF AMERICAN SAMOA

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PREAMBLE

Whereas the people of American Samoa believe in the importance of divine guidance which is decreed in the territorial motto: “Amerika Samoa, Muamua Le Atua” (“American Samoa, God Be First”); and

Whereas the leading chiefs and traditional leaders of the islands of Tutuila and Aunu’u of the Samoan islands, by and through an Instrument of Cession on 17 April 1900, duly petitioned and ceded the sovereignty of said islands to the United States of America; and

Whereas His Majesty King Tuimanu’a Elisara and his leading chiefs and traditional leaders, by and through an Instrument of Cession on 16 July 1904, duly petitioned and ceded the sovereignty of the islands of Ta’u, Ofu, Olosega and Muliava (Rose Island) of the Samoan Islands to the United States of America; and

Whereas the Congress of the United States of America by an Act in 1929 (Feb. 20, 1929, ch. 281, 45 Stat. 1253; May 22, 1929, ch. 6, 46 Stat. 4) duly accepted, ratified and confirmed the 17 April 1900 and 16 July 1904 Instruments of Cession and thereby declared that: “Until Congress shall provide for the government of such islands, all civil, judicial and military powers shall be vested in such person or persons and shall be exercised in such manner as the President of the United States shall direct; and the President shall have power to remove said officer and fill the vacancies so occasioned; “ and

Whereas on 4 March 1925, the Congress of the United States of America passed a law (ch. 563, 43 Stat. 1357) which declared that “the sovereignty of the United States over American Samoa is extended over Swains Island (Olohenga), which is made part of American Samoa and placed under the jurisdiction of the administration and judicial authorities of the government established therein by the United States; “ and

Whereas by authority from an Act of Congress in 1929 (Feb. 20, 1929, ch. 281, 45 Stat. 1253; May 22, 1929, ch. 6, 46 Stat. 4) and by Executive Order No. 10264 dated 29 June 1951 President Harry Truman conveyed the authority to the Secretary of the Interior for the administration of American Samoa; and

Whereas it is appropriate that the people of American Samoa should have and enjoy certain rights and responsibilities inherent in the representative form of government including the right to local self-government; and

Whereas it is desirable that these rights and responsibilities be clearly set forth in a Constitution, and the adoption of a Constitution is in harmony with applicable federal law; and

Whereas the Constitution adopted in 1960 was revised by a Constitutional Convention of

the people of American Samoa and the voters at the 1966 general election and ratified and approved by the Secretary of the Interior in 1967; and

Whereas the people of American Samoa recognize the administrative responsibility and value the guidance of the Department of the Interior in coordinating federal laws and policies in the Territory of American Samoa; and

Whereas the United States Public Law 98-213 Sec. 12 provided that constitutional amendments approved by the people of American Samoa shall be made effective by Act of Congress;

Now, therefore, the ----*blank* ----- Revised Constitution of American Samoa has been approved by a Constitutional Convention of the people of American Samoa and voters at the 2010 general election, and reviewed by the Secretary of the Interior and ratified and approved by Congress in its Act of -----*blank*-----

Article I Bill of Rights

Section 1. Freedom of religion, speech, press, rights of assembly and petition.

There shall be separation of church and government, and no law shall be enacted respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Section 2. No deprivation of life, liberty or property without due process.

No person shall be deprived of life, liberty, or property, without due process of law, nor shall any communal land or private property be taken for public use without just compensation.

Section 3. Fundamental policy of Samoan communal lands, customs and traditions.

- a. It shall be the policy of the American Samoa Government to protect persons of American Samoan ancestry against alienation of their communal lands and the destruction of the Samoan way of life and language, contrary to their best interests. Such legislation as may be necessary may be enacted to protect the lands, customs, culture, and traditional Samoan family organization of persons of American Samoan ancestry, and to encourage business enterprises by such persons
- b. All acquisitions of communal and individually-owned lands by the American Samoa Government, whether by deed, condemnation or other operation of law, shall be used for a specific government or public use. Such lands shall revert to their rightful owners when the government determines there is no longer a need for public use.

- c. The Legislature shall enact laws to prohibit further individualization of communal lands.
- d. No change in the law respecting the alienation or transfer of land or any interest therein shall be effective unless the same be approved by two successive legislatures by a two-thirds vote of the entire membership of each house and by the Governor.

Section 4. Dignity of the individual.

The dignity of the individual shall be respected and every person is entitled to protection of the law against malicious and unjustifiable public attacks on the name, reputation, or honor of himself or of his family.

Section 5. Protection against unreasonable searches and seizures.

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Section 6. Rights of an accused.

No person shall be subject for the same offense to be twice put in jeopardy of life or liberty; nor shall he be compelled in any criminal case to be a witness against himself; and the failure of the accused to testify shall not be commented upon nor taken against him. In all criminal prosecutions, the accused shall have the right to a speedy and public trial by an impartial jury, to be informed of the nature and the cause of the accusation and to have a copy thereof; to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense. Every man is presumed innocent until he is pronounced guilty by law, and no act of severity which is not reasonably necessary to secure the arrest of an accused person shall be permitted. All persons shall be bailable by sufficient sureties except where the judicial authorities shall determine that the presumption is great that an infamous crime, which term shall include murder and rape, has been committed and that the granting of bail would constitute a danger to the community. Bail shall be set by such judicial authorities. Excessive bail shall not be required, nor excessive fines imposed nor cruel or unusual punishments inflicted.

Section 7. Habeas corpus.

The writ of habeas corpus shall be granted without delay and free of costs. The privilege of the writ of habeas corpus shall not be suspended except by the Governor and then only when the public safety requires it in case of war, rebellion, insurrection or invasion.

Section 8. Quartering of militia.

No soldier or member of the militia shall, in time of peace, be quartered in any house without the consent of the owner or the lawful occupant, nor in time of war, except in a manner prescribed by law. The military authority shall always be subordinate to the civil authority in time of peace.

Section 9. Imprisonment for debt.

There shall be no imprisonment for debt except in cases of fraud.

Section 10. Slavery prohibited.

Neither slavery, nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist in American Samoa.

Section 11. Treason.

Treason against the American Samoa Government shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or a confession in open court.

Section 12. Subversives ineligible to hold public office.

No person who advocates, or who aids or belongs to any party, organization, or association which advocates the overthrow by force or violence of the American Samoa Government or of the United States shall be qualified to hold any public office of trust or profit under the American Samoa Government.

Section 13. Retroactive laws and bills of attainder.

No bill of attainder, ex post facto law nor any law impairing the obligation of contracts shall be passed.

Section 14. Health, safety, morals and general welfare.

- a. Laws may be enacted for the protection of the health, safety, morals and general welfare, of the people of American Samoa. The government shall pass laws to protect and enhance the rights and special needs of persons with developmental disabilities.
- b. In concurrence with the Cessions of the people of the Islands of American Samoa with the United States, no federal laws shall be enforced in the Territory of American Samoa which diminishes the ability of the American Samoa people to survive economically, or arrests its economic development, or causes consequences of degrading or damaging the safety and general welfare of its people, as may be determined by three fifths of all members of each House of the Legislature voting separately.

Section 15. Education.

- a. The Government shall operate a free and non-sectarian public educational system for the pre-elementary, elementary and secondary levels. The government will also ensure that qualified persons of good character to acquire further education, locally and abroad, general, technical or vocational, and thereafter to return to American Samoa so that the people may benefit.

- b. The American Samoa Government shall pass laws and policies for the establishment of a post secondary educational system for American Samoa.
- c. The educational system in American Samoa shall provide and require a comprehensive, integrated and standards-based curriculum in Samoan language and culture and provide funding for research and teacher training in these subject areas.

Section 16. Unspecified rights and privileges and immunities.

The enumeration of certain rights in this Constitution shall not be construed to impair or deny other rights retained by the people. No law shall be made or enforced which shall abridge the privileges or immunities of the residents of American Samoa.

Section 17: Official languages.

Samoan and English languages shall be the official languages of American Samoa. The American Samoa Government shall provide by law other public acts and transactions in the Samoan language.

Section 18: Natural resources.

The natural resources from land, air, waters and submerged lands off the coast of American Samoa over which American Samoa now or in the future may have jurisdiction under federal law shall be managed, controlled, protected and preserved in accordance with local laws.

**Article II
The Legislature**

Section 1. Legislature.

There shall be a Legislature which shall consist of a Senate and House of Representatives. The Legislature shall have authority to pass legislation with respect to subjects of local application, except that:

- (a) No such legislation may be inconsistent with, this Constitution or the laws of the United States applicable in American Samoa;
- (b) No such legislation may conflict with treaties or international agreements of the United States;
- (c) Money bills enacted by the Legislature of American Samoa shall not provide for the appropriation of funds in excess of such amounts as are available from revenues raised pursuant to the tax laws and other revenue laws of American Samoa. Prior to his final submission to the Secretary of the Interior of requests for Federal funds necessary for the support of governmental functions in American Samoa, the Governor shall prepare a preliminary budget plan. He shall submit such plan to the Legislature in joint session for its review and

approval with respect to such portions as relate to expenditures of funds proposed to be appropriated by the Congress of the United States.

(d) Legislation involving the expenditure of funds other than as budgeted shall include revenue measures to provide the needed funds.

Section 2. Membership.

The Senate shall consist of twenty two members – five from the Manu’a District, seven from the Western District, and ten from the Eastern District.

It is hereby recognized that there are three political districts in American Samoa, viz. Manu'a, composed of the political counties of Ta’u, Faleasao, Fitiuta, Olosega and Ofu; Eastern, composed of the political counties of Sua, Vaifanua, Saole, Ituau and Ma’uputasi; and Western, composed of the political counties of Fofu, Aitulagi-Leasina, Tualatai (Ituau o Tofiga), Lealataua and Ma’upu.

The House of Representatives shall consist of twenty five members elected from the following representative districts, the number of representatives from each of the districts to be as indicated:

Representative District No. 1, composed of Ta’u (Villages of Luma and Siufaga), Fitiuta (Villages of Maia and Leusoalii), and Faleasao,	)	two representatives;
Representative District No. 2, composed of Ofu, Olosega and Sili,	)	one representative;
Representative District No. 3, Vaifanua — composed of the Villages of Alao, Aoa, Onenoa, Tula and Vatia,	)	one representative;
Representative District No. 4, Saole — composed of the Villages of Aunuu, Amouli, Auasi, Utumea and Alofau,	)	one representative;
Representative District No. 5, Sua No. 1 — composed of the Villages of Fagaitua, Amaua, Auto, Avaio, Alega, Aumi and Lauili,	)	one representative;
Representative District No. 6, Sua No. 2 — composed of the Villages of Sailele, Masausi, Masefau and Afono,	)	one representative;
Representative District No. 7, Ma’uputasi No. 1 — composed of the Villages of Fatumafuti, Fagaalu, Utulei and Gataivai,	)	one representative;
Representative District No. 8, Ma’uputasi No. 2 — composed of the Village of Fagatogo,	)	one representative;
Representative District No. 9, Ma’uputasi No. 3 — composed of the Village of Pago Pago,	)	one representative;

Representative District No. 10, Ma'uputasi No. 4 — composed of the Villages of Satala, Atuu and Leloaloa,	)	one representative;
Representative District No. 11, Ma'uputasi No. 5 — composed of the Village of Aua,	)	one representative;
Representative District No. 12, Ituau, No. 1 — composed of the Villages of Nu'uuli and Malaeimi,	)	two representatives;
Representative District No. 13, Ituau No. 2 – composed of the Villages of Fagasa, Matuu and Faganeanea,	)	one representative;
Representative District No. 14, Fofu — composed of the Villages of Leone and Auma,	)	two representatives;
Representative District No. 15, Lealataua — composed of the Villages of Fagamalo, Fagalii, Poloa, Amanave, Failolo, Agagulu, Seetaga, Nua, Afao, Amaluia, Asili, Malota, Fagamutu, and Utumea,	)	one representative;
Representative District No. 16, Ma'upu — composed of the Villages of Tafuna, Mesepa, Faleniu, Mapusaga Fou, Pavaiai, Iliili, and Vaitogi,	)	four representatives;
Representative District No. 17, Tualatai (Ituau o Tofiga) – composed of the Villages of Futiga, Ituau (Malaeloa), Taputimu and Vailoatai	)	two representatives;
Representative District No. 18, Aitulagi-Leasina — composed of the Villages of Aitulagi (Malaeloa), Aoloau and Aasu.	)	one representative.

Senators and representatives shall be reapportioned by law at intervals of not less than 10 years based on the most recent population census, provided that each of the fifteen political counties shall have at least one Senator. At least every ten years and within one hundred eighty days following the publication of the results of a decennial census, the Legislature shall reapportion the seats of the Senate and House of Representatives. If the Legislature fails to promulgate a legislative reapportionment plan, the Governor shall promulgate a reapportionment plan within one hundred twenty days after the expiration of the time for the Legislature to act. The Legislature shall enact laws concerning representative districts with multiple representatives. Amendments to legislative districts, amendments to the number of representatives for each representative district and amendments to the number of senators for each political county pursuant to reapportionment shall be legally effective without adoption through the constitutional amendment process described under Article V.

The adult permanent residents of Swains Island who are United States nationals may elect at an open meeting a delegate to the House of Representatives who shall have all the privileges of a member of the House except the right to vote.

Section 3. Qualifications of members.

A Senator shall;

- (a) be a United States National of American Samoan ancestry;
- (b) be at least 30 years of age at the time of his election;
- (c) have lived in American Samoa at least 5 years and have been a bona fide resident thereof for at least 1 year next preceding his election; and
- (d) be a leading registered matai of a Samoan family who fulfills his obligations as required by Samoan custom in the county from which he is elected.

A Representative shall;

- (a) be a United States National of American Samoan ancestry;
- (b) be at least 25 years of age at the time of his election; and
- (c) have lived in American Samoa for a total of at least 5 years and have been a bona fide resident of the representative district from which he is elected for at least 1 year next preceding his election.

A delegate from Swains Island shall have the qualifications of a Representative except that in lieu of residence in a representative district, he shall have been a bona fide resident of Swains Island for at least one year next preceding his election.

No person who shall have been expelled from the Legislature for giving or receiving a bribe or being an accessory thereto, and no person who shall have been convicted of a felony under the laws of American Samoa, the United States, or the laws of any state of the United States, shall sit in the Legislature, unless the person so convicted shall have been pardoned and have had his civil rights restored to him.

No employee or public officer of the Government shall be eligible to serve in the Legislature while holding such position. The prohibition contained herein shall become effective on July 1, 1971. Amended 1971, S.J.R. No. 3, approved by Secretary of the Interior, March 19, 1971.

Section 4. Manner of election.

Senators shall be elected in accordance with Samoan custom by the county councils of the counties they are to represent, the number of senators from a county or counties to be as indicated: Fitiuta, one senator; Faleasao, one senator; Ta'u, one senator; Olosega, one senator; Ofu, one senator; Saole, one senator; Vaifanua, one senator; Sua, two senators; Ma'uputasi, three senators; Ituau, three senators; Ma'upu, three senators; Aitulagi-Leasina, one senator; Tualatai (Ituau o Tofiga), one senator; Fofu, one senator; and Lealataua, one senator. The decisions of the members of the county councils of the counties concerned shall be certified by the county chiefs of such counties.

Representatives shall be chosen by secret ballot of the qualified electors of their respective representative districts.

Section 5. Elections.

Elections shall be held biennially in each even numbered year beginning on the first Tuesday following the first Monday in November and ending not later than 4 weeks thereafter.

Section 6. Term of office.

Each senator shall hold office for a term of four years. Representatives including any delegates from Swains Island shall each hold office for a term of two years. The terms of all members of the Legislature including any delegate from Swains Island shall commence at noon on the third day of January following their election, except as otherwise provided.

Section 7. Qualifications of electors.

Every person of the age of 18 years or upwards who is a United States national and who has lived in American Samoa for a total of at least two years and has been a bona fide resident of the election district where he offers to vote for at least one year next preceding the election and who meets such registration requirements as may be prescribed by law shall be deemed a qualified elector at such election. No person under guardianship, non compos mentis, or insane shall be qualified to vote at any election; nor shall any person who has been convicted of a felony be qualified to vote at any election unless he has had his civil rights previously restored to him or unless he has maintained good behavior for 2 years following the date of his conviction or his release from prison whichever is the later.

Section 8. Legislative sessions.

There shall be two regular sessions of the Legislature held each year, each session to last 60 45 days, the first session to begin on the second Monday in January each year and the second session to begin on the second Monday in July of each year. The Legislature may meet in special session at the call of the Governor who shall set the time for the beginning of such session and the number of days it may last. Amended H.J.R. No. 1, adopted Feb. 18, 1977, approved by voters Nov. 7, 1978, approved by Sec. of Int. Mar. 1, 1979; amended 1971 S.J.R. No. 3, effective March 19, 1971.

Section 9. Enactment of law; vetoes.

The enacting clause of all bills shall be: "Be it enacted by the Legislature of American Samoa," and no law shall be enacted except by bill. Bills may originate in either House, and may be amended or rejected by the other. The Governor may submit proposed legislation to the Legislature for consideration by it. He may designate any such proposed legislation is urgent, if he so considers it.

Every bill, having passed both Houses, shall be signed by the President of the Senate and the Speaker of the House, and shall, before it becomes a law, be presented to the Governor for his approval. If he approves it, he shall sign it and it shall become a law, and he shall deposit it in the office of the Secretary of American Samoa. But if it be not approved by him, he shall return it with his objections to the House in which it originated which shall enter the same in their journal: Any bill not returned by the Governor within 10 days (Sundays excepted) after having been presented to him, shall become a law, whether signed by him or not, unless the Legislature by adjournment prevent such return, in which case it shall not become a law unless the Governor, within 30 days after adjournment shall sign it, in which case it shall become a law in like manner as if it had been signed by him before adjournment; and the Governor shall deposit it in the office of the Secretary of American Samoa.

Not later than 14 months after a bill has been vetoed by the Governor, it may be passed over his veto by a two-thirds majority of the entire membership of each House at any session of the Legislature, regular or special. A bill so repassed shall become law immediately, without the Governor's signature.

If a bill presented to the Governor should contain several items of appropriation of money, he may object to one or more of such items, or any part or parts thereof, portion or portions thereof, while approving the other items, parts, or portions of the bill. In such a case he shall append to the

bill, at the time of signing it, a statement of the items, or parts or portions thereof, to which he objects and the items, or parts or portions thereof, so objected to shall not take effect. As used in this paragraph, the terms "items", "part", "portion" and "portions" shall include a proviso or provisos, a directive, a limitation, or other extraneous substantive legislation included in an appropriations bill or appended to any item of appropriation in such an appropriations bill.

Furthermore, nothing in this section shall be deemed to permit any change in the law respecting the alienation or transfer of land or any interest therein to be effective unless such change shall have been approved by two successive Legislatures by a two-thirds vote of the entire membership of each House and by the Governor as provided in Section 3 of Article I.

Section 10. Passage of bills.

A majority of all the members of each House, voting in the affirmative, shall be necessary to pass any bill or joint resolution.

Section 11. Powers of each house.

Each house shall keep a journal of its proceedings and publish the same, determine its rules of procedure, punish members for disorderly behavior, and, with the consent of two-thirds of its entire membership, may expel a member, but not a second time for the same offense. Each House shall sit upon its own adjournments, but neither House shall, without the concurrence of the other, adjourn for more than 3 days, nor to any other place than that in which it may be sitting.

Section 12. Freedom from arrest.

Senators and representatives and any delegate from Swains Island in all cases except treason, felony, or breach of the peace, shall be privileged from arrest during a session (including a special joint session) of the Legislature, and in going to and returning from the same. No member of the Legislature shall be held to answer before any tribunal other than the Legislature itself for any speech or debate in the Legislature.

Section 13. Vacancies.

When vacancies occur in either House, the Governor or the person exercising the functions of Governor shall issue writs of election to fill such vacancies except that if any such vacancy shall occur within three months of the next regular election, no special election shall be held and the Governor shall appoint a qualified person to fill such vacancy. Prior to appointing such person, the Governor shall in the case of a representative consult with the county chief or county chiefs in the representative district concerned; and in the case of a senator, with the District Governor and county chiefs in the district concerned. A person elected to fill a vacancy or appointed by the Governor to fill a vacancy shall hold office during the remainder of the term of his predecessor.

Section 14. Public sessions.

The business of each House, and of the Committee of the Whole, shall be transacted openly and not in secret session.

Section 15. Reading — Passage of bills.

No bill shall be passed until copies of the same with amendments thereto shall have been made available for the use of the members; nor shall a bill become a law unless the same shall have been read on two separate days in each House previous to the day of the final vote thereon. On final

passage of all bills, they shall be read at length, section by section, and the votes shall be by yeas and nays upon each bill separately, and shall be entered upon the journal. The provisions of this section respecting the reading of bills shall be subject to the exception that a bill which has been vetoed by the Governor and reintroduced for passage over the Governor's veto need only be read on the day of the final vote thereon.

Section 16. Title.

Every legislative act shall embrace but one subject and matters properly connected therewith, which shall be expressed in the title; but if any subject shall be embraced in an act which shall not be expressed in the title, such an act shall be void only as to so much thereof as shall not be expressed in the title.

Section 17. Amendments and revisions by reference.

No law shall be amended or revised by reference to its title only; but in such case the act, as revised, or section or subsection as amended, shall be reenacted and published at full length.

Section 18. Appointment to new offices.

No member of the Legislature shall, during the term for which he was elected and for one year thereafter, be appointed to any office which shall have been created or the salary of which shall have been increased by the Legislature during such term.

Section 19. Effective date of laws.

An act of the Legislature required to be approved and approved by the Governor shall take effect no-sooner than 60 days from the end of the session at which the same shall have been passed. The foregoing is subject to the exception that in case of an emergency the act may take effect at an earlier date stated in the act provided that the emergency be declared in the preamble and in the body of the act.

Section 20. Legislative counsel.

A legislative counsel, who shall be learned in the law, shall be appointed by the President of the Senate and the Speaker of the House, to advise and assist the Legislature. The position of legislative counsel shall be a fulltime position and compensation for the counsel shall be budgeted by the Legislature at a grade level equivalent to that of Deputy Attorney General of the Government of American Samoa. The legislative counsel shall also be the director of the Legislative Reference Bureau. Amended H.J.R. No. 3, Feb. 18, 1977, approved by voters Nov. 7, 1978, approved by Sec. of Int. Mar. 1, 1979.

Section 21. Quorum.

A majority of each House shall constitute a quorum for the transaction of business, but a smaller number may adjourn from day to day and may compel the attendance of absent members in such manner as each House may provide.

Section 22. Qualifications and officers.

Each House of the Legislature shall be the judge of the elections, returns, and qualifications of its own members and shall chuse its officers.

Section 23. Adjourning legislature.

In case of disagreement between the two Houses with respect to the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as he may think proper, but no such adjournment shall be beyond the time fixed for the next regular session of the Legislature.

Section 24. Special or exclusive privileges not to be granted; local or special laws.

The power of the Government to act for the general welfare of the people of American Samoa shall never be impaired by the making of any irrevocable grant of special or exclusive privileges or immunities. Corporations may be formed under general laws but shall not be created by special act except for municipal, governmental, or quasigovernmental purposes in cases where the objects of the corporation cannot be attained under general laws. All general laws or special acts passed pursuant to this section may be amended or repealed. The Legislature shall pass no local or special act if a general act can be made applicable.

Section 25. Compensation of the legislature.

The compensation of the members of the Legislature is provided by law. Amended 1977, H.J.R. No. 6, eff., April 8, 1977.

**Article III
Judicial Branch**

Section 1. Judicial power.

The judicial power shall be vested in the High Court, the District Courts, and such other courts as may from time to time be created by law.

Section 2. Independence of the courts.

The judicial branch of the American Samoa Government shall be independent of the executive and legislative branches.

Section 3. Appointments.

The Secretary of the Interior shall appoint a Chief Justice of American Samoa and such Associate Justices as he may deem necessary. The Secretary of Interior may take into consideration any recommendation and advice by the Governor of American Samoa.

**Article IV
Executive Branch**

Section 1. Superseded by U.S. Dept. of the Int. Secretary's Order No. 3009, §§ 2 and 4, Sept. 13, 1977, eff. Sept. 13, 1977, as amended in § 2 by U.S. Dept. of the Int. Secretary's Order No. 3009, Amendment No. 1, Nov. 3, 1977, eff. Nov. 3, 1977.

Section 2. Governor and lieutenant governor.

The Governor and the Lieutenant Governor of American Samoa shall, commencing with the first Tuesday following the first Monday of November 1977, be popularly elected and serve in accordance with the laws of American Samoa.

Amended 1977, U.S. Dept. of the Int. Secretary's Order No. 3009, §§ 2, 4, Sept. 13, 1977, as

amended by U.S. Dept. of the Int. Secretary's Order No. 3009, Amendment No. 1, Nov. 3, 1977, eff. Nov. 3, 1977.

In case of permanent vacancy in the office of Governor, arising by reason of the death, resignation, removal by recall, removal by impeachment, permanent disability of the Governor or the death, resignation, or permanent disability of the Governor-elect or for any other reason, the Lieutenant Governor or Lieutenant Governor-elect shall become the Governor, to hold office for the unexpired term and until he or his successor shall have been duly elected and qualified at the next regular election for Governor.

In case of a permanent vacancy in the offices of both the Governor and Lieutenant Governor, the office of Governor shall be filled by the President of the Senate for the unexpired term unless the President of the Senate permanently vacates the office of the Governor before his Lieutenant Governor is appointed and confirmed, in which case the Speaker of the House succeeds as Governor for the unexpired term.

In case of permanent vacancy in the office of Lieutenant-Governor arising by reason of the death, resignation, removal by impeachment, or permanent disability of the Lieutenant Governor, or because the Lieutenant Governor or Lieutenant Governor-elect has succeeded to the office of Governor, the Governor shall appoint a new Lieutenant Governor, subject to confirmation by the Legislature, at a special session called immediately for that purpose, to hold office for the unexpired term and until he or his successor shall have been duly elected and qualified at the next regular election for Lieutenant Governor.

Section 3. Secretary.

The Secretary of American Samoa, who may be referred to as Lieutenant Governor of American Samoa, shall have all the powers and duties of the Governor in the case of a vacancy in the office of Governor or the disability or temporary absence of the Governor. He shall record and preserve the laws and executive orders, and transmit copies thereof to the Secretary of the Interior. He shall have and perform such other duties as may be prescribed by law or assigned to him by the Governor.

Section 4. Secretary of Samoan Affairs.

The Secretary of Samoan Affairs shall be appointed by the Governor from among the leading registered matais who are in good standing in villages and counties. He shall hold office during the pleasure of the Governor. The Secretary of Samoan Affairs shall be the head of the Department of Local Government. In conjunction with the District Governors he shall co-ordinate the administration of the district, county, and village affairs as provided by law and also in conjunction with the District Governors he shall supervise all ceremonial functions as provided by law.

Section 5. Militia and posse comitatus.

The Governor may summon the posse comitatus or call out the militia to prevent or suppress violence, invasion, insurrection, or rebellion.

Section 6. Executive regulations.

The Governor shall have the power to issue executive regulations not in conflict with laws of the United States applicable to American Samoa, laws of American Samoa, or with this Constitution.

Section 7. Supervision and control by Governor.

The Governor shall have general supervision and control of all executive departments, agencies

and instrumentalities of the Government of American Samoa.

Section 8. Annual report.

The Governor shall make an official report of the transactions of the Government of American Samoa to the Secretary of the Interior, American Samoa's delegate to the U.S. Congress, and the Legislature within three months after the close of each fiscal year.

Section 9. Pardoning power.

The Governor shall have the power to remit fines and forfeitures, commute sentences, and grant reprieves and pardons after conviction for offenses against the laws of American Samoa.

Section 10. Recommendation of laws.

The Governor shall give the Legislature information on the state of the Government and recommend for its consideration such measures as he may deem necessary and expedient. He may attend or depute another person to represent him at the meetings of the Legislature, and may give expression to his views on any matter before that body.

Section 11. Appointment of officials.

With the exception of elective officials and those whose appointments are otherwise provided for, the officials of the Government of American Samoa including district, county, and village officials shall be appointed by the Governor. Prior to appointing a district governor, a county chief, or a pulenuu, the Governor through the Secretary of Samoan Affairs shall request the recommendation of the appropriate district council as to who shall be appointed in the case of a district governor; of the appropriate county council and district governor, in the case of a county chief; and of the appropriate village council, district governor and county chief, in the case of a pulenuu. The Secretary of Samoan Affairs may also make his own recommendations to the Governor.

Section 12. Removal of officers; powers and duties of officers.

The Governor may appoint or remove any officer whose appointment is not otherwise provided for. All officers shall have such powers and duties as may be conferred or imposed upon them by law or by executive regulation of the Governor not inconsistent with any law.

Section 13. Publication of laws.

The Governor shall make provision for publishing laws within 55 days after the close of each session of the Legislature and for their distribution to public officials and sale to the public.

Section 14. Immigration.

In order to protect the Samoan culture, lands and way of life, the Executive Branch shall enforce immigration laws enacted by the Legislature to restrict the entry of foreign nationals into American Samoa.

Section 15. Public Utilities and Services Commission.

There shall be a Public Utilities and Services Commission established by law to prescribe the rates and fees charged by public utilities and services and perform related functions.

Article V Miscellaneous

Section 1. Officers.

For the public convenience and to insure continuity in the operation of the Government all officers of American Samoa, including district, county, and village officers, shall, subject to the right of resignation or removal as may be provided by law, continue to hold their respective offices until the expiration of the time for which they were respectively elected or appointed, except that senators elected at the general election in 1966 shall go out of office at noon on January 3, 1969.

Regardless of any other provision or provisions in this Constitution the House of Representatives shall, prior to noon, January 3, 1969, consist only of those members elected at the general election in 1966 while the Senate prior to noon January 3, 1969, shall consist only of the hold-over senators plus those elected at the general election in 1966. Also regardless of any other provision or provisions in this Constitution any vacancies occurring in either House prior to January 3, 1969 may be filled as provided in Article II, Section 13 of the Constitution which became effective on October 17, 1960.

Section 2. Existing laws.

All laws of American Samoa not inconsistent with this Constitution shall continue in force until they expire by their own limitation, or are altered or repealed by competent authority.

Section 3. Amendments.

Any amendment to this Constitution may be proposed in either House of the Legislature, and if the same be agreed to by three-fifths of all members of each House, voting separately, such proposed amendment shall be entered on the journals, with the yeas and nays taken thereon. The Governor shall then be requested to submit such proposed amendment to the voters eligible to vote for members of the House of Representatives at the next general election. If a majority of such voters voting approve such amendment, the Governor shall, within 30 days after such approval shall have been officially determined, submit the same to the Secretary of the Interior and President of the United States for their review and submission of the amendment to Congress for approval.

Section 4. Revision of the constitution.

In view of the changing conditions in American Samoa, the Governor shall appoint a new Constitutional Committee every five years but not to exceed more than 10 years after the effective date of this Constitution to prepare amendments or a revised draft constitution to be submitted to the Governor who shall call a constitutional convention to consider the same. If a constitutional convention has not been called after five years, the Governor may submit for approval of the voters during any election year, the question whether a constitutional convention should be held and if a majority of the voters agree, the Governor shall appoint a Constitutional Committee to prepare amendments or a revised draft constitution to be submitted to the Governor for the constitutional convention. The delegates to the convention shall be selected by their respective county councils. The number of delegates from each county shall be the number obtained by dividing the population of the county, as shown by the last preceding Federal census, by 400, any fraction in the quotient obtained to be disregarded if such fraction shall be less than one-half and if such fraction shall be one-half or more it shall be considered to be one unit, provided that each county shall have at least one delegate, and provided further that Swains Island shall have one delegate selected in open meeting by the adult permanent residents of the island who are United States nationals. If the

convention approves such amendments or draft constitution either with changes made therein by the convention or without changes, the same as approved shall be submitted by the Governor to the voters eligible to vote for members of the House of Representatives at the next general election; and if a majority of the voters voting approve the amendments or proposed revised constitution, the Governor shall, within 30 days after such approval shall have been officially determined, submit the same to the Secretary of the Interior and President of the United States for their review and submission of the amendments or revisions to Congress for approval. Salaries of employees of the Convention and per diem for delegates shall be provided by law. The Government shall furnish the Convention with necessary supplies and other necessary services.

Section 5. Existing rights and liabilities.

Except as otherwise provided in this Constitution all existing actions, writs, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, decrees, sentences, orders, appeals, causes of action, contracts, claims, demands, titles, and rights shall continue unaffected notwithstanding the taking effect of this Constitution.

Section 6. Oaths.

All officers of American Samoa including district, county, and village officers, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath: "I, _____, of _____ do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter, and that I will well and faithfully uphold the laws of the United States applicable to American Samoa, and the Constitution and laws of American Samoa. "So help me God."

Section 7. Construction.

In this Constitution titles shall not be used for the purposes of construction and wherever any personal pronoun appears it shall be construed to mean either sex; also in this Constitution a special or particular provision shall control a general provision should there be any inconsistency between a special or particular provision and a general provision.

Section 8. Provisions self-executing.

The provisions of this Constitution shall be self-executing to the fullest extent that their respective natures permit.

Section 9. Seat of government.

The seat of Government shall be at Fagatogo. The Fagatogo "Malae o le Talu" of the Ma'uputasi County shall be designated as the location for the raising of the United States and American Samoa flags to mark the annual Flag Day ceremonies on April 17 of each year.

Section 10. Effective date.

Amendments or revisions to the 1967 Revised Constitution of American Samoa were approved by the Constitutional Convention held June 21, 2010 until July 2, 2010 and voters in a general election on November 2, 2010 and submitted to the Secretary of the Interior and President of the United States for their review and submission of the amendments to Congress for approval. Congress in its Act of ---blank--- approved amendments to the 1967 Revised Constitution of

American Samoa.

The ---*blank*--- Revised Constitution of American Samoa shall be effective on ---*blank*---.