

104TH CONGRESS
1ST SESSION

H. R. 1306

To approve a multiyear program for the economic development and self-sufficiency of the United States territory of American Samoa.

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 1995

Mr. FALEOMAVAEGA (for himself and Mr. GALLEGLY) introduced the following bill; which was referred to the Committee on Resources

A BILL

To approve a multiyear program for the economic development and self-sufficiency of the United States territory of American Samoa.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Samoa
5 Economic Development Act of 1995”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) funding for the United States territory of
9 American Samoa has been based on the joint resolu-
10 tion entitled “Joint Resolution to provide for accept-

1 ing, ratifying, and confirming cessions of certain is-
2 lands of the Samoan group to the United States,
3 and for other purposes”, as amended (48 U.S.C.
4 1661), with commitments being made on a yearly
5 basis;

6 (2) American Samoa is locally self-governing
7 with a constitution of its own adoption and the di-
8 rect election of the Governor since 1977;

9 (3) the territory of American Samoa has had
10 difficulty in planning and implementing comprehen-
11 sive and sustainable infrastructure based solely on
12 annual ad hoc grants; and

13 (4) the territory of American Samoa and the
14 United States would benefit from a multiyear fund-
15 ing commitment which promotes economic develop-
16 ment and self-sufficiency and requires compliance
17 with financial management accounting standards,
18 the establishment of semiautonomous public utility
19 authorities utilizing cost-recovery principles, and the
20 phaseout of Federal subsidies for Government oper-
21 ations.

22 **SEC. 3. AUTHORIZATION OF FUNDING.**

23 (a) IN GENERAL.—There are authorized to be appro-
24 priated to the Secretary of the Interior for the Govern-
25 ment of American Samoa \$34,500,000, backed by the full

1 faith and credit of the United States, for each of fiscal
 2 years 1996 through 2005. Such amounts shall, subject to
 3 the limits specified in the table in subsection (b), be used
 4 for—

5 (1) construction of capital assets of American
 6 Samoa;

7 (2) maintenance and repair of such capital
 8 assets;

9 (3) the operations of the Government of Amer-
 10 ican Samoa; and

11 (4) reduction of unbudgeted debt incurred by
 12 the Government of American Samoa in fiscal years
 13 prior to 1996.

14 (b) TABLE OF MULTIYEAR FUNDING.—The table re-
 15 ferred to in this subsection is as follows:

[In millions of dollars]

Fiscal year	Year #	Operations	Construction	Deficit reduction (100% match)	Maintenance and repair (100% match)	Total
1996	1	23.0	5.5	3.0	3.0	34.5
1997	2	23.0	5.5	3.0	3.0	34.5
1998	3	23.0	5.5	3.0	3.0	34.5
1999	4	21.0	7.5	3.0	3.0	34.5
2000	5	18.0	10.5	3.0	3.0	34.5
2001	6	15.0	16.5		3.0	34.5
2002	7	12.0	19.5		3.0	34.5
2003	8	9.0	22.5		3.0	34.5
2004	9	6.0	25.5		3.0	34.5
2005	10	3.0	28.5		3.0	34.5

16 (c) MULTIYEAR AVAILABILITY OF APPROPRIA-
 17 TIONS.—Amounts not expended in the year appropriated
 18 shall remain available until expended.

1 **SEC. 4. ESTABLISHMENT OF TRUST.**

2 (a) IN GENERAL.—The Government of American
3 Samoa shall establish a trust into which the amounts ap-
4 propriated pursuant to section 3 are placed.

5 (b) TRUSTEE.—

6 (1) IN GENERAL.—A trustee to administer the
7 trust established by this section shall be nominated
8 by the Governor of American Samoa and passed by
9 both Houses of the Legislature of American Samoa
10 pursuant to local law and shall be a nongovern-
11 mental entity, bonded in an amount no less than
12 110 percent of the maximum amount of funds which
13 will be held in trust during any given fiscal year
14 (hereafter in this Act referred to as the “trustee”).
15 The trustee shall not be the independent auditor re-
16 quired by section 7.

17 (2) REPLACEMENT.—The trustee may be termi-
18 nated only by mutual agreement, or at the end of its
19 contract for services as trustee, or for good cause.
20 Termination of a trustee for good cause must be rec-
21 ommended by the Governor of American Samoa and
22 approved by both Houses of the Legislature of
23 American Samoa.

24 (3) OTHER TERMS AND CONDITIONS.—The
25 trustee shall be subject to such other conditions as

1 the Government of American Samoa may provide
2 under local law.

3 (c) TRUST FUNDS.—

4 (1) DEPOSIT; INVESTMENT.—The trust funds
5 shall be deposited in an account or accounts of a fi-
6 nancial institution insured by the Federal Deposit
7 Insurance Corporation, and may be invested by the
8 Government of American Samoa, or the trustee if so
9 designated, in only federally insured accounts or is-
10 sues of bonds, notes or other redeemable instru-
11 ments of the Government of the United States.

12 (2) USE OF INTEREST AND DIVIDENDS.—Inter-
13 est or dividends earned from investment of trust
14 funds under paragraph (1) may be used for projects
15 contained on the approved master plan of capital
16 needs developed under section 5, or for the costs of
17 managing the trust.

18 (3) AVAILABILITY AND USE OF FEDERAL
19 FUNDS.—Federal funds made available for the pur-
20 poses described in section 3(a)(1) may be used only
21 on projects from the approved master plan of capital
22 needs.

23 (d) REPORTS.—Within 90 days after the end of each
24 fiscal year, the trustee shall submit an annual report to
25 the chairmen and ranking minority members of the Com-

1 mittee on Energy and Natural Resources and the Commit-
2 tee on Appropriations of the United States Senate, the
3 Committee on Resources and the Committee on Appro-
4 priations of the United States House of Representatives,
5 and the Government of American Samoa. The report shall
6 include at a minimum the financial statements of the ac-
7 count or accounts in which it holds trust funds pursuant
8 to this Act.

9 **SEC. 5. USES OF TRUST FUNDS.**

10 (a) CAPITAL NEEDS.—

11 (1) MASTER PLAN OF CAPITAL NEEDS.—For
12 fiscal year 1997 and all following years, no funds
13 appropriated pursuant to this Act shall be released
14 by the trustee for construction of capital assets with-
15 out the submission by the Government of American
16 Samoa to the trustee of a master plan of capital
17 needs that ranks projects in order of priority for at
18 least five years. The master plan shall be approved
19 by the Governor and passed by both Houses of the
20 Legislature of American Samoa pursuant to such
21 laws as the Government of American Samoa may
22 enact. The master plan of capital needs may be
23 amended at any time, but all amendments must be
24 approved by the Governor and passed by both
25 Houses of the Legislature of American Samoa. The

1 plan shall include the capital needs of all the islands
2 of American Samoa.

3 (2) FUNDS FOR CONSTRUCTION OF CAPITAL AS-
4 SETS.—Funds for the construction of capital assets
5 shall be paid to the Government of American Samoa
6 only after approval by the trustee. The trustee shall
7 approve the release of funds only for construction
8 projects for a public purpose in the areas of commu-
9 nications, electrical power, water, waste water,
10 roads, schools, school transportation system, air,
11 water and surface transportation, ports, harbors,
12 storage and transportation facilities of fuels or other
13 forms of energy, health, and construction of govern-
14 ment-owned buildings. Funding made available pur-
15 suant to section 3(a)(1) for construction of capital
16 assets may only be used for projects listed on the
17 master plan of capital needs as set forth in this sec-
18 tion. To the extent an appropriation is available, the
19 projects contained on the master list with the high-
20 est priority are to be funded.

21 (3) REQUIREMENT OF SEMIAUTONOMOUS AGEN-
22 CIES.—Beginning with fiscal year 1997, no funds
23 for the construction of capital assets shall be re-
24 leased by the trustee in the areas of communica-
25 tions, electrical power, public health, transportation,

1 water, and wastewater until there is established by
2 local law semiautonomous government agencies of
3 the Government of American Samoa.

4 (4) MAINTENANCE PLAN AND FUNDING.—For
5 fiscal years 1997 and all following years, no funds
6 appropriated pursuant to this Act shall be released
7 by the trustee for the construction of capital assets
8 until the Government of American Samoa, or the ap-
9 propriate semiautonomous government agency if re-
10 quired, submits to the trustee a maintenance plan
11 covering the anticipated life of the project and the
12 project is initially funded. The maintenance plan
13 shall include the estimated cost of maintaining and
14 repairing the project and identify a source to fund
15 the estimated maintenance and repairs for the an-
16 ticipated life of the project. The initial funding for
17 this maintenance plan shall be in the amount of 10
18 percent of the cost of the project. Federal funds
19 made available for the purposes described in section
20 3(a)(2) may be used for one-half of the initial fund-
21 ing. Other Federal funds made available pursuant to
22 this Act may not be used for this purpose. Funds set
23 aside pursuant to this paragraph may be used for
24 the maintenance and repair of any capital asset

1 within the purview of the government or the appro-
2 priate semiautonomous agency.

3 (b) DEBT REDUCTION.—Any funding made available
4 pursuant to section 3(a)(4) used to reduce the unbudgeted
5 debt of the Government of American Samoa must be
6 matched, on a dollar for dollar basis, by funds provided
7 by the Government of American Samoa from revenue
8 raised from non-Federal sources.

9 (c) MAINTENANCE AND REPAIR.—Any funding made
10 available pursuant to section 3(a)(2) used for the mainte-
11 nance or repair of the capital assets of the Government
12 of American Samoa must be matched, on a dollar for dol-
13 lar basis, by funds provided by the Government of Amer-
14 ican Samoa from revenue raised from non-Federal
15 sources.

16 (d) PROHIBITED USES OF FUNDS.—Neither the
17 funds appropriated pursuant to this Act, nor any interest
18 or dividends earned on those funds may be transferred to
19 other accounts, or loaned to other accounts or agencies;
20 nor may these funds, interest or dividends be used as col-
21 lateral for loans made by the local government.

22 **SEC. 6. DISBURSEMENT OF TRUST FUNDS.**

23 (a) OPERATIONS.—Trust funds to be used for the op-
24 erations of the Government of American Samoa shall be
25 disbursed in equal amounts on a monthly basis, on the

1 first business day of each month of the fiscal year. An
2 extra drawdown may be made once each fiscal year in an
3 amount not to exceed ten percent of the amounts appro-
4 priated for the fiscal year for the purposes of section
5 3(a)(3), and only for purposes caused by extreme or na-
6 tional emergencies deemed unforeseeable by the trustee.

7 (b) CONSTRUCTION.—Trust funds to be used for the
8 construction of capital assets shall be released by the
9 trustee—

10 (1) to the Government of American Samoa,
11 only upon completion of identifiable portions of the
12 construction work if the work is performed by em-
13 ployees of the Government of American Samoa, or

14 (2) a bona fide contractor of the Government of
15 American Samoa pursuant to the terms of a con-
16 struction contract, on an invoice presented to the
17 Government of American Samoa and approved by an
18 appropriate official of the Government of American
19 Samoa.

20 (c) DEBT REDUCTION; MAINTENANCE REPAIR.—
21 Trust funds to be used for unbudgeted debt reduction or
22 maintenance and repair made available under sections
23 3(a)(2) and 3(a)(4) shall be released by the trustee on
24 submission by the Government of American Samoa of
25 proof of payment from non-Federal sources for either debt

1 reduction, maintenance, or repair, and proof acceptable to
2 the trustee of an obligation due and owing for the appro-
3 priate category.

4 **SEC. 7. AUDITS.**

5 (a) IN GENERAL.—Beginning with fiscal year 1996,
6 the Government of American Samoa must obtain, at its
7 own expense, a comprehensive financial audit meeting the
8 requirements of chapter 75 of title 31, United States
9 Code, and subtitle A of title 43, Code of Federal Regula-
10 tions, and upon which an independent auditor expresses
11 an opinion that the financial statements of the Govern-
12 ment of American Samoa present fairly, in all material
13 respects, the financial position of the Government of
14 American Samoa, and were prepared in conformity with
15 generally accepted accounting principles. The audit shall
16 include the funds held in trust pursuant to this Act.

17 (b) SUBMISSION OF AUDIT REPORT TO UNITED
18 STATES.—Reports of audits required in this section shall
19 be transmitted by the Governor of American Samoa to the
20 chairmen and ranking members of the Committee on En-
21 ergy and Natural Resources and the Committee on Appro-
22 priations of the United States Senate, and the Committee
23 on Resources and the Committee on Appropriations of the
24 United States House of Representatives within 180 days

1 of the end of each fiscal year for which the United States
2 provides funding under this Act.

3 (c) FAILURE TO OBTAIN AUDIT.—In the event the
4 Government of American Samoa does not obtain the audit
5 within the time required by this section, the trustee shall
6 not disburse additional funds pursuant to section 3(a)(3)
7 for the operations of the Government of American Samoa
8 until such time as a qualifying audit is received and the
9 report of that audit is forwarded as required by this sec-
10 tion. Notwithstanding the preceding sentence, one emer-
11 gency disbursement may be made per year under the pro-
12 visions of section 6 of this Act, even if a qualifying audit
13 report is not obtained.

14 **SEC. 8. AUTHORITY OF UNITED STATES TO AUDIT.**

15 The Comptroller General of the United States and
16 the Inspector General of the Department of the Interior
17 shall have the authority to conduct audits of all funds of
18 all branches and semiautonomous authorities of the Gov-
19 ernment of American Samoa. Nothing in this Act shall
20 be construed to restrict the authority of these or other
21 Federal agencies to audit government funds as authorized
22 by Federal law.

1 **SEC. 9. SETTLEMENT OF DISPUTES.**

2 The High Court of American Samoa is authorized to
3 resolve disputes which arise under this Act pursuant to
4 its rules of procedure.

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