

FILE COPY

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FOURTH) Special Session

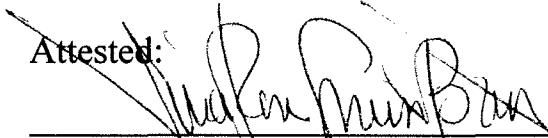
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 1 (4-S), "AN ACT TO AUTHORIZE TAX CREDITS TO OBTAIN A TEMPORARY CAMPUS FOR USE AS AN INTERIM JOHN F. KENNEDY HIGH SCHOOL CAMPUS AND TO ADDRESS THE PERMANENT FACILITY NEEDS OF THE JOHN F. KENNEDY HIGH SCHOOL", was on the 16th day of June, 2009, duly and regularly passed.



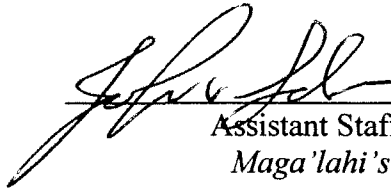
JUDITH T. WON PAT, Ed.D.
Speaker

Attested:



TINA ROSE MUÑA BARNES
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 16th day of JUNE, 2009, at 9:15pm o'clock p.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:

FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FOURTH) Special Session

Bill No. 1 (4-S)

As substituted and amended by
the Committee of the Whole.

Introduced by:

Committee on Rules, Natural
Resources, Federal, Foreign,
and Micronesian Affairs

By request of *I Maga'lahaen*
Guåhan in accordance with the
Organic Act of Guam.

**AN ACT TO AUTHORIZE TAX CREDITS TO OBTAIN
A TEMPORARY CAMPUS FOR USE AS AN INTERIM
JOHN F. KENNEDY HIGH SCHOOL CAMPUS AND TO
ADDRESS THE PERMANENT FACILITY NEEDS OF
THE JOHN F. KENNEDY HIGH SCHOOL.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** It is the finding of *I*
3 *Liheslaturan Guåhan* that the closing of John F. Kennedy High School (JFK High
4 School) has displaced its students, faculty, and staff due to the physical disrepair
5 and age of the campus, the longstanding overpopulation of the school, and its
6 history of maintenance and structural problems. Temporarily, JFK High School
7 has been sharing campuses in a double-session with the school community of GW
8 High School (GW High School).

9 *I Liheslaturan Guåhan* finds this to be an environment that hinders learning,
10 and the work and production of the teachers and the students of both JFK and GW
11 High School. *I Liheslaturan Guåhan* has taken all measures, including the passage
12 of legislation and the pledge of government revenues, to provide for the proper and
13 permanent reconstruction of JFK High School in upper *Tumon*. Until this

1 reconstruction is completed, the JFK High School community will continue to be
2 displaced and the GW High School community will continue to be negatively
3 impacted.

4 *I Liheslatura* in October 2008, through emergency measure, enacted P.L. 29-
5 114 to authorize the construction of a new JFK High School facility in nine (9)
6 months using the lease-back funding mechanism and backed by Section 30 funds
7 of the government of Guam. In subsequent legislation to finance a new landfill
8 with a pledge of Section 30 revenues, *I Liheslatura* reiterated that the completion
9 of JFK High School was a priority. Guam Public School System (GPSS) has
10 recently reported that after seven (7) months there is still *no* contract for the
11 rebuilding of JFK, and that the students of JFK High School and GW High School
12 face another year of double session. GPSS has been presented *no* alternatives to
13 the double session, *except* for the lease of temporary facilities in *Tiyan* using a tax
14 credit mechanism.

15 *I Liheslatura* further finds that entering into a long-term lease commitment
16 of over Fifty Million Dollars (\$50,000,000) takes this amount of funds away from
17 general tax revenues, which must be dedicated to the investment to build two (2)
18 new schools, such as a Northern High School and Middle School.

19 *I Liheslatura* finds that in order to avoid double sessions for JFK and GW
20 High School students, money must be identified and appropriated to pre-pay a one
21 (1) year lease and to purchase collateral equipment for an interim school facility to
22 be ready for JFK High School students to use in the 2009-2010 school year.

23 *I Liheslatura* finds that rebuilding JFK High School qualifies to be funded
24 under the American Recovery and Reinvestment Act of 2009 (**ARRA**), more
25 specifically a One Hundred Eight Million Dollar (\$108,000,000) State Fiscal
26 Stabilization Fund (**SFSF**) grant award.

27 *I Liheslatura* further finds that the Superintendent of the Guam Public

1 School System can authorize ARRA/SFSF money earmarked for education to
2 renovate and modernize existing buildings on the JFK High School campus to
3 provide a permanent facility to promote the adequate education of current and
4 future students of both schools.

5 **Section 2. Definitions.** The following definitions *shall* be used for the
6 purposes of this Act:

7 (a) *Government of Guam shall* mean the government of Guam, its
8 agencies, divisions, and departments.

9 (b) *Lease shall* mean the contract between the *Lessor* and the
10 Government of Guam for the lease and maintenance of Interim Facilities for
11 JFK High School and Collateral Equipment.

12 (c) *Lessor shall* mean the party who has been selected by *I*
13 *Maga'lahaen Guåhan* for the lease and maintenance of Interim Facilities for
14 JFK High School and Collateral Equipment. *Lessor* as used in this Act *shall*
15 also mean and include any assignee *or* transferee of the rights, credits and
16 off-sets as allowed in this Act.

17 (d) *Certification shall* mean certification as set forth in Section
18 1511 of Subtitle A of H.R. 1, or ARRA 2009, which provides:

19 “With respect to covered funds made available to State or local
20 governments for infrastructure investments, the Governor, mayor, *or*
21 other chief executive, as appropriate, shall certify that the
22 infrastructure investment has received the full review and vetting
23 required by law and that the chief executive accepts responsibility that
24 the infrastructure investment is an appropriate use of taxpayer dollars.
25 Such certification shall include a description of the investment, the
26 estimated total cost, and the amount of covered funds to be used, and
27 shall be posted on a website and linked to the website established by

1 section 1526. A State or local agency may not receive infrastructure
2 investment funding from funds made available in this Act unless this
3 certification is made and posted.”

4 **Section 3. Payment of Lease Expenses.** In lieu of any cash payment
5 from the government of Guam to the *Lessor* for lease expenses, the government is
6 authorized to issue tax credits. The tax credits authorized under this Act *shall* be
7 permitted as follows:

8 (a) The *Lessor may* utilize tax credits for the lease payments
9 against Business Privilege Taxes as contained within Chapter 26, Title 11 of
10 the Guam Code Annotated.

11 (b) The parties or persons entitled to utilized the credits as set forth
12 in this Act shall be as follows:

13 (1) *If* the *Lessor* is a corporation, then the *Lessor* and any
14 shareholder owning *or* holding a minimum of five percent (5%) in the
15 corporation *shall* also have the right to use the credits.

16 (2) *If* the *Lessor* is a partnership, then all the partners *shall* have the
17 right to use the credits. *If* a partner is a corporation, then the rights as
18 set forth above concerning corporations *shall* apply to the corporation
19 and its shareholders.

20 (3) *If* the *Lessor* is a person *or* persons, then such rights *shall* apply
21 to a person *or* persons.

22 (c) The tax credit authorized herein *shall* be freely assignable and
23 transferable to any party, company, partnership *or* corporation. The
24 assignment and transfer may be by gift or may be for legal consideration.
25 Any assignment and/or transfer *shall* be in writing, notarized, and an original
26 thereof *shall* be filed with GEDA, with a copy to the Department of Revenue
27 and Taxation.

1 **Section 4. Use of State Funds.** ARRA 2009 has made available One
2 Hundred Eight Million Dollars (\$108,000,000) in financial assistance to address
3 educational needs in Guam.

4 Notwithstanding any provision of Law, and upon authorization by the GPSS
5 Superintendent, Thirty Million Dollars (\$30,000,000) *shall* be earmarked to fund
6 requirements, as authorized under the ARRA, for the rebuilding and modernization
7 of the JFK High School campus in *Tumon*.

8 Until such time that a policy decision and certification by the Superintendent
9 which earmarks required funds from the ARRA Grant *or* government of Guam
10 sources, and that these funds have been committed to the rebuilding and
11 modernization of the JFK High School campus, the government of Guam shall *not*
12 enter into any contractual agreement for any temporary school facilities.

13 **Section 5. Appropriation.** Notwithstanding any provision of Law, *I*
14 *Liheslaturan Guåhan* hereby appropriates to the Office of *I Maga'lahaen Guåhan* a
15 total of Nine Million Dollars (\$9,000,000) from the General Fund from Fiscal Year
16 2010 revenues for the following:

17 (a) Four Million Five Hundred Thousand Dollars (\$4,500,000) to
18 be used for collateral equipment necessary for the interim JFK Facilities
19 pursuant to IFB No: GSA-025-09, which equipment *shall* be transferred to
20 JFK upon completion of its permanent campus;

21 (b) Four Million Five Hundred Thousand Dollars (\$4,500,000) to
22 be used as payment for a one (1)-year contractual agreement for a temporary
23 school facility for the interim JFK Facilities pursuant to IFB No: GSA-025-
24 09, with the option to renew said lease on an annual basis subject to the
25 availability of funds;

26 (c) Expenses related to the appropriation of these monies as it
27 relates to the temporary JFK High School Facilities; and

1 (d) This appropriation shall *not* be subject to transfer authority of *I*
2 *Maga'lahi* and *shall* be utilized solely for the purposes herein.

3 Should revenues *not* be available for the lease payments, the issuance of
4 Business Privilege Tax Credits *shall* be used as a backup source of payment. *If* at
5 any time the Superintendent of GPSS can utilize monies from the State Fiscal
6 Stabilization Fund under the American Recovery Reinvestment Act for the above
7 items, the equivalent of said amount from the above Nine Million Dollars
8 (\$9,000,000) appropriation *shall* be re-programmed for the purchase of textbooks
9 in Fiscal Year 2010 to be used for School Year 2010-11, subject to the availability
10 of said funds.

11 **Section 6. Severability.** *If* any provision of this Law or its application to
12 any person or circumstance is found to be invalid or contrary to law, such
13 invalidity shall *not* affect the provisions or applications of this Law which can be
14 given effect without the invalid provisions or application, and to this end the
15 provisions of this Law are severable.