

LOURDES A. LEON GUERRERO  
GOVERNOR



JOSHUA F. TENORIO  
LT. GOVERNOR

UFISINAN I MAGA'HĀGAN GUĀHAN  
OFFICE OF THE GOVERNOR OF GUAM

January 22, 2021

**HONORABLE THERESE M. TERLAJE**, *Speaker*

*I Mina'trentai Sais Na Liheslaturan Guāhan*

*36<sup>th</sup> Guam Legislature*

Guam Congress Building

163 Chalan Santo Papa

Hagåtña, Guam 96910

**RE: BILL NO. 269-35 (COR) - AN ACT TO ADD A NEW ARTICLE 11 TO CHAPTER 77 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING TAX CREDITS FOR THE REPAIR AND REHABILITATION OF THE SOUTHERN HIGH SCHOOL AUDITORIUM**

*Buenas yan Hafa Adai Madame Speaker!*

When built in the late 1990's, Southern High School was a great example of modern campus design with amenities to support programs in the performing arts, athletics, and science and technology. Unfortunately, over the years, the campus has fallen into disrepair. While the Southern High community has worked hard to maintain the facilities, it is clear that additional business and civic organization support would greatly assist the Guam Department of Education in advancing progress toward rehabilitation of the Southern High auditorium. Bill No. 269, now known as *Public Law No. 35-143*, will provide businesses with an opportunity to earn tax credits for their contributions to the labor, cost, materials, construction, or design of a renovated and repaired Southern High auditorium. It is my sincere hope that when we can safely gather again, Southern High School will be able to host events and performances in its auditorium for both its school, as well for our broader island community.

*Senseremente,*

Handwritten signature of Lourdes A. Leon Guerrero in black ink.

**LOURDES A. LEON GUERRERO**

*Maga'hāgan Guāhan*

Governor of Guam

Enclosure(s): Bill No. 269-35 (COR) *nka P.L. 35-143*

cc: *Honorable Joshua F. Tenorio, Sigundo Maga'lāhen Guāhan*  
*Compiler of Laws*

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OFFICE OF THE SPEAKER  
THERESE M. TERLAJE

-01- 22 2021

Time: 5:23 pm  
Received: *[Signature]*

LOURDES A. LEON GUERRERO  
GOVERNOR



JOSHUA F. TENORIO  
LT. GOVERNOR

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*Maga'hågan Guåhan*

Governor of Guam

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cc: *Honorable Joshua F. Tenorio, Sigundo Maga'låhen Guåhan*  
*Compiler of Laws*



***I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÁHAN***  
**2020 (SECOND) Regular Session**

**CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'HÁGAN GUÁHAN**

This is to certify that **Bill No. 269-35 (COR)**, "AN ACT TO *ADD* A NEW ARTICLE 11 TO CHAPTER 77 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING TAX CREDITS FOR THE REPAIR AND REHABILITATION OF THE SOUTHERN HIGH SCHOOL AUDITORIUM," was on the 23<sup>rd</sup> of December 2020, duly and regularly passed.


  
\_\_\_\_\_  
**Tina Rose Muña Barnes**  
**Speaker**

Attested:



\_\_\_\_\_  
**Amanda L. Shelton**  
**Legislative Secretary**

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This Act was received by *I Maga'hågan Guåhan* this 23<sup>rd</sup> day of December,  
2020, at 2:36 o'clock P.M.

  
\_\_\_\_\_  
**Assistant Staff Officer**  
***Maga'håga's Office***

APPROVED:



\_\_\_\_\_  
**Lourdes A. Leon Guerrero**  
***I Maga'hågan Guåhan***

Date:

1/22/2021

Public Law No. 35-143

***I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN***  
**2020 (SECOND) Regular Session**

**Bill No. 269-35 (COR)**

As amended by the Committee on Economic Development,  
Agriculture, Maritime Transportation, Power and Energy  
Utilities, and Emergency Response;  
and further amended on the Floor.

Introduced by:

James C. Moylan  
Therese M. Terlaje  
Tina Rose Muña Barnes  
Mary Camacho Torres  
Louise B. Muña  
Kelly Marsh (Taitano), PhD  
Joe S. San Agustin  
William M. Castro  
Amanda L. Shelton  
Clynton E. Ridgell  
Jose "Pedo" Terlaje  
Sabina Flores Perez  
Régine Biscoe Lee  
Telena Cruz Nelson  
Telo T. Taitague

**AN ACT TO *ADD* A NEW ARTICLE 11 TO CHAPTER 77  
OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE  
TO AUTHORIZING TAX CREDITS FOR THE REPAIR  
AND REHABILITATION OF THE SOUTHERN HIGH  
SCHOOL AUDITORIUM.**

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

2        **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that the Southern High School Auditorium ("Auditorium") is a beacon of pride for  
4 the southern region. The Auditorium is a facility that has the potential to support the

1 perpetuation of the arts and our culture, and may provide the youth a structure to  
2 pursue such positive activity. Unfortunately, the auditorium has not been effectively  
3 usable for years due to a broken air conditioning system, whose repair has been a  
4 victim to fiscal woes over the years. Even today, the management of the Southern  
5 High School is forced to padlock this unit, allowing it to mold away, thus fading  
6 away its objective.

7 A public-private partnership, which this Act proposes, would allow the  
8 infusion of private dollars up front, thus allowing the Department of Education to  
9 attain the funds to make the needed repairs at the earliest. In lieu, the Guam  
10 Economic Development Authority would issue tax credits for those entities, which  
11 shall be spread over a two (2) year period. This “interest free loan” would create an  
12 impact of no more than Five Hundred Thousand Dollars (\$500,000) per year, for  
13 only two (2) years, towards the government of Guam’s expenses, which represents  
14 less than one percent (1%) of the nearly billion dollar budget; and with some creative  
15 cost-cutting measures, this new expense is certainly achievable.

16 According to this Act, the One Million Dollars (\$1,000,000) being sought  
17 would repair the air conditioning system of the facility and any mold which resulted  
18 from the heated conditions; and contributing entities would be able to market their  
19 company’s name in the Auditorium as an added incentive. The Guam Department  
20 of Education shall work with the Guam Economic Development Authority (GEDA)  
21 in seeking the contributions and approving the plans, and GEDA shall manage the  
22 approval, issuance, and management of the tax credits applied towards unpledged  
23 business privilege taxes.

24 With a working Auditorium, thousands of students would benefit from the  
25 usage of the facility, and the Southern High School management can see some  
26 revenue from leasing the hall to outside entities, including international programs,  
27 who wish to take advantage of Guam’s weather. The investment being proposed in

1 this Act would accomplish many benefits, while prioritizing the perpetuation of the  
2 arts and culture, and most importantly, our youth.

3 **Section 2.** A new Article 11 is hereby *added* to Chapter 77 of Title 12,  
4 Guam Code Annotated, to read as follows:

5 **“ARTICLE 11**

6 **TAX CREDITS TO REPAIR AND REHABILITATE THE SOUTHERN**  
7 **HIGH SCHOOL AUDITORIUM**

8 § 771101. Applicability of Article.

9 § 771102. Southern High School Auditorium.

10 § 771103. Credits Against Unpledged Business Privilege Tax.

11 § 771104. Cap on Business Privilege Tax for the Repair and Rehabilitation  
12 of the Southern High School Auditorium.

13 § 771105. GEDA Report.

14 § 771106. Rules and Regulations.

15 § 771107. Approval of Contributions and GEDA’s Responsibility.

16 § 771108. Regulatory Oversight, Approval, and Marketing.

17 § 771109. Fines and Penalties.

18 **§ 771101. Applicability of Article.**

19 The provisions of this Article are applicable to the repair and rehabilitation of  
20 the Southern High School Auditorium as authorized by this Act.

21 **§ 771102. Southern High School Auditorium.**

22 For the purposes of this Article, the repair and rehabilitation of the Southern  
23 High School Auditorium shall be prioritized as follows: (1) the repair of the air  
24 conditioning system or replacement of the air conditioning system if it is determined  
25 to be beyond repair; and (2) the rehabilitation associated with the mold resulting  
26 from the lack of air conditioning. Notwithstanding any other provision of law, if any  
27 tax credits pursuant to the cap established in § 771104 of this Article remain after

1 satisfactorily completing items one (1) and two (2) of this Section, the Guam  
2 Economic Development Authority shall be authorized to approve any other  
3 rehabilitation projects within the Southern High School Auditorium, gymnasium,  
4 football field, and swimming pool, in such order, as long as it remains within the cap  
5 established pursuant to § 77104 of this Article.

6 **§ 771103. Credits Against Unpledged Business Privilege Tax.**

7 (a) A business, to the extent that such business contributes to the cost of  
8 the labor, materials, construction, and/or the design for the repair and rehabilitation  
9 of the Southern High School Auditorium, as identified and approved by the Guam  
10 Economic Development Authority (GEDA), shall be entitled to credits against  
11 unpledged business privilege taxes. The basis of the contribution to the project shall  
12 be the actual cost of the contribution plus the cost of transportation from the point of  
13 origin to its destination.

14 (b) Any unused credits not used in the current tax period may be carried  
15 over into subsequent tax periods until such credits are exhausted.

16 (c) The total credits allowed under this Article shall not exceed the actual  
17 dollar amount of the expenditures.

18 **§ 771104. Cap on Business Privilege Tax for the Repair and**  
19 **Rehabilitation of the Southern High School Auditorium.**

20 (a) The total amount of credits against unpledged business privilege taxes  
21 for the repair and rehabilitation of the Southern High School Auditorium shall not  
22 exceed One Million Dollars (\$1,000,000) over a two (2) year period. No more than  
23 Five Hundred Thousand Dollars (\$500,000) in tax credits shall be authorized for  
24 each year of the program.

25 (b) If, at the expiration of the two (2) year period authorized pursuant to  
26 this Article, there are still unclaimed authorized tax credits, then *I Liheslaturan*



1 *Guahan* may, in its discretion, extend the eligible period until such time that all  
2 eligible tax credits are exhausted.

3 (c) *I Liheslaturan Guahan* may, in its discretion, extend the terms and  
4 modify any part of the program based on the needs of the Southern High School  
5 Auditorium.

6 (d) Construction and professional services and equipment, materials and  
7 furnishings shall be competitively procured.

8 **§771105. GEDA Report.**

9 GEDA shall submit a report to *I Liheslaturan Guahan* detailing the impact of  
10 the program on the business privilege taxes and economic activities on Guam.  
11 GEDA shall also include in its report its monitoring efforts and any other  
12 information related to the program. The report shall be transmitted to *I Liheslaturan*  
13 *Guahan* on an annual basis until the tax credit caps pursuant to § 771104 of this  
14 Article are exhausted.

15 **§ 771106. Rules and Regulations.**

16 GEDA shall implement and monitor the tax credit program authorized  
17 pursuant to this Article based on rules and regulations already adopted by GEDA for  
18 previous tax credit programs.

19 **§ 771107. Approval of Contributions and GEDA's Responsibility.**

20 GEDA, or its designee, shall be responsible for approving the contributions  
21 made towards the labor, materials, construction and/or the design for the repair and  
22 rehabilitation of the Southern High School Auditorium pursuant to this Article, and  
23 to process tax credits pursuant to §§ 771103 and 771104 of this Article; and to ensure  
24 that such requests are in conformance with law and applicable rules and regulations.

25 **§ 771108. Regulatory Oversight, Approval, and Marketing.**

26 The Guam Department of Education shall have the regulatory oversight, and  
27 the authority to approve the repair and rehabilitation plan of the Southern High

1 School Auditorium pursuant to this Article, along with the selection of the  
2 contributors, based on criteria established by the Guam General Services Agency.  
3 This responsibility shall be extended to, but may not be limited to, obtaining price  
4 quotations, pursuant to applicable procurement rules, regulations, and laws, along  
5 with program marketing. Apart from the repair and rehabilitation plan of the  
6 Southern High School Auditorium, GDOE shall develop a long-term maintenance  
7 plan for the Auditorium.

8 The management of the Southern High School shall have the authority to  
9 manage the Southern High School Auditorium, and its marketing and revenue  
10 stream. The Guam Department of Education and the management of the Southern  
11 High School shall also have the authority to reach out to the community to market  
12 this program and seek contributors.

13 The Guam Department of Education shall provide copies of all required  
14 documents associated with this Article to GEDA, including, but not limited to,  
15 providing necessary reports and updates.

16 **§ 771109. Fines and Penalties.**

17 To the extent that a company providing materials and services for the project  
18 contained herein takes more tax benefits in terms of unpledged business privilege or  
19 excise taxes than the actual value of the materials or services contributed to the  
20 project authorized herein, that company shall be required to pay all interest and  
21 penalties applicable under Guam law and the Internal Revenue Code for failure to  
22 pay taxes, in addition to payment of the actual taxes due. To the extent that any  
23 individual, officer, director, or other person having interest in a company providing  
24 materials or services for the project contained herein knowingly and willfully causes  
25 such company to take more tax benefits in terms of business privilege or excise taxes  
26 than the actual value of the material or services contributed to the project, such

1 individual shall be guilty of a felony in the third degree punishable by a fine of not  
2 less than Five Thousand Dollars (\$5,000), or one (1) year in prison, or both.”

3 **Section 3. Severability.** If any provision of this Act or its application to any  
4 person or circumstance is found to be invalid or contrary to law, such invalidity shall  
5 not affect other provisions or applications of this Act that can be given effect without  
6 the invalid provision or application, and to this end the provisions of this Act are  
7 severable.

8 **Section 4. Effective Date.** This Act shall be effective upon enactment;  
9 however, the tax credits authorized under this Act shall not be authorized until the  
10 approval of the designs for the repair and rehabilitation of the Southern High School  
11 Auditorium and the development of a long-term maintenance plan for the same.