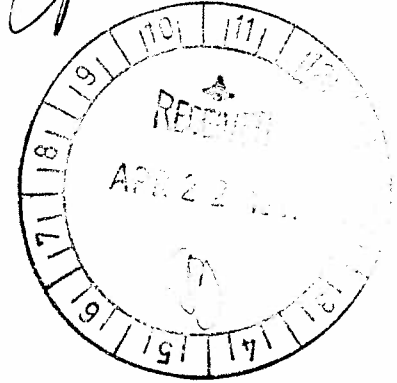


Territory of Guam  
Federacion Guam

APR 19 1991



The Honorable Joe T. San Agustin  
Speaker, Twenty-First Guam Legislature  
155 Hessler Street  
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 135, which I have signed into law this date as Public Law 21-07.

Sincerely,

JOSEPH F. ADA  
Governor

Attachment

210195

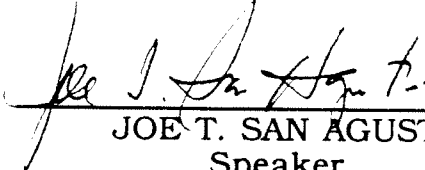


Commonwealth Now!

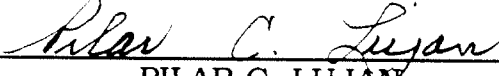
TWENTY-FIRST GUAM LEGISLATURE  
1991 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

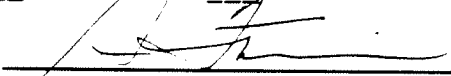
This is to certify that Bill No. 135 (COR), "AN ACT TO REPEAL AND REENACT §13985.80 OF THE GOVERNMENT CODE AND TO ADD §§13985.83, 13985.84, 13985.85 AND 13985.86 THERETO TO PROVIDE GUAM PRESERVATION TRUST FUNDS FOR ARCHAEOLOGICAL SERVICES FOR NON-PROFIT AND NON-COMMERCIAL PURPOSES, ALLOWING THE TRUST TO SUE IN ITS OWN NAME, HIRE ITS OWN LEGAL COUNSEL, HIRE PERSONNEL, MANAGE ITS ASSETS, TO EXEMPT THE FUND FROM THE EXECUTIVE BUDGET ACT AND PROCUREMENT LAW, AND TO ESTABLISH A FIDUCIARY DUTY AND AN ANNUAL AUDIT," was on the 3rd day of April, 1991, duly and regularly passed.

  
\_\_\_\_\_  
JOE T. SAN AGUSTIN  
Speaker

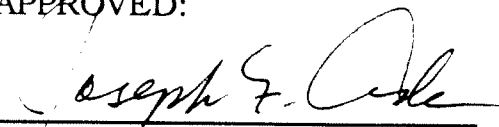
Attested:

  
\_\_\_\_\_  
PILAR C. LUJAN  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 3<sup>rd</sup> day of April, 1991, at 11:30 o'clock A.m.

  
\_\_\_\_\_  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
\_\_\_\_\_  
JOSEPH F. ADA  
Governor of Guam

Date: APR 19 1991

Public Law No. 21-07

TWENTY-FIRST GUAM LEGISLATURE  
1991 (FIRST) Regular Session

Bill No. 135 (COR)

Introduced by:

C. T. C. Gutierrez  
E. P. Arriola  
J. T. San Agustin  
P. C. Lujan  
M. C. Ruth  
J. P. Aguon  
J. G. Bamba  
A. C. Blaz  
D. F. Brooks  
H. D. Dierking  
E. R. Duenas  
E. M. Espaldon  
G. Mailloux  
M. D. A. Manibusan  
D. Parkinson  
M. J. Reidy  
F. R. Santos  
D. L. G. Shimizu  
T. V. C. Tanaka  
A. R. Unpingco

AN ACT TO REPEAL AND REENACT §13985.80 OF THE GOVERNMENT CODE AND TO ADD §§13985.83, 13985.84, 13985.85 AND 13985.86 THERETO TO PROVIDE GUAM PRESERVATION TRUST FUNDS FOR ARCHAEOLOGICAL SERVICES FOR NON-PROFIT AND NON-COMMERCIAL PURPOSES, ALLOWING THE TRUST TO SUE IN ITS OWN NAME, HIRE ITS OWN LEGAL COUNSEL, HIRE PERSONNEL, MANAGE ITS ASSETS, TO EXEMPT THE FUND FROM THE EXECUTIVE BUDGET ACT AND PROCUREMENT LAW, AND TO ESTABLISH A FIDUCIARY DUTY AND AN ANNUAL AUDIT.

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

2 **Section 1.** §13985.80 of the Government Code is repealed and  
3 reenacted to read:

4 **"§13985.80. Guam Preservation Trust.** There is hereby  
5 established as a public non-profit corporation the Guam

1 Preservation Trust (the "Trust"). The Trust shall have the following  
2 purposes, which are within its powers:

3 (a) To seek grants and donations;

4 (b) To acquire title to threatened Guam properties for the  
5 preservation of their historical value, whether in fee simple, by  
6 leasehold, or by easement, and whether through donation, transfer,  
7 dedication, purchase, or eminent domain;

8 (c) To award grants for archaeological investigations, for  
9 the recording and salvage of sites of historic or prehistoric interest  
10 and value, for locating, recording and saving prehistoric and  
11 historic remains on sites that will be utilized for non-profit and  
12 non-commercial purposes, such as private homes, schools,  
13 churches, and other similar purposes;

14 (d) To support other activities directly related to  
15 increasing the public appreciation of and benefit from historical  
16 places."

17 **Section 2.** §13985.83 is added to the Government Code to read:

18 **"§13985.83. Limitation to purposes of Trust.**  
19 Expenditures by the Trust shall be limited to purposes of the Trust  
20 and may not be used for any operation of the Department."

21 **Section 3.** §13985.84. is added to the Government Code to read:

22 **"§13985.84. Power of the Trust.** The Trust shall have the  
23 following powers in coordination with its purposes:

24 (a) To sue and be sued in its own name;

25 (b) To hire its own legal counsel;

26 (c) To hire or contract for the management of Trust assets  
27 and the conduct of Trust business."

28 **Section 4.** §13985.85 is added to the Government Code to read:

29 **"§13985.85. Exemption from Executive Budget Act and**  
30 **Government Procurement Law.** The Trust is exempt from the  
31 provisions of the Executive Budget Act (P.L. 12-115, as amended)  
32 and the Government Procurement Law (P.L. 16-124, as amended)."

33 **Section 5.** §13985.86 is added to the Government Code to read:

1  
2  
3  
4  
5  
6  
7

**"§13985.86. Responsibilities of the Trust.** The Trust is subject to the following responsibilities:

(a) A fiduciary duty toward the funds and purposes of the Trust;

(b) The preparation of an annual audit report which is to be submitted to the Governor and to the Legislature within sixty (60) days after the end of each fiscal year."

Bill No. 135

Resolution No. \_\_\_\_\_

Date: 4-3-91

Question: \_\_\_\_\_

	ayes	noes	NOT voting	Absent
1. AGUON, John Perez	✓			
2. ARRIOLA, Elizabeth Perez	✓			
3. BAMBA, J. George	✓			
4. BLAZ, Anthony Crisostomo	✓			
5. BROOKS, Doris Flores	✓			
6. DIERKING, Herminia Duenas	✓			
7. DUENAS, Edward Ramirez				✓
8. ESPALDON, Ernesto M. (M.D.)	✓			
9. GUTIERREZ, Carl T. C.	✓			
10. LUJAN, Pilar Cruz	✓			
11. MAILLOUX, Gordon	✓			
12. MANIBUSAN, Marilyn D. A.	✓			
13. PARKINSON, Don	✓			
14. REIDY, Michael	✓			
15. RUTH, Martha Cruz	✓			
16. SAN AGUSTIN, Joe Taitano	✓			
17. SANTOS, Francisco Rivera	✓			
18. SHIMIZU, David L. G. (M.D.)	✓			
19. TANAKA, Thomas V. C.	✓			
20. UNPINGCO, Antonio Reyes	✓			

19

1



# Twenty-First Guam Legislature

SENATOR ELIZABETH P. ARRIOLA

*Chairperson*

Committee on Youth,

Senior Citizens and Cultural Affairs

March 27, 1991

The Honorable Joe T. San Agustin  
Speaker  
Twenty-First Guam Legislature  
155 Hernan Cortez Street  
Agana, Guam 96910

VIA: Chairman, Committee on Rules

Dear Mr. Speaker:

The *Committee on Youth, Senior Citizens and Cultural Affairs* to which was referred Bill No. 135, "AN ACT TO REPEAL AND REENACT §13985.8 OF THE GOVERNMENT CODE AND TO ADD 13985.83, 13985.84, 13985.85 AND 13985.86 RELATIVE TO PROVIDING GUAM PRESERVATION TRUST FUNDS FOR ARCHAEOLOGICAL SERVICES FOR NON-PROFIT AND NON-COMMERCIAL PURPOSES, ALLOWING THE TRUST TO SUE IN ITS OWN NAME, HIRE ITS OWN LEGAL COUNSEL, HIRE PERSONNEL TO MANAGE ITS ASSETS, EXEMPT THE FUND FROM THE EXECUTIVE BUDGET ACT AND PROCUREMENT LAW, AND REQUIRE A FIDUCIARY DUTY AND AN ANNUAL AUDIT", has had the same under consideration and now wishes to report back its recommendation TO DO PASS as amended.

Committee votes received:

TO PASS

NOT TO PASS

REPORT OUT

OTHER

-10-

-0-

-0-

-0-

Attached herewith are the Committee Report and other pertinent documents for your perusal.

Sincerely,

ELIZABETH P. ARRIOLA

Attachments

# VOTE SHEET

## COMMITTEE ON YOUTH, SENIOR CITIZENS AND CULTURAL AFFAIRS

on  
**Bill No. 135 -**  
as amended by the Committee:

"AN ACT TO REPEAL AND REENACT §13985.80 OF THE GOVERNMENT CODE AND TO ADD §§13985.83, 13985.84, 13985.85 AND 13985.86 RELATIVE TO PROVIDING GUAM PRESERVATION TRUST FUNDS FOR ARCHAEOLOGICAL SERVICES FOR NON-PROFIT AND NON-COMMERCIAL PURPOSES, ALLOWING THE TRUST TO SUE IN ITS OWN NAME, HIRE ITS OWN LEGAL COUNSEL, HIRE PERSONNEL TO MANAGE ITS ASSETS, EXEMPT THE FUND FROM THE EXECUTIVE BUDGET ACT AND PROCUREMENT LAW, AND REQUIRE A FIDUCIARY DUTY AND ANNUAL AUDIT."

Chairperson:



Elizabeth P. Arriola

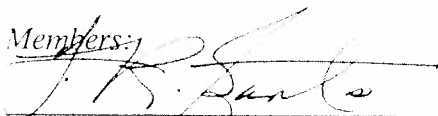
To Pass

Not To Pass

Report Out

Inactive File

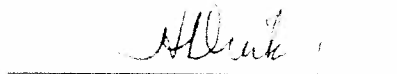
Members:



Frank R. Santos



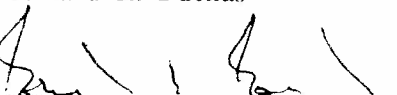
J. George Bamba



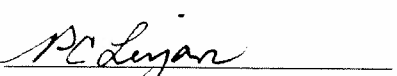
Herminia D. Dierking



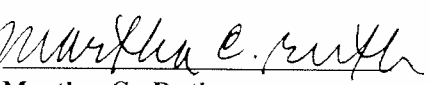
Edward R. Duenas



Ernesto M. Espaldon

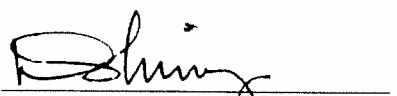


Pilar C. Lujan

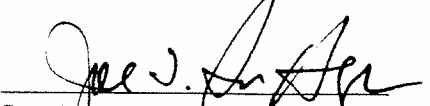


Martha C. Ruth

3/25/91



David L. G. Shimizu



Speaker Joe T. San Agustin



**COMMITTEE REPORT**  
of the  
**COMMITTEE ON YOUTH, SENIOR CITIZENS  
AND CULTURAL AFFAIRS**  
on *BILL NO. 135*

*AN ACT TO REPEAL AND REENACT §13985.80 OF  
THE GOVERNMENT CODE AND TO ADD 13985.83,  
13985.84, 13985.85 AND 13985.86 RELATIVE TO  
PROVIDING GUAM PRESERVATION TRUST FUNDS  
FOR ARCHAEOLOGICAL SERVICES FOR  
NON-PROFIT AND NON-COMMERCIAL PURPOSES,  
ALLOWING THE TRUST TO SUE IN ITS OWN NAME,  
HIRE ITS OWN LEGAL COUNSEL, HIRE  
PERSONNEL TO MANAGE ITS ASSETS, EXEMPT  
THE FUND FROM THE EXECUTIVE BUDGET ACT  
AND PROCUREMENT LAW, AND REQUIRE A  
FIDUCIARY DUTY AND AN ANNUAL AUDIT.*

**PREFACE**

A public hearing on **Bill No. 135** was held by the Committee on Youth, Senior Citizens and Cultural Affairs on Tuesday, February 26, 1991, at the Legislative Public Hearing Room, Pacific Arcade Building.

Present at the hearing were Chairperson, Senator Elizabeth P. Arriola and attended by Senator Pilar C. Lujan.

**TESTIMONY**

Mr. Anthony C. Mariano, Director, Department of Parks and Recreation, testified that the Bill will accomplish a number of desirable technical revisions in the organization of the Guam Preservation Trust. The Bill clarifies the intent of the Legislature regarding proposed activities of the Trust in a way that should work to the benefit of the general public.

Mr. Richard Davis, Territorial Archaeologist and Deputy Historic Preservation Officer, testified that the Bill gives the administrative thrust to effectively administer the program. The Bill would empower the Trust to give grants to private home-owners, schools, and churches which could not otherwise afford to comply with historic preservation requirements.

After brief discussion on some of the on-going and anticipated projects by the Historic Resource Division, Chairperson Arriola adjourned the hearing on **Bill No. 135**.

**COMMITTEE RECOMMENDATION**

The Committee on Youth, Senior Citizens, Cultural Affairs, and Human Resources wishes to report **Bill No. 135, "AN ACT TO REPEAL AND REENACT §13985.80 OF THE GOVERNMENT CODE AND TO ADD 13985.83, 13985.84, 13985.85 AND**

**13985.86 RELATIVE TO PROVIDING GUAM PRESERVATION TRUST FUNDS FOR ARCHAEOLOGICAL SERVICES FOR NON-PROFIT AND NON-COMMERCIAL PURPOSES, ALLOWING THE TRUST TO SUE IN ITS OWN NAME, HIRE ITS OWN LEGAL COUNSEL, HIRE PERSONNEL TO MANAGE ITS ASSETS, EXEMPT THE FUND FROM THE EXECUTIVE BUDGET ACT AND PROCUREMENT LAW, AND REQUIRE A FIDUCIARY DUTY AND AN ANNUAL AUDIT"** has had the same under consideration, and now wishes to report back the same with the recommendation **TO DO PASS** as amended by the Committee.

## **ATTACHMENTS**

1. Written testimony by Mr. Anthony C. Mariano, Director, Department of Parks and Recreation.

TWENTY-FIRST GUAM LEGISLATURE

1991 (FIRST) Regular Session

Bill No. 135  
as amended by the Committee on Youth, Senior Citizens  
and Cultural Affairs

Introduced by:

C. T. C. GUTIERREZ  
E. PARRIOLA

AN ACT TO REPEAL AND REENACT §13985.80 OF THE GOVERNMENT CODE AND TO ADD 13985.83, 13985.84, 13985.85 AND 13985.86 RELATIVE TO PROVIDING GUAM PRESERVATION TRUST FUNDS FOR ARCHAEOLOGICAL SERVICES FOR NON-PROFIT AND NON-COMMERCIAL PURPOSES, ALLOWING THE TRUST TO SUE IN ITS OWN NAME, HIRE ITS OWN LEGAL COUNSEL, HIRE PERSONNEL TO MANAGE ITS ASSETS, EXEMPT THE FUND FROM THE EXECUTIVE BUDGET ACT AND PROCUREMENT LAW, AND REQUIRE A FIDUCIARY DUTY AND AN ANNUAL AUDIT.

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

2 Section 1. §13985.80 of the Government Code is repealed and reenacted to read:

3 "§13985.80. Guam Preservation Trust.

4 There is hereby established as a public non profit corporation the Guam  
5 Preservation Trust (the "Trust"). The Trust shall have the following purposes which are  
6 within its powers:

7 (a) to seek grants and donations;

8 (b) to acquire title to threatened Guam properties for the preservation of their  
9 historical value, whether in fee simple, by leasehold, or by easement, and whether through  
10 donation, transfer, dedication, purchase, or eminent domain;

11 (c) to award grants for the provision of archaeological investigation,  
12 recording and salvage of sites of historic or prehistoric interest and value, or locations of  
13 prehistoric or historic remains on sites that will be utilized for non-profit and  
14 non-commercial purposes, such as private homes, schools, churches, and other similar  
15 purposes;

1 (d) supporting other activities directly related to increasing the public  
2 appreciation of and benefit from historical places."

3 **Section 2.** §13985.83 is added to the Government Code to read:

4 **"§13985.83. Limitation to purposes of trust.**

5 Expenditures by the Trust shall be limited to purposes of the Trust and may not  
6 be used for any operations of the Department."

7 **Section 3.** §13984.84 is added to the Government Code to read:

8 **"§13985.84. Power of Guam Preservation Trust.**

9 The Guam Preservation Trust shall have the following powers in coordination  
10 with its purposes;

11 (a) To sue and be sued in its own name;

12 (b) to hire its own legal counsel;

13 (c) to hire or contract for the management of trust assets and the conduct of  
14 trust business."

15 **Section 4.** §13985.85 is added to the Government Code to read:

16 **"§13985.85. Exemption from Executive Budget Act and Government Procurement  
17 Law.**

18 The Guam Preservation Trust is exempt from the provisions of the Executive  
19 Budget Act (P.L. 12-115, as amended) and the Government Procurement Law (P.L. 16-124,  
20 as amended).

21 **Section 5.** §13985.86 is added to the Government Code to read:

22 **"§13985.86 Responsibilities of the Guam Preservation Trust.**

23 The Guam Preservation is subject to the following responsibilities:

24 (a) fiduciary duty toward the funds and purposes of the Trust;

25 (b) preparation of an annual audit report which is to be submitted to the  
26 Governor and to the Legislature within sixty (60) days after the end of each fiscal year."

SEVENTY-FIRST GUAM LEGISLATURE  
1991 (FIRST) Regular Session

Bill No. 135

Introduced by:

  
C T. C. Gutierrez

*YSC*

AN ACT TO REPEAL AND REENACT §13985.80 OF GOVERNMENT CODE AND TO ADD §§13985.83, 13985.84, 13985.85 and 13985.86 RELATIVE TO PROVIDING GUAM PRESERVATION TRUST FUNDS FOR ARCHAEOLOGICAL SERVICES FOR NON-PROFIT AND NON-COMMERCIAL PURPOSES, ALLOWING THE TRUST TO SUE IN ITS OWN NAME, HIRE ITS OWN LEGAL COUNSEL, HIRE PERSONNEL TO MANAGE ITS ASSETS, EXEMPT THE FUND FROM THE EXECUTIVE BUDGET ACT AND PROCUREMENT LAW, AND REQUIRE A FIDUCIARY DUTY AND AN ANNUAL AUDIT.

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11 leasehold, or by easement, and whether through donation, transfer,  
12 dedication, purchase, or eminent domain;

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14 investigation, recording and salvage of sites of historic or prehistoric

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5 (d) supporting other activities directly related to increasing  
6 the public appreciation of and benefit from historical places."

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8 read:

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10 Trust shall be limited to purposes of the Trust and may not be used  
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23 §13985.85. Exemption from Executive Budget Act and  
24 Government Procurement Law. The Guam Preservation Trust is  
25 exempt from the provisions of the Executive Budget Act (P.L. 12-115,  
26 as amended) and the Government Procurement Law (P.L. 16-124, as  
27 amended).

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8 days after the end of each fiscal year"



JOSEPH F. ADA  
Governor

FRANK F. BLAS  
Lt. Governor

ANTHONY C. MARIANO  
Director

DENNIS M. ZERMENO  
Deputy Director

## DEPARTMENT OF PARKS AND RECREATION

GOVERNMENT OF GUAM  
490 CHALAN PALASYO ROAD  
Agana Heights, Guam 96919  
Telephone: (671) 477-9620/1



FEB 26 1991

Honorable Elizabeth P. Arriola  
Chairperson, Youth, Human Resources,  
Senior Citizens & Cultural Affairs  
Twenty-First Guam Legislature  
155 Hernan Cortez Street  
Agana, GU 96910

Dear Senator Arriola:

Thank you for the opportunity to comment on the proposed bill number 135. It is the position of the Department of Parks and Recreation that this bill will accomplish a number of highly desirable technical revisions in the organization of the Guam Preservation Trust. It also clarifies the intent of the legislature regarding proposed activities of the Trust in a way that should work to the benefit of the general public.

The bill recognizes that reasonable measures to search for and to respond to concealed, deeply buried archaeological materials often does impose a cost burden on private, non-profit and non-commercial land owners which is difficult to meet. It directs the Guam Preservation Trust to include within their concerns a systematic effort to assist such persons facing these situations.

The Trust already has sufficient latitude in its authorizing legislation to address these situations through grants programs, and in fact, the Trust has already moved to establish a formal grant program. They have also begun to deliberate how to most appropriately respond to the private land owners who are unduly burdened by preservation concerns. Even in small projects, there can be the need to document and learn from archaeological remains, and to provide sensitive and respectful treatment to the ancient human remains that often are encountered even in areas that have been used for other purposes in more recent years.

This bill will help the Trust accomplish these and many other beneficial actions not only by directing specific attention to them, but by streamlining the administrative status of the Trust. At the present time, the Trust is required to carry out its actions under the same constraints as any line agency in the executive



HONORABLE ELIZABETH P. ARRIOLA  
PAGE 2

branch, though it is a public, non-profit corporation similar to the Guam Mass Transit Authority or the Territorial Law Library. The remaining provisions of this bill give the Trust the same administrative structure as other public corporations. They will allow much quicker and effective responses to public needs, allow the Trust to manage their own resources for greater effectiveness, yet still provide for open public accountability and scrutiny of their actions.

I have only one suggestion, which is that in section 1 of the bill, that the word "public" be inserted after "non-profit". This would explicitly retain the Trust's status of a public corporation, and would also reassure the Board of Directors that while they operate within the bounds of their duties as members of the Board, that they are indemnified from personal liability for actions of the Trust. Other than this small change, I wholeheartedly support this bill.

Sincerely,

  
ANTHONY C. MARIANO  
State Historic Preservation  
Officer



Commonwealth Now!

FEB 16 '91

Bill No. 135 (COR)

Introduced by:

  
C T. C. Gutierrez

AN ACT TO REPEAL AND REENACT §13985.80 OF GOVERNMENT CODE AND TO ADD §§13985.83, 13985.84, 13985.85 and 13985.86 RELATIVE TO PROVIDING GUAM PRESERVATION TRUST FUNDS FOR ARCHAEOLOGICAL SERVICES FOR NON-PROFIT AND NON-COMMERCIAL PURPOSES, ALLOWING THE TRUST TO SUE IN ITS OWN NAME, HIRE ITS OWN LEGAL COUNSEL, HIRE PERSONNEL TO MANAGE ITS ASSETS, EXEMPT THE FUND FROM THE EXECUTIVE BUDGET ACT AND PROCUREMENT LAW, AND REQUIRE A FIDUCIARY DUTY AND AN ANNUAL AUDIT.

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27 amended).

1           Section 5.   §13985.86 is added to the Government Code to  
2 read:

3           "§13985.86. Responsibilities of the Guam Preservation Trust.  
4 The Guam Preservation is subject to the following responsibilities;

5           (a) fiduciary duty toward the funds and purposes of the Trust;

6           (b) preparation of an annual audit report which is to be  
7 submitted to the Governor and to the Legislature within sixty (60)  
8 days after the end of each fiscal year"