October 16, 2012

The Honorable Lyndon P. Abraham  
Speaker  
Tenth Kosrae State Legislature  
Tofol, Kosrae FM 96944

Dear Mr. Speaker,

Kaksakin God ke moul mwowo a pal mwowo lasr.

Nga engan in akkalemye la nga sign L.B. No. 10-88, L.D. 1, su inge a orala State Law No. 10-49.

"TO AMEND TITLE 19 "ENVIRONMENTAL PROTECTION AND MANAGEMENT" CHAPTER 3 "FISHING AND MARINE WILDLIFE" SUBCHAPTER D "PROHIBITED ACTS" OF THE KOSRAE STATE CODE BY ADDING A NEW SECTION ENTITLED THE "SHARK PROTECTION ACT" AT SECTION 19.350 (A) PROHIBITING COMMERCIAL FISHING WITHIN KOSRAEAN WATERS OF SHARKS AND DOLPHINS, TO CREATE MANDATORY EXCLUSION ZONES FOR THE PROTECTION OF WHALES IN KOSRAEAN WATERS, TO PROTECT SHARKS, WHALES, DOLPHINS AND STINGRAYS FROM HARM; AND FOR OTHER PURPOSES."

Certified copy ke masap se inge pa attached nu ke letter luk.

Kulo ma lupil.

Lyndon H. Jackson  
Governor  
State of Kosrae

/jpa

"SHAPING TOMORROW TODAY"
September 17, 2012

The Honorable Lyndon H. Jackson
Governor
State of Kosrae
Kosrae, FM 96944

Dear Governor Jackson:

I have the honor to transmit herewith for your consideration and action L. B. No. 10-88, L.D. 1, TO AMEND TITLE 19 “ENVIRONMENTAL PROTECTION AND MANAGEMENT” CHAPTER 3 “FISHING AND MARINE WILDLIFE” SUBCHAPTER D “PROHIBITED ACTS” OF THE KOSRAE STATE CODE BY ADDING A NEW SECTION ENTITLED THE “SHARK PROTECTION ACT” AT SECTION 19.350 (A) PROHIBITING COMMERCIAL FISHING WITHIN KOSRAEN WATERS OF SHARKS AND DOLPHINS, TO CREATE MANDATORY EXCLUSION ZONES FOR THE PROTECTION OF WHALES IN KOSRAEN WATERS, TO PROTECT SHARKS, WHALES, DOLPHINS AND STINGRAYS FROM HARM; AND FOR OTHER PURPOSES, which passed the Legislature, Fourth Regular Session, by two-thirds of the members of the Legislature, a quorum being present.

Respectfully yours,

[Tosie K. Elley]
Chief Clerk
Tenth Kosrae State Legislature

Enclosures
A BILL FOR AN ACT

TO AMEND TITLE 19 "ENVIRONMENTAL PROTECTION AND MANAGEMENT" CHAPTER 3 "FISHING AND MARINE WILDLIFE" SUBCHAPTER D "PROHIBITED ACTS" OF THE KOSRAE STATE CODE BY ADDING A NEW SECTION ENTITLED THE "SHARK PROTECTION ACT" AT SECTION 19.350 (A) PROHIBITING COMMERCIAL FISHING WITHIN KOSRAEN WATERS OF SHARKS AND DOLPHINS, TO CREATE MANDATORY EXCLUSION ZONES FOR THE PROTECTION OF WHALES IN KOSRAEN WATERS, TO PROTECT SHARKS, WHALES, DOLPHINS AND STINGRAYS FROM HARM; AND FOR OTHER PURPOSES.

INTRODUCED Senator Tulensa W. Palik

DATE: June 15, 2012

ACTION BY THE LEGISLATURE

PASSED FIRST READING: August 31, 2012

REFERRING TO: R&D Committee

PASSED SECOND READING: September 11, 2012

Tosie K. Elley
Chief Clerk
KOSRAE STATE LEGISLATURE
TENTH KOSRAE STATE LEGISLATURE
P. O. Box 187
Tofol, Kosrae State
Federated States of Micronesia 96944
Telephone: (691) 370-3019/3177 * Fax: 370-2177
Web Page: www.kosraelegislature.org

LEGISLATIVE BILL NO. 10-88, L.D. 1

We hereby certify that the foregoing Bill has passed Second and Final Readings in the Legislature, Fourth Regular Session, 2012, by two-thirds of the members of the Tenth Kosrae State Legislature, a quorum being present.

Lyndon P. Abraham
Speaker
Tenth Kosrae State Legislature

Fosie K. Elley
Chief Clerk
Tenth Kosrae State Legislature
A BILL FOR AN ACT

To amend Title 19 “Environmental Protection and Management” Chapter 3 “Fishing and Marine Wildlife” Subchapter D “Prohibited Acts” of the Kosrae State Code by adding a new section entitled the “Shark Protection Act” at section 19.35: (A) prohibiting commercial fishing within Kosraen waters of sharks and dolphins, to create mandatory exclusion zones for the protection of whales in Kosraen waters, to protect sharks, whales, dolphins and stingrays from harm; and for other purposes.

BE IT ENACTED BY THE KOSRAE STATE LEGISLATURE

Section 1. Findings and Purpose. The Kosrae State Legislature finds that the protection of sharks, dolphins and whales within Kosraen waters has not been adequately addressed in existing State legislation. Furthermore, the Legislature is mindful of the resolution of the 15th Micronesian Chief Executive Summit authoring a regional ban of the sale and trade of shark fin and seeking to establish the world’s first Regional Shark Sanctuary in Micronesia by December 2012. The Legislature is also mindful of the FSM National Congress resolution calling upon the FSM President to create a marine sanctuary and for the State governments to declare their 12 mile zone as a sanctuary for sharks, rays, dolphins and whales. The Legislature is similarly concerned about over-fishing of the shark population and views sharks as an essential element of the ocean’s ecosystem. Finally, the Legislature notes the possibility that dolphins, sharks, stingrays and whales may seek to enter the 12 mile limit for giving birth to their offspring and that whales in particular should not be harassed or approached closer than 50 feet whilst within Kosraen waters. Noting the harmful impact that over fishing has on shark populations the Legislature enacts this Bill to provide for specific protection for sharks and the aforementioned marine life.
Section 2. **Definitions.** As used in this chapter, the following words and phrases shall have the following meanings:

(1) “Baseline” means a continuous line that encircles an island or atoll. The baseline from which the 12-mile zones shall be measured is as follows:

(a) The baseline of an island or portion of an island lacking a barrier reef, fringing reef or other reef system is the low-water line of the island as marked on large scale charts officially recognized by the Government of the Federated States of Micronesia.

(b) The baseline of an atoll or island or portion of an island having a barrier reef, fringing reef or other reef system is the line that contours the seaward edge of the reef system, which line connects those outermost elevations of the reef that are above water at low tide, and which line exists as marked on large-scale charts officially.

(2) “Dolphins” means any of various marine cetacean mammals, such as the bottle-nosed dolphins, of the family Delphinidae, related to the whales but generally smaller and having a breaklike snout.

(3) Kosraen waters means State Fishery Zone as defined in Section 19.103 of the Kosrae State Code.

(4) “Shark” means an animal commonly known as a shark and includes all animals on the Orders of Hexanchiformes, Pristoporiformes, Squatiniformes, Heterodoniformso, Orectolobiforms, Lamniforms and Carcgharghinforms.

(5) “Shark fin” means the raw or dried fin or tail of a shark.
(6) "Stingray" means any of various rays of the family Dasyatidae, having a whiplike tail armed with one or more venomous spines capable of inflicting severe injury.

(7) "Whale" means any of various marine mammals of the order Cetacea, having the general shape of a fish with forelimbs modified to form flippers, a tail with horizontal flukes, and one or two blowholes for breathing, especially one of the very large species as distinguished from the smaller dolphins and porpoises.

Section 11.1604. Prohibitions.

(1) It shall be unlawful for any person to possess, sell, offer for sale, trade, or distribute shark fins, stingray, whale, shark or dolphin meat.

(2) It shall be unlawful for any person to approach or remain within 50 feet of any whale within Kosraen waters.

(3) It shall be unlawful to catch, collect, possess, dismember, maim or kill whales, dolphins, sharks or stringrays in Kosraen waters.

(4) The exceptions to sections (1) (2) and (3) include:

(i) The act is done pursuant to customs and tradition of Kosrae State and is for non-commercial subsistence purposes.

(ii) The Act is unintentional or unavoidable.

(iii) The Act is done by a person who holds a valid license or permit issued by Kosrae State to conduct research for scientific or educational purposes.

(iv) The shark fin was caught outside the 12 mile limit as "by catch" which
is sold for human consumption within the state or processed within the State for animal feed, fertilizer or methane production provided that this exemption does not apply to shark fins prepared by restaurants to be sold as shark fin soup, irrespective of the name given by the restaurant to the menu item.

(v) The Act was done in self defense.

(vi) The person took all reasonable steps to immediately release any whales, dolphins, sharks or stingrays caught intentionally to its natural habitat.

Section 11.1605. Penalties.

Any person violating this section or any regulation promulgated pursuant to this section shall be penalized as follows:

(i) For a first offense, a fine of not more than $15,000.00.

(ii) For a second offense, a fine of not more $35,000.00.

(iii) For a third or subsequent offense, by a fine of not more than $50,000.00;

and

(iv) Any shark fins, commercial marine vessels, fishing equipment, and other property involved in a violation for a second or third offense shall be subject to seizure and forfeiture pursuant to Chapter 7, Title 19, Section 9.702, or by imprisonment of not more than one year, or both.

Section 3. Effective Date. This act takes effect upon the approval of the Governor or upon its becoming law without such approval.
PASSED BY THE TENTH KOSRAE STATE LEGISLATURE ON THE 11TH DAY OF SEPTEMBER, 2012

Lyndon P. Abraham
Speaker, Tenth Kosrae State Legislature

Attested by:  
Chief Clerk

Lyndon H. Jackson
Governor, State of Kosrae

Date: 10-16-12