



GOVERNMENT OF KOSRAE

Office of the Governor

Post Office Box 158

Kosrae, Federated States of Micronesia 96944

Telephone: 691-370-3002/3003..Facsimile: 691-370-3162

February 8, 2016

The Honorable Tulensa W. Palik
Speaker
Eleventh Kosrae State Legislature
Tofol, Kosrae FM 96944

Dear Mr. Speaker:

Kulo nu sin God ke moule lasr. Paing kom a members ke Sroasr Masap kewa.

Wangin pa pusra yok lasr nuka sripa yok lun L.B. 11-67. Oinge nga fulela lusen len 30 la in eis comments nuka, panang oru el putatyang nuke pusren masap su orala kosrae State Law No. 11-52.

"TO AMEND TITLE 19, BY ADDING A NEW CHAPTER 10 FOR THE PURPOSE OF ESTABLISHING THE RESEARCH, ACCESS AND BENEFIT SHARING ACT; AND FOR OTHER PURPOSES.

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

Kulo ma lulap.

Lyndon H. Jackson
Governor, State of Kosrae

/mct

Recel 02/08/16
@ 10:25 a.m.
KSL/Hester



ELEVENTH KOSRAE STATE LEGISLATURE
P.O. BOX 187
TOFOL, KOSRAE STATE
FEDERATED STATES OF MICRONESIA 96944
TELEPHONE: (691)370-3019/3177

Tulensa W. Palik
SPEAKER

January 7, 2016

Robert I. Taulung
VICE SPEAKER

Jarinson M. Charley
FLOOR LEADER

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

LELU:
Albert T. Welly
Gilton A. Esahu
Reedson P. Abraham
Salpasr E. Tilfas
Tulensa W. Palik

Dear Governor Jackson,

TAFUNSAK:
Alokoa Jb. Sigras
Maker L. Palsis
Robert I. Taulung
Rolner L. Joe

I have the honor to transmit herewith for your consideration and action on **L.B. No. 11-67, TO AMEND TITLE 19, BY ADDING A NEW CHAPTER 10 FOR THE PURPOSE OF ESTABLISHING THE RESEARCH, ACCESS AND BENEFIT SHARING ACT; AND FOR OTHER PURPOSES.**; which passed the Legislature, Third Special Session, by two-thirds of the Members of the Legislature; a quorum being present.

MALEM:
Jarinson M. Charley
Morgan S. Jonas
Sasaki L. George

Respectfully yours,

UTWE:
Josaiah F. Waguk
Rinson H. Edmond

Andy J. Andrew
Deputy Chief Clerk
Kosrae State Legislature

Enclosures:

ELEVENTH KOSRAE STATE LEGISLATURE
THIRD SPECIAL SESSION
SEPTEMBER 2015

A BILL FOR AN ACT

TO AMEND TITLE 19, BY ADDING A NEW CHAPTER 10 FOR THE PURPOSE TO ESTABLISH THE RESEARCH, ACCESS AND BENEFIT SHARING ACT; AND FOR OTHER PURPOSES.

INTRODUCED BY: Senator

Rinson H. Edmond

DATE: September 30, 2015

ACTION BY THE LEGISLATURE

PASSED FIRST READING: October 12, 2015

REFERRING TO: SCR No. 11-121

PASSED SECOND READING: November 13, 2015



Andy J. Andrew
Deputy Chief Clerk
Kosrae State Legislature



ELEVENTH KOSRAE STATE LEGISLATURE
F. O. BOX 187
TOFOL, KOSRAE STATE
FEDERATED STATES OF MICRONESIA 96944
TELEPHONE: (691)370-3019/3177

LEGISLATIVE BILL No. 11-67

Tulensa W. Palik
SPEAKER

Robert I. Taulung
VICE SPEAKER

Jarinson M. Charley
FLOOR LEADER

LELU:
Albert T. Welly
Gilton A. Esahu
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TAFUNSAK:
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Rolner L. Joe

MALEM:
Jarinson M. Charley
Morgan S. Jonas
Sasaki L. George

UTWE:
Josaiah F. Waguk
Rinson H. Edmond

We hereby certify that the foregoing Bill has passed Second and Final Readings in the Legislature, Third Special Session, 2015, by two-thirds of the members of the Eleventh Kosrae State Legislature, a quorum being present.

Tulensa W. Palik
Speaker
Eleventh Kosrae State Legislature

Andy J. Andrew
Deputy Chief Clerk
Kosrae State Legislature

A BILL FOR AN ACT

To amend Title 19, by adding a new Chapter 10 for the purpose to establish the Research, Access and Benefit Sharing Act; and for other purposes.

BE IT ENACTED BY THE KOSRAE STATE LEGISLATURE

1 Section 1. Findings. The Legislature finds that:

2 (1) Many scholars and scientists from a variety of academic fields have come to
3 Kosrae to study its unique society, culture, traditions, environment, flora and
4 fauna, and biological and natural resources;

5 (2) This research serves to assist Kosraean's to interpret and understand relevant
6 aspects of our culture, history, and the working of our natural environment, and
7 often times assists Kosraean's to improve their technical skills and knowledge in
8 field of research;

9 (3) The dissemination and sharing of this knowledge also promotes and awareness
10 and understanding of the unique characteristics of the State of Kosrae for the
11 benefit of the Micronesian and wider community;

12 (4) The State of Kosrae welcomes such activities and has a strong interest in ensuring
13 that research undertaken is aligned with the strategic interests of the State, that
14 there is appropriate acknowledgement of the source of the information, and that
15 researchers provided copies of research products to the community and State in a
16 timely manner; and finally;

17 (5) Consistent with the Nagoya Protocol to the Convention on Biological Diversity, to

1 which the Federated States of Micronesia is a signatory, that there should be fair
2 and equitable sharing of the benefits arising from the utilization of Kosrae’s
3 biological resources, and in particular the genetic resources thereof, including the
4 use of traditional knowledge associated with those biological resources.

5 Section 2. Amendment. Title 19 of the Kosrae State Code, as amended, is hereby further
6 amended by adding a new Chapter 10 to read as follows:

7 **“Chapter 10: Research and Access and Benefit Sharing Act**

8 Section 19.1001. Title. This Chapter may be known and cited as the “Kosrae
9 Research, Access and Benefit Sharing Act”.

10 Section 19.1002. Purpose. The purpose of this Chapter is to provide for research and
11 the control of access to biological resources in the State of Kosrae by:

- 12 (1) Establishing a clear and transparent process for the granting of permits for
13 research, including research on biological resources, cultural heritage and
14 intangible cultural heritage;
- 15 (2) Promoting the conservation of biological resources, including the ecologically
16 sustainable use of those biological resources;
- 17 (3) Ensuring the equitable sharing of benefits arising from the study of the unique
18 characteristics of Kosrae’s natural environment, its biological resources, and its
19 culture and history;
- 20 (4) Recognizing the special knowledge held by local persons and communities about

- 1 cultural heritage, intangible cultural herirage and the natural environment;
- 2 (5) Establishing and access regime designated to provide certainty, and minimize the
- 3 administrative cost, for people seeking access to biological resources;
- 4 (6) Seeking to ensure that the social, economic and environmental benefits arising
- 5 from research activities and the use of biological resources in the State of Kosrae
- 6 accrue to the State of Kosrae for the benefit of the entire State; and
- 7 (7) Contributing to a nationally consistent approach to access to the Federated States
- 8 of Micronesia’s biological resources.

9 Section 19.1003. Definitions. As used in this Chapter, unless the context otherwise

10 requires, the term:

- 11 (1) “Access and benefit sharing agreement” means an agreement reached between
- 12 the access provider and resource user allowing access to certain biological
- 13 resources on mutually agreed terms and with prior informed consent.
- 14 (2) “Access to biological resources” means the taking of biological resources of
- 15 native species for research and development on genetic resources, or
- 16 biochemical compounds, comprising or contained in the biological resources:
- 17 (3) “Administrator” means the Administrator of KIRMA;
- 18 (4) “Biological resources” includes genetic resources, organisms or parts thereof,
- 19 populations, or any other biotic component of ecosystems with actual or
- 20 potential use or value for humanity.

1 (5) “Genetic resources” means any material of plant, animal, microbial or other
2 origin that contains functional units of heredity and that has actual or potential
3 value for humanity.

4 (6) “Mutually agreed tersm (MAT)” is an agreement reached between the providers
5 of natural resources and users on the conditions of access and use of the resources
6 and the benefits to be shared between both parties.

7 (7) “Native species” means a species:
8 (a) That is indigenous to the State of Kosrae or Federated States of Micronesia; or
9 (b) That is indigenous to the State Fishery waters or continental shelf; or
10 (c) Members of which periodically or occasionally visit the State of Kosrae or the
11 the State Fishery waters or continental shelf.

12 (8) “Person” means any individual, firm, corporation, association, partnership,
13 agency, authority, commission, foundation; the Government of the State of
14 Kosrae, its political subdivisions, a State created entity, municipality, or other
15 institution or entity, whether public or private.

16 (9) “ Prior informed consent (PIC)” means the permission given by KIRMA, a
17 landowner or traditional owner to a researcher seeking to obtain access to
18 biological resources, cultural heritage or intangible cultural heritage, in line
19 with an appropriate legal and institutional framework.

20 (10) “Research” means by systematic investigation into and study of materials and

1 sources in order to establish facts and reach new conclusions; research methods

2 include, but are not limited to:

3 (a) Collecting biological samples or specimens;

4 (b) Studying or surveying for environmental parameters;

5 (c) Eliciting information from individuals through interviews, surveys,
6 questionnaires;

7 (d) Excavating known or suspected historical sites; and

8 (e) Recording traditional songs, myths, chants, dances or stories.

9 (11) “Research output” means the written or digital work produced as a result of the
10 research. It includes, but is not limited to;

11 (a) In the case of literary works intended for general circulation, the document
12 released by the publisher;

13 (b) In the case of academic dissertations or scholarly articles, the document
14 submitted to the academic institution or the document released by the
15 publisher;

16 (c) In the case of visual media or documentaries, the final recording released by
17 the researcher for display on social media, the internet or via traditional
18 media.

19 (12) “Researcher” means any person who is engaged in a course of research.

20 (13) “Traditional knowledge” includes any knowledge that generally”

1 (a) is or has been created, acquired or inspired for traditional economic,

2 spritual, ritual, narrative, decorative or recreational purposes; and

3 (b) is or has been transmitted from generation to generation; and

4 (c) is regarded as pertaining to a particular traditional group, clan or

5 community of people in the State of Kosrae; and

6 (d) is collectively originated or held.

7 (14) “Traditional owners” of traditional knowledge or expressions of culture

8 means:

9 (a) the group, clan or community of people; or

10 (b) the individual who is recognized by the group, clan or community as the

11 individual;

12 in whom the custody and protection of the tradional knowledge or

13 expressions of culture are entrusted in accordance with the customary law

14 and practices of that group, clan or community.

15 Section 19.1004. Research Permit. Any person intending to conduct research on the

16 natural resources, cultural heritage or intangible cultural heritage of the State of Kosrae

17 must obtain a research permit from KIRMA prior to the commencement of the research.

18 Section 19.1005. Meaning of access to biological resources.

19 (1) In this Chapter, access to biological resources means the taking of biological

20 resources of native species for research and development on any genetic

1 resources, or biochemical compounds, comprising or contained in the

2 biological resources (other than an activity mentioned in subsection (3));

3 (2) A person is taken to have access to biological resources if there is a reasonable

4 prospect that biological resources taken by the person will be subject to

5 research and development on any genetic resources, or biochemical

6 compounds, comprising or contained in the biological resources.

7 (3) The definition of access to biological resources in subsection (1) does not

8 include:

9 (a) The taking of biological resources for a purpose other than a purpose

10 mentioned in subsection (1);

11 (b) Access to human remains;

12 (c) The taking of biological resources that have been cultivated or tended for

13 a purpose other than a purpose mentioned in subsection (1); or

14 (d) The taking of public resources for a purpose other than a purpose

15 mentioned in subsection (1).

16 (4) For subsection (3)(d), taking of public resources includes the following

17 activities:

18 (a) Fishing for commerce or recreation, games or charter fishing, or collecting

19 broodstock for aquaculture;

20 (b) Harvesting wildflowers;

- 1 (c) Taking wild animals or plants for food;
- 2 (d) Collecting peats or firewood;
- 3 (e) Taking essential oils from wild plants;
- 4 (f) Collecting plant reproductive materials for propagation;
- 5 (g) Commercial forestry.

6 Section 19.1006. Meaning of access provider. In this Chapter, access provider
7 for biological resources means the Kosrae Island Resource Management Authority,
8 acting on behalf of the State of Kosrae. KIRMA shall act in the interests of all
9 Kosraean's in considering whether to provide access to biological resources.

10 Section 19.1007. Requiring for an Access and Benefit Sharing Agreement. Any
11 researcher seeking access to biological resources for non-commercial, potential
12 commercial or commercial purposes must, in addition to obtaining a research permit in
13 accordance with Section 19.1004 and the Regulations promulgated thereunder, enter into
14 a benefit sharing agreement with the access provider for the resources. The agreement
15 must be concluded on mutually agreed terms and with the prior informed consent of the
16 access provider.

17 Section 19.1008. Regulations. KIRMA shall promulgate regulations to:

- 18 (1) Prescribe the process for obtaining research permits;
- 19 (2) Prescribe the requirements of an access and benefit sharing agreement;
- 20 (3) Fees for research permits;

1 (4) And any other matter necessary to give effect to the purpose of this Chapter.

2 Section 19.1009. Offences. It shall be unlawful to:

3 (1) Conduct research in the State of Kosrae without obtaining a permit in
4 accordance with Section 19.1004.

5 (2) Conduct research on biological resources without first concluding an
6 access and benefit sharing agreement with the access provider in
7 accordance with Section 19.1007.

8 (3) Breach any of the conditions of a research permit or access and benefit
9 sharing agreement.

10 (4) Develop a commercial product from the biological resources of the State
11 of Kosrae without obtaining or amending an existing access and benefit
12 sharing agreement with the access provider.

13 (5) Provide false or misleading information in an application, or report
14 submitted as a condition of a permit, under this Chapter or Regulations
15 promulgated thereunder.

16 Section 19.1010. Civil Penalties. Any person who violates this Chapter, any
17 regulation adopted pursuant to this Chapter, or any term or condition of a permit issued
18 pursuant to this Chapter shall be fined not more than \$10,000.00 for each separate
19 offense. Each day of each violation shall constitute a separate offense. Any action taken
20 in Court to impose or collect the penalty provided for in this Section shall be considered

1 a civil action. In determining the amount of the penalty, the gravity of the violation, prior
2 convictions and the demonstrated good faith of the person charged in attempt to achieve
3 rapid compliance after notification of a violation shall be considered.

4 Section 19.1011. Administrative Penalties. In addition to any other administrative or
5 judicial remedy provided by this Chapter, or by regulations adopted pursuant to this
6 Chapter, the Administrator is authorized to impose by order the penalties specified in
7 Section 19.1010.

8 Section 19.1012. Criminal Penalties. In addition to any action which may be brought
9 under this Chapter, any person who violates:

10 (a) Section 19.1009(1) or 19.1009(5) shall be guilty of a Category 3 Misdemeanor.

11 (b) Section 19.1009(2) or 19.1009(4) shall be guilty of a Category 3 Felony.

12 (c) Section 19.1009 (3) shall be guilty of a Category 1 Misdemeanor.

13 Section 19.1013. Existing Permits and Agreements. Any person with an existing
14 permit, access and benefit sharing agreement, or any other agreement purporting to grant
15 access to Kosrae's biological resources for non-commercial, commercial or potential
16 commercial purposes, shall ensure that that permit or agreement is compliant with this
17 Chapter and any regulations promulgated pursuant to this Chapter within six (6) months
18 of the effective date of this Chapter.

19 Section 3. Effective Date. This act shall take effect upon approval by the Governor
20 or upon its becoming law without such approval.

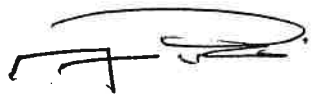
ELEVENTH KOSRAE STATE LEGISLATURE

THIRD SPECIAL SESSION – SEPTEMBER 2015

L.B. No. 11-67

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PASSED BY THE ELEVENTH KOSRAE STATE LEGISLATURE ON THE 13TH
DAY OF NOVEMBER, 2015.



Tulensa W. Palik
Speaker, Eleventh Kosrae State Legislature

Attested by: 
Deputy Chief Clerk

Lyndon H. Jackson
Governor, State of Kosrae

Date: _____

