

# SENATE BILL REPORT

## SHJM 4005

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As of March 20, 1995

**Brief Description:** Requesting federal assistance to obtain an equitable solution to the shellfish harvest issue in Washington State.

**Sponsors:** House Committee on Natural Resources (originally sponsored by Representatives Hargrove, Cairnes, Pelesky, Goldsmith, Buck, Johnson, Clements, Carrell, McMahan, Campbell, Koster, Padden, Huff, Backlund, Reams, Pennington, Stevens, Fuhrman, Silver, Crouse, Casada, Thompson and Sherstad).

**Brief History:**

**Committee Activity:** Natural Resources: 3/30/95.

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### SENATE COMMITTEE ON NATURAL RESOURCES

**Staff:** Ross Antipa (786-7413)

**Background:** In 1854 and 1855, Governor Stevens negotiated a series of treaties with tribes in what is now the state of Washington. These are referred to as the Stevens Treaties.

In these treaties, "the said tribes and bands of Indians hereby cede, relinquish, and convey to the United States, all their right, title, and interest in and to the lands and country occupied by them" (excerpt from the Medicine Creek Treaty). The tribes reserved certain parcels of land for reservations and were promised monetary payment for the lands ceded and for the expenses of moving to and settling on the reservations. The treaties contained language reserving the tribes' right to fish:

The right of taking fish at usual and accustomed grounds and stations is further secured to said Indians in common with all citizens of the Territory, and of erecting temporary houses for the purpose of curing, together with the privilege of hunting and gathering roots and berries on open and unclaimed lands. *Provided, however,* That they shall not take shell-fish from any beds staked or cultivated by citizens (excerpt from the Treaty of Point Elliot).

A recent federal district court opinion interpreted the language in the Stevens Treaties referred to as the shellfish proviso. The final judgment and order in this shellfish case is expected to include an implementation plan for the decision.

**Summary of Bill:** The Memorial asks the United States government to do three things:

- (1) Be part of the solution to the conflicts over the shellfish litigation by offering federally-owned tidelands for tribal shellfish harvest as part of the shellfish decision implementation plan;

- (2) Assist the state with funds to help offset the costs of the state's appeal of the shellfish decision; and
- (3) If the state's appeal is unsuccessful, provide funding for the administrative costs of development and implementation of a dual management program, for compensation to the commercial shellfish industry, for compensation for private property owners, for the purchase of tidelands, and for any other costs associated with implementing the final order of the court in the shellfish litigation.

**Appropriation:** None.

**Fiscal Note:** Not requested.