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SENATE JOINT MEMORIAL 8019

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State of Washington

54th Legislature

1995 Regular Session

By Senators Oke, Owen, Snyder, A. Anderson, Haugen, Bauer, Gaspard, McDonald, Swecker, Roach, Strannigan, Palmer, Hochstatter, Morton, West, Rasmussen and Spanel

Read first time 02/16/95. Referred to Committee on Natural Resources.

1 TO THE HONORABLE BILL CLINTON, PRESIDENT OF THE UNITED STATES, AND  
2 TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF  
3 REPRESENTATIVES, AND TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE  
4 UNITED STATES, IN CONGRESS ASSEMBLED:

5 We, your Memorialists, the Senate and House of Representatives of  
6 the State of Washington, in legislative session assembled, respectfully  
7 represent and petition as follows:

8 WHEREAS, The United States Congress has in this new session  
9 entertained, debated, and passed legislation that would prohibit  
10 federal mandates upon states without the coincident provision of the  
11 means necessary to implement the mandates; and

12 WHEREAS, To extinguish conflicting claims to lands lying West of  
13 the Cascade Mountains and North of the Columbia River, the United  
14 States entered into a series of treaties with Indian tribes in the  
15 Washington Territory in 1854 and 1855; and

16 WHEREAS, These federal treaties became binding on, indeed, a  
17 federal mandate on, the State of Washington upon its entry into  
18 statehood; and

19 WHEREAS, In these treaties, the United States "secured" the tribes'  
20 "right of taking fish, at all usual and accustomed grounds and stations  
21 . . . in common with all citizens of the Territory . . ."; and

1       WHEREAS, In 1974, federal district court Judge Boldt held, and the  
2 United States Supreme Court later affirmed, that said clause entitled  
3 the treaty tribes to harvest up to fifty percent of each run of  
4 anadromous fish passing through ancestral tribal fishing areas; and

5       WHEREAS, In December 1994, federal district court Judge Rafeedie  
6 interpreted said clause to also include the tribal harvest of shellfish  
7 on ancestral tribal fishing areas, including shellfish on privately  
8 owned land; and

9       WHEREAS, This federal treaty provision, this mandate, will cost the  
10 State of Washington untold millions of dollars in areas that  
11 potentially include the following: Administrative costs necessary to  
12 develop and implement a dual shellfish management program; the negative  
13 economic impact to the state's commercial shellfish industry;  
14 compensation required to be paid for the "taking" of private property;  
15 and the costs of policing and meting justice to those who may now take  
16 the law into their own hands;

17       NOW, THEREFORE, Your Memorialists respectfully implore the United  
18 States government to provide the State of Washington all due and  
19 necessary assistance to implement the aforementioned mandate,  
20 including, but not limited to, funds necessary to implement  
21 administration of dual shellfish management, compensation for the  
22 losses wrought upon Washington's economy; the funds, if necessary, to  
23 compensate private landowners for taken property rights; and any  
24 additional funds required to maintain law and order in Washington.

25       BE IT RESOLVED, That copies of this Memorial be immediately  
26 transmitted to the Honorable Bill Clinton, President of the United  
27 States, the President of the United States Senate, the Speaker of the  
28 House of Representatives, and each member of Congress from the State of  
29 Washington.

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