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**SUBSTITUTE SENATE JOINT MEMORIAL 8019**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** Senate Committee on Natural Resources (originally sponsored by Senators Oke, Owen, Snyder, A. Anderson, Haugen, Bauer, Gaspard, McDonald, Swecker, Roach, Strannigan, Palmer, Hochstatter, Morton, West, Rasmussen and Spanel)

Read first time 03/01/95.

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 Indian claims to lands in the Washington  
13 Territory, the United States entered into a series of treaties with  
14 Indian tribes in the Washington Territory in 1854 and 1855; and

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

18 WHEREAS, In these treaties, the United States "secured" to the  
19 tribes "[t]he right of taking fish, at all usual and accustomed grounds  
20 and stations . . . in common with all citizens of the Territory . . .";  
21 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 the treaty provision providing "[t]hat they shall not take  
7 shellfish from any beds staked or cultivated by citizens . . ." and  
8 held the treaties to also include the tribal harvest of shellfish on  
9 ancestral tribal fishing areas, including shellfish from natural beds  
10 on privately owned tidelands; and

11       WHEREAS, This federal treaty provision, this mandate, will cost the  
12 State of Washington untold millions of dollars to provide meaningful  
13 public recreational shellfish harvesting opportunities; to work with  
14 private tideland owners, many of whom have made significant investments  
15 in aquatic farming; to implement sound conservation and management  
16 programs for non-Indian commercial harvesting; and to increase the  
17 scientific data base needed to provide biologically sustainable  
18 harvesting programs for tribal shellfish harvesting;

19       NOW, THEREFORE, Your Memorialists respectfully implore the United  
20 States government to provide the State of Washington all due and  
21 necessary assistance to implement the aforementioned mandate,  
22 including, but not limited to, funds necessary to implement  
23 administration of dual shellfish management and compensation for the  
24 losses wrought upon Washington's economy.

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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