

2 HJM 4001 - S AMD (S2736.2/97) - 482
3 By Senators Hargrove and Rossi

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5 Beginning on page 1, after line 4, strike all material through
6 "Lands." on page 2, line 33, and insert the following:

7 "WHEREAS, The Legislature is the ultimate trustee of our state's
8 federal grant lands and the county forest board transfer lands; and

9 WHEREAS, Article III, section 23 of the state Constitution states
10 that "the commissioner of public lands shall perform such duties ... as
11 the legislature may direct"; and

12 WHEREAS, This language, calling for the Legislature expressly to
13 direct the Commissioner of Public Lands, is different and distinct from
14 the language in the Constitution regarding other state elected
15 officials, which calls on these state officials to perform duties
16 "prescribed by law"; and

17 WHEREAS, The Commissioner of Public Lands has signed an
18 implementation agreement with the United States Fish and Wildlife
19 Service and the National Marine Fisheries Service binding some one
20 million six hundred thousand acres of state trust lands to the
21 constraints of a habitat conservation plan for the next seventy to one
22 hundred years; and

23 WHEREAS, The Commissioner of Public Lands has entered into this
24 agreement in spite of the serious reservations expressed by the
25 Legislature and by many trust beneficiaries that entering into this
26 particular habitat conservation plan is not in the best interest of the
27 beneficiaries and does not comply with the fiduciary duties of the
28 state, the Commissioner, and the Board of Natural Resources; and

29 WHEREAS, The Legislature would be remiss in meeting its own
30 obligations as the ultimate trustee of these state forest lands if it
31 did not exercise its constitutional authority to correct this action;
32 and

33 WHEREAS, The particular language of our state Constitution with
34 regard to the Commissioner of Public Lands allows the Legislature to
35 direct the Commissioner through legislation and through joint memorial;

36 NOW, THEREFORE, BE IT RESOLVED, That the legislature shall exercise
37 its appropriate authority as trustee over state trust lands by

1 reviewing the existing habitat conservation plan for state forest
2 lands. The legislature shall make its own determination as to whether
3 the plan and the accompanying implementation agreement are in
4 compliance with the state's fiduciary responsibilities and are, in
5 fact, in the best interests of the trust beneficiaries. If the
6 legislature finds that the habitat conservation plan and implementation
7 agreement are in the best interests of the trust beneficiaries, the
8 legislature shall so state either through legislation, joint memorial,
9 or resolution; and

10 BE IT FURTHER RESOLVED, That if the legislature has not made such
11 a statement by March 15, 1998, the department of natural resources
12 shall immediately exercise the provision in the habitat conservation
13 plan implementation agreement terminating that agreement and plan. The
14 department of natural resources shall notify the legislature
15 immediately that it has taken this required action; and

16 BE IT FURTHER RESOLVED, That copies of this memorial be immediately
17 transmitted to the Honorable Jennifer Belcher, Commissioner of Public
18 Lands."

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