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**SENATE JOINT RESOLUTION NO. 238**  
**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Senate Committee on Rules  
on February 14, 2000)

(Patron Prior to Substitute—Senator Mims)

*Requesting the Office of the Executive Secretary of the Virginia Supreme Court, in consultation with the Joint Commission on Technology and Science, to study discovery of electronic data.*

WHEREAS, Virginia is the center of the Internet, with numerous multi-state and multi-national Internet businesses located in the Commonwealth; and

WHEREAS, numerous motions regarding discovery of electronic data are being heard in the circuit courts of the Commonwealth; and

WHEREAS, many of these motions arise out of cases pending in other states but are being heard in the Commonwealth only because the Internet service providers (ISPs), which may be the custodians of such electronic data, are located in the Commonwealth; and

WHEREAS, the Code of Virginia provides a statutory scheme in governing the discovery of such electronic data for criminal cases but not for civil cases; and

WHEREAS, to strengthen the Commonwealth's position as the leader of technology and relevant laws and to facilitate further growth of Internet industries, a legal procedure governing discovery of electronic data, whether by statute or by rules of evidence, is necessary; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Office of the Executive Secretary of the Virginia Supreme Court, in consultation with the Joint Commission on Technology and Science, be requested to study discovery of electronic data. The Executive Secretary shall examine the development of a statutory scheme or rules of evidence to govern the discovery of electronic data in civil cases and the feasibility of providing circuit court judges the authority to appoint special commissioners to hear and resolve complex disputes regarding discovery of electronic data.

All agencies of the Commonwealth shall provide assistance to the Executive Secretary, upon request.

The Office of the Executive Secretary of the Virginia Supreme Court shall complete its work in time to submit its findings and recommendations to the Governor and the 2001 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

SENATE SUBSTITUTE

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