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HOUSE JOINT RESOLUTION NO. 681

Offered January 10, 2001

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Establishing a joint subcommittee to study the election process.

Patrons—O'Brien and Rapp

Referred to Committee on Rules

WHEREAS, public confidence in the integrity of the ballot, accuracy of the reported vote, and certainty of the election is crucial in a democratic process; and

WHEREAS, such public confidence is essential to acceptance of the legitimacy of the election outcome, an orderly transfer of power, and the stability of the political system itself; and

WHEREAS, it is the policy of the Commonwealth to promote the integrity of the election process by ensuring the accurate recording and counting of all legal votes cast for candidates and on ballot questions; and

WHEREAS, the closeness of the popular vote and subsequent disputes over the counting of the vote in several states during the November 2000 presidential election have focused national attention on the manner in which votes are cast, ballots counted and recounted, and procedural disputes resolved; and

WHEREAS, the lack of standards in handling and counting ballots and the varying interpretations of what constituted the intent of voter compromised the orderly, expedient, and fair conduct of the election; and

WHEREAS, a lawsuit was filed alleging that the "butterfly" ballot design used by Palm Beach County was confusing to voters and resulted in a high percentage of misvoting; and

WHEREAS, irregularities in the transit, handling, and acceptance of military and overseas ballots confounded the determination of when the ballots were voted and sent; and

WHEREAS, the emergence of several Internet vote-swapping sites is transforming the presidential election process by facilitating the pledge of interstate votes to help major candidates win electoral college votes in swing states and third party candidates win enough votes in non-swing states to receive federal matching funds at the next election; and

WHEREAS, Virginia experienced a recount for statewide office as recently as the 1989 gubernatorial election, and in the past decade alone several state legislative contests and local elections have involved recounts on questions about the conduct of the vote; and

WHEREAS, while Virginia has not experienced election uncertainty on the scale of that revealed in Florida and elsewhere, the Commonwealth and its citizens will be well served by a determination of whether additional actions, procedures, guidelines, regulations, or policies are necessary and advisable to ensure the accuracy of vote counts, increase the certainty of the outcome, and establish orderly, objective, accurate and fair procedures for establishing accurate vote tallies and for resolving disputes over results before and election crisis occurs; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to study the electoral process. The joint subcommittee shall consist of 14 members, which shall include eight legislative members and six nonlegislative and ex officio members as follows: five members of the House of Delegates, to be appointed by the Speaker in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; three members of the Senate, to be appointed by the Senate Committee on Privileges and Elections; three members, one of whom shall be a member of a local electoral board, to be appointed by the Speaker; one voter registrar appointed by the Senate Committee on Privileges and Elections; and the Secretary of Technology or his designee and the Secretary of the State Board of Elections or her designee to serve ex officio with voting privileges.

In conducting the study, the joint subcommittee shall (i) examine the reliability and performance of the various types of voting equipment in use throughout Virginia; (ii) consider the desirability of uniform statutory rules for counting and recounting ballots to eliminate subjective interpretations of voter intent; (iii) establish the extent to which, and the circumstances under which, spoiled ballots are cast or rescinded in elections; (iv) collect information regarding possible or actual voter misunderstanding of the ballot in elections throughout the Commonwealth; (v) solicit the advice and experience of local election registrars in ascertaining, establishing, and certifying the results of elections for accuracy and fairness; (vi) investigate the extent of and legality of vote-swapping strategies; (vii) examine local election board membership and qualification; (viii) investigate the experience of, and monitor current actions in, other states; and (ix) consider and make any other recommendations for changes that may be desirable to

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59 advance the certainty of, and fairness in establishing, the outcome of elections in the Commonwealth.

60 The direct costs of this study shall not exceed \$11,000.

61 The Division of Legislative Services shall provide staff support for the study. Technical assistance
62 shall be provided by the State Board of Elections. All agencies of the Commonwealth shall provide
63 assistance as requested by the joint subcommittee.

64 The joint subcommittee shall complete its work in time to submit its written findings and
65 recommendations to the Governor and the 2002 Session of the General Assembly as provided in the
66 procedures of the Division of Legislative Automated Systems for the processing of legislative
67 documents.

68 Implementation of this resolution is subject to subsequent approval and certification by the Joint
69 Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the
70 study.