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HOUSE JOINT RESOLUTION NO. 681
AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the Senate Committee on Rules
 on February 19, 2001)

(Patrons Prior to Substitute—Delegates O'Brien, Crittenden [HJR 798], Drake [HJR 621], Landes [HJR 659], Marshall [HJR 529], Putney [HJR 606], and Williams [HJR 575] and Senators Lambert [SJR 376] Miller, K.G. [SJR 363] and Rerras [SJR 352])

Establishing a joint subcommittee to study Virginia's election process and voting technologies.

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, the framers of the Constitution of the United States placed primary authority with the sovereign states to conduct and regulate elections; 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 Florida and several other states during the November 2000 presidential election have highlighted questions related to ballot design, methods of casting and recording votes, equipment accuracy and reliability, standards for counting and recounting ballots, vote-swapping sites on the Internet, and numerous other issues in the conduct of elections; and

WHEREAS, it would appear that many of the problems stemmed from a reliance on antiquated technology and ambiguous standards; and

WHEREAS, the recent presidential election introduced voters to the problems associated with the "butterfly" ballot design and the dimpled chad, pregnant chad, tri-cornered chad and swinging chad created with the punch card voting method; and

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

WHEREAS, the appearance of vote-swapping sites on the Internet last year facilitated the pledge of interstate votes between voters, which enables major party candidates to pick up votes in swing states and third parties to retain votes needed to qualify for federal matching funds for the next election; and

WHEREAS, while Virginia did not experience election uncertainty on the scale of that revealed elsewhere in 2000, the Commonwealth has seen 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 or questions about the conduct of the vote; and

WHEREAS, voters have a right to expect ballot designs and methods for casting and counting ballots that are easily understood, simple to operate, and employ foolproof technologies to prevent voter error; and

WHEREAS, the Commonwealth's counties use various voting systems, including the mark sense tabulator (optical scan), direct recording electronic (touch screen), mechanical and punch-card tabulator, some of which are at least 20 years old; and

WHEREAS, individual local electoral boards determine from an approval list the voting systems that will be used in each county or city; and

WHEREAS, establishing standardized voting systems throughout the Commonwealth could lead to more efficient and nondiscriminating elections; and

WHEREAS, ballot and voting devices should minimize, and preferably eliminate, the necessity or opportunity for election officials and agents for individual interests to seek to interpret the intent of voters by examining the ballots they cast; and

WHEREAS, voting procedures should generate confidence that the voter's ballot will be recorded and counted and that the results of elections will be tabulated and reported accurately; and

WHEREAS, since 1995, the State Board of Elections has been required to provide a second or divisible precinct registered voter list to serve as the official pollbook at each precinct; and

WHEREAS, the registered voter list and pollbook are used to record who voted at the polls and serve as accurate and secured sources for citizens reviewing the events of the election; and

WHEREAS, a combined precinct registered voter list and pollbook offers a means to streamline and simplify the process of recording registered voters at the polls and may improve elections by the efficient use of officers of election, faster processing of votes and reduction in paperwork and storage space; and

SENATE SUBSTITUTE

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60 WHEREAS, the integrity of the registration and election process also depends heavily on the
61 professional performance of the general, assistant, and deputy registrars; and

62 WHEREAS, a career development program for voter registrars may provide the means to encourage
63 and reward performance of their duties; and

64 WHEREAS, every citizen who is eligible has the right to vote and to have that vote counted; and

65 WHEREAS, the Commonwealth's election laws should be evaluated to be certain that no qualified
66 voter is excluded from the process; and

67 WHEREAS, the Commonwealth and its citizens would be well served by a determination of whether
68 additional actions, procedures, guidelines, regulations, policies or systems are necessary or advisable to
69 ensure the orderly, objective, accurate, and fair conduct of elections and resolution of disputes over
70 results before an election crisis occurs; now, therefore, be it

71 RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be
72 established to study Virginia's election process and voting technologies. The joint subcommittee shall
73 consist of 16 members, which shall include 10 legislative members and six nonlegislative and ex officio
74 members as follows: six members of the House of Delegates, to be appointed by the Speaker in
75 accordance with the principles of proportional representation contained in the Rules of the House of
76 Delegates; four members of the Senate, to be appointed by the Senate Committee on Privileges and
77 Elections; three nonlegislative members, one of whom shall be a member of a local electoral board, to
78 be appointed by the Speaker; one voter registrar appointed by the Senate Committee on Privileges and
79 Elections; and the Secretary of Technology or his designee and the Secretary of the State Board of
80 Elections or her designee to serve ex officio with voting privileges.

81 In conducting the study, the joint subcommittee shall (i) examine the reliability and performance of
82 the various types of voting systems in use throughout Virginia and in other states; (ii) examine the
83 feasibility, advisability and costs of standardizing voting systems throughout the Commonwealth; (iii)
84 consider ways to encourage localities to purchase or phase-in upgraded voting systems, including match
85 grant programs; (iv) examine new and developing technologies that might advance the goals of better
86 determining vote eligibility, ensuring voter privacy, enhancing the ability of voters to cast accurate and
87 legal ballots and reducing the potential for election officials and individual interests to seek to interpret
88 the intent of voters from ballots cast; (v) establish the extent to which, and the circumstances under
89 which, spoiled ballots are cast or rescinded in elections; (vi) collect information regarding possible or
90 actual voter misunderstanding of the ballot in elections throughout the Commonwealth; (vii) solicit the
91 advice and experience of local electoral boards in ascertaining, establishing, and certifying the results of
92 elections for accuracy and fairness; (viii) investigate the extent of and legality of vote-swapping
93 strategies; (ix) examine local electoral board membership and qualification; (x) consider procedures for
94 voter-friendly registration; (xi) examine standard procedures for assisting voters at the polls; (xii)
95 ascertain the training needs of election officials and monitor the study by the State Board of Elections
96 and the Weldon Cooper Center for Public Service on establishing a career development program for
97 voter registrars; (xiii) consider procedures for standardizing absentee voting; (xiv) examine legal,
98 technological, logistical and other related issues, including privacy involved in the handling and security
99 of a merged pollbook; (xv) investigate the experience of, and monitor current actions in, other states;
100 and (xvi) make any other recommendations for changes that may be desirable to advance the certainty
101 of, and fairness in establishing, the outcome of elections in the Commonwealth. The study shall include,
102 but not be limited to, the development of secure systems to facilitate voting and other procedures
103 involved in the voter registration and voting process and shall examine new advances such as
104 biometrics, passcodes, and other appropriate devices.

105 The direct costs of this study shall not exceed \$14,500.

106 The Division of Legislative Services shall provide staff support for the study. Technical assistance
107 shall be provided by the State Board of Elections. All agencies of the Commonwealth shall provide
108 assistance, upon request.

109 The joint subcommittee during the course of its study may recommend to the State Board of
110 Elections that the Board adopt or implement such procedures as are within its authority to ensure
111 accurate or fair elections during the 2001 election process, and shall complete its work in time to submit
112 its written findings and recommendations by November 30, 2001, to the Governor and the 2002 Session
113 of the General Assembly as provided in the procedures of the Division of Legislative Automated
114 Systems for the processing of legislative documents.

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