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HOUSE JOINT RESOLUTION NO. 640
FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Stosch
on February 24, 2005)

(Patron Prior to Substitute—Delegate Callahan)

Establishing a joint subcommittee to study options to provide a long-term funding source to clean up Virginia's polluted waters, including the Chesapeake Bay and its tributaries, and other unfunded liabilities of the Commonwealth. Report.

WHEREAS, the Commonwealth has over \$5 billion in unfunded liabilities, including its responsibilities to clean up Virginia's polluted waters;

WHEREAS, the Commonwealth of Virginia has a responsibility under Article XI of the Constitution of Virginia "to protect its atmosphere, lands, and waters from pollution, impairment, or destruction, for the benefit, enjoyment, and general welfare of the people of the Commonwealth"; and

WHEREAS, the Virginia Department of Environmental Quality reported in 2004 that over 6,900 miles of rivers and streams and over 1,900 square miles of Virginia's estuaries are polluted, with these waterways and the Chesapeake Bay being listed on the federal Clean Water Act's "dirty waters" list; and

WHEREAS, the Virginia Department of Environmental Quality reported in 2004 that at least 2,700 miles of the rivers, creeks, and streams and over 110,000 acres of the lakes listed on the Clean Water Act's "dirty waters" list reside outside of the Chesapeake Bay watershed; and

WHEREAS, the Clean Water Act requires that Virginia implement cleanup strategies to restore these polluted waters in a timely fashion; and

WHEREAS, the Commonwealth's timeframe for implementing cleanup strategies is further constrained by a 1999 court consent decree; and

WHEREAS, as a result of nitrogen and phosphorous, the Chesapeake Bay, as well as portions of the Bay's tributaries, are included on the list of polluted waters; and

WHEREAS, almost two-thirds of the pollution responsible for the federal listing is attributed to inadequately treated sewage and polluted run-off from agricultural activities; and

WHEREAS, the Commonwealth of Virginia, in conjunction with other Chesapeake Bay states and the federal government, is committed under the Chesapeake 2000 Agreement to dramatically reduce nitrogen and phosphorous pollution in order to restore the health of the polluted waters of the Chesapeake Bay and its tidal tributaries; and

WHEREAS, the Chesapeake 2000 Agreement also commits Virginia to permanently preserving 20 percent of the land in the Chesapeake Bay Watershed by 2010, and Virginia must protect 400,000 acres in order to meet this goal; and

WHEREAS, the United States Environmental Protection Agency will dictate to the Commonwealth and local jurisdictions the actions necessary to restore the Chesapeake Bay and its tidal tributaries if state and local actions fail to restore these polluted waters to a healthy condition by 2010; and

WHEREAS, clean water is an issue of critical concern to the economies of the Commonwealth and local jurisdictions, as well as the health and welfare of the people of Virginia; and

WHEREAS, in 1989 a report entitled *Economic Importance of the Chesapeake Bay*, conservatively estimated that even in its severely degraded state the Chesapeake was worth \$678 billion to the economies of Virginia and Maryland; and

WHEREAS, a recent report by the Chesapeake Bay Watershed Blue Ribbon Finance Panel, entitled *Saving a National Treasure: Financing the Cleanup of the Chesapeake Bay*, concluded that it would be difficult to identify a major segment of the region's economy that is not shaped and enhanced by the Chesapeake Bay; and

WHEREAS, the cost of achieving the required reductions in nitrogen and phosphorous pollution in Virginia is estimated to exceed \$3 billion; and

WHEREAS, a recent report from the Chesapeake Bay Commission, entitled *Cost Effective Strategies for the Bay - Identifying Smart Investments for Nutrient Reduction*, establishes that a major portion of the needed pollution reductions can be achieved for significantly less money by focusing on the most cost-effective and sustainable pollution reduction methods including the modernization of sewage treatment plants and the installation of best management practices on agricultural lands; and

WHEREAS, \$160 million a year would provide sufficient funds for achieving the majority of needed reductions in nitrogen and phosphorous pollution statewide by modernizing sewage treatment plants with state-of-the-art pollution removal technologies and installing best management practices on agricultural land; and

WHEREAS, although the Virginia Water Quality Improvement Fund has recently received allocations of \$30 million during the 2004-2006 biennial budget to address the Commonwealth's pollution cleanup

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60 needs, the General Assembly recognizes that the allocation is inadequate and inconsistent from
61 year-to-year; and

62 WHEREAS, the people of Virginia not only have a constitutional right to clean water for drinking
63 and recreational use but they also support the allocation of additional funding to restore Virginia's
64 streams, rivers and Chesapeake Bay; and

65 WHEREAS, the General Assembly has a constitutional obligation to ensure the cleanliness and safety
66 of Virginia's streams, rivers and the Chesapeake Bay; and

67 WHEREAS, the General Assembly has received for consideration proposed legislation that would
68 impose a dedicated user fee on Virginia households in order to restore polluted streams and rivers and
69 the Chesapeake Bay as well as proposed legislation that would dedicate a portion of the sales tax to the
70 restoration of these waters; and

71 WHEREAS, the General Assembly recognizes the urgency with which it must act in order to restore
72 polluted streams and rivers and the Chesapeake Bay, that it must allocate a significant increase in
73 funding to this restoration, and that such funding must be consistent and dedicated to this purpose; and

74 WHEREAS, the Commonwealth also has other liabilities, in addition to the urgent need to restore
75 polluted streams and rivers and the Chesapeake Bay, as a result of funding pensions and other
76 post-employment benefits at a lower rate than required per the actuary and Federal Reimbursement
77 Anticipation Notes (FRANS) debt; and

78 WHEREAS, unfunded risk management, unfunded maintenance, tax overwithholding, and
79 underfunding of the Virginia Prepaid Tuition Plan also contribute to off-balance sheet liabilities; and

80 WHEREAS, the obligations of the Commonwealth to restore polluted streams and rivers and the
81 Chesapeake Bay along with other financial liabilities of the Commonwealth impact the long-term fiscal
82 health and integrity of the Commonwealth; now, therefore, be it

83 RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be
84 established to study options to provide a long-term funding source to clean up Virginia's polluted waters,
85 including the Chesapeake Bay and its tributaries, and other unfunded liabilities of the Commonwealth.
86 The joint subcommittee shall have a total membership of ten members that shall consist of six
87 legislative members and four ex officio member. Members shall be appointed as follows: four members
88 of the House, one of whom shall be the Chairman of the House Committee on Agriculture, Chesapeake
89 and Natural Resources, one of whom shall be the Chairman of the House Committee on Appropriations,
90 one of whom shall be the Chairman of the House Committee on Finance, and one of whom shall be
91 appointed by the Speaker of the House of Delegates; two members of the Senate, one of whom shall be
92 the Chairman of the Senate Committee on Agriculture, Conservation and Natural Resources, and one of
93 whom shall be the Chairman of the Senate Committee on Finance. The Secretary of Natural Resources,
94 the Secretary of Agriculture, and the Secretary of Finance, and the Director of the Virginia Retirement
95 System or their designees shall serve ex officio with voting privileges. The joint subcommittee shall
96 elect a chairman and vice-chairman from among its membership, who shall be members of the General
97 Assembly.

98 In conducting its study, the joint subcommittee shall determine the most effective means to provide a
99 long-term funding source that will sufficiently and predictably generate the necessary revenue from
100 sectors, including, but not limited to, state, federal, local and private sources, to fund the pollution
101 reduction measures necessary to restore polluted waters identified on the Clean Water Act's "dirty
102 waters" list. Specific attention shall be given to the Commonwealth's commitment and legal obligation to
103 restore the polluted waters of the Chesapeake Bay and its tidal tributaries and to conserve land in ways
104 that benefit water quality.

105 The joint subcommittee shall also identify and estimate other unfunded liabilities currently facing the
106 Commonwealth or likely to accrue in the future. In reviewing these liabilities, the joint subcommittee
107 shall make recommendations as to how these needs may be met in order to ensure the continued fiscal
108 integrity of the Commonwealth.

109 Administrative staff support shall be provided by the Office of the Clerk of the House of Delegates.
110 Legal, research, policy analysis, and other services as requested by the joint subcommittee shall be
111 provided by the Division of Legislative Services. Technical assistance shall be provided by Department
112 of Environmental Quality, the Department of Conservation and Recreation, and the staffs of the House
113 Committee on Appropriations and the Senate Committee on Finance. All agencies of the
114 Commonwealth shall provide assistance to the joint subcommittee for this study, upon request.

115 The joint subcommittee shall be limited to four meetings for the 2005 interim, and the direct costs of
116 this study shall not exceed \$ 10,000 without approval as set out in this resolution. Approval for
117 unbudgeted nonmember-related expenses shall require the written authorization of the chairman of the
118 joint subcommittee and the respective Clerk. If a companion joint resolution of the other chamber is
119 agreed to, written authorization of both Clerks shall be required.

120 No recommendation of the joint subcommittee shall be adopted if a majority of the House members
121 or a majority of the Senate members appointed to the joint subcommittee (i) vote against the

122 recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the
123 joint subcommittee.

124 The joint subcommittee shall complete its meetings by November 30, 2005, and the chairman shall
125 submit to the Division of Legislative Automated Systems an executive summary of its findings and
126 recommendations no later than the first day of the 2006 Regular Session of the General Assembly. The
127 executive summary shall state whether the joint subcommittee intends to submit to the General
128 Assembly and the Governor a report of its findings and recommendations for publication as a House or
129 Senate document. The executive summary and the report shall be submitted as provided in the
130 procedures of the Division of Legislative Automated Systems for the processing of legislative documents
131 and reports and shall be posted on the General Assembly's website.

132 Implementation of this resolution is subject to subsequent approval and certification by the Joint
133 Rules Committee. The Committee may approve or disapprove expenditures for this study, extend or
134 delay the period for the conduct of the study, or authorize additional meetings during the 2005 interim.