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## SENATE JOINT RESOLUTION NO. 328

Offered January 14, 2009

Prefiled January 13, 2009

*Establishing a joint subcommittee to study postelection audits of voting equipment. Report.*

Patron—Herring

Referred to Committee on Rules

WHEREAS, Virginia has witnessed several close elections in recent years; and

WHEREAS, the majority of states conduct some form of postelection audit to confirm the integrity and accuracy of voting systems, and legislation proposing some form of postelection audit for the Commonwealth has come before the General Assembly each of the last three sessions; and

WHEREAS, the General Assembly added § 24.2-671.1 to the Code of Virginia in 2008 to authorize the State Board of Elections to provide for pilot programs for audits of optical scan tabulators in localities agreeing to participate; and

WHEREAS, there are multiple technical, financial, and legal issues concerning postelection audits that are difficult to address during a legislative session; and

WHEREAS, a careful analysis of postelection audit options will serve to ensure the integrity of elections, voter confidence, and the wise investment of public resources; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That a joint subcommittee be established to study postelection audits of voting equipment. The joint subcommittee shall have a total membership of 11 members that shall consist of six legislative members, and five nonlegislative citizen members. Members shall be appointed as follows: two members of the Senate to be appointed by the Senate Committee on Rules; four members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; one nonlegislative citizen member with statistical expertise to be appointed by the Senate Committee on Rules; one nonlegislative citizen member with election audit experience to be appointed by the Senate Committee on Rules; one nonlegislative citizen member with computer expertise to be appointed by the Senate Committee on Rules upon consideration of the recommendation, if any, of the Chief Information Officer of the Virginia Information Technologies Agency; two nonlegislative citizen members to be appointed by the Speaker of the House of Delegates upon consideration of the recommendations, if any, of the state Democratic Party, the state Republican Party, and the Virginia Electoral Board Association. Nonlegislative citizen members of the joint subcommittee shall be citizens of the Commonwealth of Virginia. Unless otherwise approved in writing by the chairman of the joint subcommittee and the respective Clerk, nonlegislative citizen members shall be reimbursed only for travel originating and ending within the Commonwealth of Virginia for the purpose of attending meetings. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required. The joint subcommittee shall elect a chairman and vice chairman from among its membership, who shall be members of the General Assembly.

In conducting its study, the joint subcommittee shall (i) review alternative procedures and processes for postelection audits, (ii) oversee the conduct of a pilot or mock audit, (iii) estimate the time requirements and costs of postelection audits, (iv) review the experience of postelection audits in other states, (v) consider the statistical confidence of different audit strategies, and (vi) consider the changes that would be required in the Code and procedures for different audit strategies to be effective.

Administrative staff support shall be provided by the Office of the Clerk of the Senate. Legal, research, policy analysis, and other services as requested by the joint subcommittee shall be provided by the Division of Legislative Services. Technical assistance shall be provided by the State Board of Elections and the Virginia Information Technologies Agency. All agencies of the Commonwealth shall provide assistance to the joint subcommittee for this study, upon request.

The joint subcommittee shall be limited to four meetings for the 2009 interim and four meetings for the 2010 interim, and the direct costs of this study shall not exceed \$8,000 for each year without approval as set out in this resolution. Approval for unbudgeted nonmember-related expenses shall require the written authorization of the chairman of the joint subcommittee and the Clerk of the Senate. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required.

No recommendation of the joint subcommittee shall be adopted if a majority of the Senate members or a majority of the House members appointed to the joint subcommittee (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the

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59 joint subcommittee.

60 The joint subcommittee shall complete its meetings for the first year by November 30, 2009, and for  
61 the second year by November 30, 2010, and the chairman shall submit to the Division of Legislative  
62 Automated Systems an executive summary of its findings and recommendations no later than the first  
63 day of the next Regular Session of the General Assembly for each year. Each executive summary shall  
64 state whether the joint subcommittee intends to submit to the General Assembly and the Governor a  
65 report of its findings and recommendations for publication as a House or Senate document. The  
66 executive summaries and reports shall be submitted as provided in the procedures of the Division of  
67 Legislative Automated Systems for the processing of legislative documents and reports and shall be  
68 posted on the General Assembly's website.

69 Implementation of this resolution is subject to subsequent approval and certification by the Joint  
70 Rules Committee. The Committee may approve or disapprove expenditures for this study, extend or  
71 delay the period for the conduct of the study, or authorize additional meetings during the 2009 and 2010  
72 interims.