

By Senator Sullivan

41-271F-01

1 Senate Concurrent Resolution No. ____
2 A concurrent resolution providing for the
3 manner of appointing electors for President and
4 Vice President of the United States; providing
5 for the appointment of such electors; providing
6 for the filling of vacancies.

7
8 WHEREAS, an election was held in this state on November
9 7, 2000, for the purpose of selecting electors from Florida to
10 cast the state's vote for President and Vice President of the
11 United States of America on December 18, 2000, and

12 WHEREAS, Article II, Section 1 of the Constitution of
13 the United States provides, in pertinent part, that "Each
14 State shall appoint, in such Manner as the Legislature thereof
15 may direct, a Number of Electors, equal to the whole Number of
16 Senators and Representatives to which the State may be
17 entitled in the Congress," and

18 WHEREAS, Section 5 of Title 3 of the United States Code
19 provides:

20
21 "If any State shall have provided, by laws
22 enacted prior to the day fixed for the
23 appointment of the electors, for its final
24 determination of any controversy or contest
25 concerning the appointment of all or any of the
26 electors of such State, by judicial or other
27 methods or procedures, and such determination
28 shall have been made at least six days before
29 the time fixed for the meeting of the electors,
30 such determination made pursuant to such law so
31 existing on said day, and made at least six

1 days prior to said time of meeting of the
2 electors, shall be conclusive, and shall govern
3 in the counting of the electoral votes as
4 provided in the Constitution, and as
5 hereinafter regulated, so far as the
6 ascertainment of the electors appointed by such
7 State is concerned," and

8
9 WHEREAS, the names of the electors who were appointed
10 following the Florida Secretary of State's certification on
11 November 26, 2000, were forwarded to Congress by the Governor
12 of the State of Florida with a certificate of ascertainment
13 pursuant to a timetable and scheme dictated by the November
14 21, 2000, decision of the Florida Supreme Court, and that
15 decision has been vacated by the December 4, 2000, ruling of
16 the Supreme Court of the United States, thus increasing the
17 uncertainty and confusion regarding the validity of the
18 appointment of those electors, and

19 WHEREAS, the electors who were appointed on November
20 26, 2000, are the same electors as those who would have been
21 appointed pursuant to a certification made on November 17,
22 2000, had the Florida Secretary of State been allowed to do
23 so, and

24 WHEREAS, it appears that there exists a reasonable risk
25 that the Congress of the United States, in exercising its
26 counting powers pursuant to the Twelfth Amendment of the
27 Constitution of the United States and Title 3 of the United
28 States Code over the votes cast for President and Vice
29 President by the members of the Electoral College, may
30 determine that the election held in this state for the purpose
31 of choosing electors has failed to make a choice on the day

1 prescribed by law because contests and controversies have
2 arisen concerning that election, and that the Congress may
3 decide that those contests and controversies either were not
4 finally determined by December 12, 2000, or that such
5 determination was not pursuant to pre-existing election law or
6 was not in compliance with Article II, Section 1, of the
7 United States Constitution, and that accordingly Congress may
8 not count the votes of the 25 electors already certified and
9 sent to the Congress by the Governor of the State of Florida,
10 and

11 WHEREAS, the Florida Legislature wishes to fulfill its
12 constitutional obligation to ensure that Florida's six million
13 voters are not disenfranchised and that its 25 electoral votes
14 will be counted by Congress, and

15 WHEREAS, Section 2 of Title 3 of the United States Code
16 provides that "Whenever any State has held an election for the
17 purpose of choosing electors, and has failed to make a choice
18 on the day prescribed by law, the electors may be appointed on
19 a subsequent day in such a manner as the legislature of such
20 State may direct," NOW, THEREFORE,

21
22 Be It Resolved by the Senate of the State of Florida, the
23 House of Representatives Concurring:

24
25 That the manner that the Florida Legislature directs
26 that electors for President and Vice President of the United
27 States of America be appointed in the year 2000 is by
28 appointment by the Florida Legislature.

29 BE IT FURTHER RESOLVED that the Florida Legislature
30 hereby appoints as the 25 electors for President and Vice
31 President of the United States of America, such number being

1 equal to the whole number of Senators and Representatives to
2 which the State of Florida is entitled in the Congress the
3 following named persons: Charles W. Kane, Maria De La Milera,
4 Sandra M. Faulkner, H. Gary Morse, Armando Codina, Carole Jean
5 Jordan, Tom Slade, Marsha Nippert, Robert L. Woody, John
6 Thrasher, Mel Martinez, Feliciano M. Foyo, Al Hoffman, Alfred
7 S. Austin, Thomas C. Feeney, III, John M. McKay, Cynthia M.
8 Handley, Darryl K. Sharpton, Dr. Adam W. Herbert, Berta J.
9 Moralejo, Jeanne Barber Godwin, Deborah L. Brooks, Dr. Dorsey
10 C. Miller, Glenda E. Hood, and Dawn Guzzetta.

11 BE IT FURTHER RESOLVED that, if for any reason an
12 elector appointed by this resolution is unable to serve
13 because of death, incapacity, or otherwise, the Governor of
14 the State of Florida may appoint a person to fill such vacancy
15 who is a citizen of the State of Florida, who was registered
16 and otherwise eligible to vote in the general election held on
17 November 7, 2000, and who is not prohibited from serving as an
18 elector under Article II, Section 1, of the United States
19 Constitution.

20 BE IT FURTHER RESOLVED that each elector for President
21 and Vice President of the United States appointed by this
22 resolution shall, before 10 a.m. on December 18, 2000, give
23 notice to the Governor of the State of Florida that such
24 elector is in Tallahassee and ready to perform the duties of
25 an elector for President and Vice President of the United
26 States, and if it shall be found that one or more electors
27 appointed pursuant to this concurrent resolution are absent,
28 the electors present, subject to the provisions of section
29 103.061, Florida Statutes, shall elect by ballot, in the
30 presence of the Governor, a person or persons to fill such
31

1 vacancy or vacancies as may have occurred through the
2 nonattendance of the elector.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31