



2008 Session of the General Assembly: Science and Technology Legislative Update

JCOTS Endorsed Bills

Enacted: HB 238 (Cosgrove) and SB 286 (Wampler)

Income tax exemption for launch services and payload. Grants an income tax exemption for income resulting from the sale of launch services to space flight participants or launch services intended to provide individuals the training or experience of a launch, without performing an actual launch. The bill also grants an income tax exemption for any gain recognized as a result of resupply services contracts for delivering payload entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity. Includes HB's 170, 351, 874, 1151 and SB 401.

Enacted: HB 343 (Plum)

Cathode ray tubes; disposal bans. Permits localities to prohibit the disposal of cathode ray tubes in any waste-to-energy or solid waste disposal facility within its jurisdiction, provided the locality has implemented a recycling program that is capable of handling all cathode ray tubes generated within its jurisdiction. Previously the ban only applied to privately operated landfills.

Enacted: HB 344 (Plum)

Computer Recovery and Recycling Act; penalties. Requires the manufacturer of more than 500 items of computer equipment to adopt and implement a recovery plan providing for the reasonably convenient collection, recycling, and reuse of computer equipment returned by a consumer in the Commonwealth. The manufacturer must also affix a permanent, readily visible label to the computer equipment with the manufacturer's brand before a manufacturer may offer computer equipment for sale in the Commonwealth. Examples of collection methods meeting the recovery plan requirements in this Act include (i) a system by which the consumer may return the computer equipment free of charge; (ii) a system using a physical collection site; or (iii) a system using collection events at which the consumer may return computer equipment. Each manufacturer must annually report on the weight of computer equipment collected, recycled, and reused during the preceding calendar year.

Enacted: HB 632 (May)

Virginia Resources Authority; broadband services. Clarifies that the Virginia Resources Authority may be used as a funding mechanism for all projects involving the provision of broadband services, and not just those utilizing wireless broadband technologies.

Enacted: HB 633 (May) and SB 133 (Houck)

Personal Information Privacy Act; social security numbers. Prohibits the dissemination of another person's social security number, regardless of whether such number is obtained from a public or private record. Currently, the prohibition against dissemination only applies to social security numbers obtained from private sources. This bill is a recommendation of the Freedom of Information Advisory Council and the Joint Commission on Technology and Science.

Enacted: HB 634 (May) and SB 132 (Houck)

Government Data Collection and Dissemination Practices Act (GDCDPA); personal information; definition; collection of same; penalty for violation; jurisdiction of district courts. Provides that no agency shall require an individual to furnish or disclose his social security number (SSN) or driver's license number unless the furnishing or disclosure of such number is (i) authorized or required by state or federal law and (ii) essential for the performance of that agency's duties. The bill also strengthens the remedies provisions of the GDCDPA by adding civil penalties matching those in FOIA, and grants general district courts the authority to hear GDCDPA cases. Additionally, the bill has enactment clauses giving it a delayed effective date of July 1, 2009, and requires state agencies to study their own collection and use of SSNs and report to the FOIA Council and JCOTS on such collection and use by October 1, 2008. The bill also contains a fourth enactment clause providing for the gathering of similar information about the use and collection of SSNs by cities, counties and towns with a population greater than 15,000. The bill is a recommendation of the Freedom of Information Advisory Council and JCOTS.

Continued: HB 1533 (Plum)

Television recycling programs; manufacturer fees; disposal ban. Bans the disposal of covered televisions and component parts as solid waste effective January 1, 2009. The bill requires manufacturers of televisions covered by the act to pay a \$5,000 per year state registration fee and report to the Department of Environmental Quality on the weight, in pounds, of televisions sold in the Commonwealth. The Department will use the fees collected to provide reimbursements to localities implementing television recycling programs in compliance with criteria established by the Department. If a locality does not implement a television recycling program, the Department shall initiate a program for residents in that locality. Both the Department and the Office of the Attorney General have authority to enforce the provisions of this act.

Enacted: SB 356 (Watkins) and HB 137 (Peace)

Textbook purchasing contracts. Permits local school boards to enter into contracts or issue purchase orders with publishers for the purchase of textbooks. The bill reorganizes the textbook purchasing process and repeals several sections of outdated code. Also provides that if consumable materials are sold to students, the local school board must provide those materials at a reduced price, or free of charge, to students who are unable to afford them.

Other science and technology related legislation

Failed: HB 125 (Purkey)

Nanotechnology subordinated debt and equity investment tax credit. Provides a tax credit, beginning January 1, 2009, in an amount equal to 50% of the taxpayer's cash investments in the form of equity or subordinated debt in certain qualified nanotechnology businesses. A qualified business must be domiciled in the Commonwealth, be engaged in business primarily or do substantially all of its production in the Commonwealth, and primarily engaged in the research, development, or commercialization of nanotechnology with applications in (i) energy, conservation, and the environment, (ii) microelectronics, or (iii) lifespan biology and medicine. The credit shall not exceed the lesser of the tax imposed on the taxpayer for the taxable year in which the credit is sought or \$50,000. Any unused credit may be carried over for 15 years. Total credits available for any calendar year shall be \$15 million. If such investments are not held for at least three years, the taxpayer must forfeit used and unused credits, plus penalty, to the Department of Taxation. Includes HB 1092 and HB 1194.

Enacted: HB 139 (Peace)

Income tax; biodiesel and green diesel fuels producers income tax credit. Allows an income tax credit to biodiesel and green diesel fuels producers in Virginia who produce up to two million gallons of biodiesel or green diesel fuels a year. The amount of the credit is \$0.01 per gallon but no more than \$5,000 annually for taxable years beginning on and after January 1, 2008. Includes HB's 647 and 1539.

Enacted: HB 218 (Kilgore)

Notaries Public. Clarifies provisions relating to the adoption of electronic notarization and transitioning to the required seal application on notarized documents. The bill also clarifies the validity of documents notarized within and without the Commonwealth, and when documents are conclusively presumed to be in proper form following recordation. The bill removes the requirement that a notary must be recommended by a public official for appointment. This bill is identical to SB 621.

Enacted: HB 234 (Cosgrove)

Commonwealth Technology Research Fund (CTRF); sensor sciences. Adds sensor sciences to the eligible research programs in the CTRF. This bill is identical to SB 319.

Failed: HB 384 (Ware, R. L.)

Computer trespass; penalty. Alters the elements of the crime of computer trespass, no longer requiring that a person act with malicious intent in order to be guilty but requiring that the crime be committed without the consent and authorization of the computer's owner.

Failed: HB 385 (Ware, R.L.)

Computer invasion of privacy; personal information; penalties. Expands the type of information, the examination of which without authority would constitute the crime of computer invasion of privacy, to include any personal information relating to any other person as well as another person's name and date of birth.

Failed: HB 416 (Marshall, R.G.)

Innovative Technology Authority; repealed. Repeals the Innovative Technology Authority and the Center for Innovative Technology. The bill moves the Advanced Communications Assistance Fund, the Commonwealth Technology Research Fund, and the Biotechnology Commercialization Loan Fund under the supervision of the Virginia Economic Development Partnership.

Failed: HB 497 (Cosgrove)

Center for Innovative Technology (CIT); duties. Requires CIT to perform a biennial survey of the Commonwealth's technology industry to assess the current and projected demand for science, math, and technology-related graduates and identify the types of graduates most desired by the technology industry. The bill requires CIT to report its findings to the Joint Commission on Technology and Science and the Commonwealth's institutions of higher education.

Failed: HB 554 (Griffith)

Computer crimes; website redirection; penalty. Adds a Class 6 felony to the list of computer trespass crimes if a person, with malicious intent, intentionally alters the markup language or Uniform Resource Locator (URL) of a website so as to redirect a user from his intended URL or website destination to a third-party URL or website.

Enacted: HB 578 (Cosgrove) and SB 235 (Whipple)

Innovative Technology Authority; powers of board of directors. Authorizes the Board of the Authority to designate the President and staff of the Center for Innovative Technology to carry

out the day-to-day operations and activities of the Authority and to perform such other duties as may be directed by the Board.

Enacted: HB 748 (Caputo) and SB 236 (Whipple)

Innovative Technology Authority; board of directors. Removes the Secretaries of Education and Commerce and Trade, as well the Director of the State Council of Higher Education, from the board of directors of the Authority. The bill also makes a technical correction.

Enacted: HB 1018 (Hugo)

Definition of telecommuting. Defines telecommuting as a work arrangement in which supervisors direct or permit employees to perform their usual job duties away from their central workplace at least one day per week and in accordance with work agreements.

Failed: HB 1019 (Hugo)

Telecommuting; state agencies to keep savings. Authorizes state agencies to retain the unappropriated balance in the general appropriation act realized as a direct result of implementing a telecommuting program within the agency.

Failed: HB 1030 (Frederick) Procurement contracts; state contractors to offer telecommuting to employees. Requires the contractor to make every effort to offer telecommuting or alternative work schedules to its employees, based on the state telecommuting and alternative work schedule guidelines, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor.

Enacted: HB 1081 (Hugo)

State employee telecommuting goal. Establishes a goal for state agencies, except for the Department of State Police, to have 20 percent of their eligible workforce telecommuting by January 1, 2010.

Enacted: HB 1311 (Byron) and SB 576 (Saslaw)

Freezing access to credit reports. Authorizes any consumer to freeze access to his credit report. If a consumer has placed a freeze on his credit report, a consumer reporting agency is prohibited from releasing the credit report, or any information in it, without the consumer's express authorization. The measure provides a means by which a consumer can release his report, permanently, temporarily, or to a specific third party. Certain disclosures are exempt from the freeze. A fee of up to \$10 may be charged for establishing a freeze, except identity theft victims are not required to pay a fee. A person who willfully fails to comply with the requirements is liable to a consumer for actual damages of between \$100 and \$1,000, punitive damages, and

reasonable attorney fees. A person who negligently fails to comply with the requirements is liable to a consumer for actual damages and reasonable attorney fees. The Attorney General is authorized to take enforcement actions. SB 576 is identical. HB 1339, 785, 607, 897, 1307, 35, 345, 4, 175, and 16 are incorporated in this bill.

Enacted: HB 1319 (May)

Underground transmission lines; pilot program. Establishes a pilot program for the placement of four new transmission lines of 230 kilovolts or less to be placed underground, either in whole or in part. The bill establishes criteria for the State Corporation Commission to consider and procedures for the Commission to follow in selecting the projects. One of the projects shall be for a transmission line that has received Commission approval prior to the effective date of the act. If a qualifying project provides radial rather than networked electric service, a presumption of need is created in applications for transmission lines that will complete the network.

Enacted: HB 1329 (Peace) and SB 206 (Stuart)

State-owned communications towers; broadband service. Requires state agencies to lease or convey a license or other interest in a state-owned communication tower for which they are responsible to qualified providers of wireless broadband service in order to deploy broadband Internet service in areas of the Commonwealth that do not have access to terrestrial broadband or radio frequency Internet service. The requirement is subject to the provider presenting a spectrum and certified structural analysis of the tower and proof that the tower satisfies all applicable local government requirements. The conveyance shall require payment of such consideration as the Director of the Department of General Services deems appropriate and which is commensurate with the consideration paid for use of comparable space on similar towers.

Enacted: HB 1330 (Ingram) and SB 651 (Quayle)

Economic development grants; aerospace engine manufacturing. Establishes three grant programs relating to aerospace engine manufacturing. Grants would be paid to manufacturers of aerospace engines who (i) make a capital investment of at least \$500 million in real and personal property and (ii) create in excess of 540 jobs relating to aerospace engine manufacturing or activities ancillary or supportive of such manufacturing. Under this grant program, a maximum of \$35 million in grants would be paid beginning in the 2013-2014 fiscal year and ending in the 2022-2023 fiscal year. A second grant program would provide training grants in the amount of \$9,000 for each new job created by a manufacturer of aerospace engines or an affiliate thereof. Training grants would not exceed \$5,778,000 in total. In addition, a supplemental training grant in the amount of \$3 million would be paid to an aerospace engine manufacturer who has invested at least \$153.9 million in real and personal property and has hired at least 176 new employees. A final grant program would provide up to \$5 million in grants to an aerospace engine

manufacturer who attracts certain suppliers to locate or expand operations in the Commonwealth. Under this grant program, in order for the aerospace engine manufacturer to be paid the full \$5 million in grants, such suppliers would be required to create at least 300 jobs and make a capital investment of at least \$50 million.

Continued: HB 1360 (Cline) and SB 585 (Cuccinelli)

Searchable budget database website. Requires the Director of the Department of Planning and Budget to maintain a searchable budget database website that would allow persons to search and aggregate information for individual or specific appropriations or budget items. The Director would be required to have the database operational by July 1, 2009. When fully operational, all data in the database would be maintained for a minimum of 10 years. The bill would require the Director to work with the Auditor of Public Accounts and the Joint Legislative Audit and Review Commission to avoid any duplication of efforts. This bill incorporates HB 201, HB 203, HB 423, HB 1163, HJ 82, and HR 2.

Enacted: HB 1443 (Merricks)

Streamlined permitting process for alternative and renewable energy facilities. Requires the Air Pollution Control Board to develop procedures for the expedited review of applications for the construction of a qualified energy generator. The expedited procedures cap the permit fees at \$50 and require processing of an application to be completed within 60 days. A qualified energy generator is a commercial facility located in the Commonwealth with the capacity annually to generate not more than five megawatts of electricity, or its equivalent in fuel, steam, or other form of energy, that is generated or produced from biomass. The measure does not apply to facilities that are subject to a major new source review program required by the federal Clean Air Act.

Enacted: HB 1469 (Byron) and SB 307 (Reynolds)

Database breach notification. Requires an individual or entity that owns or licenses computerized data that includes personal information to disclose any breach of the security of the system following discovery or notification of the breach to the Office of the Attorney General and any affected resident of the Commonwealth whose unencrypted and unredacted personal information was, or is reasonably believed to have been accessed and acquired by an unauthorized person. A breach is defined as the unauthorized access and acquisition of unencrypted and unredacted computerized data that compromises the security or confidentiality of personal information maintained by an individual or entity as part of a database of personal information regarding multiple individuals and that causes, or the individual or entity reasonably believes has caused, or will cause, identity theft or other fraud to any resident of the Commonwealth. Violations by a state-chartered or licensed financial institution shall be enforceable

exclusively by the financial institution's primary state regulator. Violations by an entity regulated by the State Corporation Commission shall be enforceable exclusively by the Commission. All other violations shall be enforced by the Office of the Attorney General, which may impose a civil penalty not to exceed \$150,000 per breach or series of breaches of a similar nature that are discovered in a single investigation. The bill specifies that its provisions do not limit an individual from recovering direct economic damages. This bill incorporates HB 390 (Delegate Bulova), HB 971 (Delegate Shannon), HB 1052 (Delegate Plum), and HB 1504 (Delegate Nixon).

Enacted: HB 1476 (Rust) and SB 52 (Whipple)

Elections; voting equipment; wireless communications at polling places. Provides exceptions to the prohibition on wireless communications to or from voting devices at the polls on election day. First, the prohibition will not apply to voting equipment purchased by a locality before July 1, 2007. Second, electronic pollbooks may be used. This bill is identical to SB 52. This bill incorporates HB 467, HB 685, and HB 801.

Failed: HB 1563 (Scott, J.M)

Telecommuting; reports to the General Assembly. Requires the Secretary of Technology to work in conjunction with the Secretary of Administration and Secretary of Transportation in advising and assisting the public and private sectors regarding telecommuting. The bill also places the primary reporting responsibility with the Secretary of Technology, as opposed to the Secretary of Administration. The Secretary of Technology must report annually by October 1 to the General Assembly on the status and efficiency of telecommuting in the Commonwealth.

Gov. Recommendation Received by Senate: SB 320 (Wagner)

Covenants restricting solar energy collection devices. Provides that a community association shall not prohibit an owner from installing or using any solar energy collection on the owner's property; but such association may establish reasonable restrictions concerning the size, place, and manner of placement of the solar energy collection devices. The bill allows a community association to prohibit or restrict the placement of such devices on the common areas. The bill provides that nothing shall be construed to (i) invalidate any provision of a restrictive covenant that prohibits or restricts the installation or use of any solar collection device if such provision was in effect before July 1, 2008, or (ii) prohibit the amendment of a restrictive covenant on or after July 1, 2008, to prohibit or restrict the installation or use of any solar collection device if such amendment is adopted by the membership of the community association in accordance with such association's governing documents.

Enacted: SB 322 (Wagner)

Renewable energy source. Defines municipal solid waste as a source of renewable energy under the Virginia Electric Utility Restructuring Act.

Gov. Recommendation Received by Senate: SB 464 (Whipple)

Virginia Commission on Energy and Environment. Establishes the Virginia Commission on Energy and Environment as a legislative study commission to review and recommend steps to implement the Virginia Energy Plan. The Commission is charged, among other things, to (i) undertake studies and gather information and data, (ii) make recommendations as may be necessary to accomplish its purposes as set forth in the legislation, (iii) make special studies of and reports on measures to secure Virginia's energy future, (iv) establish advisory committees composed of persons with special expertise not represented by individuals serving on the Commission, (v) seek, accept, and expend gifts, grants or donations to enable the Commission to carry out its objectives, (vi) review and make recommendations on legislation affecting energy policy to the General Assembly, and (vii) report annually on its activities during the preceding year to the Governor and the General Assembly. This bill also incorporates SB 627 (Ticer), which proposed to establish a similar executive branch study commission.

Enacted: SB 689 (Watkins)

Biofuels Production Incentive Grant Program; eligible fuels. Expands the definition of biofuels to include neat biodiesel fuel, neat green diesel fuel, and neat ethanol fuel. Biodiesel fuel is redefined as a fuel composed of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, and meeting the requirements of ASTM D6751. Green diesel fuel is now defined as a fuel produced from nonfossil renewable resources, including agricultural or silvicultural plants; animal fats; residue and waste generated from the production, processing, and marketing of agricultural products; silvicultural products; and other renewable resources, and meeting applicable ASTM specifications.

Enacted: SB 718 (Puller)

Renewable energy and energy conservation. Requires investor-owned electric utilities to report annually on their efforts to conserve energy. The measure also requires the Virginia Energy Plan to be updated by July 1, 2010, and every four years thereafter. Currently, the Energy Plan is required to be updated in July 2012 and every five years thereafter. The measure also requires utilities to report annually on their efforts to meet the renewable portfolio standard goals, renewable generation overall, and relevant advances in renewable energy generation technology.

Significant Studies

Passed: HJ 90 (Cosgrove)

Continuing the Joint Subcommittee Studying Science, Math, and Technology Education at the Elementary, Secondary, and Undergraduate Levels. Continues the joint subcommittee to review the curricula of existing public schools in the Commonwealth, including Governor's Schools and other specialized public schools devoted to math, science, or technology; study accessibility to specialized public schools by students throughout the Commonwealth; review and recommend innovative ways to interest students at all education levels in science, math, and technology; identify the key points during the K-12 education experience that will determine whether a student will become interested, and maintain that interest, in math, science, technology related subjects; and identify programs and activities that promote partnerships between educators at the Commonwealth's public schools and institutions of higher education, as well as with business and research entities in the science and technology sectors located in the Commonwealth.

In addition, to address the shortage of science and engineering graduates in the Commonwealth, the joint subcommittee shall, in its deliberations, ascertain the factors contributing to the shortage of science and engineering graduates in the Commonwealth and recommend alternatives to mitigate its effect; determine the current supply and demand for science and engineering graduates in Virginia, and project the need for such graduates in the next decade; examine ways to promote and encourage collaboration and partnerships between science and engineering programs at the Commonwealth's institutions of higher education and science- and technology-based businesses in Virginia, including tax incentives; assess the feasibility of using the collaboration between Virginia Tech and the Virginia Community College System in the Lynchburg area as a model for institutional partnerships; and identify incentives designed to attract and retain more students into science and engineering programs and prepare them for careers in these fields. This resolution incorporates HJ 115 (Purkey).

Passed: HJ 248 (Sickles)

Study; Development and enhancement of the biosciences and biotechnology. Creates a joint subcommittee to study and advance the development and enhancement of the biosciences and biotechnology in the Commonwealth.

Passed: SJ 126 (Stolle)

Center for Innovative Technology; innovation index; report. Requests the Center for Innovative Technology (CIT) to establish a Commonwealth Innovation Index to foster the formation, retention, and expansion of technology-based economic development opportunities. In developing the Innovation Index, CIT shall solicit input from the Commonwealth's regional technology councils and technology community. The index shall serve as a community-driven tool that will enable community and Commonwealth leaders to steer a successful course toward

global leadership in advanced technology company formation and attraction while saving tax dollars.

Passed: SJ 129 (Stolle)

Study; JLARC to study cost of VITA services; report. Directs the Joint Legislative Audit and Review Commission (JLARC) to study services provided to state agencies and public bodies by the Virginia Information Technologies Agency (VITA). In conducting its study, JLARC shall (i) evaluate the quality, cost, and value of the services delivered to state agencies and public bodies and (ii) characterize the impact to state agencies and public bodies resulting from the transition to a fee-based services model and to the information technology infrastructure partnership with Northrop Grumman. The Commission must submit its report to the 2010 Session of the General Assembly.

Significant Technology Related Budget Bill Items

Modeling and Simulation

- \$3 million to the Virginia Modeling Analysis and Simulation Center in Suffolk in the first year of the biennium.

Aerospace

- \$1.3 million the first year and \$9.4 million the second year to provide an incentive for the location of an aerospace engine manufacturer (Rolls Royce) to the Commonwealth.
- Virginia Space Grant Consortium Scholarships, \$170,000 the first year and \$170,000 the second year from the general fund.

Commonwealth Technology Research Fund (CTRF)

- \$1 million in each year of the biennium for competitive research grants at universities.

Jefferson Lab

- \$6 million the second year of the biennium for Jefferson Science Associates, LLC to leverage a federal investment of \$310 million for an upgrade of the Jefferson Lab's research facilities, which will maintain its leadership in the study of nuclear physics and secure the benefits of such a facility for the Commonwealth.

Energy

- \$1.6 million the first year of the biennium for the Virginia Coastal Energy Research Consortium (VCERC) to support research and development of Virginia's marine renewable energy resources with a focus on offshore winds, waves, and marine biomass, including

the generation of algal biodiesel. This reflects the Commonwealth's commitment to research with an emphasis on the development of self-sustaining enterprises that continue beyond the 2008-2010 biennium.

- NOTE: funding is contingent on the VCERC and/or the member institutions being able to document existing financial investments in such research activities from other federal or private funds.