



**Joint Commission on Technology and Science**  
**October 8, 2008 1:30 p.m.**  
**National Institute of Aerospace, 100 Exploration Way, Hampton VA**

- **Call to order, introductions**

Delegate May called the meeting to order and introduced Bob Lindbergh, Executive Director, National Institute of Aerospace (NIA). Mr. Lindbergh addressed the Commission and thanked everyone for coming to visit the NIA. All presentations made to the Commission are available on the JCOTS website at <http://jcots.state.va.us>.

- **Broadband Roundtable Update**

- **The Honorable Aneesh P. Chopra, Secretary of Technology**

Secretary of Technology Aneesh Chopra unveiled a new initiative that allows citizens to submit ideas for improving state government through a website at [www.ideas.virginia.gov](http://www.ideas.virginia.gov). Secretary Chopra next reviewed progress of the Broadband Roundtable, which is currently working with several internet providers to catalogue address of homes with internet access available in the Commonwealth. Secretary Chopra noted that this effort is the first of its kind in the nation and will help assist in directing efforts to expand broadband coverage to underserved areas of the Commonwealth. Finally, Secretary Chopra updated the Commission on progress in working with CK-12 to develop a physics "flexbook" for use in K-12 education. The flexbook is scheduled to be ready for review by February 2009.

- **Overview of the Virginia Enterprise Applications Program (VEAP)**

- **Peggy Feldmann, Director & Chief Applications Officer**

Mrs. Feldmann provided an extensive overview of VEAP and its role in providing enterprise solutions to agency throughout the Commonwealth.

- **Subcommittee & Advisory Committee Updates**

- **Executive Committee**

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JCOTS staff provided an update on the Executive Committee's work on HB 636. Delegate May informed the Commission that representatives from USAA and the Independent Insurance Agents will be working with staff to develop a compromise for legislation that will allow insurance companies to issue electronic notices to customers in lieu of paper notices.

- **SSN Subcommittee**

JCOTS staff provided an update on the Commissions work with the FOIA Council and the recently returned surveys from all public bodies in the Commonwealth regarding the collection of social security numbers.

- **Open Education Subcommittee**

Senator Watkins reviewed the work of the Open Education Subcommittee. At its first meeting the subcommittee reviewed two proposals from the Virginia Open Education Foundation. The first proposal was a resolution requesting the Superintendent of Public Instruction to disseminate information on the Creative Commons licensing system, which is widely seen as a precursor to increased use of open education materials. The second proposal was a bill that would provide a grant program for universities, community colleges, and K-12 school systems to develop open education repositories. The two proposals outlined above will be reviewed in greater detail at the next meeting.

The second meeting of the subcommittee was held at the Community Idea Stations facility (PBS). During the meeting Community Idea Stations showcased their latest efforts to digitize and organize the thousands of hours of free media they have in storage. During the second meeting the subcommittee also received a presentation from Pearson Education on some of their new products currently under development. One of the more interesting products in development is a series of over 1,000 teaching modules that can be combined by teachers to custom build a textbook.

- **Transportation Technologies Advisory Committee**

Delegate Rust reviewed the work of the Transportation Technologies Advisory Committee. Regarding legislation setting minimum noise levels for vehicles, the committee heard from a representative from the Virginia Federation of the Blind that it is often difficult to detect an approaching hybrid vehicle, raising safety concerns. A representative from the Alliance of

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Automobile Manufacturers indicated that they have been working with the National Federation of the Blind to develop scientific tests to determine existing noise levels and to possibly develop standards.

The advisory committee agreed that while this may be a problem, it may not be best left to each state to establish noise standards -- may be best dealt with on the national level to establish uniform standards for manufacturers.

While the advisory committee would like to continue to monitor what other states are doing (Maryland and California are also studying the issue), they would recommend sending letters to 50-state legislative organizations such as American Legislative Exchange Council, Council on State Governments, and the National Conference of State Legislators to encourage review of the issue on a nation-wide level

- **Electronics Recycling Advisory Committee**

Delegate Plum provided the Commission an update on the work of the eCycling Advisory Committee. The advisory committee has reviewed recycling and disposal issues associated with compact fluorescent bulbs and televisions. The advisory committee is currently reviewing television recycling legislation and expects to report a draft bill for final approval at the next full JCOTS meeting.

- **Court Update**

- **Ostergren v. McDonnell (SSN)**

JCOTS staff provided an update on Ostergren v. McDonnell. The 2008 General Assembly adopted amendments to § 59.1-443.2 of the Personal Information Privacy Act (PIPA) of the Code of Virginia, providing that no person may intentionally communicate the social security of another person, regardless of whether the social security number was obtained from public or private records. (See chapters 652, 820 of the 2008 Acts of Assembly). Previously, PIPA only prohibited the dissemination of a social security number when it was obtained from a private record or source. The change was made at the recommendation of the Joint Commission on Technology and Science and the Virginia Freedom of Information Advisory Council.

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In its decision, the court found that the statute is unconstitutional as applied to the plaintiff's website, which is protected political speech. However, in issuing an injunction to prohibit the imposition of sanctions and fines on the plaintiff, the court said the injunction only applies to the website as it exists at the time of the opinion. Further briefings would be necessary to determine if the injunction would also apply if the website was broadened in scope, such as by stripping social security numbers from public records and posting them in list form.

○ **Jaynes v. Commonwealth (Spam)**

JCOTS staff provided an update on Jaynes v. Commonwealth. In its opinion dated September 12, 2008 the Virginia Supreme Court held that Virginia Code § 18.2-152.3:1 (anti-spam statute) is unconstitutionally overbroad on its face because it prohibits the anonymous transmission of all unsolicited bulk e-mails, including those containing political, religious, or other speech protected by the First Amendment of the Constitution.

The Virginia Supreme Court retreated from its previous position and held that Jaynes' had standing to challenge the anti-spam statute under the First Amendment. As a result, the Virginia Supreme Court developed a more detailed analysis of the First Amendment implications and unanimously concluded that the law restricts the dissemination of protected speech in violation of the First Amendment. In its holding, the Virginia Supreme Court acknowledged that similar statutes in other states are protected from First Amendment scrutiny because they contain exceptions for non-commercial email that does not involve criminal activity, defamation, or obscene materials. In other words, similar anti-spam statutes are only applicable to unprotected commercial speech, and therefore insulated from similar First Amendment challenges.

● **Public Comment**

None.

● **Other Business**

● **Adjourn**

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