Tab IX

Proposed Legislative Positions Amendments

- Previously adopted Legislative Positions remain in full effect from year to year. **No vote is necessary on Legislative Positions if no change is made.**

- Only <u>changes</u> to existing Legislative Positions (Amendments to add or delete language), or <u>new</u> Legislative Positions, are to be considered by the Delegate Assembly.

- When a proposed new legislative position, or proposed amendment, is removed from the "block" to be considered separately, **<u>only</u> the proposed changes are open to consideration/discussion.** It takes a two-thirds vote to suspend the rules to consider/discuss any part of a position not new or proposed for amendment.

- The explanation for and history of each position that is included in the official VSBA Handbook of Legislative Positions is omitted in this section. They are omitted because they are used for lobbying purposes and are not part of the position statement, nor subject to action by the Delegate Assembly.

- The full text of all current Legislative Positions with explanations and history of each position are included in the Appendix.

Proposed New Legislative Positions

4.23 Expansion of the Virginia Human Rights Act

The VSBA requests the expansion of classifications contained in the *Virginia Human Rights Act, Code of Virginia §§2.2-3900 and 2.2-3901*, to include gender orientation and gender identity and to further amend the *Code of Virginia, §22.1-78*, to allow local schools boards to similarly expand the protected classifications contained in local school board policies and regulations.

Rationale: Several local school boards are considering expansion of the protected classifications contained in local school board policies. It is uncertain whether or not these actions are permitted within the *Virginia Human Rights Act*. Clarifying legislation will ensure that all persons have equal protection in all categories.

5.13 Scheduling of School Opening

The VSBA requests that the Virginia General Assembly rescind the restrictions upon the opening of school before Labor Day.

A pre-Labor Day opening would allow local school systems to effectively schedule all mandatory instructional, professional development, and teacher work days, and allow for the scheduling of additional instructional days in advance of mandatory assessment windows.

Furthermore, a pre-Labor Day opening would provide greater flexibility in calendar creation, and accommodate unique local conditions, regional programs, and state and federal holidays.

Rationale: The new proposed legislative position removes language from the existing Legislation Position 5.11 (currently entitled, **Scheduling of Elections and School Opening)** and focuses entirely on the existing restrictions placed on school systems on the opening of school before Labor Day. The new legislative position notes the numerous benefits for all school systems that would be associated with eliminating the restrictions.

5.14 Changing Board Procedures in the Event of a Tie Vote

The VSBA requests changes in the *Code of Virginia, § 22.1-75 -Procedure in case of tie vote*, that will provide for the following of Robert's Rules of Order Newly Revised in addressing such situations.

Rationale: Currently the Code of Virginia can cause local School Boards to delay decisions when a tie vote occurs. The use of Robert's Rules of Order Newly Revised will allow local School Boards to operate in a smooth and efficient manner without delaying actions.

Proposed Amendments to Existing Legislative Positions

1.1 Elementary and Secondary Education Act of 1965 and Limited English Proficiency Programs

The VSBA supports the goals of the federal Elementary and Secondary Education Act of 1965 (ESEA) (also known as the No Child Left Behind Act of 2001 [NCLB]) to ensure that every student receives a high-quality education. The VSBA also supports the following specific revisions of law and regulation so that the Act may be appropriately implemented at all levels of accountability.

- **<u>Flexible programs which encourage and enhance successful local practices and which emphasize the achievement of particular goals rather than rigid and inflexible "top down" or "one size fits all" reform models.</u>**

- **<u>Reconciliation of ESEA provisions with those found in other major federal education laws, such as the Individuals with Disabilities Education Act (IDEA).</u>**

- **Accountability measured by student subgroup is a cornerstone of the federal ESEA. Therefore, when Adequate Yearly Progress (AYP) is calculated, a school, division or state should be counted as not making AYP and subject to sanction only if the same student subgroup misses achievement benchmarks in the same subject for two or more consecutive years. Currently, missing achievement benchmarks in the same subject by any subgroup is sufficient to cause a school to be counted as having not met AYP, even if the specific subgroup missing the benchmark changes from year to year;**

- **Public school choice and the provision of supplemental services to students in schools that have missed AYP benchmarks for two or more consecutive years should be made available only to the subgroup(s) and individual students failing to meet benchmark standards. Scarce Title I resources should be focused only on students with demonstrated needs, not on students already meeting AYP benchmarks;**

- **Reversing the order in which sanctions for failing to meet AYP benchmarks are applied, with supplemental service provision preceding public school choice;**

- **States and school divisions should be given greater flexibility over how to assess and measure achievement for all students with particular emphasis on students with disabilities and students with limited English proficiency to ensure that assessments fairly, accurately, and meaningfully measure student achievement. This would include the use of growth models that measure individual student progress rather than the proportion of students meeting a single standard. The use of a single, uniform standard**

to measure every child's progress results in counting students who make significant progress within a school year as missing AYP benchmarks and potentially subjects their schools to sanction despite their successful progress. A uniform standard also does not take into consideration differences in how long it might take different students to learn the same body of information;

- **The United States Congress should encourage the United States Department of Education to work cooperatively with states that have a demonstrated record in the use of student accountability systems in improving student achievement and grant such states flexibility in aligning existing and proven state accountability systems with provisions under the ESEA. In order to achieve this alignment, USED should consider allowing such states to keep components of their existing state accountability plans intact. While states need to make every effort to align state plans to match ESEA provisions, USED needs to show similar flexibility in their consideration and approval of state plans submitted to implement the law; The United States Department of Education should publicly and transparently disclose every ruling made on state ESEA implementation plans and state requests for plan changes and waivers. Waiver requests granted to individual states should automatically be extended to all states;**

- **The United States Department of Education and, if necessary, the United States Congress, should address and adjust the policy of counting the test scores of a single student who qualifies in multiple subgroups as a member of each of those subgroups, in order to address the disproportionate impact these students may have on AYP results;**

- **The VSBA strongly supports actions taken by the Board of Education and General Assembly asking for changes in particular components of the law, for an analysis of the state and local costs associated with the implementation of this federal mandate, and for efforts to identify initiatives and conditions within ESEA that are not integral or necessary components of the Commonwealth's own accountability programs;**

- **All states should establish a common definition and calculation of graduation rates to be based on the recommendation of the National Governor's Association; and**

- **The VSBA opposes expanding the scope of ESEA (e.g. incorporating additional subjects in AYP, expanding sanctions beyond title I schools, extending to additional grade levels, etc.) before addressing substantive changes in the underlying structure and implementation of the law itself.**

- **<u>Focusing interventions on positive supports to improve student achievement rather than on sanctions to punish underperforming schools.</u>**

- **<u>Tailoring interventions to better fit the circumstances under which schools fail to meet accountability benchmarks. States and local school systems decide among a continuum of interventions based on best practices and local experience.</u>**

- **<u>Recognition of exemplary school performance as well as the availability of resources to share proven best practices.</u>**

- **<u>VSBA opposes school reform models that rely on the removal of a principal as a requirement to turn around an underperforming school. In addition, VSBA opposes teacher and principal evaluation systems that solely link student scores on standardized tests to their performance.</u>**

The VSBA also supports expanding the exemption for limited English proficient (LEP) students in their first three (3) years of enrollment in the United States under the ESEA. Currently, USED requires all enrolled students to be included in state assessments and to include their scores in ESEA computations. The only exception is for LEP students in their first year of enrollment in a U.S. school, regardless of when they entered the country and their initial language proficiency. These students still must be assessed but their results are excluded from ESEA computations. Because students arrive in the U.S. at varying levels of English proficiency, and because LEP students learn English at different rates, it may not be educationally appropriate, nor a valid indicator of educational achievement, for LEP students with limited or no English proficiency to participate in regular English or mathematics state assessments within the first three years of their arrival in the US.

Specifically, the VSBA supports the following for LEP programs:

- **The educational program for LEP students should develop all students' English language proficiency so that all students may participate in the regular classroom program.**

- **The VSBA opposes state mandates in areas of instructional choice that are properly made at the local school board level. For example, local school boards should not be prohibited from providing any specific programs of instruction, including foreign language immersion, which are designed to improve student language proficiency and academic achievement.**

- **The VSBA supports state provision of alternate assessments for LEP students that are linguistically appropriate and in the form most likely to yield accurate and reliable information on these students' mastery of subjects other than English, as authorized by the ESEA. ~~Virginia has already implemented a "plain English" mathematics assessment for LEP students, and should develop similar versions for every Standards of Learning examination.~~ <u>Virginia has developed alternate mathematics and language arts tests and should develop alternate tests for the remaining subject areas and grade levels that are components of the state and federal accountability programs.</u> These alternative forms of the content examinations are particularly critical in states for which native language assessment is impractical.**

- **More generally, the VSBA supports greater flexibility over how to assess limited English proficiency students to ensure that such assessment fairly, accurately, and meaningfully measures student achievement; particularly given scientifically-based research regarding the length of time it takes limited English proficiency students to attain language fluency.**

- **The VSBA opposes shifting the cost of these mandated assessments to school divisions – the state should fund all LEP-related assessments in the same manner as the state funds other tests required for mandated accountability plans. Local school divisions should not have to incur the costs of assessments that fulfill state and federal mandates, particularly since the state has adopted a single, uniform language proficiency assessment for use in all school divisions.**

Rationale: The language contained in the proposal refocuses the existing VSBA position away from the existing ESEA/NCLB structure, to what school boards might want a future reauthorization of the ESEA to focus on.

1.3 State Testing and Coordination Support

The VSBA supports the provision of Standards of Quality (SOQ) funding for local school Divisions that supports the coordination and analysis of the required Standards of Learning (SOL) accountability program and NCLB testing while maintaining local flexibility. The SOL provides useful data that is used to compare the performance of Virginia's students with their peers across the nation. The Board of Education requires that information derived from the testing program may be incorporated into school performance report cards and the process for accrediting public schools, as well as be used for application of consequences to students, teachers, schools and school divisions.

The VSBA supports accountability and an effective and accurate program to assess progress in meeting the new SOL's and believes that accountability and effective performance assessment for both students and teachers demand that the assessment of course learning be provided in close time proximity to the completion of the course.

The VSBA supports end-of-course testing for credit-bearing courses designed to meet the Virginia SOLs and supports policies and practices to ensure that tests are administered judiciously and for purposes consistent with their intent.

The VSBA supports the need to monitor student achievement on a regular basis but emphasizes that the Board of Education should provide the frequent opportunity and adequate time for local school divisions to review and comment upon test instruments and testing criteria, and issues related to the purpose, validity, cost, implementation and administrative burden.

The VSBA urges the Board of Education to notify local school boards of significant changes to the required testing program at least two years in advance and to provide local school boards with 100% financial support necessary for all administrations of academic assessments mandated by the state accountability program.

A transience factor should be maintained by the state for determining past rates for accreditation purposes, so that schools with highly transient populations will not be unduly penalized for the performance of students who have only been enrolled for a short time.

The VSBA reiterates support for norm-referenced, criterion-referenced and alternative assessment and the commitment to assist the Board of Education in establishing a testing program that provides accountability as well as opportunities for program improvement, diagnosis of individual student learning needs, remediation and appropriate adaptations for students with disabilities and students with limited English proficiency. <u>The VSBA also supports the retention of appropriate and valid alternative assessments of student achievement, including paper and/or portfolio-based assessments.</u>

Rationale: This position supports continued use of paper-based alternative assessments, for students with disabilities, including portfolio assessments, where deemed appropriate. This position recommended in reaction to proposed state shift to online testing at all grade levels.

1.5 Aligning State and Federal Accountability Programs

While there are many similarities between the state and national accountability programs, there are also major differences, including whether students are held accountable, subjects and grade levels tested, standards for determining school success, and sanctions applied when schools do not meet standards. It will be complicated, burdensome, and expensive for schools and school divisions as well as the state to implement and comply with the requirements of these two accountability programs;

The VSBA urges the Board of Education to regularly review and revise the Standards of Accreditation so that the assessment accountability program mandated therein does not conflict with the implementation of the federal accountability program mandated in the No Child Left Behind Act.

<u>**The VSBA urges the Board of Education to re-evaluate the decision not to adopt the Common Core State Standards. The VSBA urges the Board of Education to provide information to local school boards during the course of the Board's re-evaluation so that school boards can become better informed regarding the Common Core State Standards. The VSBA urges the Board of Education to seek and consider the input of local school boards on the consideration of the Common Core State Standards.**</u>

The Board of Education is urged to request the Governor and General Assembly to assist local school boards with realistic and sufficient state funding so that they may not only comply with all federal and state accountability requirements, but also provide the programs and services essential for all of Virginia's public school students to achieve educational success.

Rationale: Forty-two states have adopted the Common Core standards. With such a large number of states having adopted the Common Core, textbooks, other instructional materials, and assessments will be written consistent with those standards, potentially putting Virginia school boards and their students at a disadvantage. The United States Department of Education has encouraged states to adopt the Common Core by, among other things, using such adoption as one of the criteria in awarding grants. Already, Virginia school boards have been denied grants because, in part, the Commonwealth has not adopted the Common Core. In addition, the Board of Education has adopted an evaluation instrument that places an emphasis on student growth. It is appropriate, therefore, for the Board of Education to revisit the decision not to adopt the Common Core. It is also appropriate for the Board of Education to share information regarding the Common Core with local school boards and to seek and consider the opinions of local school boards on the adoption of the Common Core.

5.11 Scheduling of Elections ~~and School Opening~~

The primary location of polling places in the Commonwealth of Virginia is the public schools. Because of the General Assembly action, public schools are not permitted to open prior to Labor Day of any given year as the opening days of any school year may create unforeseen problems and adjustments.

The VSBA requests that the Virginia General Assembly ~~rescind the restrictions upon the opening of school before Labor Day and~~ refrain from scheduling any elections on dates which coincide with the opening or first day of any school year.

Rationale: The amendment removes legislative position language that specifically addresses the restrictions on school systems for opening school before Labor Day. The removed language is the basis for the proposed new **Legislative Position 5.13** that specifically addresses the pre-Labor Day opening restrictions.

8.2 Lottery Funds for Construction

Virginia School Boards are mandated with the education of their students and their funding is dependent on other bodies' appropriations. Numerous court cases have upheld school boards' authority to spend appropriated money.

Virginia Code § 22.1-100.1 allows for the local appropriating body to create an escrow account for the lottery proceeds that requires their approval for expenditure. Virginia Code § 22.1-175.5 allows for the local appropriating body to create an escrow account for grants for school capital projects that requires their approval for expenditure.

<u>The VSBA opposes the shifting of Standards of Quality and other recurring cost programs into the state's lottery funded accounts which reduce general fund support for education. Lottery funds were intended to be discretionary, unencumbered funds to be used by localities for construction and other undesignated operating costs.</u> The VSBA urges the General Assembly to restore total control of lottery monies and capital funds to school boards.

Rationale: This position opposes shifts of recurring program costs to lottery funded accounts. This position is recommended in reaction to ongoing state budget actions.

9.10 Standards of Quality and State Education Funding

The VSBA strongly supports the Standards of Quality as the foundation of the education program in Virginia.

The VSBA believes all mandated programs and services of education should be funded on the basis of realistic costs, more specifically the costs that are actually incurred by local school divisions to provide a high quality education, and the state should bear a fair share of those costs. The state should increase the percentage of general SOQ funds appropriated to elementary and secondary education. Full funding, rather than just modification of the formula or creation of new categories, should be the goal. The VSBA believes that:

- **It is the responsibility of the state to fund, on a statewide basis, at least fifty-five percent of the actual cost for providing a quality educational program to all students in the Commonwealth, and to provide cost-for-competing add-on funding to all Virginia school divisions.**

- **Supplemental state funds should be directed to legitimate areas of state concern including, but not limited to, educational technology, alternative education, remedial programs, the gifted and talented, special education, vocational education, English-as-a-second-language programs, textbooks, summer school, staff development, management skills, regional cooperative programs and facilities, and transportation. Maximum caps related to percentages or number of students for which funding is available should be eliminated. Present categorical incentive and grant funds should not be folded into basic SOQ aid.**

- **All full-time school employees should be included in the Virginia Retirement System (VRS), and the entire employer's share of VRS costs (retirement and life insurance) and federal Social Security should be budgeted by and paid directly by the state, and should not be subject to the equalization formula.**

- **State funds should be made available to local school divisions for school construction, renovations, additions and debt service, including those related to state mandates and federal requirements which result in facilities impact, including the requirements of the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.**

- **Waiver requests seeking relief from certain mandated requirements when reductions in state aid occur during the school years should be approved. Waiver requests should also be approved if the General Assembly fails to fully fund the biennial "rebenchmarking" of Standards of Quality accounts.**

- **<u>Unallocated state revenue streams should continue to be provided to the localities to be used at the discretion of the school board and not to fund new mandates.</u>**

- **State funds should continue to be made available to local school divisions for a lunch program based on the number of children served regardless of the amount of federal funding for this program.**

- **The state should fully fund its share of all currently mandated programs. All new mandated programs, including those implemented by the Virginia State Board of Education through the rulemaking process, and should be fully funded.**

- **The Local Composite Index should be provided annually to localities no later than August 15 of the specified official base year for the biennium.**

- **Periodic adjustments to the equalization formula should be made when such changes improve the accuracy of the formula in estimating the true wealth of a locality.**

- **A floor should be established in the computation of the Local Composite Index, whereby a city or county with less than 8,000 population and whose school division has less than 1,000 Average Daily Membership (ADM) may use 8,000 population and 1,000 ADM for purposes of determining the composite index of ability-to-pay.**

- **The cost of the required triennial school census should be reimbursed in full by the state to each school division.**

- **The state should adjust basic aid payments when actual sales tax receipts are less than the state fiscal year estimate used in the basic aid formula.**

- **Categorical funding should be provided for required elementary guidance counselors and reading specialists.**

- **The state should provide adequate and realistic funding for the provision of school health services to assist in the delivery of such services to students, according to the model selected by each locality.**

- **The state should expand funding for the Virginia Teaching Scholarship Loan Program to no less than $1 million so that the Commonwealth of Virginia will have a sufficient quantity of qualified teachers eligible for employment.**

- **The state should reinstitute the policy of forgiving student loans on a one-for-one year basis for those who teach in a Virginia public school.**

- **The statewide salary figures used in calculating basic aid payments should be determined by applying an unweighted measure of the arithmetic mean to the actual salaries paid instructional personnel in Virginia, using the employee rather than the school division as the basic unit of measurement.**

- **The VSBA is encouraged to provide information to and support for statewide and regional coalitions that promote this policy.**

- **Program and service requirements enacted by the state that exceed the minimum regularly funded programs and services mandated by Congress should be implemented only if 100% of the cost difference is funded by the state.**

- **It is the state's responsibility to fund 100% of the costs of all testing required by state and federal accountability programs, including mandated tests of English language proficiency and the development and administration of "plain English" versions of every NCLB-mandated test for LEP students.**

- **The state should use the actual costs of educational and support services as faced by local school divisions in its biennial "re-benchmark" of state education funding formulas. Statistical methodologies that purposely disassociate local costs from the costs included in state reimbursement formulas or that place artificial caps on state reimbursements including, for example, the use of general measures of inflation (e.g. the Consumer Price Index) instead of actual cost increases in school divisions, only serve to reduce required and appropriate state contributions to education.**

Rationale: The proposed amendment opposes the dedication of previously undedicated funds and then claiming it pays for new unfunded mandates. The amendment is in reaction to ongoing state budget actions.

9.11 Federal Funding of Education

Federal financial aid to education should cover the cost of programs and services mandated at the federal level. The VSBA believes that:

- **Financial aid to localities should be general rather than categorical;**
- **Impact and forest reserve aid should be continued or other financial arrangements should be made between localities and the federal government to relieve localities of the financial burden of educating all school age children;**
- **Funds for implementing the required programs and services mandated by the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act, NCLB Act, and the Americans with Disabilities Act should be provided or applicable portions of the legislation cited should be amended to permit the states to determine requirements and to establish funding levels of these programs. In the event these and similar programs cease to be funded categorically by the federal government, and federal block grants to the states are substituted for categorical funds, the state should consult with the localities in setting priorities for funding educational programs from block grant aids; and**
- **Forward funding in the earliest possible fiscal year should be expanded to include all educational programs.**
- **<u>There should be a continued reliance on federal formula grants (e.g., Title I programs) to provide critical and consistent funding to all eligible school divisions.</u>**
- **<u>Competitive grants have value added benefits and should not supplant federal formula grants. Where competitive grants are used, all states and localities should be eligible to participate equally.</u>**

Rationale: This proposal supports continued reliance on federal formula grants while recognizing that competitive grants are beneficial. This position recommended in reaction to, for example, the competitive allocation of federal “Race-to-the-Top” funding.

Tab X

Proposed Bylaws Change

PROPOSED BYLAWS CHANGE

September 30, 2011

TO: VSBA Delegate Assembly

FROM: VSBA Executive Committee

RE: Proposed Bylaws Change

The following proposed VSBA Bylaws change is recommended as a result of the 2009 VSBA Audit. It was the auditor's opinion, based on standard accounting procedures and practices, that the Association would be better served with additional board member financial oversight. Subsequently, the creation of an Audit Committee was approved by the 2010 Delegate Assembly. After the experience of one year's audit review there was a consensus of the Executive Committee that both the Audit Committee and the Finance Committee would be better served by expanding membership in each committee from five to seven members. The proposed increase in Board membership will provide even greater transparency to the entire membership.

As the Bylaws currently allow for five members on each committee, such a proposed change will require action by the Delegate Assembly.

ARTICLE XI.

Standing and Other Committees

Section 1. A Finance Committee consisting of at least ~~five~~ seven members will be appointed by the President to prepare and recommend to the Board of Directors the annual budget and make recommendations to the Board concerning the financial aspects of the Association.

Section 2. A Legislative Positions Committee consisting of at least one member from each VSBA region will be appointed by the President to solicit and review position proposals from member boards, preview and project future needs for legislation and recommend new or modified positions to the Board of Directors.

Section 3. A Federal Relations Committee consisting of at least one member from each of the Congressional Districts will be appointed by the President to serve as part of the NSBA-Federal Relations Network. The committee will provide a voice on the Board of Directors for those school divisions that have a substantial stake in federal funds/issues.

Section 4 An Audit Committee consisting of ~~five~~ seven board members will be appointed by the President. The Finance Committee Chairman will serve as chairman of the Audit Committee. The committee will oversee the annual financial statement audit.

Section 4 5 Special committees or task forces may be appointed by the President or by the Board of Directors to address issues of concern to the membership. Such committees/task forces may be established by the Delegate Assembly, the Board of Directors or the President.