

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1586

SPONSOR: Education Committee and Senator Villalobos

SUBJECT: Education Governance

DATE: February 21, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	O'Farrell	ED	Favorable/CS
2.	Rhea	Wilson	GO	Favorable
3.			AED	
4.			AP	
5.			RC	
6.				

I. Summary:

The bill makes significant changes to the powers and duties of the appointed State Board of Education and the appointed Commissioner of Education (commissioner). A member of the State Board is subject to removal for cause when a court determines that he or she has violated the public meetings law for the second time. Also, the bill makes changes to conform to the current governance structure for the K-20 education system and eliminates many of the transitional governance provisions. All rulemaking authority is provided to the State Board of Education, although existing rules for other entities are preserved. The current waiver process in ss. 229.592 and 230.2316, F.S., is revised. The bill creates in law the Articulation Coordinating Committee and establishes the Office of Nonpublic Schools and Home Education Programs within the Department of Education. As well, the bill:

- eliminates the provision requiring 11th grade students to take the Florida High School Competency Tests;
- eliminates the Division of Independent Education within the Department of Education and obsolete terms and references for timelines, requirements, and entities;
- transfers and renumbers provisions related to teachers;
- extends to universities the Department of Education's television and other media services;
- incorporates provisions from s. 411.01, F.S., related to school readiness;
- requires in chapter 229, F.S., each area technical center that is operated by a school district to establish a center advisory council;
- allows for alternative placement information when it is not available from the Florida Education and Training Placement Information Program;
- requires the Council for Education Policy Research and Improvement to develop a report card that assigns grades to reflect Florida's progress toward meeting educational performance goals;

- removes the requirement for the Department of Education to be located in the offices of the Commissioner of Education; and
- repeals the Career Education Act and the Knott Data Center and projects, contracts, and grants program.

This bill amends ss. 39.0015, 112.19, 112.191, 220.187, 228.041, 228.055, 228.062, 228.195, 229.002, 229.0031, 229.007, 229.011, 229.0074, 229.555, 229.565, 229.567, 229.57, 229.58, 229.59, 229.602, 229.805, 229.8051, 229.8075, 229.8333, 230.23, 230.2316, 230.23161, 230.23166, 231.700, 232.01, 232.0315, 232.23, 232.245, 232.25, 233.015, 233.056, 233.058, 233.17, 233.39, 234.02, 234.301, 236.02, 236.025, 236.081, 236.1225, 237.081, 237.211, 237.40, 316.615, 411.224, 446.609, 489.125, 937.023, and 984.05, F.S.

Also, the bill reenacts and amends ss. 229.012, 229.053, 229.512, 229.551, and 229.592, F.S., and reenacts s. 229.8341, F.S. The bill transfers and renumbers ss. 229.604, 229.6041, 229.6042, and 229.6043, F.S. The bill creates ss. 229.516, 229.8076 and 229.136, F.S., as well as undesignated sections of law.

The bill repeals ss. 229.001, 229.003, 229.004, 229.005, 229.006, 229.0061, 229.0072, 229.0073, 229.0074(3), 229.133, 229.513, 229.515, 229.5701, 229.601, 229.8343, 229.8052, 229.008, 229.0081, 229.0082, 229.76, and 229.8065, F.S.

II. Present Situation:

Senate Interim Project 2002-215, School Code Review

The Senate Education Committee staff reviewed ss. 229.012, 229.053, 229.512, 229.551, 229.592, 229.601, and 229.8341, F.S. relating to the elected State Board of Education, the elected Commissioner of Education, educational management, planning and information systems, the state system of school improvement and education accountability, the career education program, and services for infants and preschool children. The sunset review process was guided by the following principles adapted from the Florida Education Governance Implementation Act (ch. 2001-170, L.O.F.):

- Recommendations will support an articulated, coordinated k-20 education system.
- Recommendations will focus on the student and access to education.
- Recommendations will not jeopardize equity.
- Recommendations will support local flexibility and decision-making.

Also, the sunset review process was based on the following general assumptions:

- Recommended statutory changes will be effective January 7, 2003.
- There will be a single State Board of Education, as specified in the constitutional revisions, although a different statutory name may be assigned to the board.
- There will be a single Commissioner of Education, as specified in the constitutional revisions, although a different statutory name may be assigned to the position.

Appointed entities will not be authorized to waive statutes.

Current law authorizes the State Board of Education, the Commissioner of Education, and the Department of Education to adopt rules. The State Board and the Commissioner have general

and specific rulemaking authority. Recent legislation provides for additional rulemaking authority during the transitional governance period. Also, the law (s. 229.041, F.S.) provides that all rules, regulations, and standards adopted or prescribed by the board for carrying out the provisions of the school code have the full force and effect of law, unless there is a conflict. Although the law provides specific rulemaking authority to the Department of Education, the department proposes rules to the State Board of Education for adoption. Rulemaking authority is delegated to the department.

The Department of Education must adopt rules and procedures needed to implement the educational benefits provisions for:

- law enforcement officers, correctional officers, and correctional probation officers killed in the line of duty;
- firefighters killed in the line of duty;

The Department of Education must adopt rules to determine eligibility of nonprofit scholarship-funding organizations and to identify qualified students under s. 220.187(6), F.S., relating to corporate tax credit contributions to nonprofit scholarship-funding organizations.

Sections 229.003(1), (2), (3), and (4), F.S., provide for the transitional governance structure of the Florida Board of Education, the appointment of governance officers by the Florida Board, and the appointment of a board of trustees for the Florida Virtual High School and for each university. Other provisions of law address the composition of the State Board (s. 229.012, F.S., which is amended by this bill), the board of trustees for the Virtual High School (s. 228.082(2), F.S.), and the board of trustees for each of the universities (ss. 229.008 and 229.0081, F.S., which are repealed by this bill and addressed in the revisions to ch. 240, F.S.).

Section 229.0031, F.S., establishes the Council for Education Policy Research and Improvement (CEPRI) as the citizen board for independent policy research and analysis that is an independent office under the Office of Legislative Services in the Florida Legislature.

Section 229.004, F.S., relates to the appointment of members of the Florida Board of Education, the organization of the board, and the transitional duties of the Florida Board, the Commissioner of Education, and the Secretary for the Florida Board.

Section 229.005, F.S., specifies the transitional duties for the Florida Board, the Commissioner of Education, the Secretary for the Florida Board, the Chancellor of Public Schools, the Chancellor of Community Colleges, the Chancellor of Colleges and Universities, and the Executive Director for Independent Education.

Section. 229.006, F.S., creates the Education Governance Reorganization Transition Task Force. The task force is housed in the Governor's Office of Planning and Budgeting and is charged with specific responsibilities, including making a final report. The statutory completion date for their duties is March 1, 2003.

Section 229.0061, F.S., relates to the guidelines for implementing Florida's K-20 education system and for its structure, functions, and organization, as well as specific roles for the

following: the Legislature; the Florida Board of Education; the education governance officers, including the Commissioner of Education; the Chancellors; the Executive Director of Independent Education; the institutional boards of trustees; the school boards; the university and community college presidents; the school board superintendents; and ad hoc advisory committees.

Section 229.007, F.S., provides legislative intent that the accountability system for the K-20 education system will provide answers to specific policy questions. The law requires the Florida Board to recommend to the Legislature performance standards for the system as a whole and proposals for performance based funding. Also, the law establishes the mission of the K-20 system, including maintaining an accountability system to measure student progress for specific goals.

Section 229.0072, F.S., specifies the appointment process for the Florida Board of Education, the Secretary for the Florida Board, and the boards of trustees of the state universities. The Florida Board is housed within and operates under the direction of the elected State Board of Education. This section also provides responsibilities during the transition for the Secretary and the elected commissioner. Specific responsibilities of the Florida Board are subject to the review and approval of the elected State Board.

Under s. 229.0073, F.S., the Secretary's education reorganization workgroup is responsible for providing oversight and direction as the Department of Education undergoes reorganization. The law specifies the workgroup composition and the required reorganization activities, including establishing the following:

- four divisions (e.g., the Division of Public Schools, the Division of Community Colleges, the Division of Colleges and Universities, and the Division of Independent Education);
- an Office of the Commissioner that includes four offices; and
- a K-20 education leadership team.

The law specifies the responsibilities for the divisions and offices.

The elected State Board of Education is composed of the Governor and members of the Cabinet. The Governor is the Chair of the State Board and the Commissioner is the Secretary and executive officer.

The elected State Board is the chief policymaking and coordinating body of public education. The board has general rulemaking authority for the duties conferred on it and may delegate its general powers to the elected commissioner or the division directors in the Department of Education. This section assigns fifteen specific duties to the board. The 2001 education governance legislation abolished the Board of Regents and the State Board of Community Colleges, although many of their previous responsibilities remain in law.

There is currently no exemption from the public records or public meetings laws for either the Florida Board of Education or the State Board of Education. The law (s. 286.011, F.S.) requires that all meetings of certain public boards and commission at which official acts are to be taken

are public meetings.¹ No resolution, rule, or formal action is binding except as taken or made during a public meeting. This provision provides civil and criminal penalties for violations of the public meetings law. A public officer who violates any provision of the public meetings law is guilty of a noncriminal infraction, punishable by fine of up to \$500. A person who is a member of a board or commission or any state agency who knowingly violates the law by attending a meeting not held in accordance with s. 286.011, F.S., is guilty of a second degree misdemeanor. Conduct which occurs outside the state which would constitute a knowing violation of the law is also second-degree misdemeanor. Under the public records laws (s. 119.02, F.S.), a knowing violation by a public officer subjects him or her to suspension and removal or impeachment, in addition to other penalties.

This section requires the Commissioner of Education to periodically review Department of Education and State Board rules and statutes for school district facilities and related matters

Under the provisions of the bill, the State Board performs responsibilities related to limited access programs, baccalaureate degree programs exceeding 120 semester hours, strategic plans, and program reviews for universities and colleges. These functions were previously performed by the Board of Regents. Also, the State Board has responsibilities for community colleges that were previously vested with the State Board of Community Colleges. As appropriate, the term “colleges” is used in the bill.

Universities and colleges

Limited access educational programs – The bill amends this section to include provisions from ss. 240.209 and 240.2097, F.S., to require the State Board to adopt rules that establish the criteria for assigning, reviewing, and removing limited access status to a program. The board must monitor the existence of limited access programs within the state universities and colleges and annually report admissions and enrollment data to the Legislature. The report’s purpose is to help determine the potential need for academic program contracts with independent institutions. The report must include, for each limited access program within each institution, specific applicant information, by race and gender. The bill also includes in this section of law the requirements for the approval or disapproval of unique degree programs and recommendations for implementing incentives for students to graduate in 4 years.

Baccalaureate degree programs exceeding 120 semester hours – The State Board must review, and approve or disapprove these programs, after consideration of specific factors. The board must annually report to the Legislature any degrees in the state universities and colleges which require more than 120 hours and include evidence of need. On at least a five-year cycle, the board must determine whether the programs still require more than 120 hours.

Five-year strategic plan – The State Board must adopt a system wide strategic plan with specific goals and objectives for the state universities and colleges. In developing the plan, the board must consider the role of individual public and independent institutions in Florida. The contents of the plan are specified. The strategic plan must clarify mission statements and identify degree programs to be offered at each university and college. Program lists are modified after 2 years.

¹ This applies to all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the State Constitution.

The development of each 5-year strategic plan must be coordinated with and initiated subsequent to the completion of the master plan. All strategic plans must specifically include programs and procedures for responding to the educational needs of public school teachers and students. The board must report changes in the system wide plan to the presiding officers of the Legislature.

Program reviews – The State Board must coordinate program reviews, including those for doctoral programs, with the Council for Education Policy Research and Improvement. The reviews occur every 5 years or whenever the board determines that the effectiveness or efficiency of a program is jeopardized. The board must define the indicators of quality and the criteria for program review for every program. The results of the program reviews are tied to the university and college budget requests.

Community colleges

The State Board, rather than the State Board of Community Colleges, must perform the following responsibilities that are now in s. 240.311, F.S.:

- provide for each community college to offer educational training and service programs;
- specify, by rule, the degree program courses that may be taken by students concurrently enrolled in college-preparatory instruction and the procedures for the boards of trustees to annually evaluate the presidents;
- review the evaluations of the presidents;
- establish an effective information system;
- assure the completion of special studies and analyses;
- establish criteria for recommending changes to district boundary lines and recommending proposals to establish additional centers or campuses for community colleges;
- receive an annual administrative review of each community college; and
- review and administer the state program of support for the community colleges.

The State Board, subject to existing law, must:

- establish the matriculation and tuition fees for college-preparatory instruction and for credit instruction which may be counted toward specified degrees; and
- adopt, and submit to the Legislature, a 3-year list of priorities for fixed capital outlay projects.

Also, the bill creates in this section of law the State Board's current responsibilities in s. 240.325, F.S. (e.g., adopting rules and prescribing minimum standards, definitions, and guidelines for community colleges).

The law requires the State Board of Education to adopt rules to allow an area technical center or community college to conduct career education programs to meet workforce shortage needs.

The elected Commissioner of Education is the chief educational officer for the state. This section specifies the general powers and duties of the commissioner.

The bill reenacts and amends this section. The appointed commissioner is responsible for enforcing compliance with the mission and goals of the seamless K-20 education system. The bill deletes the following duties:

- suspension for cause (with the approval of the State Board of Education) of a public community college president and the requirement for the local community college board of trustees to expedite the suspension;
- calling special meetings of the State Board of Education; and
- preparing and publishing annual reports related to the state system of public education.

The commissioner must annually submit a recommended budget to the State Board on or before August 1 for a coordinated K-20 education budget that includes estimates for expenditures for specific entities, including the Department of Education. Programs that will need increases in state funding for more than 1 year must be included in a multiyear budget plan. Also, the bill includes community college, college, and university boards of trustees as units that are responsible for institutional and student performance. The commissioner must establish a citizen information center for distributing materials related to the K-20 education system of public education. The commissioner's office must operate all statewide functions needed to support the State Board and the K-20 education system, including strategic planning and budgeting, general administration, and assessment and accountability. Some of the new duties in this section are based upon other provisions of law (ss. 229.0061(2)(c) and 229.004(3)(e), F.S.) for the commissioner to perform during the transitional governance period.

While other organizations have published grades for the states, CEPRI is not currently required to issue a report card.² The CEPRI's responsibilities include providing state policymakers with information that supports the K-20 education system. The long-range master plan for education must include consideration of quality fundamental educational goals and evaluate the capacity of existing programs in public and independent institutions to respond to identified needs. The CEPRI is required to annually report on the progress of public schools and postsecondary education toward meeting educational goals.

The commissioner must now direct Florida school districts to participate in the administration of the National Assessment of Educational Progress (NAEP), or a similar national assessment program, both for the national sample and for any state-by-state comparison programs which may be initiated. These assessments must be included in the commissioner's annual report. According to the Department of Education, Florida will participate in NAEP during January through March of this year.

Section 229.551, F.S., specifies responsibilities for the Department of Education, the commissioner, and the Articulation Coordinating Committee. Although the Articulation Coordinating Committee is mentioned in s. 229.551, F.S., it is not specifically created in statute. Rather, it is created in administrative rule (See Rule 6A-10.024, F.A.C.) and is charged with specific responsibilities in both law and rule. Current rules include the following requirements for the Committee:

² For example, the annual edition of "Quality Counts," produced with support from the Pew Charitable Trusts, charts progress in educational improvement and grades the states in three areas, including standards and accountability.

- Function as the statewide entity responsible for relationships between school districts, community colleges, and universities;
- Recommend plans for articulation relationships and articulation accountability measures to the commissioner;
- Recommend procedures to improve articulation, experimental programs, and the priority of certain research;
- Develop suggested guidelines for interinstitutional agreements;
- Establish groups of representatives to facilitate articulation in specific academic subject areas;
- Review instances of student transfer and admissions difficulties; and
- Collect and disseminate information on successful cooperative articulation programs.

The department is currently responsible for identifying those functions that contribute to or comprise part of the state's education accountability system. The section contains a public records exemption for tests and related documents developed by the Department of Education to measure and diagnose student achievement of college-level communication and computation skills.

Section 229.555, F.S., requires the commissioner to develop and implement an integrated information system for educational management and specifies its purpose. The responsibilities for the commissioner and school districts are enumerated in this section.

The Commissioner or the Auditor General must periodically evaluate procedures, records, and programs in each district for compliance with laws and rules under s. 229.565(2), F.S. This includes procedures for identifying and placing students in alternative programs who are disruptive or unsuccessful in the normal school environment and for diagnosing and placing students in special programs for exceptional students. The evaluation's purpose is to determine if the district is following the criteria for placement established by rules of the State Board and the commissioner and the placement procedures of the district and the commissioner.

Student Assessment – The commissioner must design and implement a statewide program of educational assessment for the public schools. The assessment program is designed for specific purposes, including assessing the annual learning gains of each student toward achieving the Sunshine State Standards appropriate for the student's grade level. This assessment is primarily conducted through the Florida Comprehensive Assessment Test (FCAT).

All 11th grade students must take the Florida High School Competency Test (HSCT) developed by the State Board to test minimum student performance skills and competencies in reading, writing, and mathematics. However, students who enroll in 9th grade in the fall of 1999 and thereafter must earn a passing score on the 10th grade FCAT instead of the high school competency test. To earn a regular high school diploma, the student must earn the passing score in reading, writing, and mathematics.

School and District Performance Grades – The law establishes timeframes and criteria for school performance grade categories. The Commissioner of Education must annually prepare reports of the results of the statewide assessment program that describe student achievement in the state,

each district, and each school. Beginning with the 1998-1999 school year's student and school performance data, the annual statewide assessment program report must identify schools as being in one of the following grade categories:

- "A," schools making excellent progress;
- "B," schools making above average progress;
- "C," schools making satisfactory progress;
- "D," schools making less than satisfactory progress;
- "F," schools failing to make adequate progress.

Beginning with the 2001-2002 school year, a school's performance grade category designation is based on a combination of student achievement scores, student learning gains as measured by annual FCAT assessments in grades 3 through 10, and improvement of the lowest 25th percentile of students in the school in reading, math, or writing on the FCAT, including Florida Writes, unless these students are performing above satisfactory performance. The law requires an annual report to include school district performance grades, consisting of weighted district average grades (by level) for all elementary, middle, and high schools in the district.

Schools that sustain high performance or that demonstrate exemplary improvement due to innovation and effort are eligible for recognition and financial awards. Schools that receive an "A" or schools that improve at least two grades are eligible for increased autonomy. Depending on the availability of funds appropriated and the number and size of the schools chosen, all selected schools receive financial awards.

Section 229.5701, F.S., requires the Department of Education, in consultation with the Office of Program Policy Analysis and Government Accountability (OPPAGA) and others, to participate in monitoring and reporting on the implementation of the methodology used to identify student learning gains. According to OPPAGA, this provision is no longer needed.

Each district school board or principal (through the board) may submit to the commissioner, for approval, a proposal to implement an educational improvement project. This must be done according to rules adopted by the commissioner under s. 229.59, F.S.

Current law provides general and specific authority for the Commissioner of Education to waive state laws and rules. The provisions of s. 229.592(9), F.S., allow the commissioner to waive the requirements of chs. 230 through 239, F.S., for instruction and school operations, to facilitate innovative practices and to allow local selection of educational methods. Waivers may not be granted to school districts for specific provisions of law related to:

- civil rights, student health, safety, and welfare, and protection of the public interest;
- the allocation and appropriation of state and local funds for public education;
- the election, compensation, and organization of school board members and superintendents;
- graduation and state accountability standards;
- financial reporting requirements;
- reporting of out-of-field teaching assignments under s. 231.095, F.S.;
- public meetings or public records; or
- due process hearings governed by ch. 120, F.S.

Prior to approval under s. 229.592(9), F.S., the commissioner must report pending waiver requests to the State Board on a monthly basis. Upon request of any member of the State Board, the commissioner must bring a waiver request to the state board for consideration. If, within two weeks of receiving the report, no member requests that a waiver be considered by the State Board, the commissioner may act on the original waiver request.

The law also allows school districts to request waivers granted by the commissioner from State Board rules related to curriculum frameworks and credits for courses and programs in the Course Code Directory. Also, the law provides for school boards to request waivers to implement district wide improvements and school improvement plans and specifies provisions of law and rule that may not be waived. The waivers of rule, if granted, are effective for five years.

Deregulated status, as specified in s. 228.0565(5), (7), (8), (9), and (10), F.S., may be given to schools designated as school performance category "A" and those schools that have improved at least 2 school performance grade categories and that meet the criteria for the Florida School Recognition Program. Current administrative rules allow districts to provide waivers to eligible public schools that request deregulated status. The rules also require school districts to develop guidelines for implementing waivers to schools granted by the district and specify the conditions for continuing the waiver.

According to the Department of Education, most of the waivers granted for 1998-1999 through 2000-2001 for ss. 228.0565 and 229.592(9), F.S., relate to second chance schools and the certification requirements in ss. 231.095, 231.15, and 231.3505, F.S. The waivers related to certification generally provided flexibility in hiring or assigning qualified noncertified staff, using out of field state certified teachers, and allowing teachers with other than specialized certification to serve a variety of students.

Section 229.601, F.S., establishes a career education program in the state educational system, administered by the Commissioner of Education or his or her staff. The stated purpose of the program is to promote positive career opportunities for all students. The law specifies the commissioner's duties for administering this program. However, the term "career education" no longer has the meaning assigned to it in this section. The program governed by this section no longer exists.

Under s. 229.602, F.S., the Commissioner of Education must annually report to the Legislature prior to the legislative session on the status of private sector and education partnership programs and provide any recommendations to improve their efficiency and growth. The requirement was to begin January 1, 1989.

Section 229.604, F.S., provides legislative intent for the creation of the teaching program.

Under s. 229.6041, F.S., the Commissioner of Education must design the process for receiving and evaluating grant proposals in accordance with state and federal appropriations guidelines. These grants may be awarded only to the extent that funding is provided. This section specifies the contents of the grant applications and provides requirements related to evaluating the program's progress and effectiveness.

Section 229.6042, F.S., requires applicants to estimate the funds needed for the proposed program. All funds provided for a program must be used as authorized in federal guidelines. Eligible applicants are encouraged to implement the program by including specific activities.

Under s. 229.6043, F.S., recipients of grants to pursue a teacher preparation program must agree to teach in an eligible school district in Florida for at least 3 years after certification. This section also specifies the eligibility requirements for school districts. The commissioner must establish the conditions for a participant to repay all or a portion of the training stipend if he or she fails to complete his or her service obligation.

Section 229.805, F.S., establishes state policy for educational television. The Department of Education is responsible for extending educational services to all of the state system of public education. This is accomplished through educational television and other electronic media. However, the department’s role in providing these services is limited to providing equipment, funds, and other services as specified in ss. 229.805(1) (c) and 229.8051(1), F.S., for the State University System. All stations must be qualified by the Corporation for Public Broadcasting. According to the Department of Education, public broadcasting stations are located at the following sites:

Location	Television	FM Radio
Miami-Dade County School Board	WLRN	WLRN
Pensacola Junior College	WSRE	
Gulf Coast Community College		WKGC
Brevard Community College	WBCC	
Indian River Community College		WQCS
Florida Gulf Coast University	WGCU	WGCU
University of South Florida	WUSF	WUSF
Florida State University	WFSU	WFSU
University of Florida	WUFT	WUFT
University of West Florida		WUWF
WJCT, Inc.	WJCT	WJCT
Community Communications, Inc.	WMFE	WMFE
Coastal Educational Broadcasters, Inc.	WCEU	
Florida West Coast Public Broadcasting, Inc.	WEDU	
Nathan B. Stubblefield Foundation, Inc.		WMNF
Barry Telecommunications, Inc.	WXEL	WXEL
Community Television Foundation of South Florida, Inc.	WPBT	

New stations eligible for funding must meet statutory requirements or provide a significant new program service as defined in rules of the commissioner.

The department must identify needs related to developing and producing materials used in instruction and may commission or contract for new materials. The commissioner must adopt rules for enforcing and executing these provisions.

Under s. 229.8051, F.S., the Department of Education must administer the public broadcasting system in accordance with policies adopted by the commissioner. The program system must include support for existing Corporation for Public Broadcasting-qualified educational radio and television stations and certain new stations providing a significant new service as defined by rule of the commissioner.

Current law provides for a Division of Independent Education within the Department of Education and an executive director for this division. The law delineates the executive director's responsibilities. The division's purpose is to serve as an advocate and liaison to independent education providers and institutions, including home education programs that meet specific criteria, certain private K-12 institutions, private postsecondary career preparation/vocational training institutions, and some independent colleges and universities.

Under s. 229.8333, F.S., the Department of Education must provide by rule for a school-related employee of the year program. This section specifies the contents of the rule.

The Florida Diagnostic and Learning Resources System is a network of centers that provide support services to persons involved in the education of students with disabilities and students who are gifted, including educators, families, and community agencies. The target population includes infants and preschool children who are high risk or who have disabilities.

Section 229.8341, F.S., allows regional diagnostic and learning resource centers to provide testing and evaluation services for high-risk or handicapped infants and preschool children. The centers may also assist districts in providing training and resources for the parents of these children, as well as day care and preschool programs. According to the Department of Education, these provisions are related to the federal Individuals with Disabilities Education Act (IDEA). For purposes of Part B of IDEA, the department is the lead agency and supports school districts and other agencies to provide special education programs for students with disabilities ages 3 through 21.

Section 229.8343, F.S., requires the Department of Education to develop a model rule that will allow an entity adopting it to deny participation in sports or other extracurricular activities to any person who has been determined by a court to be delinquent in paying a child support obligation. The law allows the model rule to be adopted by any district school board for all schools under its jurisdiction, any community college district board of trustees, or any institution in the State University System. The General Counsel's Office in the Florida Department of Education drafted a model rule in 1996 and provided copies to district school boards, community college boards of trustees, and the Board of Regents.

The commissioner must adopt rules providing for scheduled purges of courses listed in the statewide common course numbering system or institutional catalog that have been inactive for the preceding 5 years. The rules must include certain waiver provisions.

Section 233.056, F.S., allows the Division of Public Schools and Community Education in the Department of Education to establish a coordinating unit and instructional materials centers. The coordinating unit must operate under the rules of the commissioner.

Section 233.058, F.S., requires school districts to follow procedures related to planning and providing students with instruction and establishes other requirements. The commissioner must adopt rules to implement this section.

The commissioner must adopt rules under s. 233.39, F.S., for the Department of Education to arrange for the renovation and repair of books. The commissioner must prescribe rules related to contracts for these services. The department must enter into a contract following a competitive sealed bidding process.

School districts must operate all schools for a minimum number of actual teaching days (180) as set forth in s. 228.041(13), F.S., or the equivalent on an hourly basis as specified by the commissioner each school year. School board rules for the appointment, promotion, transfer, suspension, and dismissal of personnel must conform to applicable law and the commissioner's rules. Also, other school board rules that must conform to the commissioner's rules or regulations are the required months of service for principals and instructional staff, salary schedules, and budgets.

Section 236.025, F.S., specifies the components of the funding model and how funds are generated. The Department of Education must adopt rules to implement the revised funding model.

A school district's full-time equivalent membership must be computed and maintained in accordance with the commissioner's regulations under s. 236.081, F.S. Beginning with the 1999-2000 school year, a district was required to document the daily attendance of each student by school and by district. For purposes of in-service personnel training, courses for exempted programs must be arranged and conducted in compliance with procedures cooperatively developed by the Department of Education and the Board of Regents, as well as those included in State Board rule.

Section 236.1225, F.S., establishes that the gifted education exemplary grant program must be administered by the Commissioner in accordance with the commissioner's rules. Proposed programs may be submitted according to the commissioner's policies and rules.

Under s. 237.081(4), F.S., relating to public hearings on budgets submitted to the Department of Education, the commissioner may adopt rules for the specific advertising format requirements for budgets.

The commissioner must adopt rules prescribing minimum security measures that must be implemented by a school board prior to establishing a direct deposit system under s. 237.211(5), F.S.

Each direct-support organization must provide for an annual financial audit that is conducted by an independent C.P.A., according to the rules of the Auditor General and the commissioner, under s. 237.40(4), F.S.

Section 316.615(3), F.S., provides that school bus drivers may not transport school children unless he or she meets the physical examination requirements established by law and rule of the commissioner.

The Department of Children and Family Services, the Department of Health, and the Department of Education must adopt necessary rules, under s. 411.224(10), F.S., relating to the family support planning process.

The school to work program must be operated according to the process and outcome standards of Jobs for America's Graduates, Inc., unless otherwise provided for by law or rule of the Department of Education. The Board of Directors of the Florida Endowment Foundation for Florida's Graduates must operate within the limits prescribed by law and rule of the Department of Education, including meetings and conducting business. The board must recommend rules for adoption to the department. The department is required to adopt necessary rules by s. 446.609(4), (7), and (12), F.S.

Part II of ch. 489, F.S., relates to the regulation of construction contractors by the Department of Business and Professional Regulation. Certified contractors are prequalified to bid by a district school board under uniform prequalification criteria adopted by rule of the Commissioner of Education.

Section 937.023, F.S., requires the Department of Education to provide by rule for a program to identify and locate missing school children that are enrolled in Florida's K-12 public schools.

The Department of Education and the Department of Juvenile Justice must adopt rules needed to implement ss. 232.19 (relating to court procedures and penalties), 984.03(27), and 985.03(25) (relating to the definition of a habitual truant), F.S.

Effective January 7, 2003, ss. 229.003(5) and 229.0074(3), F.S., are repealed.

Section 229.003(5), F.S., contain the following provisions that were effective July 1, 2001:

- the abolishment of the Board of Regents and the State Board of Community Colleges with a type two transfer of all of the powers, duties, functions, records, personnel, and property; unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the boards to the Florida Board of Education.
- the abolishment of the Postsecondary Education Planning Commission (PEPC), the creation of the Council for Education Policy Research and Improvement (CEPRI) as an independent office under the Office of Legislative Services, and the transfer to CEPRI of all PEPC personnel, unexpended balances of appropriations, and allocations.
- the type two transfer from the Department of Education to the Florida Board of Education of the Articulation Coordinating Committee and the Education Standards Commission.
- the provision requiring the Commissioner of Education and the Secretary of the Florida Board of Education to work together to begin the reorganization of the Department of Education.
- the merger of the powers, duties, and staffs of the State Board of Independent Colleges and Universities and the State Board of Nonpublic Career Education (except as relating to any independent nonprofit college or university whose students are eligible to receive

the William L. Boyd, IV, Florida resident access grants) into a single Commission for Independent Education administratively housed within the Division of Independent Education.

Section 229.0074(3), F.S., combined and transferred to a single board the powers and duties of the State Board of Independent Colleges and Universities and the State Board of Nonpublic Career Education (except as relating to any independent nonprofit college or university whose students are eligible to receive the William L. Boyd, IV, Florida resident access grants pursuant to s. 240.605, F.S.). The single board, the Commission for Independent Education, must authorize granting of certificates, diplomas, and degrees for independent postsecondary education institutions through exemption, registration, authorization, and licensing.

Section 228.041, F.S., provides definitions of terms that are used in the school code and includes references to rulemaking by the commissioner. The law still contains references to the State Board of Community Colleges, the Board of Regents, and the State University System.

The Department of Education, in cooperation with the regional autism centers, must adopt needed rules under s. 228.055, F.S.

Section 228.062, F.S., requires the Commissioner of Education to prescribe rules needed for the participation by the state in the federal migratory child compensatory education program.

The Commissioner of Education must prescribe rules and standards covering all phases of the administration and operation of the school food service program under s. 228.195, F.S.

Section 220.33, F.S., prohibits students from receiving special instruction or services as an exceptional student until after he or she has been properly evaluated, classified, and placed as prescribed by the commissioner's rules. Parents or guardians of exceptional students who are evaluated, placed, or denied placement in a special education program must be notified of each evaluation, placement, or denial and may appeal decisions.

Also, this section contains other references to the commissioner's rules, including those related to renting education facilities, exceptions for insurance for school property, required reports, school district consortia, enforcement of law and rules, and the school lunch program.

Second chance schools are school district programs provided through cooperative agreements between the Department of Juvenile Justice, private providers, state or local law enforcement agencies, or other state agencies for students who have been disruptive or violent or who have committed serious offenses.

Second chance schools are eligible for waivers by the commissioner from the provisions of chs. 230 through 235, and 239, F.S., and State Board of Education rules that prevent the provision of appropriate education services to violent, severely disruptive, or delinquent students in small nontraditional settings or in court-adjudicated settings. Programs in second chance schools must operate under rules adopted by the Department of Education. The department has general rulemaking authority for this section.

The Department of Education may adopt rules needed to implement s. 230.23161, F.S., relating to educational services in Department of Juvenile Justice programs, including uniform curriculum, funding, and second chance schools.

The commissioner must adopt rules needed to implement s. 230.23166, F.S., relating to teenage parent programs.

The commissioner may adopt rules needed to implement s. 231.700, F.S., relating to the Florida Mentor Teacher School Pilot Program, and approval of the mentor teacher school program.

The commissioner must adopt rules for identifying established conditions for children birth through 2 years of age and developmental delays for children birth through age 5. The commissioner has rulemaking authority for the transfer of specific out-of-state students, under s. 232.01, F.S., relating to compulsory school attendance.

The Department of Education, subject to the concurrence of the Department of Health, must adopt rules governing medical examinations pursuant to s. 232.0315, F.S., relating to school health entry examinations.

Principals must maintain permanent records for each student enrolled in public school under s. 232.23, F.S., relating to procedures for maintaining and transferring pupil records. The record must contain the data specified in rules of the Commissioner of Education. Also, the procedure for transferring and maintaining records, and the acceptance of transfer work and credit must be prescribed by the commissioner's rules.

The commissioner must adopt rules to administer s. 232.245, F.S., relating to pupil progression, remedial instruction, and reporting requirements.

Section 232.25, F.S., relating to circumstances under which students are subject to the control of the school, specifies the circumstances under which students are subject to the control of the school, as provided by law, regulations, and rules of the school board and the commissioner. By rule, the commissioner or school district may subject students to the control of a principal or teacher under certain circumstances.

District school superintendents must notify the school board of any school bus that does not meet the requirements of law and the commissioner's regulations. The Department of Education may determine whether the bus meets the requirements in law and rule and take action if it does not. Each school bus route must meet the requirements in the commissioner's rules. The commissioner may adopt rules to implement s. 234.02, F.S.

The commissioner may adopt rules to implement s. 234.301, F.S., relating to pool purchases of school buses, to maintain the integrity of the program, and to ensure the best and lowest price for purchases.

The Department of Education is required by s. 229.567, F.S., to adopt the school readiness uniform screening developed by the Florida Partnership for School Readiness. The department must also require school districts to administer the kindergarten uniform screening to each

kindergarten student in the district when the student enter kindergarten. Children who enter public school for the first time must have a Partnership-approved uniform screening for first grade. Section 411.01, F.S., also contains provisions related to school readiness screening.

Section 229.0074, F.S., establishes the Division of Independent Education in the Department of Education with an executive director and the Commission for Independent Education. It also contains the transitional activities that are now complete (e.g., abolished, created, transferred, and merged entities) and the Commission's regulatory authority.

School boards are required by s. 229.58, F.S., to establish an advisory council for each school in the district. Also, districts may establish a district advisory council. The law specifies the composition of and the duties for these councils. The duties include assisting in the preparation of school improvement plans and the school's annual budget. Section 239.229(3), F.S., currently requires each area technical center operated by a school district to establish a center advisory council.

The Department of Education must develop and maintain an information management program to compile, maintain, and disseminate information on the educational histories, placement and employment, U.S. armed forces enlistments, and other measures of success of former participants in state educational and workforce development programs under s. 229.8075, F.S., relating to the Florida Education and Training Placement Information Program (FETPIP). Projects conducted by the department or the workforce development system must use information provided by FETPIP. They are prohibited from initiating automated matching of records that duplicate FETPIP's methods.

Section 229.8052, F.S., creates the state satellite network consisting of compatible satellite receiving equipment at public educational institutions in each of the 28 community college regions. The Department of Education and the Department of Management Services must implement the law and coordinate the network. It specifies requirements for certain audio components and requires the State Board to adopt rules.

Section 229.008, F.S., creates the boards of trustees of the state universities, provides for the appointment of members, and specifies their duties.

Section 229.0081, F.S., creates the boards of trustees of the state universities, provides for the appointment of members, and specifies their duties.

Section 229.0082, F.S., provides for the powers and duties of university presidents.

This section establishes the program that is administered by the Department of Education. It provides for consultation with the legislative appropriations committees to approve estimated levels of expenditures, salary rates, and positions. The full appropriations committee must be notified of expenditures in excess of a specified threshold. The law prohibits the obligation of new state appropriations as a source of matching funds for potential federal or private contracts or grants. The state is not obligated to provided continued funding for personnel or project costs at the end of the contract or grant period. Current law provides for the repeal of this section on June 30, 2002.

III. Effect of Proposed Changes:

The bill allows the State Board of Education, instead of the Department of Education, to adopt rules and standards to implement this training in the district school system.

The bill amends ss. 112.19(5) and 112.191(5), F.S., relating to educational benefits provisions for law enforcement officers, correctional officers, and correctional probation officers, and firefighters killed in the line of duty.

The bill provides for the State Board of Education rather than the Department of Education to adopt rules to determine eligibility of nonprofit scholarship-funding organizations and to identify qualified students under s. 220.187(6), F.S., relating to corporate tax credit contributions to nonprofit scholarship-funding organizations.

The bill repeals s. 229.001, F.S., the short title for part I of ch. 229, F.S. (the "Florida Education Governance Reorganization Implementation Act").

The bill removes references to the changes in education governance, centralized governance, and vertical and horizontal policy and articulation. The bill establishes legislative policy for decentralized authority to the schools, community colleges, universities, and other institutions that deliver educational services to the public.

The bill repeals provisions for the transitional governance structure of the Florida Board of Education, the appointment of governance officers by the Florida Board, and the appointment of a board of trustees for the Florida Virtual High School and for each university.

The bill repeals provisions in s. 229.004, F.S., relating to the appointment of members of the Florida Board of Education, the organization of the board, and the transitional duties of the Florida Board, the Commissioner of Education, and the Secretary for the Florida Board.

The bill repeals the transitional duties of the Florida Board, the Commissioner of Education, and the Secretary for the Florida Board. Also, the bill repeals the transitional provisions related to the appointment of and duties for three Chancellors (e.g., the Chancellor of Public Schools, the Chancellor of Community Colleges, and the Chancellor of Colleges and Universities) and the Executive Director for Independent Education.

The bill repeals the transitional duties for the Education Governance Reorganization Transition Task Force, effective March 1, 2003.

The bill repeals s. 229.0061, F.S., guidelines for implementing Florida's K-20 education system and for its structure, functions, and organization, as well as specific roles for the following: the Legislature; the Florida Board of Education; the education governance officers, including the Commissioner of Education; the Chancellors; the Executive Director of Independent Education; the institutional boards of trustees; the school boards; the university and community college presidents; the school board superintendents; and ad hoc advisory committees.

The bill replaces the references to the Florida Board of Education with the State Board of Education and eliminates references to the Chancellors.

The bill repeals provisions relating to the reorganization implementation process under s. 229.0072, F.S.

The bill repeals the provisions related to the reorganization of the Department of Education, including the Secretary's reorganization work group, under s. 229.0073, F.S.

The bill clarifies in s. 229.011, F.S., that public education is a function of the state. The state retains responsibility for establishing standards and regulations to assure efficient operation of a K-20 system of public education and adequate educational opportunities for all individuals.

The bill reenacts and amends s. 229.012, F.S., to delete references to the composition and organization of the elected State Board of Education and to establish the composition and organization of the appointed Board. This provision is currently codified in s. 229.004, F.S., for transition governance.

The bill repeals s. 229.133, F.S., which requires the State Board of Education to adopt rules to allow an area technical center or community college to conduct career education programs to meet workforce shortage needs.

The bill reenacts and amends this section. The bill provides that the board must focus on high level policy decisions and includes references to colleges when specific duties are delineated for state universities and community colleges. Also, the board's duty to adopt and submit estimated budget expenditures is amended to include specific reference to the Department of Education. Programs that will need increases in state funding for more than 1 year must be included in a multiyear budget plan. The bill requires the board to contract with independent institutions accredited by an agency whose standards are comparable to the minimum standards required to operate a postsecondary institution at that level in Florida. The bill creates the following duties for the board:

- adopting cohesive rules for education system wide issues (s. 229.004(3)(f), F.S.);
- authorizing the allocation of resources in accordance with law and rule; (s. 229.0061(2)(b)2., F.S.)
- enforcing systemwide education goals and policies (s. 229.0061(2)(b)1., F.S.);
- establishing a procedure for implementing and operating a system wide K-20 technology plan, based on a common set of data definitions (ss. 229.0061(1)(d) and 229.0072(3), F.S.);
- establishing accountability standards for existing legislative performance goals, standards, and measures (s. 229.0072(4)(d), F.S.);
- ordering the development of mechanisms to implement new legislative performance goals, standards, and measures (s. 229.0072(4)(d), F.S.);
- adopting criteria and implementation plans for future growth issues, such as new colleges and universities and campus mergers (s. 229.0072(4)(k), F.S.);
- providing for cooperative agreements between and within private and public education sectors (s. 229.0072(4)(k), F.S.);

- developing and reviewing a coordinated 5-year plan for postsecondary enrollment that is annually submitted to the Legislature (s. 229.0072(4)(m), F.S.); and
- approving new programs at the doctoral level and beyond, according to statutory criteria.

Some of these duties (indicated in parenthesis) are based upon other provisions of law for the Florida Board of Education. The bill also subjects a member of the State Board of Education to removal for cause upon a determination by a court that he or she has violated the public meetings laws for the second time. The member must be removed for knowingly violating the laws. The Governor must then appoint a new member. The penalties in the bill are cumulative to the existing penalties. Prior violations are not considered violations for purposes of the new provision.

The bill repeals s. 229.515, F.S., relating to the Commissioner of Education's general rulemaking authority.

The bill creates s. 229.516, F.S., relating to additional duties for the commissioner. The bill creates duties for the Commissioner of Education to independently perform, including: serving as the primary source of information to the Legislature; developing and implementing a process for receiving and processing requests for the allocation of PECO funds for qualified postsecondary education projects; and integrally working with the boards of trustees of the universities, colleges, and community colleges. The commissioner must also work with the Legislature to recommend funding priorities for the distribution of capital outlay funds for postsecondary institutions, based on specific priorities.

Also, the commissioner must recommend to the State Board performance goals addressing the K-20 educational needs of the state. CEPRI must develop a report card assigning grades to reflect Florida's progress toward meeting those goals. The report card must contain specific information. By January 1 each year, CEPRI must submit the report card to the Legislature, the Governor, and the public. The commissioner must present to the Legislature a corrective action plan to address any deficiencies identified in the report card.

The bill creates in statute the 17-member Articulation Coordinating Committee, appointed by the commissioner and provides for the committee's composition and mission. The Committee's membership represents students and public and nonpublic institutions. The State Board may adopt rules for the committee to perform specified functions. These functions are based on the contents of current administrative rule. Also, the bill now references the statewide course numbering system rather than the common course numbering and designation system.

The bill: includes references to the K-20 education system and colleges and state universities; deletes references to the State University System and the Board of Regents; and removes obsolete dates. The State Board rather than the Board of Regents is responsible for specific functions:

- Of the courses required for each baccalaureate degree, at least half of the credit hours required for the degree must be achieved through courses designated as lower division courses, except in degree programs approved by the State Board of Education.
- The State Board of Education must be notified by the Articulation Coordinating Committee when significant differences remain in course prerequisites, including course

substitutions, when common prerequisites cannot be established for degree programs across all institutions.

- Common degree program prerequisites must be offered and accepted by all state universities, colleges, and community colleges, except in cases approved by the State Board.

The commissioner is provided with the responsibility for working with the universities, colleges, and community colleges to develop a centralized database that lists courses and course substitutions meeting the prerequisite requirements for each baccalaureate program. This responsibility was previously assigned to the State Board of Community Colleges and the Board of Regents. The bill amends the public records exemption for tests and related documents developed by the Department of Education to include a technical reference to the State Constitution.

The bill includes references to postsecondary institutions in s. 229.555, F.S. Each board of trustees for a community college, college, and university must maintain a continuing system of planning and budgeting to assist with identifying and meeting the educational needs of students and the public. The bill specifies other requirements for the system.

The commissioner or the Auditor General must periodically evaluate procedures, records, and programs in each district for compliance with laws and rules. The bill amends s. 229.565(2), F.S., to reference State Board rules in place of the commissioner's rules.

The bill deletes the provision requiring 11th grade students to take the high school competency test and removes an obsolete reference for students enrolled in grade 9 in the fall of 1999. The bill removes obsolete references to the timeframes associated with the criteria for designating a schools' performance grade category and for the annual report.

The bill repeals the requirement that the Department of Education, in consultation with OPPAGA and others, participate in monitoring and reporting on the implementation of the methodology used to identify student learning gains.

Each district school board or principal (through the board) may submit to the commissioner, for approval, a proposal to implement an educational improvement project. This must be done according to rules adopted by the commissioner. The bill replaces the reference to rulemaking by the Commissioner of Education with the State Board of Education.

The bill reenacts and amends s. 229.592, F.S., to revise the current process for waiving law and rules in subsection (9). The State Board, upon request by a school board, may allow the commissioner to waive State Board rules for instruction and school operation, with specific exceptions. The bill removes the requirement for the commissioner, upon request, to bring pending waivers to the State Board for consideration. The bill clarifies the provisions related to the status of schools designated with certain performance grade categories. These provisions are exceptions to law.

The bill repeals s. 229.601, F.S., the "Florida Career Education Act."

The bill amends s. 229.602, F.S., to eliminate an obsolete date on which an annual report of the Commissioner of Education to the Legislature was to begin (January 1, 1989).

The bill transfers s. 229.604, F.S., which relates to the teaching program, and renumbers it as s. 231.425, F.S.

The bill transfers s. 229.6041, F.S., relating to grants for career changing professionals, and renumbers it as s. 231.426, F.S.

The bill transfers s. 229.6042, F.S., relating to training program implementation, and renumbers it as s. 231.427, F.S.

The bill transfers s. 229.6043, F.S., relating to teacher preparation, and renumbers it as s. 231.428, F.S.

The bill replaces the reference to rulemaking by the Commissioner of Education in s. 229.805, F.S., relating to educational television, with the State Board of Education and replaces the reference to “regulations” with “rules.” Also, the bill extends the Department of Education’s television and other media services to universities.

Section 229.8051, F.S., is amended to replace the reference to rulemaking by the Commissioner of Education with the State Board of Education.

The bill creates s. 229.8076, F.S., to establish the Office of Nonpublic Schools and Home Education Programs within the Department of Education. The Department of Education and the Commissioner of Education have no authority over the institutions or students served by the office. The bill recognizes the contributions of nonpublic schools and home education programs in providing alternatives to public school education and states that these nongovernmental educational systems serve the public. However, the systems must not be construed to be a part of the public system of education. The bill specifies the responsibilities for the office: serving the interests of students and the parents of students in nonpublic schools and home education programs, as well as the interests of nonpublic institutions; and providing general information to the public. The Commissioner of Education must appoint an executive director for the office who must perform specific duties.

The bill replaces the reference to rulemaking s. 229.8333, F.S., relating to the school-related employee of the year program, by the Department of Education with the State Board of Education.

The bill reenacts s. 229.8341, F.S., allowing regional diagnostic and learning resource centers to provide services for infants and preschool children.

The bill repeals a requirement that the Department of Education develop a model rule that will allow an entity adopting it to deny participation in sports or other extracurricular activities to any person who has been determined by a court to be delinquent in paying a child support obligation.

The commissioner must adopt rules providing for scheduled purges of courses listed in the statewide common course numbering system or institutional catalog that have been inactive for the preceding 5 years. The rules must include certain waiver provisions. The bill replaces the reference to rulemaking by the Commissioner of Education with the State Board of Education.

Section 233.056, F.S., allows the Division of Public Schools and Community Education in the Department of Education to establish a coordinating unit and instructional materials centers. The coordinating unit must operate under the rules of the commissioner. The bill replaces the reference to rulemaking by the Commissioner of Education with the State Board of Education. The bill also amends the reference to the Division of Public Schools and Community Education with a reference to the Division of Public Schools.

Section 233.058, F.S., requires school districts to follow procedures related to planning and providing students with instruction and establishes other requirements. The commissioner must adopt rules to implement this section. The bill replaces the reference to rulemaking by the Commissioner of Education with the State Board of Education.

The commissioner must adopt rules under s. 233.39, F.S., for the Department of Education to arrange for the renovation and repair of books. The commissioner must prescribe rules related to contracts for these services. The department must enter into a contract following a competitive sealed bidding process. The bill replaces the reference to rulemaking by the Commissioner of Education with the State Board of Education.

School districts must operate all schools for a minimum number of actual teaching days (180) as set forth in s. 228.041(13), F.S., or the equivalent on an hourly basis as specified by the commissioner each school year. School board rules for the appointment, promotion, transfer, suspension, and dismissal of personnel must conform to applicable law and the commissioner's rules. Also, other school board rules that must conform to the commissioner's rules or regulations are the required months of service for principals and instructional staff, salary schedules, and budgets. The bill replaces the reference to rulemaking by the Commissioner of Education with the State Board of Education. The term "regulations" is replaced with the term "rules."

The law specifies the components of the funding model and how funds are generated. The Department of Education must adopt rules to implement the revised funding model. The bill replaces the reference to rulemaking by the Department of Education with the State Board of Education.

A school district's full-time equivalent membership must be computed and maintained in accordance with the commissioner's regulations. Beginning with the 1999-2000 school year, a district was required to document the daily attendance of each student by school and by district. For purposes of in-service personnel training, courses for exempted programs must be arranged and conducted in compliance with procedures cooperatively developed by the Department of Education and the Board of Regents, as well as those included in State Board rule. The bill replaces the reference to rulemaking by the commissioner with the State Board of Education. The term "regulations" is replaced with the term "rules." Also, the bill removes an obsolete reference to a date.

Section 236.1225, F.S., establishes that the gifted education exemplary grant program must be administered by the commissioner in accordance with the commissioner's rules. Proposed programs may be submitted according to the commissioner's policies and rules. The bill replaces the reference to rulemaking by the Commissioner of Education with the State Board of Education.

Under s. 237.081(4), F.S., relating to public hearings on budgets submitted to the Department of Education, the commissioner may adopt rules for the specific advertising format requirements for budgets. The bill replaces the reference to rulemaking by the commissioner with the State Board of Education.

The commissioner must adopt rules prescribing minimum-security measures that must be implemented by a school board prior to establishing a direct deposit system under s. 237.211(5), F.S. The bill replaces the reference to rulemaking by the commissioner with the State Board of Education.

Each direct-support organization must provide for an annual financial audit that is conducted by an independent C.P.A., according to the rules of the Auditor General and the commissioner, under s. 237.40(4), F.S. The bill replaces the reference to rulemaking by the commissioner with the State Board of Education.

Section 316.615(3), F.S., provides that school bus drivers may not transport school children unless he or she meets the physical examination requirements established by law and rule of the commissioner. The bill replaces the reference to rulemaking by the commissioner with the State Board of Education.

The Department of Children and Family Services, the Department of Health, and the Department of Education must adopt necessary rules, under s. 411.224(10), F.S., relating to the family support planning process. The bill replaces the reference to rulemaking by the Department of Education with the State Board of Education.

The school to work program must be operated according to the process and outcome standards of Jobs for America's Graduates, Inc., unless otherwise provided for by law or rule of the Department of Education. The Board of Directors of the Florida Endowment Foundation for Florida's Graduates must operate within the limits prescribed by law and rule of the Department of Education, including meetings and conducting business. The board must recommend rules for adoption to the department. The department is required to adopt necessary rules by s. 446.609(4), (7), and (12), F.S. The bill replaces the reference to rulemaking by the Department of Education with the State Board of Education.

Part II of chapter 489, F.S., relates to the regulation of construction contractors by the Department of Business and Professional Regulation. Certified contractors are prequalified to bid by a district school board under uniform prequalification criteria adopted by rule of the Commissioner of Education. The bill replaces the reference to rulemaking by the commissioner with the State Board of Education.

Section 937.023, F.S., requires the Department of Education to provide by rule for a program to identify and locate missing school children that are enrolled in Florida's K-12 public schools. The bill replaces the reference to rulemaking by the Department of Education with the State Board of Education.

The Department of Education and the Department of Juvenile Justice must adopt rules needed to implement ss. 232.19 (relating to court procedures and penalties), 984.03(27), and 985.03(25) (relating to the definition of a habitual truant), F.S. The bill replaces the reference to rulemaking by the Department of Education with the State Board of Education.

Section 228.041, F.S., provides definitions of terms that are used in the school code and includes references to rulemaking by the commissioner. The law still contains references to the State Board of Community Colleges, the Board of Regents, and the State University System. The bill revises the following definitions that are used in the school code: "public schools" (replacing the reference to the state university system with a reference to universities that control developmental research schools); "community colleges" (replacing the reference to the state university system with a reference to colleges and universities); "school centers" and "school day" (replacing the references to rulemaking by the commissioner with the State Board of Education); "exceptional student" (deleting the reference to rulemaking by the commissioner); and "tuition" (deleting reference to rulemaking by the State Board of Community Colleges and the Board of Regents).

The Department of Education, in cooperation with the regional autism centers, must adopt needed rules under s. 228.055, F.S. The bill replaces the reference to rulemaking by the Department of Education with the State Board of Education.

Section 228.062, F.S., requires the Commissioner of Education to prescribe rules needed for the participation by the state in the federal migratory child compensatory education program. The bill replaces the reference to rulemaking by the commissioner with the State Board of Education.

The Commissioner of Education must prescribe rules and standards covering all phases of the administration and operation of the school food service program, under s. 228.195, F.S. The bill replaces the references to rulemaking and standards by the commissioner with the State Board of Education.

Section 220.23, F.S., is amended to provide for the State Board of Education rather than the commissioner to make rules related to: placement of exceptional students and due process hearings; rental of education facilities; exceptions for insurance for school property; required reports; school district consortia; enforcement; and the school lunch program. The term "regulations" is replaced with the term "rules."

The bill deletes the eligibility for waivers of law (ch. 230 through 235 and 239) by second chance schools. These schools will still be eligible for waivers by the Commissioner of Education of State Board rules that prevent the provision of appropriate education services to violent, severely disruptive, or delinquent students in small nontraditional settings or in court-adjudicated settings. Also, programs in second chance schools must operate under rules

adopted by the State Board rather than the Department of Education. The bill also provides general rulemaking authority for this section to the State Board.

The Department of Education may adopt rules needed to implement s. 230.23161, F.S., relating to educational services in Department of Juvenile Justice programs, including uniform curriculum, funding, and second chance schools. The bill provides rulemaking authority to the State Board rather than the Department of Education.

The State Board must adopt rules needed to implement s. 230.23166, F.S., relating to teenage parent programs.

The commissioner may adopt rules needed to implement s. 231.700, F.S., relating to the Florida Mentor Teacher School Pilot Program, and approval of the mentor teacher school program. The bill allows the State Board rather than the commissioner to adopt rules.

The commissioner must adopt rules for identifying established conditions for children birth through 2 years of age and developmental delays for children birth through age 5. The commissioner has rulemaking authority for the transfer of specific out-of-state students, under s. 232.01, F.S., relating to compulsory school attendance. The bill requires the State Board rather than the commissioner to adopt rules for identifying established conditions for children birth through 2 years of age and developmental delays for children birth through age 5. The bill provides for rulemaking authority by the State Board (rather than the commissioner) for the transfer of specific out-of-state students.

The Department of Education, subject to the concurrence of the Department of Health, must adopt rules governing medical examinations pursuant to s. 232.0315, F.S., relating to school health entry examinations. The bill provides rulemaking authority to the State Board rather than the Department of Education. The bill retains the requirement for the rules to be adopted with the concurrence of the Department of Health.

Principals must maintain permanent records for each student enrolled in public school under s. 232.23, F.S., relating to procedures for maintaining and transferring pupil records. The record must contain the data specified in rules of the Commissioner of Education. Also, the procedure for transferring and maintaining records, and the acceptance of transfer work and credit must be prescribed by the commissioner's rules. The bill provides rulemaking authority to the State Board rather than the Commissioner of Education. The term "regulations" is replaced with the term "rules."

The commissioner must adopt rules to administer s. 232.245, F.S., relating to pupil progression, remedial instruction, and reporting requirements. The bill requires rules adopted by the State Board rather than the Commissioner of Education.

Section 232.25, F.S., relating to circumstances under which students are subject to the control of the school, specifies the circumstances under which students are subject to the control of the school, as provided by law, regulations, and rules of the school board and the commissioner. By rule, the commissioner or school district may subject students to the control of a principal or

teacher under certain circumstances. The bill deletes the references to the commissioner's rules and replaces these references with the State Board.

District school superintendents must notify the school board of any school bus that does not meet the requirements of law and the commissioner's regulations. The Department of Education may determine whether the bus meets the requirements in law and rule and take action if it does not. Each school bus route must meet the requirements in the commissioner's rules. The commissioner may adopt rules to implement s. 234.02, F.S. The bill replaces the reference to rulemaking by the commissioner with the State Board of Education. The bill replaces the term "regulations" with "rules."

The commissioner may adopt rules to implement s. 234.301, F.S., relating to pool purchases of school buses, to maintain the integrity of the program, and to ensure the best and lowest price for purchases. The bill replaces the reference to rulemaking by the commissioner with the State Board of Education.

The Department of Education is required by s. 229.567, F.S., to adopt the school readiness uniform screening developed by the Florida Partnership for School Readiness. The department must also require school districts to administer the kindergarten uniform screening to each kindergarten student in the district when the student enter kindergarten. Children who enter public school for the first time must have a Partnership-approved uniform screening for first grade. Section 411.01, F.S., also contains provisions related to school readiness screening. The bill incorporates the following provisions from s. 411.01, F.S.: expectations for school readiness; planning for children with disabilities; and requirements for the Department of Education to implement school readiness uniform screening.

Section 229.0074, F.S., establishes the Division of Independent Education in the Department of Education with an executive director and the Commission for Independent Education. It also contains the transitional activities that are now complete (e.g., abolished, created, transferred, and merged entities) and the Commission's regulatory authority. The bill eliminates the Division of Independent Education in the Department of Education and the appointment of members of the Commission for Independent Education. To conform, the section is re-titled the Commission for Independent Education.

School boards are required by s. 229.58, F.S., to establish an advisory council for each school in the district. Also, districts may establish a district advisory council. The law specifies the composition of and the duties for these councils. The duties include assisting in the preparation of school improvement plans and the school's annual budget. Section 239.229(3), F.S., currently requires each area technical center operated by a school district to establish a center advisory council. Under the provisions of the bill, each area technical center operated by a school district must establish a center advisory council to assist with the preparation and evaluation of center improvement plans. At the request of the center's director, the council may assist in preparing the center's annual budget and other plans.

The Department of Education must develop and maintain an information management program to compile, maintain, and disseminate information on the educational histories, placement and employment, U.S. armed forces enlistments, and other measures of success of former

participants in state educational and workforce development programs under s. 229.8075, F.S., relating to the Florida Education and Training Placement Information Program (FETPIP). Projects conducted by the department or the workforce development system must use information provided by FETPIP. They are prohibited from initiating automated matching of records that duplicate FETPIP's methods. For purposes of measuring and reporting program enrollments and completions, the department is required to use the data in the automated student data bases generated by public schools and community colleges. The data in reports generated by FETPIP must be used when the department measures and reports placement rates and the amount of earnings at the time of placement. The provisions of the bill allow for the use of alternative information when FETPIP placement information is not available. However, there are conditions for using the alternative information. The State Board, by rule, must specify uniform procedures for school districts to collect and report placement information that supplements FETPIP reports.

Section 229.8052, F.S., creates the state satellite network consisting of compatible satellite receiving equipment at public educational institutions in each of the 28 community college regions. The Department of Education and the Department of Management Services must implement the law and coordinate the network. It specifies requirements for certain audio components and requires the State Board to adopt rules. The bill repeals this provision.

Section 229.008, F.S., creates the boards of trustees of the state universities, provides for the appointment of members, and specifies their duties. The bill repeals this provision. This will be addressed in ch. 240, F.S.

Section 229.0081, F.S., creates the boards of trustees of the state universities, provides for the appointment of members, and specifies their duties. The bill repeals this provision. This will be addressed in ch. 240, F.S.

Section 229.0082, F.S., provides for the powers and duties of university presidents. The bill repeals this provision. This will be addressed in ch. 240, F.S.

The Department of Education must be located in the offices of the Commissioner of Education. The department must provide professional leadership and guidance in executing the policies and procedures authorized by law or by the State Board, or as determined by the department to conform to the school code's objectives and purposes. The bill repeals the requirement for the Department of Education to be located in the Office of the Commissioner of Education and statutory duties for the department.

This section establishes the program that is administered by the Department of Education. It provides for consultation with the legislative appropriations committees to approve estimated levels of expenditures, salary rates, and positions. The full appropriations committee must be notified of expenditures in excess of a specified threshold. The law prohibits the obligation of new state appropriations as a source of matching funds for potential federal or private contracts or grants. The state is not obligated to provide continued funding for personnel or project costs at the end of the contract or grant period. Current law provides for the repeal of this section on June 30, 2002. The bill repeals this section.

The CEPRI is not currently required to issue a report card. The commissioner must direct Florida school districts to participate in the administration of the National Assessment of Educational Progress (NAEP), or a similar national assessment program. These assessments must be included in the commissioner's annual report. The commissioner must recommend to the Florida Board of Education performance goals addressing the educational needs of the state for the K-20 education system. The CEPRI must develop a report card assigning grades to reflect Florida's progress toward meeting those goals. The report card must contain specific information. By January 1, 2002, the CEPRI must submit the report card to the Legislature, the Governor, and the public and the commissioner must subsequently present to the Legislature a corrective action plan. This provision takes effect July 1, 2002, and expires January 7, 2003.

The bill provides that all rules of the State Board of Education, the Commissioner of Education, and the Department of Education adopted pursuant to the provisions of law amended by this bill, in effect on January 2, 2003, remain in effect until specifically amended or repealed in the manner provided by law.

The bill provides that, effective January 7, 2003, the administrative rules of the Department of Education and the Commissioner of Education will become the rules of the State Board of Education.

The bill provides that, effective January 7, 2003, the administrative rules of the State Board of Education will become the rules of the appointed State Board of Education.

The bill provides that all administrative rules of the State Board of Education, the Commissioner of Education, and the Department of Education are transferred by a type two transfer, as defined in s. 20.06(2), F. S., to the appointed State Board of Education.

The bill provides that the act will not affect the validity of any judicial or administrative action involving the Department of Education, pending on January 7, 2003. Also, the act will not affect the validity of any judicial or administrative action involving the Commissioner of Education or the State Board of Education, pending on January 7, 2003, and the appointed State Board of Education will be substituted as a party of interest in any action.

The bill provides that except as otherwise provided, the act takes effect on January 7, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Department of Education, there is no cost associated with extending to universities the television and other electronic media services of the department, as this is current practice. There may be some minimal costs for establishing the Office of Nonpublic Schools and Home Education Programs within the department. There are no costs anticipated for the changes to the current waiver process. The CEPRI may incur some costs in producing the annual report card.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Duties of the appointed commissioner – Section 229.512, F.S., enumerates the commissioner's duties for administering the State School Fund and taking action on mineral rights. As a current Cabinet member, the commissioner is also a member of the Board of Trustees of the Internal Improvement Trust Fund. As a result of the constitutional revisions to the Florida Cabinet, the commissioner will no longer serve in this capacity. The provision related to mineral rights, as well as the responsibility for administering the School Fund, will need to be further refined to reflect changes in the State Constitution.

The bill requires the commissioner to work with the Legislature in two areas related to postsecondary education: developing and implementing a process for receiving and processing requests for the allocation of Public Education Capital Outlay (PECO) funds for qualified education projects; and recommending funding priorities for the distribution of capital outlay funds for institutions, based on specific priorities. These provisions may raise questions regarding separation of powers unless the ultimate process clearly distinguishes the roles for the Legislature and the executive branch.

Waivers – The provisions of sections 30 and 66 for waivers of State Board rule may need to be further refined to delineate in law the specific criteria that will be used by the commissioner. As well, the specific areas for granting waivers may also need to be identified.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
