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HOUSE OF REPRESENTATIVES

LIFELONG LEARNING COUNCIL
ANALYSIS

BILL #: HB 271

RELATING TO: Learning Gateway Program

SPONSOR(S): Representative Harrell

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

(1) LIFELONG LEARNING COUNCIL
(2) EDUCATION APPROPRIATIONS
(3) FISCAL POLICY & RESOURCES
(4) FISCAL RESPONSIBILITY COUNCIL
(5)

I. SUMMARY:

This bill authorizes a 3-year demonstration program to be called Learning Gateway, which is intended to "prevent and ameliorate learning problems and learning disabilities in young children." The bill creates a 23-member Learning Gateway Steering Committee, provides for appointment of its members, and establishes its duties. The bill authorizes the demonstration projects in Broward, Manatee, and St. Lucie Counties. These projects are to hire staff, establish office space, contract with providers, provide screening, and provide other referral and follow-up contacts to targeted families and children who are participants in any intervention services or programs funded or administered by state agencies. The bill provides access to confidential student records by the Learning Gateway Program and Steering Committee without parental consent.

This bill is nearly identical to SB 1018 (2001), which was vetoed by the Governor based on his concerns "grounded on the potential for excessive intrusiveness of government in the lives of Florida's families." HB 271 is actually more intrusive because it adds the authorization to obtain confidential records without parental consent.

This bill provides for duplication of services already available (*see* PRESENT SITUATION). This bill may have constitutional problems (*see* COMMENTS: CONSTITUTIONAL ISSUES). This bill conflicts with recent legislative policy decisions and laws (*see* OTHER COMMENTS). This bill could lead to lawsuits against the state (*see* OTHER COMMENTS).

The bill requires an appropriation of nearly $6 million for the pilot project alone, with authorization to recommend statewide implementation. (*see* FISCAL ANALYSIS). Additionally, numerous provisions in the bill indicate an indeterminate but potentially very significant, growing, and unlimited fiscal impact (*see* FISCAL COMMENTS).

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes []	No [X]	N/A []
2.	Lower Taxes	Yes []	No []	N/A [X]
3.	Individual Freedom	Yes []	No [X]	N/A []
4.	Personal Responsibility	Yes []	No [X]	N/A []
5.	Family Empowerment	Yes []	No [X]	N/A []

The bill creates a 23-member Learning Gateway Steering Committee housed in the Department of Education as well as three Learning Gateway Demonstration Projects. The bill authorizes these quasi-governmental entities to develop state policy, advise government agencies, procure products, hire staff, set up offices, and provide services that are currently available and duplicative with other programs, and gives them access to private confidential information concerning students. The bill is designed to enhance the use of big, costly federal government programs such as the I.D.E.A., section 504 of the Rehabilitation Act, and the A.D.A. Therefore the bill is the antithesis of the principle of less government.

The bill requires the screening of all children in the pilot counties from birth to age 9 who are served by state intervention programs or whose parents or caregivers are in state intervention programs. Demonstration projects must also develop strategies for targeting children and families, including providing "systematic hospital visits or home visits by trained staff to new mothers." The bill states that the steering committee "should assist project in developing and testing screening processes to address social, emotional, behavioral interactions between the child and caregiver which could indicate future problems or delays."

Therefore the bill is intrusive, weakens private parental decision-making, and is the antithesis of the principles of individual freedom, personal responsibility, and family empowerment.

B. PRESENT SITUATION:

According to the Department of Health, the impetus for the bill was the fact that many children from birth to 9 years of age with learning problems or learning disabilities have not been identified until enrolled in school and experiencing difficulties in the classroom. However, according to recent research and many child experts, these children are being overidentified and overmedicated and treated, to their lifelong detriment. For example, in chapter 2 of *Rethinking Special Education for a New Century* (2001), published collaboratively by the Progressive Policy Institute and the Thomas B. Fordham Foundation, Wade F. Horn and Douglas Tynan note the extraordinary growth in the percentage of children receiving special education: 65% growth in the number of children served in the period from 1976-77 to 1999-00, from 3.7 million to 6.1 million children ages 3-21, from an overall 8.3% of the student population to an overall 12.8% of the student population. In analyzing this astonishing growth, the authors state:

> "There are several reasons why both the number and percentage of children identified as qualifying for special education under the IDEA have grown so rapidly over the past several decades. First, since passage of the EAHCA, both Congress and the U.S. Department of

Education have responded to pressure from advocacy groups by expanding the definition of students eligible for special education. For example, children ages three to five are now eligible for services under the IDEA, as are children with autism and traumatic brain injuries. Furthermore, autism, once defined as a rare disorder affecting about 6 per 10,000 children, is now considered more common and children with mild autism, known as Asperger Disorder, are thought to number between 25 and 50 per 10,000 children.

"Even more significantly, in 1991 the U.S. Department of Education issued a "policy clarification" indicating that children diagnosed with attention deficit disorder (ADD) and attention deficit hyperactivity disorder (ADHD) may be eligible for special education services and accommodations under both the "other health impaired" category of the IDEA and Section 504 of the Rehabilitation Act. On March 12, 1999, the U.S. Department of Education codified this policy clarification into law when it published regulations which, among other things, revised the definition of the "other health impaired" disability category by adding both ADD and ADHD as qualifying conditions. Given the extraordinary increase in the number of children diagnosed in recent years as having ADD or ADHD, the inclusion of these two diagnoses under "other health impaired" virtually assures continued growth in the number of students served through special education into the foreseeable future.

"Second, the number of children identified under a single category—"specific learning disability" or SLD—has increased exponentially over time…Indeed, in contrast to an extraordinary 233 percent growth since 1976-77 in the number of children diagnosed with SLDs, the number of children served in all other disability categories combined increased only 13 percent during the same time period.

"Unfortunately, the SLD category is rife with controversy. In the 1975 law, SLD was defined as "a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations," manifesting in a "severe discrepancy" between a student's achievement in one or more subject areas and his or her intelligence, as usually measured by an IQ test. This federal definition notwithstanding, there are no universally accepted validated tests or diagnostic criteria to determine the presence or absence of learning disabilities, nor is there a clear line of demarcation between students who have milder forms of SLDs and those who do hot have SLDs.

"According to many experts, the lack of a clear definition of and objective diagnostic criteria for SLD makes it possible to diagnose almost any low- or under-achieving students into special education classes in order to obtain state and federal funds that are available only after a child is identified as disabled under the IDEA. Although it is unlikely that children without learning difficulties are being placed in special education, not every low-achieving child is also disabled. However, when services are provided to low-achieving but non-disabled students in regular education, local school districts cannot claim reimbursement for the cost of these services even if they are exactly the same as services provided to students with disabilities. This funding structure provides enormous financial incentives for local school districts to over-identify low-achieving but non-disabled students as needing special education.

"The incentive to over-identify low-achieving children as disabled may be especially powerful in schools serving low-income populations. In cases where a child is under-achieving at school because of economic disadvantage, compensatory educational programs are supposed to be funded through Title I of the Elementary and Secondary Education Act (ESEA), nor through the IDEA. Indeed, economic disadvantaged as a reason for under- or low-achievement is an explicit exclusionary criterion under the IDEA. However, because IDEA funds do not substitute for funding under Title I, students in low-income school districts who are also identified as disabled are effectively "double counted"—once for purposes of drawing down funds under Title I and a second time for purposes of reimbursement for special education services under the IDEA…

"A fourth reason for the growth in special education may be recent education reform efforts aimed at holding schools more accountable for student outcomes. Until recently students identified as

> receiving services under special education were not generally required to participate in statewide assessments. Given that merit raises, promotions, and bonuses for both principals and teachers often ride on the results of statewide exams, the temptation exists for local school districts to raise their scores artificially by excluding the participation of low-achieving, special education students in statewide assessments…
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> "A final reason for the growth in the number of children in special education comes from a surprising source: parents themselves. Not long ago, being in special education carried with it a certain amount of social stigma. Today, due in large part to the success of disability advocacy groups, there is much less stigma attached to special education. Indeed, what special education brings with it today is the possibility of such attractive accommodations and special programs as the assistance of a personal tutor, a lap-top computer, extra or even unlimited time on classroom tests and college entrance exams, a personal note taker, and immunity from severe discipline when the student violates behavior codes because of his or her disability.
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> "The fact that being found eligible for special education brings with it entitlement to an array of often expensive services and accommodations may help explain why nearly one in three high school students is officially designated as disabled in affluent Greenwich, Connecticut. It may also explain why clinicians in affluent communities frequently report an upsurge in parental requests for diagnostic evaluations, especially for SLDs and ADD, of high school juniors—just as high school students are preparing to take college entrance exams such as the SAT and ACT. Indeed, while children from families with more than $100,000 in annual income account for just 13 percent of the SAT test-taking population, they make up 27 percent of those who receive special accommodations when taking the SAT.
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> "In addition, an entire industry of professionals and paraprofessionals has arisen dedicated to identifying learning disabilities and assisting parents in obtaining mandated services. Educators and psychologists who provide private testing, attorneys who specialize in special education law, and parent advocates who help families negotiate the maze of special education services all thrive in affluent communities and are frequently the most forceful advocates for special education placement and accommodations."

Children from birth to 5 with mild to moderate learning problems or learning disabilities frequently do not meet the eligibility criteria for the Children's Medical Services Infants and Toddlers Early Intervention (EI) Program or the school district Prekindergarten Disabilities programs, which focus on children with either established medical conditions known to have a high probability of developmental disabilities, or significant developmental delay. In recent years the Legislature has addressed these gaps by enacting major new programs, including the school readiness and healthy start programs.

School Readiness Act

In 1999, the Legislature enacted s. 411.01, F.S., The School Readiness Act, establishing a statewide school readiness program for the state's economically disadvantaged and at-risk birth-to-kindergarten population. The program consists of an integrated seamless service delivery system for all publicly funded early education and child care programs including: First Start, Even Start, pre-k, Head Start, migrant pre-k, Title I, subsidized child care, and teen parent.

The School Readiness Act established local countywide or multi-county school readiness coalitions under the statewide governance of the Florida Partnership for School Readiness to provide elements necessary to prepare children for school, including health screening, developmental assessments, and referral. In May of 2000, the School Readiness Performance Standards were adopted, setting research based developmentally appropriate benchmarks. The Partnership and the local coalitions work with other state and local programs that provide health and mental and behavioral health services, including:

- Department of Health Children's Medical Services, which screens, case manages and provides services for eligible children from ages 0 to 5 exhibiting clinical evidence of developmental delay and other disorders affective the ability to learn;
- Healthy Start Coalitions' member providers, which screen and track pregnant women and infants who qualify for Healthy Start Services;
- Department of Health School Health Program nurses, who deliver services to school children, including screening and referral of children for vision, hearing and other health problems, nursing assessments and referrals to community-based medical and mental and behavioral health providers, and administration of medications for mental and behavioral health problems;
- Department of Education school-based Early Intervention programs, services to Exceptional Student Education students as defined by Part B (children from birth to age three) and C (children from age three to 21) of the Individuals with Disabilities Education Act (IDEA),[1] and the Florida Diagnostic and Learning Resources System;
- Department of Children and Family Services mental and behavioral health services to children of all ages through a network of contracted community mental health providers; and
- Department of Health Infant Screening Program, which tests newborns for five hereditary diseases, utilizing the State Laboratory in Jacksonville with a follow-up component in the Children's Medical Services program to evaluate newborns with presumptively positive results on initial screenings.

Healthy Start Care Coordination Program

Under s. 383,011, F.S., each county health department includes a Healthy Start Care Coordination Program which provides family outreach and enhanced services to pregnant women, infants, and their families who are at potential risk. The program provides screening; case outreach; assessment of health, social, environmental, and behavioral risk factors; case management; home visiting; prenatal and infant care services; parenting education; counseling; and social services. Subsequent screenings are conducted for families identified as families at potential risk. Screening programs must be conducted in accessible locations, including child care centers, local schools, teen pregnancy programs, community centers, and county health departments. System assurance is provided for local healthy start coalitions, case coordination, enhanced services, quality assurance, and provider selection, including provisions for the identification, screening, and intervention efforts by health care providers prior to and following care coalitions.

2000 Legislation

In Ch. 2000-330, L.O.F., the 2000 Legislature, based on assertions that children were "falling through the cracks" for needed services, created a 16-member commission to study children with developmental delays and report to the Legislature by January 1, 2001, with recommendations. The stated purpose of the study was to focus on developing early intervention strategies and programs. Of the commission's 16 members, 5 members represented state agencies and 11 members represented special interests, as follows:

1. The Secretary of Juvenile Justice
2. A representative of the Department of Children and Family Services
3. A representative of the Department of Education

[1] Since 1975, the Individuals with Disabilities Education Act, or IDEA, (formerly the Education for All Handicapped Children Act) has required states to provide all children with disabilities, aged three through twenty-one, with the right to a free appropriate public education (FAPE) in the least restrictive environment (LRE). The IDEA assists states in meeting these requirements by funding each state based on the number of identified disabled children residing within its borders.

4. The Executive Director of the Agency for Health Care Administration
5. A representative of the Department of Health
6. The Department of Psychiatry chair of the University of Florida Brain Institute
7. The chairman of the Department of Pediatrics of the University of Miami Medical School
8. The chair of the Florida Partnership for School Readiness
9. The chair of the Florida Interagency Coordinating Council for Infants and Toddlers
10. A professional with expertise in the needs of children with learning disabilities
11. A professional with expertise in the needs of children with emotional or mental disorders
12. A professional with expertise in the needs of children with developmental disabilities
13. A professional with expertise in the diagnosis and treatment of children with speech and language disorders
14. A professional with expertise in the early intervention and prevention services rendered to children in Florida
15. A professional with expertise in autism and related disorders
16. The parent of a child with a learning disability or emotional or mental disorder.

The study commission met in seven public meetings across the state, and invited experts in brain research, child development, and early intervention to participate and to make recommendations concerning the state's early intervention programs.

The commission formed an advisory workgroup which identified gaps and problems in current services that included limited case management services; inadequate attention by some physicians to infants' and toddlers' development; unavailability of intervention services after delays are discovered; inadequate parental knowledge and participation in seeking services for their children; and insufficient coordination across programs.

According to the study commission, approximately 12 percent of Florida's public school population, ages 3-21, has an identified disability. Of the 352,089 students with disabilities:

- 45 percent are identified as specific learning disabled
- 25 percent are identified as either speech or language impaired
- 8 percent are identified as educable mentally handicapped
- 8 percent are identified as emotionally handicapped
- 14 percent are identified in other categories

Under Part C (children from birth to three) of IDEA, the Developmental Evaluation and Intervention Program in the Department of Health serves 29,053 children who have established disabilities and developmental delays.

In January 2001, the study commission submitted a report, including proposed legislation, stating:

- Many parents lack an adequate understanding of child development and may not receive the assistance they need from existing systems in identifying problems that require further assessment and interventions
- There is no visible central point in communities to access information about screening and services to address early learning problems and developmental delays
- Many of the screening opportunities available in medical settings and early care and education settings are missed
- Research has advanced medical screening methods to screen for a wider range of medical and biological conditions that lead to learning problems, developmental delays and disabilities

- Many more children at risk of learning problems, learning disabilities, and mild developmental delays could be identified through a more deliberate screening effort
- Capacity in existing programs and services is limited; services may not be available for young children and their families even after screening is conducted
- Many proven interventions are not being implemented due to lack of funding, trained personnel and capacity of communities to provide sufficient services

Existing State and Local Entities and Programs Serving Children With (or At Risk of) Developmental Delays/Learning Problems

Florida's programs and services for children birth through age nine are administered by at least five state-level entities in addition to the state universities, and by a number of local-level entities. The five state-level entities with responsibilities for serving young children or their parents are:

- Department of Health
- Agency for Health Care Administration
- Department of Education
- Department of Children and Family Services
- Florida Partnership for School Readiness

Councils or coalitions overseeing services for children birth through age nine at the local level include:

- School Readiness Coalitions
- Florida Interagency Coordinating Council for Infants and Toddlers (FICCIT)
- Part C Regional Policy Councils
- Community Alliances
- Healthy Start Coalitions

In addition, federal Head Start and Early Head Start programs for preschool children operate throughout the state, administered by federal agencies and local councils. Florida law (s. 125.901, F.S.) also allows counties to establish Children's Services Councils. The statute provides for the creation by county ordinance of independent special districts that may levy ad valorem taxes by a majority vote of the people to provide services for children. Seven counties have approved tax levies for Children's Services Councils: Broward, Hillsborough, Martin, Okeechobee, Palm Beach, Pinellas, and St. Lucie. Children's Services Councils operate without taxing authority in Highlands, Lake, Manatee, Miami-Dade, Orange, and Volusia counties as well as Jacksonville (Duval County).

Florida's programs and services for children birth through age nine encompass a wide array of legislative initiatives creating programs serving young children with a variety of medical and developmental conditions.

The Department of Education has a number of programs for children from birth to age five. Of 27,677 children in the prekindergarten disabilities program, 54 percent have a speech or language deficit diagnosis. The Home Instructional Program for Preschool Youngsters (HIPPY) serves 370 single parents in 16 school districts. The Teen Parent Program serves about 5,000 babies and their parents.

Current Florida laws that govern intervention programs for young children include the following:

- Section 228.055, F.S., establishing six regional autism centers to provide nonresidential resource and training services for persons with autism, a pervasive developmental disorder

that is not otherwise specified, an autistic-like disability, dual sensory impairment, or sensory impairment with other handicapping conditions

- Chapter 230, F.S., creating educational programs for preschool children and educational services in Department of Juvenile Justice programs
- Chapter 232, F.S., which defines academic performance standards for students in Florida's public education programs
- Chapter 383, F.S., governing maternal and child health programs including Healthy Start; Regional Prenatal Intensive Care Centers; screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors; newborn hearing screening; prenatal intensive care services; community-based prenatal and infant health care; and birth records
- Chapter 391, F.S., which establishes Children's Medical Services, including general program provisions, Children's Medical Services Councils and Panels, and the Developmental Evaluation and Intervention Program
- Chapter 402, F.S., governing child care services and quality initiatives, including licensing standards and Gold Seal standards and incentives
- Chapter 409, F.S., which creates the Healthy Families program as well as the children's health insurance programs
- Chapter 411, F.S., which contains the Florida Prevention, Early Assistance and Early Childhood Act and the Florida School Readiness Act

Regional Autism Centers

Known as the Centers for Autism and Related Disorders (CARD), each of the state's six autism centers established in s. 228.055, F.S., is operationally and fiscally independent. Each center is statutorily charged with coordinating services within and between state and local agencies and school districts but may not duplicate services provided by those agencies or school districts. Each of the six centers is located at a university.

The centers are community-based programs. The staff members travel to visit constituents in their homes, schools, or wherever assistance is needed. The State of Florida is divided by counties into six regions with CARD professionals serving each area. CARD centers serve children and adults of developmental disorders, dual sensory impairments, or other disabling conditions.

Florida Diagnostic Learning and Resources Systems (FDLRS) Centers

There are two types of FDLRS—"associate" (district) and "university." The associate FDLRS are a network of 19 state and federally funded associate centers that provide support services to teachers, communities, agencies, and families of children with disabilities. They are funded by DOE through local school districts and serve from one to nine counties. Each center provides services in the areas of Child Find, Human Resources and Development, Parent Services, and Technology. The FDLRS centers provide services required by the Individuals with Disabilities Education Act (IDEA).

The second type of FDLRS is the "university" model. This FDLRS system is a statewide medical model, offering full-service diagnostic centers that reach out to special needs children by providing diagnostic and treatment services to children with behavioral, developmental, and learning disorders. The five centers are located at major universities (University of Florida, University of Miami, University of South Florida, Florida State University, and University of Florida/Jacksonville) to better reach these children. Each center serves between five and 15 counties. Comprehensive evaluation services are provided through the use of a multidisciplinary diagnostic clinic. The interdisciplinary teams consist of professionals from pediatrics, psychology, psychiatry, and

communicative disorders. These professionals are also available to work closely with schools and parents to better facilitate the education of Florida's children.

University Programs in Florida Regarding Developmentally Disadvantaged

In addition to the Regional Autism Centers and the Florida Diagnostic Learning and Resources Systems Centers, a plethora of degree programs, clinical and health programs, mental health programs, science and nutrition programs, community outreach and early intervention programs, diagnostic services, etc., are available at each of the state universities and most of the state's private universities and community colleges.

2001 SB 1018 (Learning Gateway)

In 2001, the Legislature passed SB 1018, which contained provisions nearly identical to those of HB 271 (2002). The Governor vetoed SB 1018 on May 31, 2001, noting that his concerns with the bill "are grounded on the potential for excessive intrusiveness of government in the lives of Florida's families."

C. EFFECT OF PROPOSED CHANGES:

The bill establishes three pilot programs (a.k.a. "demonstration projects") and a 23-member steering committee to design and test an integrated, community-based system to lessen the effects of learning problems and learning disabilities for children from birth through age nine. The system is called a Learning Gateway. The pilot programs are intended to coordinate existing resources and fill gaps in service. The three pilot programs will be established in Broward, Manatee, and St. Lucie Counties.

Demonstration Projects

- Indicate an access point for screening, assessment, and referral for services, integration of services, linkages of providers, and ***additional array of services*** to address needs of ***targeted children and families***
- Include existing services and ***determine additional services***
- ***Determine funding sources*** and their uses
- Recommend combining or linking local planning bodies
- Use partnerships (public/private; faith-based; volunteers)
- ***Authorize hiring of appropriate staff***, establish office space, and ***contract with private providers as needed*** to implement the project
- Designate a central information and referral access phone number as the primary source of information on services for young children
- Develop strategies for providing ***systematic hospital visits or home visits*** by trained staff to new mothers
- Develop ***public awareness strategies***, using a variety of media such as print, television, radio, and a community-based ***internet web site***
- Engage local physicians in ***enhancing screening opportunities***
- Develop strategies to ***increase early identification*** of precursors to learning problems and learning disabilities through screening and referral
- Develop a system to log the number of children screened, assessed, and referred for services and after development and testing, ***tracking*** should be supported by electronic data system

- Develop a system for ***targeted screening*** and establish procedures to ensure that periodic developmental screening is conducted ***for children served by state intervention programs***
- Conduct a needs assessment of existing programs and services where ***targeted screening*** programs should be offered
- Coordinate ***further assessment after required referral*** from state intervention program
- Refer to appropriate entities within the service system
- Provide for ***follow-up contact*** to all families whose children were ineligible for IDEA Part B or C services

Steering Committee

The proposals from the pilot sites will be considered and approved by a 23-member Learning Gateway Steering Committee of parents, program and service providers, and agency representatives that will provide policy development, consultation, oversight, and support for the pilot programs; and advise the agencies, the Legislature, and the Governor on statewide implementation. Other duties and responsibilities include:

- ***Direct procurement of products*** through contracts or other means
- ***Accept proposals*** from interagency consortia in the 3 counties
- Help projects ***determine funding sources*** and uses
- Designate with the demonstration projects, a central information and referral access phone number in each pilot community to ***increase public awareness***
- Provide assistance in ***developing brochures*** and educational information to be distributed to parents of newborns
- Establish ***guidelines for screening*** children from birth through age 9
- Assist projects in developing and testing ***screening*** processes ***to address social/emotional/behavioral interactions*** between the child and caregiver, which could indicate future problems or delays
- Help projects develop a system for ***targeted screening***
- Develop, in conjunction with projects, ***incentives*** (which should be awarded based on integration of instructional strategies, staffing ratios, staff training requirements, family involvement) for educators and parents to use appropriate practices ***to address the unique needs of all learners***
- Identify ***competencies for instructional personnel*** to address learning problems and learning disabilities that may impede school success and ***require teacher preparation programs to include courses*** in the disorders of development
- Work with the state universities and the DOE to ***ensure that every teacher has the ability to identify and respond*** to children with learning disabilities
- ***Identify***, in cooperation with the Florida Partnership for School Readiness, effective ***research-based curriculum*** for early care and education programs
- Develop, in conjunction with the projects, processes for ***identifying*** and sharing ***promising practices***
- Showcase programs and practices at ***dissemination conference***
- Recommend ***monetary awards*** to programs selected as “promising practices”
- Establish processes for facilitating state and local providers’ ready access to information and training and for encouraging ***researchers to guide practitioners*** in designing and implementing research-based practices
- Assist projects in conducting ***periodic conferences***
- Assist the School Readiness Estimating Conference and the Enrollment Conference for Public Schools in ***developing estimates of birth through age 9 at-risk children***

- Develop, in conjunction with the projects, accountability mechanisms, including operational indicators and ***indicators to address quality*** of programs and integration of services
- Oversee a ***formative evaluation*** of the project during implementation
- Make ***recommendations to the Governor, Legislature, and Commissioner*** of Education
- May ***recommend statewide expansion*** of any component of the system
- Develop, in conjunction with the projects, a statewide strategic plan for implementing a ***model system statewide***

State Intervention Programs

State intervention programs, whose recipients would be targeted for periodic developmental screening, include those ***administered or funded*** by the: Agency for Health Care Administration; Department of Children and Family Services; Department of Corrections and other criminal justice programs; Department of Education; Department of Health; and Department of Juvenile Justice.

When results of screening suggest developmental problems, potential learning problems, or learning disabilities, the intervention program must refer the child to the Learning Gateway for coordination of further assessment.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Authorizes a 3-county, three-year demonstration program, to be called the Learning Gateway. Creates the Learning Gateway Steering Committee to assist the three Learning Gateways. Provides the membership and duties of the steering committee. Authorizes demonstration projects to ***hire staff, establish office space, and contract with private providers*** as needed to implement the project.

Section 2: Sets forth components of the Learning Gateway. These components are: (1) Community education and family-oriented access strategies; (2) Screening and developmental monitoring; and (3) Early education, services, and supports.

The community education and family-oriented access component focuses on staffing, intake, screening, assessment, referral, service coordination, case management, centralized information, and ***public awareness targeting of parents***.

The screening and developmental monitoring component focuses on screening guidelines and processes to ascertain precursors of learning problems and includes training and technical assistance for program providers, teachers, and school boards; ***targeted screening*** programs; referrals and follow-up contacts.

The early education, services, and supports component focuses on building a highest-standards model system incorporating features such as home-based modeling and play programs, ***comprehensive medical screening with biomedical interventions***, family therapy and mental health treatment, and ***therapy for "learning differences***." This component includes educator and parent incentives based on strategies "designed to ***meet the unique needs of all learners***." This component seeks to ***revise educator competencies***, teacher preparation and inservice training programs, and teacher certification and recertification requirements; to identify "***research-based curriculum*** for early care and education programs;" and to encourage "researchers, to regularly guide practitioners in designing and implementing research-based practices." ***(NOTE: However, schools' and school districts' budgets are expressly held harmless from any effectiveness of these components, such as reduced referrals to special education.)***

Section 3: Requires the steering committee to assist in ***developing estimates*** of the birth through age 9 at-risk population. Requires the steering committee, in conjunction with the demonstration projects and the state university system, to develop accountability mechanisms based on both inputs and outcomes to ensure that the projects are effective and that resources are used as efficiently as possible.

Requires, by January 2004, the steering committee to make recommendations related to the merits of ***expansion of the demonstration projects***.

Authorizes the steering committee, ***at any time***, to recommend **statewide expansion** of any component of the system which has "demonstrated effectiveness." If statewide expansion of the comprehensive system is recommended after the second year of the program, requires the steering committee, in conjunction with the demonstration projects, to develop state-level and community-based strategic plans to formalize the goals, objectives, strategies, and intended outcomes of the comprehensive system, and to support the integration and efficient delivery of all services and supports for children from birth through age 9 who have ***learning problems or learning disabilities***. In conjunction with the demonstration projects, requires the steering committee to develop a strategic plan for implementing a ***model system statewide***.

Section 4: Amends subsection 228.093(3)(d), F.S., to allow all personally identifiable records and reports ***concerning*** a student which are confidential and are exempt from the provisions of section 119.07(1), F.S., to be made available to the Learning Gateway program and the Learning Gateway Steering Committee ***without the consent of the student or the student's parent***.

Section 5: Provides that the Legislature shall appropriate a sum of money to fund the demonstration programs and shall authorize selected communities to blend funding from existing programs to the extent that this is "advantageous to the community and is consistent with federal requirements."

Section 6: Provides that the act shall take effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have an impact on state revenues.

2. Expenditures:

The bill requires the Legislature to appropriate the money to fund the pilot programs. (*See* FISCAL COMMENTS).

Study Commission Estimate

The Study Commission estimated an initial cost of $6 million in conjunction with SB 1018 (2001) for the 3 pilot sites, with oversight by the steering committee. HB 271 (2002) does not contain the provision for tandem mass spectrometry screening. The estimates were:

Expenditures – Statewide Support and Coordination

Meetings/Staff/Support	
10 meetings 2 days for 24 members ($350/meeting)	$ 84,000
National experts to advise steering committee	$ 60,000
Staff costs or contracted services for Committee support	$125,000
Dissemination of materials on successful practices/programs	$100,000
1 Statewide Conference	$ 75,000
Assistance to Demonstration Sites	
Provision of experts for 3 local demonstration sites	$300,000
Statewide Products/Services	
Comprehensive Health Care Checklist	$100,000
Screening Guidelines	$ 50,000
Subtotal	$894,000

Expenditures - 3 Local Demonstration Sites

Centralized telephone number for parents	$300,000
Community awareness campaign	$150,000
System for Screening and Tracking	$600,000
Tandem Mass Spectrometry Screening	$490,000
Increase postnatal home visits	$180,000
Services not currently provided*	$2,096,000
Curriculum & technical assistance in school readiness programs	$225,000
Curriculum and training for K-3 teachers	$225,000
General operating costs	$ 90,000
Staff support for coordination**	$450,000
Evaluation activities	$300,000
Subtotal	$5,106,000
Total	$6,000,000

*Services Not Currently Provided

The three local demonstration sites would need to have flexibility in expending these funds in order to meet the different needs of these communities. The expenditures might include:

- Assessment/screening of at-risk children and their families
- Tutoring services and/or supplemental materials for children and their families
- Targeted training activities outside the work day for families and other caregivers
- School/family liaison supports and activities (e.g., social workers, parent advocates, case managers, etc.)
- Transportation for families to access services

**Staff Support for Coordination

- Pay or share cost for a demonstration site coordinator and a support staff member
- Contract for services of qualified professionals for coordination, as needed

Examples of Average Salaries (Florida District Staff Salaries of Selected Positions – Fall, 1999)

- Teacher - $36,524 + Benefits
- Nurse - $24,510 + Benefits
- Psychologist - $47,630 + Benefits
- Secretary - $24,217 + Benefits

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local revenues.

2. Expenditures:

The bill does not appear to have a direct fiscal impact on local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have a direct fiscal impact on the private sector. However, private sector providers in the pilot counties could benefit substantially if selected for contracts with the projects.

D. FISCAL COMMENTS:

Numerous provisions in the bill indicate an indeterminate, but ***potentially very significant, growing, and unlimited fiscal impact***, including:

- Authorizing a special-interest packed steering committee, based on ***whatever research it selects***, to develop policy, select curriculum, direct procurement, advise government agencies, hire staff, establish office space, contract with providers, and recommend statewide model programs
- ***Holding school districts "harmless"*** for any reduction in the number of ESE students
- Using electronic data ***systems to "track" screening*** and assessment information
- Using media for public awareness (print, television, radio, brochures, and a community-based ***web site***)
- Providing incentives to educators and parents for meeting ***unique needs of all learners***
- Adding ***teacher*** preparation program, inservice training and certification/recertification ***requirements***
- Reducing ***staffing ratios*** and increasing staff training requirements to be eligible for incentives
- Expanding through heavy ***targeting and awareness campaigns*** the pool of parents who seek programs and services in fear their child could have learning problems

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

Uniformity

Article IX, Section 1 of the Florida Constitution states in pertinent part that, "[a]dequate provision shall be made for a uniform . . . system of free public schools that allows students to obtain a high quality education . . . "

This bill establishes the Learning Gateway pilot program in only three counties in the state. Under the provisions of the bill, a number of services are provided to students and teachers through, or in conjunction with, the public school system in each of these three counties. These services are not provided to students statewide on a uniform basis nor is it clear when or if these services will be expanded throughout the entire state. Thus, it is not clear how this pilot program may be viewed under the uniformity standard of the Florida Constitution.

Right of Privacy

Article I, Section 23 of the Florida Constitution states in pertinent part that "every natural person has the right to be let alone and free from governmental intrusion into the person's private life…"

This bill authorizes targeted screening and other intrusions into the private lives of families and children who are participants in the state intervention programs, ***including the huge array of programs administered or funded by*** the:

- Agency for Health Care Administration
- Department of Children and Family Services
- Department of Corrections and other criminal justice programs
- Department of Education
- Department of Health
- Department of Juvenile Justice

Additionally, the right of privacy with respect to student educational records is protected under s. 228.093, F.S., which safeguards the confidentiality of a student's personally identifiable records or reports. This bill amends s. 228.093, F.S., to ***allow all personally identifiable records and reports concerning students to be made available to the Learning Gateway Program and the Learning Gateway Steering Committee without the consent of the student or the student's parent***.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

Conflict with Other Laws

- The Educate 2000 Act eliminated the prescriptive requirements for teacher preparation programs and professional teacher certification. HB 271 requires the steering committee, in cooperation with the universities and DOE, to identify competencies for teachers, and that these competencies be used to develop preservice and inservice training programs.

Additionally, the bill requires each teacher preparation program in the SUS to require 3 hours of credit in child development.

- The School Readiness Act and the A+ Plan moved toward paying for outcomes rather than for specific teacher/student ratios or prescriptive training programs. HB 271 provides for incentives for the adjustment of "staffing ratios" and "staff training requirements."
- The School Readiness Act terminated the State Coordinating Council for School Readiness Programs (originally the State Coordinating Council for Early Childhood Services). The Learning Gateway Steering Committee established in HB 271 appears to have similar special interests as the original State Coordinating Council for Early Childhood Services.

"WHEREAS" Clauses

Most of the bill's "WHEREAS" clauses appear designed to lead to multiple and costly lawsuits against the state. If, for example, the Legislature enacts language finding that "new research identifies factors that predict which children are at risk of early learning problems prior to school age, including biological, environmental, and behavioral risks," and finding that "identification of potential learning problems is essential to facilitate the provision of services to children during the critical years of development," then the Legislature ***subjects the state to a potential lawsuit for every situation in which a parent, parent advocate, attorney, psychologist, educator, or other professional or paraprofessional decides that a student who is exhibiting "learning problems" did not receive appropriate identification during the critical years of development***.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

LIFELONG LEARNING COUNCIL:

Prepared by:	Staff Director:
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