DATE: March 14, 2001

HOUSE OF REPRESENTATIVES COMMITTEE ON CHILD & FAMILY SECURITY ANALYSIS

BILL #: HB 1145

RELATING TO: Foster Care

SPONSOR(S): Representative(s) Murman

TIED BILL(S):

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

(1) CHILD & FAMILY SECURITY

- (2) HEALTH & HUMAN SERVICES APPROPRIATIONS
- (3) COUNCIL FOR HEALTHY COMMUNITIES

(4)

(5)

I. SUMMARY:

Florida's foster care system has been overwhelmed with many problems during the past several years. Between FY 1995-96 and FY 1999-2000, it experienced a 29 percent increase of 4,329 additional children in foster care. Problems include foster home overcrowding, an inadequate number of foster homes, excessive lengths of stay in foster care, multiple foster home placements, limited use of residential group care, an increase in the number of foster care children with behavioral problems or special needs, children running away, and children "growing up" in foster care until they reach age 18.

The Legislature established s. 409.1671, F.S., in 1994, and amended it subsequently, to require the Department of Children and Family Services to provide better child protective services through community-based care, by privatizing state foster care and related services by January 1, 2003.

This bill addresses continued problems in the foster care system. It requires the department to place a child, who has been in care 6 months with more than one foster home placement, into licensed residential care, if the child is 8 years of age or older, and unless the court determines otherwise.

The bill provides an alternative to competitively procuring a lead agency for foster care and related services when the department is not successful in recruiting an eligible lead community-based provider. It requires a lead agency to maintain eligibility to receive all federal child welfare funds.

The bill establishes two strategies to provide comprehensive residential care services within the private sector: 1) expanded use of existing residential group care programs in Districts 4, 11, 12, and the Suncoast Region, and 2) creation of a model program through contracts in Dade and Manatee counties for a range of services to children in foster care at a fixed price. The bill provides for implementation time frames, reports to the Legislature, and annual evaluation for the residential group care and model comprehensive residential services programs.

The bill includes other provisions that allow for a family foster home license to be valid for longer than 1 year, and extending to employees of a lead agency, or its direct service contract provider, the protection making it an increased severity of offense for assault and battery.

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II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

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

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The Child Protection System and Foster Care

The Child Protection Program in the Department of Children and Family Services is comprised of five major services—the Florida Abuse Hotline, protective investigations, in-home services, out-of-home services, and adoptions. Chapter 39, F.S., requires that any person who knows or suspects that a child is being abused or neglected must report the information to the Florida Abuse Hotline. The Child Protection Program conducts a protective investigation within 60 days to assess the child's safety and determine services that may be needed. When it is safe for a child to remain with his or her parents or other family members, in-home services may be provided. When there is the likelihood that the child will continue to be at risk of abuse or neglect if he or she remains in the home, a child may be placed in out-of-home care.

Out-of-home care includes relative and non-relative care services and foster care services.

- **Relative Care Services** enable high-risk children who are unable to remain in their homes to be placed in the care of relatives, including grandparents, siblings, first cousins, nephews, and nieces.
- Non-Relative Care Services enable children who are unable to be placed with relatives to be
 placed in the care of an unrelated adult. These adults must be known and approved of by the
 family. The court has the authority to place children in unlicensed, non-relative placements
 after the department has determined that the home is a safe, secure, and suitable environment
 for the child. As of June 2000, 16,428 children were receiving relative and non-relative care
 services.
- Emergency shelter care provides children with a short-term placement, on a 24-hour, seven-day-a-week basis, for the immediate care of children alleged to be dependent, pending a court disposition, before or after adjudication, or awaiting placement following a dispositional hearing.
- Foster Care Services are the most intensive out-of-home service option for children who are
 at high risk for continued abuse or neglect. Abused children may be legally removed from their
 homes and may be ordered by courts to be placed in foster care.
- **Residential group care** is a purchase of service program for foster care clients who are older and have specialized needs that are better met in this type of living environment.

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In June 2000 a total of 19,361 children were receiving services in foster care settings.

Foster Care and Residential Group Care

Foster care is the most intensive out-of-home service. An abused child may be legally removed from his or her home and ordered by the court to be placed in foster care. Primary types of foster care placements are family foster homes which are private foster care services; emergency shelter placements located in state operated homes and facilities; residential group homes; and subsidized independent living arrangements. Providers are reimbursed for their services according to the child's age and the level of care required. The statewide average monthly reimbursement rate per child for foster care in January 2001 was \$672.34 and the statewide average monthly rate per child for residential group care was \$2,795.62. The provider rates are negotiated at the local community level to reflect the service needs of the children served.

According to statistics from the department, approximately 3 percent of the children who are the subject of a child abuse investigation are placed in foster care or residential group care.

Family foster homes are licensed under s. 409.175, F.S., which specifies in s. 409.175(5)(i), F.S., that a license is valid for only 1 year. During FY 1999-2000, there were 15,276 children served in family foster home care. This was an increase of 9.29% over the number of children served in FY 1998-99 when 13,977 children were served in family foster homes.

Residential group care facilities are licensed under s. 409.175, F.S. as child-caring agencies. Residential group care is a purchase of service program for foster care clients who are older and have specialized needs that are better met in this type of group living environment. Staffing of such facilities may be provided by live-in house parents or by staff who work in rotating shifts. The Child Welfare League of America reports that children in foster care are three to six times more likely than children not in care to have emotional, behavioral and developmental problems, including conduct disorders, depression, difficulties in school and impaired social relationships. Some estimates are that about 30 percent of the children in care have marked or severe emotional problems.

During FY 1999-2000, there were 2,400 children served in residential group care. This was a 2.56% increase over the number of children served in FY 1998-99 when 2,340 children were served in residential group care, although the proportion of all children in care who are served in residential group care declined.

Problems in the Foster Care System

Between FY 1995-96 and FY 1999-2000, Florida's foster care system experienced a 28.8% increase or 4,329 additional children in foster care placements. Florida's foster care system has been overwhelmed with many problems during the past several years as evidenced by several law suits, grand jury investigations, and special investigations such as the District 7 Child Safety Strike Force. These problems include foster home overcrowding, an inadequate number of foster homes, excessive lengths of stay in foster care, multiple foster home placements, limited use of residential group care, an increase in the number of foster care children with behavioral problems or special needs, children running away from foster care placement, and children "growing up" in foster care by entering the foster care system as children and remaining until at least their 18th birthday.

In the past 2½years, the number of children in state custody in District 7, for example, increased from 1,200 to 2,000. District 7 only gained 100 foster home beds during that period. Foster home overcrowding became such a problem in District 7 in 1999, that the department's district budget paid for children and staff to be housed in motels. The department stated at that time that overcrowding of foster homes "places children at serious risk of being harmed by other children,

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places unrealistic expectations for care and supervision on foster parents, and ultimately leads to the rapid turnover" of foster homes.

Achieving and maintaining permanency is a problem. The department reports that of those children who entered foster care or residential group care between October and December 1999, only 32.3% left care during the following 12 months.

- According to the department, the median length of stay for children in foster care and residential group care on January 12, 2000, statewide was 26.1 months and the average length of stay was 37.2 months.
- Many children in foster care are moved from home to home as shown in the department's statistics. During FY 1999-2000, 42 percent (4,600) of the children in foster care statewide had three or more placements after being removed from their caregiver and prior to their final permanent arrangement (reunification, adoption, or independent living).
- Data show that 599 children had 10 or more placements during FY 1999-2000. According to data maintained for the FFY 2000 Adoption and Safe Families Act, 34.5% of children in care had three or more placements that lasted 48 or more months.

Many children grow up in care. From October 1, 1999, to September 30, 2000, 862 children discharged from care were 18 years of age or older. Of those children, 8 children had 31 or more placements; 239 children had been in care from 5 to 10 years; 43 children had been in care from 11 to 15 years; and 5 children had been in care for 16 years or more.

The number of children who run away has increased. Departmental data indicate that 4,796 children in out-of-home care ran away from placement during FY 1999-2000. This was a 27 percent increase from the number of runaways in FY 1998-1999.

Residential group care that might provide more stable and supportive care is underutilized by the department's caseworkers. The department reports that only 11 percent of the children and adolescents in foster care were placed in residential group care during FY 1998-99, 10 percent in FY 1999-00, and 11 percent thus far in FY 2000-01. The utilization rate of residential group care in some counties is as low as 3 percent.

Review by the Office of Program Policy Analysis and Government Accountability

The Justification Review of the Child Protection Program in the Department of Children and Family Services, February 2001, by OPPAGA, supports the information from the department. The review found the following problems with Florida's foster care system:

- The number of admissions to foster care increased by 13 percent between FY 1998-99 and FY 1999-00.
- The number of children needing care has outpaced the number of foster homes; some homes serve more children than they are licensed to serve. In August 1999, 14.9% of the foster homes had more than five children.
- The department increased its foster home capacity by only 5 percent between FY 1997-98 and 1998-99 even after receiving 70 new FTEs from the 1999 Legislature solely for the purpose of recruiting new foster families.
- Turnover rate for family service counselors, positions assigned to protective investigations, protective supervision, and foster care, was 24.2% for FY 1999-2000 compared to a turnover rate of 8.3% for all state employees.

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Lawsuits

The Ward vs. Feaver lawsuit in Broward County and the Foster Children vs. Jeb Bush, Kearney, etc. al. lawsuit allege numerous problems associated with the foster care system:

- Not properly moving children to permanency as evidenced by overcrowded and unsupervised foster homes and other facilities, which often leads to exposing children in custody to the imminent risk of sexual and other abuse, neglect, and other dangers.
- Failure on the part of the state to develop an array of foster care settings to ensure a safe and secure placement for each foster child, particularly in respect to foster homes for large sibling groups and teenagers;
- Multiple moves including night-to-night placements and sleeping in motels, which are "traumatic to a child, undermining the child's stability and security and causing the child to suffer an injury."
- Putting children at risk of harm because of improper placement as occurred in Broward County where more than "400 foster care children were placed in overcrowded foster and shelter homes that exceeded their licensed capacity."
- Failure by the caseworkers in Broward County to conduct the required monthly visits.
- Keeping dependent children in Florida foster care for an average of 33.8 months (May 2000) which exceeds the 12-month standard for planning for the child's permanency specified in the federal Adoption and Safe Families Act and specified in s. 39.701(8)(f), F.S.

Community-Based Care

Section 409.1671 – Privatization of foster care and related services

The Legislature established s. 409.1671, F.S., in 1994, and amended it subsequently, to require the Department of Children and Family Services to provide better child protective services through community-based care, by privatizing state foster care and related services. The department must develop a plan that meets specific conditions to guide the conversion from state operated to a private system including alternative strategies for areas of the state where obstacles exist to meeting the time frame for this effort. Privatization is to be completed by January 1, 2003. In addition to foster care, the related services that would be privatized as delineated in s. 409.1671,F.S., include:

- Family preservation
- Independent living
- Emergency shelter
- Residential group care
- Therapeutic foster care
- Intensive residential treatment
- Foster care supervision
- Case management
- Post placement supervision
- Permanent foster care
- Family reunification services

There is some confusion over the use of the term "community-based care" for privatized foster care and related services. Section 409.1671, F.S., also refers to foster care and related services as "child protective services." The term "child welfare" services is also used to refer to foster care and related services. The label, "community-based care," currently used by the department for these services, is often confused with other types of services provide in the community. For 25 years "community-based care" has been generically used to describe all programs and services provided in the community by the state or through contract with private providers, not only in foster care and

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related services, but also in the areas of mental health, substance abuse, developmental services and other support services for children, families and adults.

Lead Agency

Section 409.1671, F.S., also creates the "eligible lead community-based provider" or lead agency. The lead agency is the critical piece of privatization because it is the entity the department contracts with for the provision of foster care and related services in a community. A lead agency is authorized to provide directly, or manage and operate foster care and related services through a network of providers. The lead agency must demonstrate the following capabilities:

- 1. The ability to coordinate, integrate and manage foster care and related services in the designated community in cooperation with child protective investigations.
- 2. The ability to ensure continuity of care from entry to exit for all children referred from the protective investigation and court systems.
- 3. The ability to provide directly, or contract for through a local network of providers, all necessary foster care and related services.
- 4. The willingness to accept accountability for meeting the outcomes and performance standards related to foster care and related services established by the Legislature and the Federal Government.
- 5. The capability and the willingness to serve all children referred to it from the protective investigation and court systems, regardless of the level of funding allocated to the community by the state, provided all related funding is transferred.
- 6. The willingness to ensure that each individual who provides foster care and related services completes the training required of child protective service workers by the Department of Children and Families.

Two lead agencies are currently operating in four counties:

- YMCA Children, Youth, and Family Services, Inc, which serves Sarasota and Manatee counties, and
- Family Continuity Programs, which serves Pasco and Pinellas counties.

The department is in the process of implementing community-based care initiative throughout the state based on the following timetable:

FY 2000/2001

- Districts 1, 9, 12
- Duval
- Hillsborough & DeSoto

Projected for FY 2001/2002

- Districts 8, 10, 11, 13, 14, 15
- Rest of District 4

Projected for before January 1, 2003

• Districts 2, 3, 7

Obstacles to Community-Based Care

The Justification Review of the Child Protection Program in the Department of Children and Family Services, February 2001, by the legislative Office of Program Policy Analysis and Government

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Accountability (OPPAGA) states that the department must address several potential obstacles before achieving statewide implementation of privatization of foster care and related services.

Obstacles identified by OPPAGA include:

- Financial risks that may prevent some providers from becoming lead agencies.
- Most providers do not currently provide a full continuum of services that include fiscal, administrative and case management and will have to expand services before becoming a lead agency.
- Some communities are satisfied with the department providing services and are reluctant to privatize child protection services.
- Unanticipated problems with lead agency selection. The negotiation process is lengthy and subject to protest by providers not selected.

The department reports receiving concerns from potential lead agency providers regarding the requirements contained in s. 409.1671(1)(b)5., F.S., for the lead agency to demonstrate the "capability and the willingness" to serve all children referred from the protective investigation and court systems regardless of the level of funding allocated by the state.

C. EFFECT OF PROPOSED CHANGES:

This bill requires the Department of Children and Family Services to place a child 8 years of age or older in licensed residential child care when that child has been in care 6 months and has more than one family foster home placement unless the court determines that it is not in the child's best interest.

The bill provides an alternative to competitively procuring a lead agency for foster care and related services when the department is not successful in recruiting an eligible lead community-based provider and requires that a lead agency have the ability to maintain eligibility to receive all federal child welfare funds, including Title IV-E and IV-A funds, currently used by the department.

The bill establishes two strategies to provide comprehensive residential care services within the private sector: (1) expanded utilization of existing residential group care programs in a number of areas of the state and (2) creation of two model programs that will provide the full array of residential care services at a fixed price.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends ss. 39.521(5), F.S., providing for placement of certain children with a history of multiple placements into residential group care.

Requires the department to place any child 8 years of age or older who has been in care at least 6 months who is then moved in care more than once in licensed residential care, unless the court determines that placement is not in the child's best interest.

Section 2. Amends ss. 409.1671(1), F.S., to require community-based providers competing for foster care privatization lead agency designation to be able to maintain eligibility for federal child welfare funds. An agency competing for lead agency designation must have the ability to maintain eligibility to receive all federal child welfare funds (Title IV-E and Title IV-A funds) currently used by the department.

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The section also creates a new paragraph (c) of ss. 409.1671(1) to provide a procedure for implementation of privatization if attempts to competitively procure services through eligible lead community-based providers fail. New paragraph (c) specifies that if the department is not successful in its efforts to competitively procure services through an eligible lead community-based provider, the department in collaboration with the local community alliance must develop a plan that: (1) ensures local control over the management and administration of service provision and (2) explains how the community will continue to implement privatization through competitively procuring from qualified licensed agencies, either the specific components of foster care and related services or comprehensive services for defined eligible populations. The plan may include recognized best business practices, including some form of public-private partnerships.

Section 3. Creates s. 409.16735, F.S., that provides two strategies for comprehensive residential services to children with extraordinary needs within the private sector: (1) the expanded utilization of existing residential group care programs in a number of areas of the state, and (2) the creation of two model programs that will provide, in addition to residential group care, a full array of high quality residential care services that can serve as a prototype for the rest of the state.

The new section states that the Legislature intends for comprehensive residential services to be provided to children in the child protection system who have extraordinary needs such as serious behavioral problems or do not have the options of either reunification with their family or adoption. These residential services are required to be provided by a not-for-profit corporation or local government entity under contract with the department, or by a lead agency pursuant to s. 409.1671, F.S. The contracts must specify that an identified number of children will have access to a full array of services for a fixed price.

"Residential care" is defined as a living environment for children who are 8 years of age and older who have been adjudicated dependent and are expected to be in foster care or a group home with a 24-hour awake staff for at least 6 months.

"Serious behavioral problems" is defined in the bill as behaviors of children who have been assessed by a licensed master's-level human-services professional to need intensive services, but not "crisis hospitalization or long-term residential treatment."

The bill creates a comprehensive residential services program, in Districts 4, 11, 12, and the Suncoast Region that provides comprehensive residential services, subject to specific appropriation. The program is created by department contracts with not-for-profit corporation, local government entity or lead agency.

The entity under contract with the department is responsible for the following services: comprehensive assessment, residential care, transportation, behavioral health, recreational activities, clothing, supplies and miscellaneous expenses associated with caring for these children, for arranging or providing educational services, and for assuring necessary and appropriate health and dental care, legal services and aftercare services.

The department may contract with a not-for-profit corporation serving children in multiple districts. A lead agency currently providing residential care may provide this service directly with the approval of the community alliance. The bill allows the department or the lead agency to contract for more than one site in a county if that arrangement is determined to be the most effective way to achieve the goals of the program.

The bill requires that when a lead agency specified in s. 409.1671, F.S., is responsible for this program, the casework responsibilities must be transferred to them. In situations where the entity is

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not a lead agency specified in s. 409.1671, F.S., the transfer of casework responsibilities and court related work for this group of children is optional.

The bill creates model comprehensive residential services programs, in Dade and Manatee counties that provide a full array of services for a fixed price to that portion of eligible children within each county as specified in the contract, based upon funds appropriated. The model programs are to be created through contracts with a lead agency under s. 409.1671, F.S., or if a lead agency does not exist, with a not-for-profit corporation experienced in providing a range of services to children in foster care and capable of providing residential group care and home-based care.

The bill specifies the following requirements for each model:

- Focus on serving the full range of children in foster care, including children with specialized needs, such as children who not likely to be reunited with their families or placed in adoptive homes, sibling groups, children with serious behavioral problems, and children who are victims of sexual abuse.
- Provide or arrange for the following services: comprehensive assessment, residential care, transportation, behavioral health, recreational activities, clothing, supplies and miscellaneous expenses associated with caring for the child, educational services, necessary and appropriate health and dental care, legal services, and aftercare services.
- Commitment and ability to find and use innovative approaches to address problems in the traditional foster care system (high caregiver turnover, disrupted and multiple placements, runaway behavior, and abusive or non-therapeutic care).
- Provision of a full range of residential services designed to meet the individual needs of each child in care, including group homes for initial assessment and stabilization, professional and traditional foster homes, residential group care in homelike settings with no more than 12 children and staffed with full-time, appropriately trained house parents, and independent living apartments.
- Provision of the full range of necessary administrative services for operational purposes.
- Eligibility criteria specified in the contract that include a "no-reject-no-eject" commitment unless otherwise determined by the court.
- An ability with trained multidisciplinary staff to facilitate the achievement of permanency goals
 of the children in care.
- Utilization of a volunteer mentor program using the skills of retired persons to help meet the needs of the children in care and their caregivers.
- Willingness and ability to assume financial risk for the children in care.
- Willingness and ability to serve as a research and teaching laboratory for departmental and community-based care programs to improve the quality of foster care.

The bill specifies the following requirements for these programs.

- Be operational within 6 months after the effective date of this legislation.
- Provide the Legislature with monthly written status reports on the progress of implementation.
- Be included in the annual evaluation currently required under s. 409.1671, F.S.
- Meet the following expectations to be specified in contracts with the department or lead agency:
 - Move no more than 10 percent of the children served from one living environment to another, unless the child is returned to family members or is moved to a less restrictive setting in accordance with the treatment plan.
 - o Each child receives a full academic year of appropriate educational instruction.

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 Keep siblings together in the same living environment at all times unless specifically contraindicated by the comprehensive assessment.

- Maintaining a caregiver turnover rate and an incidence of child runaway episodes that are at least 50 percent below the rates experienced in the rest of Florida.
- Providing at all times, in addition to the comprehensive assessment, any or all of the services indicated by the assessment, including: residential care, transportation, behavioral health, recreational activities, clothing, supplies and miscellaneous expenses associated with these children, necessary arrangement for or provision of educational services, and necessary and appropriate health and dental care.
- Outcome measures of satisfaction of child served with the services and living environments, and satisfaction of caregivers with the programs.

The bill provides that the entity providing services shall have the legal authority to enroll a child in school, sign for a driver's license, co-sign loans and insurance, sign for medical treatment, and authorize other similar activities.

Resources for services. The bill specifies that as long as two or more funding sources do not pay for the same service, a provider may appropriately bill the Medicaid program for services, contract with a local school district for educational services, or earn federal or local funds for services.

Funding. The bill requires that the department reimburse the programs based on a prospective per-diem rate, which must be specified annually in the General Appropriations Act. Funding shall be made available from resources appropriated and identified in the General Appropriations Act.

Section 4. Amends ss. 409.175(5), F.S., by specifying that a family foster home license may be valid for longer than 1 year, but no longer than 3 years, if the home has maintained a license with the department for at least the 3 previous years, maintains good standing with the department as evidenced by monitoring visits, counselor reviews and foster child exit interviews, and has not been the subject of reports of child abuse or neglect with any findings of maltreatment.

Section 5. Amends s. 784.081, F.S., to add employees of lead community-based providers and their direct service contract providers to the list of specified officials or employees for purposes of reclassifying assault or battery offenses against them when the person committing the offense knows or has reason to know the identity or position or employment of the victim.

Section 6. Provides an effective date for the bill of July 1, 2001.

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A. FISCAL IMPACT ON STATE GOVERNIV	IENI:
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1. Revenues:

Expenditures:

N/A

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	B.	B. FISCAL IMPACT ON LOCAL GOVERNMENTS:			
		1. Revenues:			
		N/A			
		2. Expenditures:			
		N/A			
	C.	DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:			
		N/A			
	D.	FISCAL COMMENTS:			
		N/A			
IV.	CO	ONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:			
	A.	APPLICABILITY OF THE MANDATES PROVISION:			
		This bill does not require counties or municipalities to expend funds.			
	B.	REDUCTION OF REVENUE RAISING AUTHORITY:			
		This bill does not reduce revenue-raising authority.			
	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.	CO	<u>MMENTS</u> :			
	A.	CONSTITUTIONAL ISSUES:			
		N/A			
	B.	RULE-MAKING AUTHORITY:			
		N/A			
	C.	OTHER COMMENTS:			
		N/A			
VI.	<u>AM</u>	ENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:			
	N/A				

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VII.	SIGNATURES:	
(COMMITTEE ON CHILD AND FAMILY SECURITY:	
	Prepared by:	Staff Director:
	Glenn Mitchell	Bob Barrios