



Journal of the Senate

Number 1—Special Session A

Saturday, June 3, 1989

At a Special Session of the Florida Legislature convened under Section 3(c), Article III, of the Constitution of the State, as revised in 1968, and Section 11.011, Florida Statutes, begun and held at the Capitol, in the City of Tallahassee, in the State of Florida.

CALL TO ORDER

The Senate was called to order by the President at 11:00 a.m. A quorum present—36:

Mr. President	Deratany	Langley	Scott
Bankhead	Dudley	Malchon	Souto
Beard	Forman	Margolis	Stuart
Bruner	Gardner	McPherson	Thomas
Casas	Girardeau	Meek	Thurman
Childers, D.	Grant	Myers	Walker
Childers, W. D.	Grizzle	Peterson	Weinstein
Crenshaw	Johnson	Plummer	Weinstock
Davis	Kiser	Ros-Lehtinen	Woodson-Howard

Excused: Senator Ros-Lehtinen at 12:00 noon; Senator Weinstein at 2:00 p.m.; Senator Davis at 7:00 p.m.; Senators Brown and Jennings

PRAYER

The following prayer was offered by Calvin Goodlett, Reading Clerk:

May God who blesses—who knows the purpose of our prayers before we ask; who watches over those who toil, and those who sleep; who loves justice and rejoices when we care for those who stand in need. May God who blesses, bless us again—that we may do that which he has given us to do; finish before dark, and go home. Amen.

By direction of the President, the Secretary read the following proclamation:

PROCLAMATION
State of Florida
Executive Department
Tallahassee

TO THE HONORABLE MEMBERS OF THE FLORIDA SENATE AND THE HOUSE OF REPRESENTATIVES:

WHEREAS, the Eleventh Legislature of the State of Florida, under the Florida Constitution, 1968, Revision, convened in regular session for the year 1989 on April 4, 1989, and adjourned on June 3, 1989, and

WHEREAS, the Legislature during the 1989 Regular Session has failed to fully address transportation needs for the State of Florida by failing to enact the legislation to authorize the implementation of the expanded Turnpike System approved by the 1988 Legislature, and

WHEREAS, the Legislature has further failed to address other pressing demands of Florida's growth and to assure the continued quality of Florida's environment and lifestyle by addressing the needs of state and local governments and implementing effective growth management, and

WHEREAS, the Legislature has further failed to provide for the safety of the citizens of Florida by controlling the release of state inmates, by providing for the restitution of victims, and by controlling and penalizing drug abusers, and

WHEREAS, it is in the best interest of the citizens of the State of Florida to call a Special Session so that the Legislature may give full and adequate consideration to those items set forth below.

NOW, THEREFORE, I, BOB MARTINEZ, Governor of the State of Florida, by virtue of the power and authority vested in me by Article III, Section 3(c)(1), Florida Constitution, do hereby proclaim as follows:

Section 1. That the Legislature of the State of Florida be and is hereby convened in Special Session, at the Capitol, Tallahassee, commencing at 11:00 a.m., Saturday, June 3, 1989, and extending through 11:59 p.m., Saturday, June 3, 1989.

Section 2. That the Legislature of the State of Florida is convened for the sole and exclusive purpose of considering the following matters:

1. Legislation to authorize the implementation of the expanded Turnpike System approved by the 1988 Legislature and the reform of right of way acquisition procedures by the Department of Transportation.
2. Legislation relating to growth management and protection of the environment.
3. Legislation providing for the controlled release of inmates.
4. Legislation providing for victim restitution.
5. Legislation providing for drug abuse control.



IN TESTIMONY WHEREOF, I have hereunto set my hand and have caused the Great Seal of the State of Florida to be affixed to this Proclamation convening the Legislature in Special Session at the Capitol, this 3rd day of June, 1989.

Bob Martinez
GOVERNOR

ATTEST:
Jim Smith
SECRETARY OF STATE

INTRODUCTION AND REFERENCE OF BILLS

First Reading

By Senators Beard and Kiser—

SB 1-A—A bill to be entitled An act relating to the turnpike system; amending s. 338.221, F.S.; revising definitions of terms used in ss. 338.22-338.244, F.S.; amending s. 338.222, F.S.; authorizing the Department of Transportation to contract with governmental entities for the design, right-of-way acquisition, or construction of approved turnpike projects; amending s. 338.223, F.S.; prohibiting turnpike projects unless determined economically feasible; requiring turnpike projects to meet certain criteria to be included in the 5-year plan; amending s. 338.227, F.S.; providing legislative approval for specified turnpike projects under certain conditions; creating s. 338.2275, F.S.; directing the Administration Commission to determine the turnpike bonding capacity of the turnpike system and to perform an economic feasibility study of certain projects; providing for approval of certain projects; amending s. 338.231, F.S.; providing for setting toll rates; providing conditions pursuant to which the department would no longer be authorized to pay debt service of the Sawgrass Expressway; amending s. 338.234, F.S.; authorizing the sale of lottery tickets along the turnpike system; creating s. 338.250, F.S.; providing requirements and procedures for environmental mitigation of the Central Florida Beltway; providing for funding of such mitigation; pro-

viding for land acquisition agents and procedures; amending s. 338.251, F.S.; providing for repayment of advances from the Toll Facilities Revolving Trust Fund; prohibiting agencies from intimidating or improperly influencing the decisions of the Division of Bond Finance; requiring agencies to provide the division the information it requires to make decisions; providing for bond finance decisions by the Administration Commission; providing for act to be read in pari materia with acts passed during the regular session; providing an effective date.

—was referred to the Committees on Transportation and Appropriations.

On motions by Senator Beard, by two-thirds vote SB 1-A was withdrawn from the Committees on Transportation and Appropriations and by unanimous consent taken up instanter.

On motions by Senator Beard, by two-thirds vote SB 1-A was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Dudley	Malchon	Stuart
Bankhead	Forman	Margolis	Thomas
Beard	Gardner	McPherson	Thurman
Bruner	Girardeau	Myers	Walker
Casas	Grant	Peterson	Weinstein
Childers, D.	Grizzle	Plummer	Weinstock
Childers, W. D.	Johnson	Ros-Lehtinen	Woodson-Howard
Crenshaw	Kiser	Scott	
Deratany	Langley	Souto	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

By Senators Meek and Kiser—

SB 2-A—A bill to be entitled An act relating to growth management; creating s. 163.3179, F.S.; providing for urban service areas in local government comprehensive plans; requiring the state land planning agency to establish guidelines for such areas by rule; providing criteria; providing intent with respect thereto; amending s. 163.3161, F.S.; providing legislative intent with respect to the Local Government Comprehensive Planning and Land Development Regulation Act; amending s. 163.3164, F.S.; redefining "development"; amending s. 163.3167, F.S.; revising provisions relating to sanctions against local governments that fail to submit a proposed comprehensive plan by the date required; amending s. 163.3171, F.S.; providing that the state land planning agency may waive or modify requirements for comprehensive plans or plan amendments, except concurrency, for certain municipalities, and providing requirements with respect thereto; amending s. 163.3174, F.S.; providing duties of the local planning agencies regarding comprehensive plan amendments; amending s. 163.3177, F.S., relating to required and optional elements of comprehensive plans; revising requirements relating to coordination of plans; revising requirements relating to the capital improvements element, mass transit element, and parking element; providing requirements for a transportation system element; providing requirements for a plan element for infill development and redevelopment; amending s. 163.3184, F.S., relating to the process for adoption of comprehensive plans and amendments thereto; revising requirements and time periods relating to intergovernmental review, local government review of comments and adoption of plan or amendments and transmittal to specified agencies, imposition of sanctions, review by the state and regional planning agencies, and hearings regarding determination of compliance; providing procedures and duties of the Administration Commission, the local government, and the state land planning agency when a recommended order is to find a plan in compliance or not in compliance; authorizing compliance agreements between the state land planning agency and local governments and providing requirements regarding remedial actions and plan amendments; providing effect on administrative proceedings; amending s. 163.3187, F.S.; revising requirements relating to comprehensive plan amendments that may be approved without regard to limits on the frequency of such amendments; providing for an annual report; providing that amendments required by a compliance agreement may be approved without regard to such limits; amending s. 163.3191, F.S.; providing a time period for evaluation of initial comprehensive plans; amending s. 163.3202, F.S.; changing the time for adoption of land development regulations; providing addi-

tional requirements relating to land development regulations; making retroactive the application of deadlines for adopting local land development regulations and continuing certain pending actions; creating s. 163.3216, F.S.; authorizing local governments to adopt sector plans as amendments to comprehensive plans; providing requirements for preparation, adoption, and amendment thereof; providing for fees; providing for contents; providing for review; providing for rules; providing for appeals; authorizing the state land planning agency to carry out sector planning demonstration projects; requiring a report; providing for repeal; creating s. 186.009, F.S.; providing for legislative review of the state comprehensive plan; requiring the Executive Office of the Governor to report to the Legislature and prepare a Strategic Growth Management Implementation Plan; providing for adoption of the plan by rule; providing requirements for the plan; providing for consistency of certain state agency rules and expenditures; creating s. 339.178, F.S.; requiring the Department of Transportation to adopt rules establishing financially feasible level-of-service standards for roads on the State Highway System; providing requirements for such rules; providing for notice and public hearings; providing procedures for challenging rules establishing or modifying such level-of-service standards; requiring the Florida Transportation Commission to study the classification of roads on the State Highway System; requiring a report; creating s. 163.709, F.S.; directing the Advisory Council on Intergovernmental Relations to conduct an annual assessment of local government funding and publish an index of average taxpayer burden in each local jurisdiction; amending s. 335.182, F.S.; requiring permits for connections to roads on the State Highway System from both the Department of Transportation and any other permitting authority; amending s. 335.1825, F.S.; revising requirements relating to such permits; providing for permit conditions; providing for denial by the department under certain conditions and for related local government action; providing for expiration; providing for closing of unpermitted connections; repealing s. 335.185, F.S., relating to permit conditions and expiration; amending s. 335.187, F.S., to conform; amending s. 335.188, F.S.; revising criteria for assignment of a road segment to a specific access category; amending s. 335.189, F.S.; providing procedures and requirements for the department to grant access permitting authority to certain other governmental entities; providing conditions under which the department may invalidate a permit issued by such entity; creating s. 163.3203, F.S.; creating the Florida Impact Fee Law; providing for the assessment and payment of impact fees; providing requirements with respect thereto; requiring governmental entities to provide certain impact fee credits; creating s. 192.039, F.S.; providing for property and structures or improvements to real property that are substantially completed prior to January 1 of the current year to be listed on a fractional-year assessment roll by the property appraiser and assessed a prorated ad valorem tax; providing notice requirements; providing for certain exemptions; amending s. 193.052, F.S.; providing for filing returns for taxes on such property; requiring local governments and lending institutions to give notice of provisions relating to the filing of returns for property listed on a fractional-year assessment roll; amending s. 212.055, F.S.; providing for the levy of a discretionary sales surtax pursuant to an extraordinary vote of the county governing authority or pursuant to referendum; providing notice requirements; authorizing certain municipalities to levy a local government surtax pursuant to referendum; amending s. 212.67, F.S.; renaming the Voted Gas Tax Trust Fund as the County Gas Tax Trust Fund; amending s. 336.021, F.S.; authorizing counties to impose a gas tax on fuel for county transportation purposes pursuant to ordinance rather than referendum; providing for act to be read in pari materia with acts passed during the regular session; providing effective dates.

—was referred to the Committees on Community Affairs and Appropriations.

On motions by Senator Meek, by two-thirds vote SB 2-A was withdrawn from the Committees on Community Affairs and Appropriations and by unanimous consent taken up instanter.

On motions by Senator Meek, by two-thirds vote SB 2-A was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—21

Mr. President	Davis	Girardeau	Johnson
Beard	Deratany	Grant	Kiser
Casas	Dudley	Grizzle	Malchon

Margolis	Myers	Souto
McPherson	Peterson	Stuart
Meek	Scott	Woodson-Howard

Nays—15

Bankhead	Crenshaw	Plummer	Walker
Bruner	Forman	Ros-Lehtinen	Weinstein
Childers, D.	Gardner	Thomas	Weinstock
Childers, W. D.	Langley	Thurman	

Vote after roll call:

Yea—Kirkpatrick

By Senator Beard—

SB 3-A—A bill to be entitled An act relating to eminent domain; amending ss. 73.091, 73.092, F.S.; specifying the meaning of the term “benefits resulting to the client from the services rendered” for purposes of assessing attorney’s fees in eminent domain proceedings; providing for the confidentiality of financial records; providing limitations on the amount of attorney’s fees to be awarded; requiring the reduction of the amount of attorney’s fee paid by the defendant in certain circumstances; providing for applicability; providing for act to be read in pari materia with acts passed during the regular session; providing an effective date.

—was referred to the Committee on Transportation.

On motions by Senator Beard, by two-thirds vote SB 3-A was withdrawn from the Committee on Transportation and by unanimous consent taken up instantler.

On motions by Senator Beard, by two-thirds vote SB 3-A was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Dudley	Malchon	Stuart
Bankhead	Forman	Margolis	Thomas
Beard	Gardner	McPherson	Thurman
Bruner	Girardeau	Meek	Walker
Casas	Grant	Myers	Weinstein
Childers, D.	Grizzle	Peterson	Weinstock
Childers, W. D.	Johnson	Plummer	Woodson-Howard
Crenshaw	Kirkpatrick	Ros-Lehtinen	
Davis	Kiser	Scott	
Deratany	Langley	Souto	

Nays—None

By Senators Langley and Weinstein—

SB 4-A—A bill to be entitled An act relating to drug abuse prevention and control; amending s. 893.13, F.S.; prescribing a minimum term of imprisonment for persons who sell, purchase, manufacture, or deliver a controlled substance as defined in s. 893.03(1)(a), (b), (d), (2)(a), (b), F.S., within 1,000 feet of a school or who possess such controlled substance with intent to commit such actions; providing that such persons are not eligible for parole or statutory gain-time; providing that persons performing such activities with any other controlled substance must be fined \$500 and must serve 100 hours of public service in addition to any other penalty; providing for act to be read in pari materia with acts passed during the regular session; providing an effective date.

—was referred to the Committees on Finance, Taxation and Claims; and Appropriations.

On motions by Senator Langley, by two-thirds vote SB 4-A was withdrawn from the Committees on Finance, Taxation and Claims; and Appropriations and by unanimous consent taken up instantler.

On motions by Senator Langley, by two-thirds vote SB 4-A was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Beard	Casas	Childers, W. D.
Bankhead	Bruner	Childers, D.	Crenshaw

Davis	Johnson	Myers	Thurman
Deratany	Kirkpatrick	Peterson	Walker
Dudley	Kiser	Plummer	Weinstein
Forman	Langley	Ros-Lehtinen	Weinstock
Gardner	Malchon	Scott	Woodson-Howard
Girardeau	Margolis	Souto	
Grant	McPherson	Stuart	
Grizzle	Meek	Thomas	

Nays—None

By Senator Langley—

SB 5-A—A bill to be entitled An act relating to drivers’ licenses; creating s. 322.2615, F.S.; authorizing law enforcement officers to immediately suspend the driving privilege of a person arrested for specified DUI offenses; providing for confiscation of the driver’s license and issuance of a temporary driving permit and a suspension notice; providing for submission of the officer’s report to the Department of Highway Safety and Motor Vehicles and review of the suspension by the department; providing informal and formal procedures for conducting the review and requiring notification of the department’s decision; authorizing the department to issue notice of suspension and temporary driving permits in certain circumstances; providing for specified ineligibility of a license as to which suspension was sustained; providing scope of review; providing for appellate review; providing rulemaking authority and exemption from ch. 120, F.S.; prohibiting the consideration of a suspension in criminal proceedings; amending s. 322.271, F.S.; expanding restrictions on issuance of driving permits for business or employment use; amending s. 322.28, F.S.; providing prohibitions on stay of suspension; amending s. 322.282, F.S.; correcting a cross reference; amending s. 322.12, F.S.; providing an additional reinstatement fee; repealing s. 322.261, F.S., relating to driver’s license suspension for refusal to submit to breath, blood, or urine test for impairment; providing for act to be read in pari materia with acts passed during the regular session; providing effective dates.

—was referred to the Committee on Transportation.

On motions by Senator Langley, by two-thirds vote SB 5-A was withdrawn from the Committee on Transportation and by unanimous consent taken up instantler.

On motions by Senator Langley, by two-thirds vote SB 5-A was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Deratany	Kiser	Ros-Lehtinen
Bankhead	Dudley	Langley	Scott
Beard	Forman	Malchon	Souto
Bruner	Gardner	Margolis	Stuart
Casas	Girardeau	McPherson	Thomas
Childers, D.	Grant	Meek	Thurman
Childers, W. D.	Grizzle	Myers	Walker
Crenshaw	Johnson	Peterson	Weinstein
Davis	Kirkpatrick	Plummer	Weinstock

Nays—None

Vote after roll call:

Yea—Woodson-Howard

By Senators Grant, Kiser, Scott and Bankhead—

SB 6-A—A bill to be entitled An act relating to the correctional system; amending s. 947.005, F.S.; adding a definition; creating s. 947.146, F.S.; creating the Control Release Authority and providing for membership, purpose, and powers and duties; providing criteria and eligibility for control release; providing for access of records; providing for terms and conditions of control release, and for revocation; amending s. 921.001, F.S.; authorizing control release and requiring acceptance of terms; amending s. 944.17, F.S.; expanding provisions relating to documents required upon commitment or transfer into the state correctional system; amending s. 944.277, F.S.; changing the threshold for the award of provisions; credits; amending s. 954.30, F.S.; providing for cost of supervision payments by inmates under control release, provisional release supervision; amending s. 948.06, F.S.; providing for forfeiture of accumulated gain-time upon revocation of control release; reenacting ss. 944.598 and 948.06, F.S.; amending s. 775.089, F.S.; authorizing courts to order the

department to collect and dispense court-ordered payments; creating s. 945.31, F.S.; requiring the department to collect and dispense such payments and providing for a processing fee; creating s. 945.32, F.S.; creating the Court-Ordered Payment Trust Fund; providing definitions; requiring the Department of Corrections to solicit proposals from private vendors to construct or construct and operate a single-cell prototype institution or a state correctional facility; providing bid requirements for private vendors; providing requirements for performance; requiring a bidder to provide an insurance plan; providing for the review of such plans; providing contract requirements for indemnification to the state by a private vendor; providing standards of operation of a private correctional facility; requiring private correctional officers to be certified as having met certain qualifications; providing that inmates incarcerated at a private correctional facility remain in the legal custody of the department; requiring a plan be provided for termination of a contract for the operation of a private correctional facility; authorizing the department to terminate a contract with cause; prohibiting certain conflicts of interest by state employees and a private vendor and its employees; authorizing the department to withdraw its request for proposals for the construction, lease, or operation of a private correctional facility; requiring the department to adopt rules; requiring the department to appoint a contract monitor; requiring a private vendor to employ a monitor; requiring reports by such monitor; requiring the Auditor General to make certain reports; amending s. 944.105, F.S.; providing circumstances under which a private correctional officer may use nondeadly force and deadly force; providing additional requirements for the training of private correctional officers and employees at a private correctional facility; amending s. 946.501, F.S.; revising priority of purposes of a correctional work program; amending s. 944.704, F.S.; providing for coordination of inmate vocational assignments with the Correctional Education School Authority; requiring photo identification cards for inmates participating in transition assistance programs; amending s. 944.705, F.S.; specifying mandatory pre-release orientation; amending s. 944.707, F.S.; providing for job placement information at release orientation; amending s. 110.205, F.S.; providing for an exemption from career service for officers and employees of the authority and for the setting of salaries, and reenacting s. 121.35(2)(a), F.S., relating to optional retirement program participation, to incorporate said amendment in references; amending s. 447.203, F.S.; defining the Board of Correctional Education as a public employer for officers and employees of the authority; amending s. 948.01, F.S.; providing for immediate supervision of certain offenders placed on probation or into community control, by qualified officers; requiring felony offenders under probation to be supervised by the department; amending s. 948.03, F.S.; providing for contracting with local law enforcement and requiring investigation procedures and 24-hour-per-day monitoring of offenders being electronically monitored; amending s. 948.06, F.S.; allowing certain law enforcement officers to arrest violators of probation or community control in certain situations; amending ss. 394.455 and 943.10, F.S.; revising definitions; amending s. 39.411, F.S.; providing for confidentiality of information; amending s. 943.19, F.S.; exempting certain correctional probation officer from certain employment qualifications; reenacting ss. 117.10, 121.021(38), 784.07(1)(a), 843.01, and 843.02, F.S., relating to correctional officers, 921.187(1)(a) and 947.23(6), F.S., relating to probation and community control, to incorporate said amendments in references thereto; providing technical amendments; amending s. 947.13, F.S.; providing additional duties; amending s. 947.23, F.S.; providing for preliminary and final parole revocation hearings and authorizing limitation on testimony, and reenacting ss. 944.598(5), F.S., relating to emergency release of prisoners, and 948.06(5), F.S., relating to violation of probation, to incorporate said amendments in references; expanding the role of the Crime Prevention and Law Enforcement Study Commission; the Special Correctional District Task Force; providing for membership and duties; requiring a report; providing for repeal of the task force; providing for act to be read in pari materia with acts passed during the regular session; providing effective dates.

—was referred to the Committee on Corrections, Probation and Parole.

Motion

On motion by Senator Plummer, the rules were waived and the Committee on Corrections, Probation and Parole was granted permission to meet upon adjournment to consider SB 6-A.

RECESS

On motion by Senator Scott, the Senate recessed at 11:48 a.m. to reconvene upon call of the President.

CALL TO ORDER

The Senate was called to order by the President at 7:30 p.m. A quorum present—34:

Mr. President	Dudley	Langley	Souto
Bankhead	Forman	Malchon	Stuart
Beard	Gardner	Margolis	Thomas
Bruner	Girardeau	McPherson	Thurman
Casas	Grant	Meek	Walker
Childers, D.	Grizzle	Myers	Weinstock
Childers, W. D.	Johnson	Peterson	Woodson-Howard
Crenshaw	Kirkpatrick	Plummer	
Deratany	Kiser	Scott	

REPORTS OF COMMITTEES

The Committee on Corrections, Probation and Parole recommends a committee substitute for the following: SB 6-A

The bill with committee substitute attached was placed on the calendar.

FIRST READING OF COMMITTEE SUBSTITUTES

By the Committee on Corrections, Probation and Parole; and Senators Grant, Kiser, Scott and Bankhead—

CS for SB 6-A—A bill to be entitled An act relating to the correctional system; creating s. 944.278, F.S.; providing conditions under which certain inmates may be granted early release; providing for such inmates to be supervised upon release; authorizing the Department of Corrections to adopt rules; amending s. 921.001, F.S.; conforming language; amending s. 944.17, F.S.; expanding provisions relating to documents required upon commitment or transfer into the state correctional system; amending ss. 944.28, 947.141, F.S.; providing for forfeiture of early release; amending s. 944.277, F.S.; revising the definition of lawful capacity of the correctional system; exempting additional inmates from early release credits; amending s. 775.089, F.S.; authorizing courts to order the department to collect and dispense court-ordered payments; creating s. 945.31, F.S.; requiring the department to collect and dispense such payments and providing for a processing fee; creating s. 945.32, F.S.; creating the Court-Ordered Payment Trust Fund; providing definitions; providing an appropriation; providing for act to be read in pari materia with acts passed during the regular session; providing an effective date.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 9-A and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Jamerson and others—

HB 9-A—A bill to be entitled An act relating to the correctional system; amending s. 947.005, F.S.; adding a definition; creating s. 947.146, F.S.; creating the Control Release Authority and providing for membership, purpose, and powers and duties; providing criteria and eligibility for control release; providing for access of records; providing for terms and conditions of control release, and for revocation; amending s. 921.001, F.S.; authorizing control release and requiring acceptance of terms; amending s. 944.17, F.S.; expanding provisions relating to documents required upon commitment or transfer into the state correctional system; amending s. 944.277, F.S.; changing the threshold for the award of provisional credits; amending s. 954.30, F.S.; providing for cost of supervision payments by inmates under control release, provisional release and conditional release supervision; amending s. 948.06, F.S.; providing for forfeiture of accumulated gain-time upon revocation of control release; reenacting ss. 944.598 and 948.06, F.S.; amending s. 775.089, F.S.; authorizing courts to order the department to collect and dispense court-ordered payments; creating s. 945.31, F.S.; requiring the department to collect and dispense such payments and providing for a processing fee; creating s. 945.32, F.S.; creating the Court-Ordered Payment Trust Fund; providing

definitions; requiring the Department of Corrections to solicit proposals from private vendors to construct or construct and operate a single-cell prototype institution or a state correctional facility; providing bid requirements for private vendors; providing requirements for performance; requiring a bidder to provide an insurance plan; providing for the review of such plans; providing contract requirements for indemnification to the state by a private vendor; providing standards of operation of a private correctional facility; requiring private correctional officers to be certified as having met certain qualifications; providing that inmates incarcerated at a private correctional facility remain in the legal custody of the department; requiring a plan be provided for termination of a contract for the operation of a private correctional facility; authorizing the department to terminate a contract with cause; prohibiting certain conflicts of interest by state employees and a private vendor and its employees; authorizing the department to withdraw its request for proposals for the construction, lease, or operation of a private correctional facility; requiring the department to adopt rules; requiring the department to appoint a contract monitor; requiring a private vendor to employ a monitor; requiring reports by such monitor; requiring the Auditor General to make certain reports; amending s. 944.105, F.S.; providing circumstances under which a private correctional officer may use nondeadly force and deadly force; providing additional requirements for the training of private correctional officers and employees at a private correctional facility; amending s. 946.007, F.S.; providing correctional work program objectives; amending s. 946.009, F.S.; providing priority assignment of inmates; amending s. 946.502, F.S.; providing legislative intent; amending s. 946.511, F.S.; providing policies and procedures; amending s. 946.516, F.S.; providing for a report; amending s. 946.501, F.S.; revising priority of purposes of a correctional work program; amending s. 944.704, F.S.; providing for coordination of inmate vocational assignments with the Correctional Education School Authority; requiring photo identification cards for inmates participating in transition assistance programs; amending s. 944.705, F.S.; specifying mandatory pre-release orientation; amending s. 944.707, F.S.; providing for job placement information at release orientation; amending s. 110.205, F.S.; providing for an exemption from career service for officers and employees of the authority and for the setting of salaries, and reenacting s. 121.35(2)(a), F.S., relating to optional retirement program participation, to incorporate said amendment in references; amending s. 447.203, F.S.; defining the Board of Correctional Education as a public employer for officers and employees of the authority; amending s. 948.01, F.S.; providing for immediate supervision of certain offenders placed on probation or into community control, by qualified officers; amending s. 948.03, F.S.; providing for contracting with local law enforcement and requiring investigation procedures and 24-hour-per-day monitoring of offenders being electronically monitored; amending s. 948.06, F.S.; allowing certain law enforcement officers to arrest violators of probation or community control in certain situations; amending ss. 394.455 and 943.10, F.S.; revising definitions; amending s. 39.411, F.S.; providing for confidentiality of information; amending s. 943.19, F.S.; exempting certain correctional probation officers from certain employment qualifications; reenacting ss. 117.10, 121.021(38), 784.07(1)(a), 843.01, and 843.02, F.S., relating to correctional officers, 921.187(1)(a) and 947.23(6), F.S., relating to probation and community control, to incorporate said amendments in references thereto; providing technical amendments; amending s. 947.13, F.S.; providing additional duties; amending s. 947.23, F.S.; providing for preliminary and final parole revocation hearings and authorizing limitation on testimony, and reenacting ss. 944.598(5), F.S., relating to emergency release of prisoners, and 948.06(5), F.S., relating to violation of probation, to incorporate said amendments in references; expanding the role of the Crime Prevention and Law Enforcement Study Commission; the Special Correctional District Task Force; providing for membership and duties; requiring a report; providing for repeal of the task force; providing a special session disclaimer; amending s. 945.602, F.S.; increasing the number of members of the governing board of the State of Florida Correctional Medical Authority of the Department of Corrections; revising qualifications for such members; providing staggered terms for the members added; revising the quorum of the authority; deleting provisions that have had their effect; repealing s. 945.603(15), F.S., relating to a reporting requirement applicable to the authority which has expired; requiring the authority to report to the Governor its recommendation concerning the establishment of a nonprofit corporation to lease and manage medical services for inmates of the department; amending s. 119.07, F.S.; exempting specified records of a medical review committee from public records requirements; amending s. 941.45, F.S.; providing technical amendments with respect to interstate agreements on detainees; providing effective dates.

On motions by Senator Grant, by unanimous consent HB 9-A was taken up instanter and by two-thirds vote read the second time by title.

Senator Plummer moved the following amendment:

Amendment 1—Strike everything after the enacting clause and insert:

Section 1. Section 944.278, Florida Statutes, is created to read:

944.278 Provisional credits.—

(1) Whenever the inmate population of the correctional system reaches 97.5 percent of lawful capacity as defined in s. 944.023, the Chairman of the Parole Commission shall certify to the Governor that such condition exists. When the Governor acknowledges such condition in writing, the commission shall screen eligible inmates admitted to the state correctional system for early release from custody in order to maintain the state prison system below 98 percent of its lawful capacity pursuant to s. 944.023, except when an inmate:

(a) Is serving a sentence which includes a mandatory minimum provision for a capital offense or drug trafficking offense and has not served the number of days equal to the mandatory minimum term less any jail-time credit awarded by the court;

(b) Is serving the mandatory minimum portion of a sentence enhanced under s. 775.087(2);

(c) Is convicted, or has been previously convicted, of committing or attempting to commit sexual battery, incest, or a lewd or indecent assault or act;

(d) Is convicted, or has been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, or aggravated battery, and a sex act was attempted or completed during commission of the offense;

(e) Is convicted, or has been previously convicted, of committing or attempting to commit kidnapping, burglary, or murder, and the offense was committed with the intent to commit sexual battery;

(f) Is convicted, or has been previously convicted, of committing or attempting to commit false imprisonment upon a child under the age of 13 and, in the course of committing the offense, the inmate committed aggravated child abuse; sexual battery against the child; or a lewd, lascivious, or indecent assault or act upon or in the presence of the child;

(g) Is sentenced, or has previously been sentenced, under s. 775.084, or has been sentenced at any time in another jurisdiction as a habitual offender;

(h) Is convicted, or has been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, aggravated battery, kidnapping, manslaughter, or murder against an officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9) or against a state attorney or assistant state attorney; or

(i) Is convicted, or has been previously convicted, of committing or attempting to commit murder in the first, second, or third degree under s. 782.04(1), (2), (3), or (4).

(2) The commission's authority to screen and grant early release will continue until the inmate population of the correctional system reaches 97 percent of lawful capacity, at which time the authority granted to the commission will cease, and the commission shall notify the Governor in writing of the cessation of such authority.

(3) At such time as early releases are granted, the Department of Corrections shall establish an early release date for each eligible inmate incarcerated.

(4) Inmates released pursuant to this section may be supervised upon release. The commission shall determine the appropriate terms, conditions, and lengths of supervision, if any, for persons released pursuant to s. 944.278(1). Such lengths of supervision shall be determined as provided in s. 947.24, and may not exceed the maximum period for which the person has been sentenced. If an inmate placed on such supervision is also subject to probation or community control, the department shall supervise such person according to the conditions imposed by the court, and the authority shall defer to such supervision. If the term of supervision exceeds that of the probation or community control, then supervision shall revert to the commission's conditions upon expiration of the

probation or community control. When the commission has reasonable grounds to believe that an offender released under this section has violated the terms and conditions of release, such offender shall be subject to provisions as set forth in s. 947.141, and shall be subject to forfeiture of gain-time pursuant to s. 944.28(1). An inmate in the state correctional system may not be released under this section before March 1, 1990.

(5) The Department of Corrections shall adopt rules to implement the provisional release supervision program.

Section 2. Subsection (11) of section 921.001, Florida Statutes, 1988 Supplement, is amended to read:

921.001 Sentencing Commission.—

(11) A person who is convicted of a crime committed on or after October 1, 1988, shall be released from incarceration only:

- (a) Upon expiration of his sentence;
- (b) Upon expiration of his sentence as reduced by accumulated gain-time;
- (c) As directed by an executive order granting clemency;
- (d) Upon attaining the provisional release date; or
- (e) Upon placement in a conditional release program pursuant to s. 947.1405; or
- (f) Upon the granting of release pursuant to s. 944.278.

Section 3. Subsection (5) of section 944.17, Florida Statutes, is amended to read:

944.17 Commitments and classification; transfers.—

(5) The department shall also refuse to accept a person into the state correctional system unless the following documents are presented in a completed form by the sheriff or his designated representative to the officer in charge of the reception process:

- (a) The uniform commitment and judgment and sentence forms as described in subsection (4).
- (b) The sheriff's certificate as described in s. 921.161.
- (c) A certified copy of the indictment or information relating to the offense for which the person was convicted.
- (d) A copy of the probable cause affidavit for each offense identified in the current indictment or information.
- (e) A copy of the sentencing guidelines scoresheet and any attachments thereto prepared pursuant to Rule 3.701, Florida Rules of Criminal Procedure.
- (f) A copy of the restitution order or the reasons by the court not requiring restitution pursuant to s. 775.089(1).
- (g) The name and address of any victim or victims, if available.

In addition, the sheriff or other officer having such person in charge shall also deliver with the foregoing documents any available presentence investigation reports as described in s. 921.231 and any attached documents.

Section 4. Subsection (1) of section 944.28, Florida Statutes, 1988 Supplement, is amended to read:

944.28 Forfeiture of gain-time and the right to earn gain-time in the future.—

(1) If a prisoner is convicted of escape, or if the clemency, conditional release or supervision pursuant to s. 944.278 as described in chapter 947, or parole granted to him is revoked, the department may, without notice or hearing, declare a forfeiture of all gain-time earned according to the provisions of law by such prisoner prior to such escape or his release under such clemency, conditional release, or parole.

Section 5. Section 947.141, Florida Statutes, 1988 Supplement, is amended to read:

947.141 Violations of conditional release or supervision pursuant to s. 944.278.—

(1) If a member of the commission or a duly authorized representative of the commission has reasonable grounds to believe that an offender released under s. 947.1405 or s. 947.278 has violated the terms and conditions of his release in a material respect, such member or representative may cause a warrant to be issued for the arrest of the releasee.

(2) Within 45 days after the arrest of a releasee charged with a violation of the terms and conditions of conditional release or supervision pursuant to s. 944.278, the releasee must be afforded a hearing conducted by a commissioner or a duly authorized representative thereof. If the releasee elects to proceed with a hearing, he must be informed orally and in writing of the following:

- (a) The alleged violation with which he is charged.
- (b) His right to be represented by counsel.
- (c) His right to be heard in person.
- (d) His right to secure, present, and compel the attendance of witnesses relevant to the proceeding.
- (e) His right to produce documents on his own behalf.
- (f) His right of access to all evidence used against him and to confront and cross-examine adverse witnesses.
- (g) His right to waive the hearing.

(3) Within a reasonable time following the hearing, the commissioner or his duly authorized representative who conducted the hearing shall make findings of fact in regard to the alleged violation. A majority of the commission shall enter an order determining whether the charge of violation of conditional release or supervision pursuant to s. 944.278 has been sustained based upon the findings of fact presented by the hearing commissioner or authorized representative. By such order, the commission shall revoke conditional release or supervision pursuant to s. 944.278 and thereby return the releasee to prison to serve the sentence imposed upon him, reinstate the original order granting conditional release or supervision pursuant to s. 944.278, or enter such other order as it considers proper.

(4) Whenever a conditional release or supervision pursuant to s. 944.278 is revoked by the commission and the releasee is ordered by the commission to be returned to prison, the releasee, by reason of his misconduct, may be deemed to have forfeited all gain-time or commutation of time for good conduct, as provided for by law, earned up to the date of his conditional release. This subsection does not deprive the prisoner of his right to gain-time or commutation of time for good conduct, as provided by law, from the date on which he is returned to prison.

Section 6. Section 944.277, Florida Statutes, is amended to read:

944.277 Provisional credits.—

(1) Whenever the inmate population of the correctional system reaches 98.5 percent of lawful capacity as defined in s. 944.023 or 944.096, the Secretary of Corrections shall certify to the Governor that such condition exists. When the Governor acknowledges such condition in writing, the secretary may grant up to 60 days of provisional credits equally to each inmate who is earning incentive gain-time, except to an inmate who:

- (a) Is serving a sentence which includes a mandatory minimum provision for a capital offense or drug trafficking offense and has not served the number of days equal to the mandatory minimum term less any jail-time credit awarded by the court;
- (b) Is serving the mandatory minimum portion of a sentence enhanced under s. 775.087(2);
- (c) Is convicted, or has been previously convicted, of committing or attempting to commit sexual battery, incest, or a lewd or indecent assault or act;
- (d) Is convicted, or has been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, or aggravated battery, and a sex act was attempted or completed during commission of the offense;
- (e) Is convicted, or has been previously convicted, of committing or attempting to commit kidnapping, burglary, or murder, and the offense was committed with the intent to commit sexual battery;

(f) Is convicted, or has been previously convicted, of committing or attempting to commit false imprisonment upon a child under the age of 13 and, in the course of committing the offense, the inmate committed aggravated child abuse; sexual battery against the child; or a lewd, lascivious, or indecent assault or act upon or in the presence of the child; or

(g) Is sentenced, or has previously been sentenced, under s. 775.084, or has been sentenced at any time in another jurisdiction as a habitual offender; or

(h) Is convicted, or has been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, aggravated battery, kidnapping, manslaughter, or murder against an officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9) or against a state attorney or assistant state attorney; or

(i) Is convicted, or has been previously convicted, of committing or attempting to commit murder in the first, second, or third degree under s. 782.04(1), (2), (3), or (4).

(2) The secretary's authority to grant provisional credits in increments not exceeding 60 days will continue until the inmate population of the correctional system reaches 98 97 percent of lawful capacity, at which time the authority granted to the secretary will cease, and the secretary shall notify the Governor in writing of the cessation of such authority.

(3) At such time as provisional credits are granted, the Department of Corrections shall establish a provisional release date for each eligible inmate incarcerated, which will be the tentative release date less any provisional credits granted.

(4) Any eligible inmate who is incarcerated on the effective date of an award of provisional credits shall receive such credits. Any inmate who is under any type of release supervision program of the department is not eligible for an award of provisional credits.

(5) Any inmate who is serving one or more sentences of imprisonment imposed as a result of an offense that occurred on or after July 1, 1988, and who receives 30 or more days of provisional credits must be released into the provisional release supervision program on his provisional release date, unless such inmate is also serving a sentence for an offense that occurred before July 1, 1988. Inmates who are released into the provisional release supervision program are not eligible for any additional gain-time. If an inmate has received a term of probation or community control to be served after his release from incarceration, the period of probation or community control supervision must be substituted for the period of supervision under the provisional release supervision program.

(6) The terms and conditions of provisional release supervision must be specified in writing, and a copy must be given to the inmate at the time of his release from incarceration. The term of supervision must be equal to the number of provisional credits accrued, but may not exceed 90 days unless extended as provided in subsection (7).

(7) If an inmate violates any term or condition of provisional release supervision, the Department of Corrections may take any of the following actions:

(a) Continue provisional release supervision.

(b) Extend the term of supervision not to exceed the total number of provisional credits the inmate has accumulated.

(c) Terminate the provisional release supervision and return the inmate to prison. If an inmate is returned to prison, credits accumulated as of the date of release to the provisional release supervision program may be canceled as prescribed by department rule.

(8) If an inmate absconds from provisional release supervision, the Department of Corrections may issue a warrant for his arrest as provided by s. 944.405. The failure of an inmate to report to the designated parole and probation office within 10 days after his release from incarceration constitutes a violation of the provisional release supervision program and will result in issuance of a warrant for arrest of the inmate.

(9) The Department of Corrections shall adopt rules to implement the provisional release supervision program.

Section 7. Subsection (11) of section 775.089, Florida Statutes, 1988 Supplement, as amended by chapter 88-96, Laws of Florida, is amended to read:

775.089 Restitution.—

(1)(a) In addition to any punishment, the court shall order the defendant to make restitution to the victim for damage or loss caused directly or indirectly by the defendant's offense, unless it finds clear and compelling reasons not to order such restitution. Restitution may be monetary or nonmonetary restitution. The court shall make the payment of restitution a condition to probation in accordance with s. 948.03.

(b) If the court does not order restitution, or orders restitution of only a portion of the damages, as provided in this section, it shall state on the record in detail the reasons therefor.

(c) The term "victim" as used in this section and in any provision of law relating to restitution includes the aggrieved party, the aggrieved party's estate if the aggrieved party is deceased, and the aggrieved party's next of kin if the aggrieved party is deceased as a result of the offense.

(2) When an offense has resulted in bodily injury to a victim, a restitution order entered pursuant to subsection (1) shall require that the defendant:

(a) Pay the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a recognized method of healing.

(b) Pay the cost of necessary physical and occupational therapy and rehabilitation.

(c) Reimburse the victim for income lost by such victim as a result of the offense.

(d) In the case of an offense which resulted in bodily injury that also resulted in the death of a victim, pay an amount equal to the cost of necessary funeral and related services.

(3)(a) The court may require that the defendant make restitution under this section within a specified period or in specified installments.

(b) The end of such period or the last such installment shall not be later than:

1. The end of the period of probation if probation is ordered;

2. Five years after the end of the term of imprisonment imposed if the court does not order probation; or

3. Five years after the date of sentencing in any other case.

(c) If not otherwise provided by the court under this subsection, restitution must be made immediately.

(4) If a defendant is placed on probation or paroled, complete satisfaction of any restitution ordered under this section shall be a condition of such probation or parole. The court may revoke probation, and the Parole Commission may revoke parole, if the defendant fails to comply with such order.

(5) An order of restitution may be enforced by the state, or a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

(6) The court, in determining whether to order restitution and the amount of such restitution, shall consider the amount of the loss sustained by any victim as a result of the offense, the financial resources of the defendant, the present and potential future financial needs and earning ability of the defendant and his dependents, and such other factors which it deems appropriate.

(7) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense is on the state attorney. The burden of demonstrating the present financial resources and the absence of potential future financial resources of the defendant and the financial needs of the defendant and his dependents is on the defendant. The burden of demonstrating such other matters as the court deems appropriate is upon the party designated by the court as justice requires.

(8) The conviction of a defendant for an offense involving the act giving rise to restitution under this section shall estop the defendant from denying the essential allegations of that offense in any subsequent civil proceeding. An order of restitution hereunder will not bar any subsequent civil remedy or recovery, but the amount of such restitution shall be set off against any subsequent independent civil recovery.

(9) When a corporation or unincorporated association is ordered to make restitution, the person authorized to make disbursements from the assets of such corporation or association shall pay restitution from such assets, and such person may be held in contempt for failure to make such restitution.

(10) Any default in payment of restitution may be collected by any means authorized by law for enforcement of a judgment.

(11)(a) The court may order the clerk of the court to collect and disperse restitution payments in any case.

(b) *The court may order the Department of Corrections to collect and disperse restitution and other payments from persons remanded to its custody or supervision.*

(12)(a) Issuance of income deduction order with an order for restitution.—

1. Upon the entry of an order for restitution, the court shall enter a separate order for income deduction if one has not been entered.

2. The income deduction order shall direct a payor to deduct from all income due and payable to the defendant the amount required by the court to meet the defendant's obligation.

3. The income deduction order shall be effective so long as the order for restitution upon which it is based is effective or until further order of the court.

4. When the court orders the income deduction, the court shall furnish to the defendant a statement of his rights, remedies, and duties in regard to the income deduction order. The statement shall state:

- a. All fees or interest which shall be imposed.
- b. The total amount of income to be deducted for each pay period.
- c. That the income deduction order applies to current and subsequent payors and periods of employment.
- d. That a copy of the income deduction order will be served on the defendant's payor or payors.
- e. That enforcement of the income deduction order may only be contested on the ground of mistake of fact regarding the amount of restitution owed.
- f. That the defendant is required to notify the clerk of court within 7 days after changes in the defendant's address, payors, and the addresses of his payors.

(b) Enforcement of income deduction orders.—

1. The clerk of court or probation officer shall serve an income deduction order and the notice to payor on the defendant's payor unless the defendant has applied for a hearing to contest the enforcement of the income deduction order.

2.a. Service by or upon any person who is a party to a proceeding under this subsection shall be made in the manner prescribed in the Florida Rules of Civil Procedure for service upon parties.

b. Service upon the defendant's payor or successor payor under this subsection shall be made by prepaid certified mail, return receipt requested, or in the manner prescribed in chapter 48.

3. The defendant, within 15 days after having an income deduction order entered against him, may apply for a hearing to contest the enforcement of the income deduction order on the ground of mistake of fact regarding the amount of restitution owed. The timely request for a hearing shall stay the service of an income deduction order on all payors of the defendant until a hearing is held and a determination is made as to whether the enforcement of the income deduction order is proper.

4. The notice to payor shall contain only information necessary for the payor to comply with the income deduction order. The notice shall:

- a. Require the payor to deduct from the defendant's income the amount specified in the income deduction order and to pay that amount to the clerk of court.
- b. Instruct the payor to implement the income deduction order no later than the first payment date which occurs more than 14 days after the date the income deduction order was served on the payor.

c. Instruct the payor to forward within 2 days after each payment date to the clerk of court the amount deducted from the defendant's income and a statement as to whether the amount totally or partially satisfies the periodic amount specified in the income deduction order.

d. Specify that, if a payor fails to deduct the proper amount from the defendant's income, the payor is liable for the amount the payor should have deducted plus costs, interest, and reasonable attorney's fees.

e. Provide that the payor may collect up to \$5 against the defendant's income to reimburse the payor for administrative costs for the first income deduction and up to \$1 for each deduction thereafter.

f. State that the income deduction order and the notice to payor are binding on the payor until further notice by the court or until the payor no longer provides income to the defendant.

g. Instruct the payor that, when he no longer provides income to the defendant, he shall notify the clerk of court and shall also provide the defendant's last known address and the name and address of the defendant's new payor, if known, and that, if the payor violates this provision, the payor is subject to a civil penalty not to exceed \$250 for the first violation or \$500 for any subsequent violation.

h. State that the payor shall not discharge, refuse to employ, or take disciplinary action against the defendant because of an income deduction order and shall state that a violation of this provision subjects the payor to a civil penalty not to exceed \$250 for the first violation or \$500 for any subsequent violation.

i. Inform the payor that, when he receives income deduction orders requiring that the income of two or more defendants be deducted and sent to the same clerk of court, he may combine the amounts that are to be paid to the depository in a single payment as long as he identifies that portion of the payment attributable to each defendant.

j. Inform the payor that if the payor receives more than one income deduction order against the same defendant, he shall contact the court for further instructions.

5. The clerk of court shall enforce income deduction orders against the defendant's successor payor who is located in this state in the same manner prescribed in this subsection for the enforcement of an income deduction order against a payor.

6. A person may not discharge, refuse to employ, or take disciplinary action against an employee because of the enforcement of an income deduction order. An employer who violates this provision is subject to a civil penalty not to exceed \$250 for the first violation or \$500 for any subsequent violation.

7. When a payor no longer provides income to a defendant, he shall notify the clerk of court and shall provide the defendant's last known address and the name and address of the defendant's new payor, if known. A payor who violates this provision is subject to a civil penalty not to exceed \$250 for the first violation or \$500 for a subsequent violation.

Section 8. Section 945.31, Florida Statutes, is created to read:

945.31 Restitution and other payments.—The department shall collect and disperse restitution and other court-ordered payments from persons in its custody or under its supervision, and may collect an administrative processing fee in an amount equal to 4 percent of the gross amounts of such payments. Such administrative processing fee shall be deposited in the Court-Ordered Payment Trust Fund created in s. 945.32, and shall be used to offset the cost of the department's services.

Section 9. Section 945.32, Florida Statutes, is created to read:

945.32 Court-Ordered Payment Trust Fund.—There is created a special fund to be known as the "Court-Ordered Payment Trust Fund," to be used for deposit of administrative processing fees and for payment of necessary and proper expenses incurred by the department in the administration of collection and disbursement of court-ordered payments.

Section 10. There is hereby appropriated from the General Revenue Fund the amount of \$700,000 and 79 FTE's to the Parole Commission for the implementation of this act.

Section 11. Inmates convicted of offenses committed on or after October 1, 1989, shall be eligible for early release pursuant to s. 944.278, Florida Statutes.

Section 12. If any law which is amended by this act was also amended by a law enacted at the 1989 Regular Session of the Legislature, such laws shall be construed as if they had been enacted by the same session of the Legislature and full effect should be given to each if that is possible.

Section 13. This act shall take effect October 1, 1989.

Senator Girardeau moved the following substitute amendment which failed:

Amendment 2—On page 5, line 15 through page 12, line 3, strike all of said lines

Amendment 1 failed. The vote was:

Yeas—13

Mr. President	Grizzle	Meek	Weinstock
Childers, D.	Malchon	Plummer	
Forman	Margolis	Stuart	
Girardeau	McPherson	Thurman	

Nays—20

Bankhead	Deratany	Kirkpatrick	Scott
Beard	Dudley	Kiser	Souto
Bruner	Gardner	Langley	Thomas
Casas	Grant	Myers	Walker
Childers, W. D.	Johnson	Peterson	Woodson-Howard

Vote after roll call:

Nay to Yea—Walker

On motion by Senator Grant, by two-thirds vote HB 9-A was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—18

Mr. President	Deratany	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Gardner	Langley	Thomas
Casas	Grant	Myers	
Childers, W. D.	Johnson	Peterson	

Nays—14

Childers, D.	Malchon	Plummer	Weinstock
Forman	Margolis	Stuart	Woodson-Howard
Girardeau	McPherson	Thurman	
Grizzle	Meek	Walker	

Vote after roll call:

Yea—Bruner

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 2-A and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 2-A—A bill to be entitled An act relating to growth management; creating s. 163.3179, F.S.; providing for urban service areas in local government comprehensive plans; requiring the state land planning agency to establish guidelines for such areas by rule; providing criteria; providing intent with respect thereto; amending s. 163.3161, F.S.; providing legislative intent with respect to the Local Government Comprehensive Planning and Land Development Regulation Act; amending s. 163.3164, F.S.; redefining "development"; amending s. 163.3167, F.S.; revising provisions relating to sanctions against local governments that fail to submit a proposed comprehensive plan by the date required; amending s. 163.3171, F.S.; providing that the state land planning agency may waive or modify requirements for comprehensive plans or plan amendments, except concurrency, for certain municipalities, and providing requirements with respect thereto; amending s. 163.3174, F.S.; providing duties of the local planning agencies regarding comprehensive plan amendments; amending s. 163.3177, F.S., relating to required and optional elements of comprehensive plans; revising requirements relating to coordination of plans; revising requirements relating to the capital improvements element, mass transit element, and parking element; providing requirements for a trans-

portation system element; providing requirements for a plan element for infill development and redevelopment; amending s. 163.3184, F.S., relating to the process for adoption of comprehensive plans and amendments thereto; revising requirements and time periods relating to intergovernmental review, local government review of comments and adoption of plan or amendments and transmittal to specified agencies, imposition of sanctions, review by the state and regional planning agencies, and hearings regarding determination of compliance; providing procedures and duties of the Administration Commission, the local government, and the state land planning agency when a recommended order is to find a plan in compliance or not in compliance; authorizing compliance agreements between the state land planning agency and local governments and providing requirements regarding remedial actions and plan amendments; providing effect on administrative proceedings; amending s. 163.3187, F.S.; revising requirements relating to comprehensive plan amendments that may be approved without regard to limits on the frequency of such amendments; providing for an annual report; providing that amendments required by a compliance agreement may be approved without regard to such limits; amending s. 163.3191, F.S.; providing a time period for evaluation of initial comprehensive plans; amending s. 163.3202, F.S.; changing the time for adoption of land development regulations; providing additional requirements relating to land development regulations; making retroactive the application of deadlines for adopting local land development regulations and continuing certain pending actions; creating s. 163.3216, F.S.; authorizing local governments to adopt sector plans as amendments to comprehensive plans; providing requirements for preparation, adoption, and amendment thereof; providing for fees; providing for contents; providing for review; providing for rules; providing for appeals; authorizing the state land planning agency to carry out sector planning demonstration projects; requiring a report; providing for repeal; creating s. 186.009, F.S.; providing for legislative review of the state comprehensive plan; requiring the Executive Office of the Governor to report to the Legislature and prepare a Strategic Growth Management Implementation Plan; providing for adoption of the plan by rule; providing requirements for the plan; providing for consistency of certain state agency rules and expenditures; creating s. 339.178, F.S.; requiring the Department of Transportation to adopt rules establishing financially feasible level-of-service standards for roads on the State Highway System; providing requirements for such rules; providing for notice and public hearings; providing procedures for challenging rules establishing or modifying such level-of-service standards; requiring the Florida Transportation Commission to study the classification of roads on the State Highway System; requiring a report; creating s. 163.709, F.S.; directing the Advisory Council on Intergovernmental Relations to conduct an annual assessment of local government funding and publish an index of average taxpayer burden in each local jurisdiction; amending s. 335.182, F.S.; requiring permits for connections to roads on the State Highway System from both the Department of Transportation and any other permitting authority; amending s. 335.1825, F.S.; revising requirements relating to such permits; providing for permit conditions; providing for denial by the department under certain conditions and for related local government action; providing for expiration; providing for closing of unpermitted connections; repealing s. 335.185, F.S., relating to permit conditions and expiration; amending s. 335.187, F.S., to conform; amending s. 335.188, F.S.; revising criteria for assignment of a road segment to a specific access category; amending s. 335.189, F.S.; providing procedures and requirements for the department to grant access permitting authority to certain other governmental entities; providing conditions under which the department may invalidate a permit issued by such entity; creating s. 163.3203, F.S.; creating the Florida Impact Fee Law; providing for the assessment and payment of impact fees; providing requirements with respect thereto; requiring governmental entities to provide certain impact fee credits; creating s. 192.039, F.S.; providing for property and structures or improvements to real property that are substantially completed prior to January 1 of the current year to be listed on a fractional-year assessment roll by the property appraiser and assessed a prorated ad valorem tax; providing notice requirements; providing for certain exemptions; amending s. 193.052, F.S.; providing for filing returns for taxes on such property; requiring local governments and lending institutions to give notice of provisions relating to the filing of returns for property listed on a fractional-year assessment roll; amending s. 212.055, F.S.; providing for the levy of a discretionary sales surtax pursuant to an extraordinary vote of the county governing authority or pursuant to referendum; providing notice requirements; authorizing certain municipalities to levy a local government surtax pursuant to referendum; amending s. 212.67, F.S.; renaming the Voted Gas Tax Trust Fund as the County Gas Tax Trust Fund; amending s. 336.021, F.S.; authorizing counties to impose a gas tax

on fuel for county transportation purposes pursuant to ordinance rather than referendum; providing for act to be read in pari materia with acts passed during the regular session; providing effective dates.

Amendment 1—On page 6, line 7, strike everything after the enactment clause and insert:

Section 1. Effective July 1, 1989, or upon this act becoming a law, whichever occurs later, section 163.3179, Florida Statutes, is created to read:

163.3179 Urban service areas.—

(1) *In order to encourage more compact urban growth patterns, discourage urban sprawl, ensure an efficient transition of undeveloped land to developed land, facilitate the efficient provision of infrastructure and services, and protect natural resources and environmentally sensitive areas, local governments in their local government comprehensive plans shall promote compact and mixed-use urban development within urban service areas and discourage urban development incompatible with the intent of this section. The state land planning agency shall establish, by rule, guidelines and principles for the establishment and implementation of urban service areas in local comprehensive plans. The guidelines and principles shall be developed on the basis of a comprehensive urban strategy, which strategy shall be included in the rule. The rule shall include minimum criteria for:*

(a) *The establishment and implementation of urban service areas in local government comprehensive plans.*

(b) *The provision of infrastructure and services within and outside urban service areas.*

(c) *The application of urban service area requirements in a differential manner between local governments of varying size and urban character, including exemptions from the requirements, where appropriate.*

(2) *The rule shall be consistent with the state comprehensive plan, chapter 163, chapter 9J-5, Florida Administrative Code, and the provisions of this section. A copy of the rule shall be submitted to the President of the Senate and the Speaker of the House of Representatives upon publication in the Florida Administrative Weekly. The rule shall not take effect before December 1, 1990. Local governments shall not be required to comply with the urban service area rule until the due date for submittal of their first evaluation and appraisal report.*

(3) *It is the intent of the Legislature that state and regional agencies shall adopt policies and programs which support and encourage the establishment and implementation of urban service areas and that government at all levels will provide regulatory incentives for development inside urban service areas. Prior to or simultaneously with the promulgation of the urban service area rule, the state land planning agency shall submit recommendations to the Legislature concerning the role of state and regional agencies in the establishment and implementation of urban service areas and regulatory incentives for development inside urban service areas.*

(4) *Nothing in this section is intended to modify, diminish or repeal any authority of the department existing prior to the effective date of this act.*

Section 2. Effective July 1, 1989, or upon this act becoming a law, whichever occurs later, subsection (3) of section 163.3161, Florida Statutes, is amended to read:

163.3161 Short title; intent and purpose.—

(3) *It is the intent of this act that its adoption is necessary so that local governments can preserve and enhance present advantages; encourage the most appropriate use of land, water, and resources, consistent with the public interest; direct development to those areas which have in place, or have agreements to provide, the land and water resources, fiscal ability, and the service capacity to accommodate growth in an environmentally acceptable manner as set forth in the state comprehensive plan; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within their jurisdictions. Through the process of comprehensive planning, it is intended that units of local government can preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare; provide for an efficient transition of rural land to urban land; enhance*

the liveability, character, and efficiency of urban areas through the encouragement of a mix of living, working, shopping, and recreational activities; prevent the overcrowding of land and avoid undue concentration of population; facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing, and other requirements and services; and conserve, develop, utilize, and protect natural resources within their jurisdictions.

Section 3. Effective July 1, 1989, or upon this act becoming a law, whichever occurs later, subsection (5) of section 163.3164, Florida Statutes, is amended to read:

163.3164 Definitions.—As used in this act:

(5) *“Development” has the meaning given it in s. 380.04, except that expansion of a road or of other infrastructure facilities within an existing right-of-way shall be considered development for the purposes of this part. The term “development” as used in this part shall not include the provision of roads, utilities, or other infrastructure facilities servicing development which has been specifically authorized within or in conjunction with a development order.*

Section 4. Effective July 1, 1989, or upon this act becoming a law, whichever occurs later, subsection (2) of section 163.3167, Florida Statutes, is amended to read:

163.3167 Scope of act.—

(2) *Each local government shall prepare a comprehensive plan of the type and in the manner set out in this act or shall prepare amendments to its existing comprehensive plan to conform it to the requirements of this part in the manner set out in this part. Each local government, in accordance with the procedures in s. 163.3184, shall submit its complete proposed comprehensive plan or its complete comprehensive plan as proposed to be amended to the state land planning agency by the date specified in the rule adopted by the state land planning agency pursuant to this subsection. The state land planning agency shall, prior to October 1, 1987, adopt a schedule of local governments required to submit complete proposed comprehensive plans or comprehensive plans as proposed to be amended. Such schedule shall specify the exact date of submission for each local government, shall establish equal, staggered submission dates, and shall be consistent with the following time periods:*

(a) *Beginning on July 1, 1988, and on or before July 1, 1990, each county that is required to include a coastal management element in its comprehensive plan and each municipality in such a county; and*

(b) *Beginning on July 1, 1989, and on or before July 1, 1991, all other counties or municipalities.*

Nothing herein shall preclude the state land planning agency from permitting by rule a county together with each municipality in the county from submitting a proposed comprehensive plan earlier than the dates established in paragraphs (a) and (b). Any county or municipality that fails to meet the schedule set for submission of its proposed comprehensive plan by more than 30 90 days shall be subject to the sanctions described in s. 163.3184(11)(g)(a) imposed by the Administration Commission. *Within 60 days after receipt of a notice of nonsubmission from the state land planning agency, the Administration Commission shall enter a final order concerning sanctions against the local government.* Notwithstanding the time periods established in this subsection, the state land planning agency may establish later deadlines for the submission of proposed comprehensive plans or comprehensive plans as proposed to be amended for a county or municipality which has all or a part of a designated area of critical state concern within its boundaries; however, such deadlines shall not be extended to a date later than July 1, 1991, or the time of re-designation, whichever is earlier.

Section 5. Effective July 1, 1989, or upon this act becoming a law, whichever occurs later, subsection (4) is added to section 163.3171, Florida Statutes, to read:

163.3171 Areas of authority under this act.—

(4) *By written agreement with the governing body, the state land planning agency may waive or modify the content and format requirements for comprehensive plans or plan amendments that must be adopted under this part for any municipality the agency determines will have a population of fewer than 5,000 permanent and temporary residents in the year established for transmittal of the municipality's proposed comprehensive plan or plan amendments pursuant to s.*

163.3167(2). The circumstances the agency considers in determining whether waiver or modification is appropriate for a municipality may include, but shall not be limited to, recent growth rates in population or land area; the extent to which it has vacant and developable land; its prospects of or need for redevelopment; the extent to which public services and facilities for its residents are supplied by other providers; and its past performance in responsible plan implementation and the adoption and enforcement of adequate land development regulations. An agreement between the state land planning agency and a municipality may not waive completely the format or content requirements for the future land use plan element, the capital improvements element, or the intergovernmental coordination element of the municipality's comprehensive plan. In no event shall an agreement waive or modify the concurrency requirements for infrastructure to be available when needed by development pursuant to s. 163.3177(10)(h) and s. 163.3202(2)(g). The governing body of the municipality must approve execution of an agreement under this subsection by formal action at a public hearing, with notice as defined in s. 163.3164(17), with the notice being placed in the newspaper but not with the legal notices and classified ads. The state land planning agency shall adopt rules providing for the periodic review of agreements approved under this subsection to determine continuing eligibility for waiver or modification of requirements and rules providing time periods and procedures for the submission by the municipality of a plan or plan amendments, as required under this part. This subsection does not affect the procedure provided in this part for adoption or review of such comprehensive plan or plan amendment. As part of the evaluation and review process pursuant to s. 163.3191, the department shall review the agreement executed pursuant to this subsection and determine whether the agreement should be modified or voided using the criteria set forth above. The decision of the state land planning agency to execute, modify, or void an agreement pursuant to this subsection shall be final agency action and shall be subject to challenge by an affected person, as defined in s. 163.3184(1)(a).

Section 6. Effective July 1, 1989, or upon this act becoming a law, whichever occurs later, subsection (1) and paragraph (a) of subsection (4) of section 163.3174, Florida Statutes, are amended to read:

163.3174 Local planning agency.—

(1) The governing body of each local government, individually or in combination as provided in s. 163.3171, shall designate and by ordinance establish a "local planning agency," unless the agency is otherwise established by law. The governing body may designate itself as the local planning agency pursuant to this subsection. The governing body shall notify the state land planning agency of the establishment of its local planning agency. The local planning agency shall prepare the comprehensive plan or plan amendment after hearings to be held after due public notice and shall make recommendations to the governing body regarding the adoption of such plan or element, or portion thereof or amendment thereto. The agency may be a local planning commission, the planning department of the local government, or other instrumentality, including a countywide planning entity established by special act or a council of local government officials created pursuant to s. 163.02, provided the composition of the council is fairly representative of all the governing bodies in the county or planning area; however:

(a) If a joint planning entity is in existence on the effective date of this act which authorizes the governing bodies to promulgate and enforce a land use plan effective throughout the joint planning area, that entity shall be the agency for those local governments until such time as the authority of the joint planning entity is modified by law.

(b) In the case of chartered counties, the planning responsibility between the county and the several municipalities therein shall be as stipulated in the charter.

(4) The local planning agency shall have the general responsibility for the conduct of the comprehensive planning program. Specifically, the local planning agency shall:

(a) Be the agency responsible for the preparation of the comprehensive plan or plan amendment and shall make recommendations to the governing body regarding the adoption of such plan or element, or portion thereof or amendment thereto. During the preparation of the plan or plan amendment and prior to any recommendation to the governing body, the local planning agency shall hold at least one public hearing, with due public notice, on the proposed plan or element, or portion thereof or amendment thereto. The governing body in cooperation with

the local planning agency may designate any agency, committee, department, or person to prepare the comprehensive plan or any element thereof or amendment thereto, but final recommendation of the adoption of such plan or plan amendment to the governing body shall be the responsibility of the local planning agency.

Section 7. Effective July 1, 1989, or upon this act becoming a law, whichever occurs later, paragraph (b) of subsection (3), paragraph (a) of subsection (4), and paragraphs (a) and (d) of subsection (7) of section 163.3177, Florida Statutes, are amended, paragraph (c) is added to subsection (3) of said section, paragraph (j) is added to subsection (6) of said section, present paragraph (k) of subsection (7) of said section is redesignated as paragraph (1), and a new paragraph (k) is added to said subsection, to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(3)

(b) The capital improvements element shall be reviewed ~~annually on an annual basis~~ and modified as necessary in accordance with s. 163.3187, except that corrections, ~~updates~~, and modifications concerning costs, revenue sources, and acceptance of facilities pursuant to dedications which are consistent with the plan, or a cumulative delay of no more than 6 months in the date of construction of any facility enumerated in the capital improvements element may be accomplished by ordinance and shall not be deemed to be amendments to the local comprehensive plan. All public facilities shall be consistent with the capital improvements element.

(c) In issuing development orders and permits, a local government may rely on the schedule for the first 3 years of the Department of Transportation's adopted work program; however, those projects that are relied upon for the issuance of development orders and permits shall be included in the capital improvements element.

(4)(a) Coordination of the local comprehensive plan with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region; with adopted rules pertaining to designated areas of critical state concern; and with the state comprehensive plan shall be a major objective of the local comprehensive planning process. To that end, in the preparation of a comprehensive plan or element thereof, and in the comprehensive plan or element as adopted, the governing body shall include a specific policy statement indicating the relationship of the proposed development of the area, including any need for mitigation of extrajurisdictional impacts, to the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region and to the state comprehensive plan, as the case may require and as such adopted plans or plans in preparation may exist.

(6) In addition to the requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:

(j) As of July 1, 1991, or by the due date of its next evaluation and appraisal report required pursuant to s. 163.3191, whichever is later, any local government which is required pursuant to paragraph (i) to prepare a plan element pursuant to paragraphs (7)(a), (b), (c), and (d), or any local government which chooses to do so, shall submit a plan amendment to address such elements within a transportation system element which is integrated with and includes the traffic circulation element required within paragraph (b) and addresses the needs of the transportation disadvantaged.

(7) The comprehensive plan may include the following additional elements, or portions or phases thereof:

(a) As a part of the circulation element of paragraph (6)(b) or as a separate element, a mass-transit element showing proposed methods for the moving of people, rights-of-way, terminals, related facilities, and fiscal considerations for the accomplishment of the element. The mass transit element must also identify existing and proposed transportation corridors for mass transit as determined under s. 337.273 for which the local government has entered into a corridor protection agreement with the Department of Transportation.

(d) As a part of the circulation element of paragraph (6)(b) or as a separate element, a plan element for the development of offstreet parking facilities, including onstreet parking, for motor vehicles and the fiscal considerations for the accomplishment of the element.

(k) As part of the future land use element of paragraph (6)(a) or as a separate element, a plan element for infill development and redevelopment. This element should identify potential infill development and redevelopment sites inside designated urban service areas and may provide for a simplified and streamlined permit and development order approval process for infill and redevelopment projects. Within said areas, a local government may utilize special regulatory and economic incentives to promote infill development and redevelopment.

Section 8. Effective July 1, 1989, or upon this act becoming a law, whichever occurs later, paragraph (a) of subsection (3), subsections (4), (7), (8), and (11), paragraph (b) of subsection (9), and paragraph (a) of subsection (10) of section 163.3184, Florida Statutes, are amended, subsections (12), (13), (14), and (15) are renumbered as subsections (13), (14), (15), and (16), respectively, and a new subsection (12) is added to said section, to read:

163.3184 Process for adoption of comprehensive plan or amendment thereto.—

(3) LOCAL GOVERNMENT TRANSMITTAL OF PROPOSED PLAN OR AMENDMENT.—

(a) Each local governing body shall, immediately following a public hearing pursuant to subsection (16) (15), transmit 10 copies of the complete proposed comprehensive plan or plan amendment to the state land planning agency for written comment. The local governing body shall also transmit a copy of the complete proposed comprehensive plan or plan amendment to any other unit of local government or government agency in the state that has filed a written request with the governing body for such plan, element, or plan amendment.

(4) INTERGOVERNMENTAL REVIEW.—The state land planning agency, upon receipt of a local government's complete proposed comprehensive plan or plan amendment shall transmit, within 5 working days after such receipt, a copy of the plan or plan amendment to various government agencies, as appropriate, for response or comment, including, but not limited to, the Department of Environmental Regulation, the Department of Natural Resources, the Department of Transportation, the water management district, and the regional planning council, and, in the case of municipal plans, to the county land planning agency. *If the complete proposed comprehensive plan or plan amendment of a local government is submitted after its scheduled submittal date, the state land planning agency shall transmit the copy of the plan or plan amendment to various government agencies, as appropriate, within the first 5 working days of the month following the month in which the state land planning agency receives the plan or plan amendment.* The governmental agencies shall provide comments to the state land planning agency and to the local government within 45 days after receipt of the plan or plan amendments. The appropriate regional planning council shall also provide its written comments to the state land planning agency within 45 days after receipt of the plan or plan amendments and shall specify any objections, recommendations for modifications, and comments of any other regional agencies to which the regional planning council may have referred the plan.

(7) LOCAL GOVERNMENT REVIEW OF COMMENTS; ADOPTION OF PLAN OR AMENDMENTS AND TRANSMITTAL.—The local government shall review the written comments submitted to it by the state land planning agency, and any other person, agency, or government. Any comments, recommendations, or objections and any reply thereto shall be public documents, a part of the permanent record in the matter, and admissible in any proceeding in which the comprehensive plan or plan amendment may be at issue. The local government, upon receipt of written comments from the state land planning agency, shall have 120 60 days to adopt or adopt with changes the proposed comprehensive plan or s. 163.3191 plan amendments. In the case of comprehensive plan amendments other than those proposed pursuant to s. 163.3191, the local government shall have 120 60 days to adopt the amendment, adopt the amendment with changes, or determine that it will not adopt the amendment. The adoption of the proposed plan or plan amendment or the determination not to adopt a plan amendment, other than a plan amendment proposed pursuant to s. 163.3191, shall be made in the course of a public hearing pursuant to subsection (16) (15). The local government shall transmit 5 copies of the adopted comprehensive plan or, in the case of plan amendments, 5 copies of the element amended and the text of the amendment to the state land planning agency within 10 5 working days after adoption. The local governing body shall also transmit a copy of the adopted comprehensive plan or plan amendment to the regional

planning agency or to any other unit of local government or governmental agency in the state that has filed a written request with the governing body for a copy of such plan, element, or plan amendment. Any local government that fails to adopt or adopt with changes the proposed comprehensive plan within the required 120 days after receipt of written comments from the state land planning agency shall be subject to the sanctions described in subsection (11) and imposed by the Administration Commission.

(8) NOTICE OF INTENT.—

(a) The state land planning agency, upon receipt of a local government's adopted comprehensive plan or plan amendment, shall have 60 45 days for review and to determine if the plan or plan amendment is in compliance with this act. *The regional planning agency, upon receipt of the adopted plan or plan amendment, shall have 45 days to review the plan or plan amendment, to determine whether it is consistent with the appropriate comprehensive regional policy plan, and to notify the state land planning agency of its determination. The regional planning agency's determination shall be based upon its written comments pursuant to subsections (4) and (5) and any changes to the plan or plan amendment as adopted.* The state land planning agency may not find a local plan to be not in compliance unless the state land planning agency has participated in the public hearing pursuant to subsection (7) if requested to do so by the applicable local government. The agency's determination of compliance shall be only based upon ~~one or both~~ of the following:

1. The state land planning agency's written comments to the local government pursuant to subsection (6); or ~~and~~

2. Any changes made by the local government to the comprehensive plan or plan amendment as adopted.

(b) During the 60-day 45-day period provided for in this subsection, the state land planning agency shall issue, ~~through a senior administrator other than the secretary,~~ as specified in the agency's procedural rules, a notice of intent to find that the local action is in compliance or not in compliance. A notice of intent shall be issued by publication of notice in the manner required by paragraph (16)(15)(c) and by mailing a copy to the local government and to persons who request notice. Notwithstanding the content requirements of paragraph (16)(15)(c), the content of the notice shall be sufficient to inform the public of the action taken.

(9) PROCESS IF LOCAL PLAN OR AMENDMENT IS IN COMPLIANCE.—

(b) The hearing shall be conducted by a hearing officer of the Division of Administrative Hearings of the Department of Administration, who shall hold the hearing in the county of and convenient to the affected local jurisdiction and submit a recommended order to the state land planning agency. The state land planning agency shall allow 10 days for the filing of exceptions to the recommended order and shall issue a final order within 30 days after receipt of the recommended order if the state land planning agency determines that the plan is in compliance. If the state land planning agency determines that the plan or plan amendment is not in compliance, the agency shall submit, within 30 days after receipt, the recommended order to the Administration Commission for final agency action.

(10) PROCESS IF LOCAL PLAN OR AMENDMENT IS NOT IN COMPLIANCE.—

(a) If the state land planning agency issues a notice of intent to find the comprehensive plan or plan amendment not in compliance with this act, the notice of intent shall be forwarded to the Division of Administrative Hearings of the Department of Administration, which shall conduct a proceeding under s. 120.57 in the county of and convenient to the affected local jurisdiction. The parties to the proceeding shall be the state land planning agency, the affected local government, and any affected person who intervenes. In the proceeding, the local government's determination that the comprehensive plan or plan amendment is in compliance is presumed to be correct. The local government's determination shall be sustained unless it is shown by a preponderance of the evidence that the comprehensive plan or plan amendment is not in compliance. The local government's determination that elements of its plans are related to and consistent with each other shall be sustained if the determination is fairly debatable.

(11) ADMINISTRATION COMMISSION.—

(a) If the recommended order is to find the comprehensive plan or plan amendment in compliance, the Administration Commission shall issue a final order pursuant to paragraph (g).

(b) If the recommended order is to find the plan or plan amendment not in compliance, the recommended order shall specify the remedial actions which would bring the plan or plan amendment into compliance. The recommended order shall also recommend the type and amount of funds and grants that should be withheld from local government pursuant to paragraphs (g) and (h) and the extent to which other sanctions in paragraph (h) shall be applied. The recommended order shall also recommend the extent to which the issuance of local development orders and permits should be prohibited. Recommendations regarding sanctions shall reasonably relate to the provisions of the plan or plan amendment found inconsistent with this part and shall take into account the nature and extent of the inconsistency. The recommendations concerning the nature and extent of the sanctions are advisory and shall not limit the Administration Commission's discretion.

(c) The local government shall, within 45 days after the receipt of the recommended order, complete the remedial actions and transmit five copies of any adopted plan amendments and other specified documents to the state land planning agency.

(d) A local government may adopt a plan amendment pursuant to a recommended order in accordance with the requirements of paragraph (16)(a). The plan amendment shall be exempt from the requirements of subsections (2)-(7). The local government shall hold a single adoption public hearing pursuant to the requirements of subparagraph (16)(b)2. and paragraph (16)(c).

(e) The state land planning agency shall, within 45 days after receipt of the adopted plan amendments and other specified documents submitted pursuant to paragraph (c), review the plan amendments and other documents, determine if the local government has completed the remedial actions specified in the recommended order, and notify the Administration Commission of its determination.

(f) If the local government fails to transmit the copies of any adopted plan amendments to the state land planning agency within 45 days after receipt of the recommended order, the state land planning agency shall notify the Administration Commission.

(g)(a) The Administration Commission shall issue a final order to find the comprehensive plan or plan amendment in compliance or not in compliance. If the Administration Commission, upon a hearing pursuant to subsection (9) or subsection (10), finds that the comprehensive plan or plan amendment is not in compliance with this act, the commission shall specify remedial actions which would bring the comprehensive plan or plan amendment into compliance. The commission may prohibit the issuance of development orders and permits by the local government which are reasonably related to the provisions of the plan or plan amendment found inconsistent with this part and may direct state agencies not to provide funds to increase the capacity of roads, bridges, or water and sewer systems within the boundaries of those local governmental entities which have comprehensive plans or plan elements that are determined not to be in compliance. The commission order may also specify that the local government shall not be eligible for grants administered under the following programs:

1. The Florida Small Cities Community Development Block Grant Program, as authorized by ss. 290.0401-290.049.

2. The Florida Recreation Development Assistance Program, as authorized by chapter 375.

3. Revenue sharing pursuant to ss. 206.60, 210.20, and 218.61 and part I of chapter 212, to the extent not pledged to pay back bonds.

(h)(b) If the local government is one which is required to include a coastal management element in its comprehensive plan pursuant to s. 163.3177(6)(g), the commission order may also specify that the local government is not eligible for funding pursuant to s. 161.091. The commission order may also specify that the fact that the coastal management element has been determined to be not in compliance shall be a consideration when the Department of Natural Resources considers permits under s. 161.053 and when the Board of Trustees of the Internal Improvement Trust Fund considers whether to sell, convey any interest in, or lease any sovereignty lands or submerged lands until the element is brought into compliance.

(i) If the Administration Commission finds that a local government has failed to submit a proposed plan within 30 days of the due date established pursuant to s. 163.3167(2) or an adopted plan within 30 days of the due date pursuant to subsection (7), the commission shall by final order impose the sanctions described in paragraphs (g) and (h) except to the extent that imposition of such sanctions would have a direct and adverse impact on another local government.

(12) COMPLIANCE AGREEMENTS.—

(a) At any time following the issuance of a notice of intent to find a comprehensive plan not in compliance with this part, the state land planning agency and the local government may enter into a compliance agreement. The compliance agreement must list each portion of the plan which is not in compliance, must specify remedial actions which the local government must complete within a specified time period in order to bring the plan into compliance, including transmittal and adoption of all necessary plan amendments, and may establish conditions under which the local government may issue development orders and permits until the state land planning agency determines that the comprehensive plan is in compliance with this part. All remedial actions shall be completed not later than 1 year after the issuance of a notice of intent to find the plan not in compliance.

(b) A compliance agreement must be approved by the local governing body at a public hearing. The public hearing to consider a compliance agreement shall be advertised at least 14 days before the public hearing in a newspaper of general circulation in the area. The advertisement shall substantially comply with the quarter-page advertisement requirements of subsection (16). The publication of the advertisement shall constitute the point of entry for affected persons who challenge provisions of the proposed compliance agreement, except for affected persons who have already intervened in the underlying s. 120.57 proceeding.

(c) Upon filing by the state land planning agency of a fully executed compliance agreement with the Division of Administrative Hearings of the Department of Administration, any administrative proceeding under s. 120.57 regarding those portions of the plan covered by the compliance agreement shall be stayed.

(d) A local government may adopt a plan amendment pursuant to a compliance agreement in accordance with the requirements of paragraph (16)(a). The plan amendment shall be exempt from the requirements of subsections (2)-(7). The local government shall hold a single adoption public hearing pursuant to the requirements of subparagraph (16)(b)2. and paragraph (16)(c). Within 10 working days after adoption of a plan amendment, the local government shall transmit five copies of the element amended, and the text of the amendment, to the state land planning agency and one copy to each governmental agency that has filed a written request for a copy of the plan amendment.

(e) The state land planning agency, upon receipt of a plan amendment adopted pursuant to a compliance agreement, shall issue a notice of intent upon the complete comprehensive plan submitted pursuant to s. 163.3167 in accordance with subsection (8). The agency's determination of compliance shall be based upon the provisions of the compliance agreement and actions which the local government agreed to take.

(f) If the local government adopts a comprehensive plan amendment pursuant to a compliance agreement and a notice of intent to find the plan in compliance is issued, the state land planning agency shall forward the notice of intent to the Division of Administrative Hearings of the Department of Administration, and the pending s. 120.57 proceeding pursuant to subsection (10) shall be dismissed by the hearing officer as to the portions of the plan subject to the compliance agreement. The dismissal shall constitute final agency action. Subsection (9) is applicable following the issuance of the notice of intent.

(g) If the local government adopts a comprehensive plan amendment pursuant to a compliance agreement and a notice of intent to find the comprehensive plan not in compliance is issued, the state land planning agency shall forward the notice of intent to the Division of Administrative Hearings of the Department of Administration, which shall consolidate the matter with the pending proceeding pursuant to subsection (10) and conduct a single proceeding under s. 120.57.

(h) If the local government fails to adopt a comprehensive plan amendment pursuant to a compliance agreement, the state land planning agency shall notify the Division of Administrative Hearings of the Department of Administration, which shall hold the pending s. 120.57 proceeding.

(i) This subsection does not prohibit a local government from amending portions of its comprehensive plan other than those which are the subject of the compliance agreement. However, such amendment to the plan may not be inconsistent with the compliance agreement, and a determination by the state land planning agency of inconsistency with the compliance agreement shall be sufficient reason to find the plan amendment not in compliance under this section.

Section 9. Effective July 1, 1989, or upon this act becoming a law, whichever occurs later, paragraph (c) of subsection (1) of section 163.3187, Florida Statutes, is amended, and paragraph (d) is added to said subsection, to read:

163.3187 Amendment of adopted comprehensive plan.—

(1) Amendments to comprehensive plans adopted pursuant to this part may be made not more than two times during any calendar year, except:

(c) Any local government comprehensive plan amendments of the future land use map directly related to proposed small scale development activities may be approved without regard to statutory limits on the frequency of consideration of amendments to the local comprehensive plan under the following conditions:

1. The proposed amendment is a residential land use of 5 acres or less and a density of 5 units per acre or less or involves other land use categories, singularly or in combination with residential use, of 3 acres or less and:

a. The cumulative effect of the above amendments ~~condition~~ shall not exceed 30 acres annually;

b. The proposed amendment does not involve the same property more than once a year; ~~and~~

c. The proposed amendment does not involve the same owner's property within 200 feet of property granted a change within a period of 12 months; ~~and~~

d. Public facilities and services are available to support the proposed uses consistent with ss. 163.3177(10)(h) and 163.3202(2)(g).

2. By March 1 of each year, the local government shall provide a ~~semiannual~~ report to the state land planning agency, summarizing for the previous ~~by July 1 and by December 31 of each calendar year~~ summarizing the type and frequency of use of the exemptions and the action taken on each by the local government; and

3. A local government is not required to comply with the *quarterpage publication* requirements of s. 163.3184(16)(15)(c), for plan amendments pursuant to this paragraph if the local government substantially complies with the *content* provisions in s. 163.3184(16)(15)(c) in a legal advertisement in a newspaper of general circulation within the local government's jurisdiction.

Plan amendments adopted pursuant to paragraph (1)(c) shall not be subject to a review and determination of compliance by the state land planning agency until the local government has adopted a comprehensive plan pursuant to s. 163.3184. *Within 5 working days after adoption of the plan amendment, the local government shall transmit to the state land planning agency a copy of the ordinance and one copy of the plan amendment. The state land planning agency shall review the annual reports for irregularities and misuse of these procedures. The state land planning agency shall prepare a report to the Legislature by January 1 of each year, 1989, setting forth its findings relating to the type and frequency of use of these exemptions and its recommendations.*

(d) Any comprehensive plan amendment required by a compliance agreement pursuant to s. 163.3184(12) may be approved without regard to the provisions of this subsection on the frequency of adoption of amendments to the local comprehensive plan.

Section 10. Effective July 1, 1989, or upon this act becoming a law, whichever occurs later, subsection (1) of section 163.3191, Florida Statutes, is amended to read:

163.3191 Evaluation and appraisal of comprehensive plan.—

(1) The planning program shall be a continuous and ongoing process. The local planning agency shall prepare periodic reports on the comprehensive plan, which shall be sent to the governing body and to the state

land planning agency at least once every 5 years after the adoption of the comprehensive plan, *except that the comprehensive plan adopted pursuant to s. 163.3167(2) shall be evaluated within 3 years after it is adopted. Reports may be transmitted at lesser intervals as may be required or upon request of the governing body. It is the intent of this act that adopted comprehensive plans be periodically updated through the evaluation and appraisal report.*

Section 11. Effective July 1, 1989, or upon this act becoming a law, whichever occurs later, subsections (1) and (2) of section 163.3202, Florida Statutes, are amended to read:

163.3202 Land development regulations.—

(1) Within 1 year after *issuance of the notice of intent by the state land planning agency pursuant to s. 163.3184(8)* ~~submission of its revised comprehensive plan for review pursuant to s. 163.3167(2)~~, each county, each municipality required to include a coastal management element in its comprehensive plan pursuant to s. 163.3177(6)(g), and each other municipality in this state shall adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan.

(2) Local land development regulations shall contain specific and detailed provisions necessary or desirable to implement the adopted comprehensive plan and shall as a minimum:

(a) Regulate the subdivision of land.;

(b) Regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open space.;

(c) Provide for protection of potable water wellfields.;

(d) Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management.;

(e) Ensure the protection of environmentally sensitive lands designated in the comprehensive plan.;

(f) Regulate signage.;

(g) Provide that public facilities and services meet or exceed the standards established in the capital improvements element required by s. 163.3177 and are available when needed for the development, or that development orders and permits are conditioned on the availability of these public facilities and services necessary to serve the proposed development. Not later than 1 year after its due date established by the state land planning agency's rule for submission of local comprehensive plans pursuant to s. 163.3167(2), a local government shall not issue a development order or permit which results in a reduction in the level of services for the affected public facilities below the level of services provided in the comprehensive plan of the local government.

(h) Ensure safe and convenient onsite traffic flow, considering needed vehicle parking, *including onstreet parking.*

(i) *Ensure the protection of existing and proposed transportation rights-of-way and corridors designated in the comprehensive plan.*

Section 12. (1) *The change in the time for adopting local land development regulations contained in this act, amending subsection (1) of s. 163.3202, Florida Statutes, is hereby declared to be retroactive and shall apply to all local governments which have adopted comprehensive plans or plan amendments pursuant to s. 163.3167, Florida Statutes, on or before the effective date of this section. Therefore, actions against, or requests of, a local government may not be initiated under subsection (4) of s. 163.3202, Florida Statutes, or s. 163.3213, Florida Statutes, until 1 year after the date of issuance of the notice of intent, and all pending actions against, or requests of, local government under subsection (4) of s. 163.3202, Florida Statutes, or s. 163.3213, Florida Statutes, are hereby continued until 1 year after the date of issuance of the notice of intent concerning that local government's plan.*

(2) This section shall take effect July 1, 1989, or upon this act becoming a law, whichever occurs later.

Section 13. Effective July 1, 1989, or upon this act becoming a law, whichever occurs later, section 163.3216, Florida Statutes, is created to read:

163.3216 Sector planning process.—

(1) *PURPOSE.*—In order to assist in the implementation of its local comprehensive plan, a local government may adopt a sector plan as an amendment to its comprehensive plan. A sector plan will allow a local government, in cooperation with the public, to address the impact of development on natural, environmental, and historical resources and to ensure the provision of the public facilities and services needed to serve that development.

(2) *DEFINITIONS.*—As used in this section, the term:

(a) "Sector plan" means a plan, or any amendment thereto, that is a more detailed plan for a defined planning area than the adopted local government comprehensive plan, is consistent with such comprehensive plan, and otherwise meets the requirements of this section.

(b) "Sector planning area" means the area encompassed by a sector plan. The land parcels comprising the sector planning area must be contiguous and must exceed 5 gross acres.

(3) *PREPARATION, ADOPTION, AND AMENDMENT OF SECTOR PLANS.*—

(a)1. This section applies only in those jurisdictions in which the local government has authorized, by resolution or local ordinance, sector planning pursuant to the provisions of this section. A local government, or a person who represents property ownership interest in at least 51 percent of the total lands within the sector planning area, may sponsor the preparation and adoption of a sector plan.

2. A local government may proceed with the preparation of a sector plan only after the local government comprehensive plan has been found to be in compliance by the state land planning agency and the local government has adopted land development regulations to implement the comprehensive plan.

3. It shall be the responsibility of the local government to prepare a sector plan for an area under its jurisdiction; however, if the sponsor of the sector plan is other than the local government, the local government may by written agreement authorize the sponsor to prepare some or all of a proposed sector plan.

(b)1. A sector plan shall be adopted as an amendment to the local government comprehensive plan as prescribed by the provisions of s. 163.3184(3), (4), (5), (6), (7), and (16), in addition to any other requirements for the preparation or adoption of a sector plan which are provided in this section.

2. A local governing body may consider the adoption of a sector plan without regard to the provisions of s. 163.3187(1) regarding the frequency of adoption of amendments to the local comprehensive plan.

(c) Amendments to an adopted sector plan must comply with the provisions of s. 163.3187(1) regarding the frequency of adoption of amendments to the local comprehensive plan; however, a sector plan amendment incorporating a development of regional impact may be considered for adoption by the local government without regard to the provisions of s. 163.3187(1) regarding the frequency of adoption of amendments to the local comprehensive plan.

(4) *PLANNING AND REVIEW FEES.*—

(a) The local government may impose a planning fee upon persons that seek governmental approvals for development within the sector planning area. Such planning fees, in the aggregate, must defray but not exceed the cost of the preparation, adoption, and administration of the sector plan. The fee charged each landowner must be a prorated amount based on ownership of property in the sector or another reasonable basis. It is the intent of the Legislature in providing for such fees to charge persons who benefit from sector plans for the costs of developing those sector plans.

(b) The appropriate regional planning agency may calculate and collect a fee in an amount that does not exceed the cost of performing the review of a sector plan.

(5) *CONTENTS OF A SECTOR PLAN.*—A sector plan must contain:

(a) A statement certifying and demonstrating that the sector plan is consistent with the local government comprehensive plan and a description of how the sector plan will further the goals and policies of the local comprehensive plan.

(b) A master development plan for the sector planning area.

(c) A map of existing and proposed land uses by type and density, including development phasing, if applicable.

(d) Provisions to ensure that all public facilities, as defined by s. 163.3164(23), and those related services which the local government deems necessary to operate the facilities necessitated by the development allowable under the sector plan are available concurrent with the impacts of development. In lieu of, or in addition to, such provisions, the sector plan may incorporate an executed development agreement, pursuant to the Florida Local Government Development Agreement Act, that has been entered into between the local government and the sponsor of the sector plan to provide the necessary facilities and services.

(e) An assessment of the impacts of development allowable under the sector plan that would affect lands outside the boundaries of the sector plan, including lands in other jurisdictions, and the conditions and provisions to mitigate those impacts.

(f) An identification of the natural, environmental, and historical resources of state or regional significance for state and regional review, and of local significance for local review, potentially adversely affected by development under the sector plan and the provisions and conditions to protect those resources or mitigate any adverse effects.

(g) Provisions for the equitable distribution of development rights under the sector plan.

(h) Identification of the monitoring procedures and the local official responsible for assuring compliance with the conditions of the sector plan.

(i) A description of all land development regulations that will apply to development under the sector plan.

(j) A date by which the local government agrees that the sector plan and the sector planning area shall not be subject to down-zoning, unit density reduction, or intensity reduction, unless the local government can demonstrate that substantial changes in the conditions underlying the adoption of the sector plan have occurred, that the sector plan was based on substantially inaccurate information, or that the change is clearly established by local government to be essential to the public health, safety, or welfare.

(k) Identification of any other conditions or requirements which the local government determines to be necessary or desirable for the implementation of the local government comprehensive plan.

(6) *REGIONAL REVIEW.*—The review of the sector plan by the regional planning agency shall be limited to the information required in a sector plan under paragraphs (5)(e) and (f); however, nothing shall preclude the regional planning agency from conducting a review of other information in the sector plan for the local government through contractual agreement.

(7) *RULE AUTHORITY.*—The state land planning agency shall adopt rules, including standards and criteria, to ensure uniform construction, application, preparation, review, and adoption of sector plans, and annual reports on sector plans, by local government.

(8) *APPEAL STANDING.*—An affected person who has standing to challenge an amendment to a local government comprehensive plan amendment has standing to challenge a sector plan or amendment to a sector plan, but such challenge is limited to the issue of the consistency of the sector plan or amendment to the sector plan with the local government comprehensive plan.

(9) *AUTHORITY FOR SECTOR PLANNING DEMONSTRATION PROJECTS.*—

(a) The state land planning agency is hereby authorized to carry out sector planning demonstration projects with up to three local governments that have been authorized, by resolution or local ordinance, to do sector planning pursuant to the provisions of this section.

(b) As part of its authority to conduct sector planning demonstration projects under this section, the state land planning agency shall:

1. Have the authority to waive any or all provisions of s. 380.06 as such section would apply to a development undertaken as part of a sector planning demonstration project.

2. Prepare a final report to be submitted to the President of the Senate and the Speaker of the House of Representatives no later than July 1, 1993, on the effect of the sector planning demonstration projects conducted under this section, including, but not limited to, an assessment of the manner in which extrajurisdictional impacts of development were considered and successfully resolved.

(10) This section shall stand repealed on July 1, 1994. All sector plans adopted prior to that date shall remain in effect until modified or repealed by the appropriate local government.

Section 14. Effective July 1, 1989, or upon this act becoming a law, whichever occurs later, section 186.009, Florida Statutes, is created to read:

186.009 Legislative review of state comprehensive plan; Strategic Growth Management Implementation Plan.—

(1) The Legislature shall undertake a thorough review, prior to its next regular session, of the goals, policies, and objectives of the state comprehensive plan.

(2)(a) By January 15, 1990, the Executive Office of the Governor shall provide a report to the presiding officers of the Legislature which shall:

1. Recommend changes in the format of state agency functional plans, and the reasons therefor.

2. Recommend changes to the annual report requirement contained in s. 186.031, and the reasons therefor.

3. Recommend changes to the capital improvements planning of state agencies and the Executive Office of the Governor, and the reasons therefor.

(b) The Executive Office of the Governor, assisted by the Department of Community Affairs, shall prepare a proposed Strategic Growth Management Implementation Plan to provide guidance for the development of plans and capital improvement programs by governmental entities influencing Florida's growth. The proposed plan shall be submitted to the Administration Commission, the Speaker of the House of Representatives, and the President of the Senate by March 1, 1990. The plan shall be adopted by the Administration Commission as a rule pursuant to chapter 120 by no later than July 1, 1990. Such rule shall take effect December 1, 1990, and shall apply only to state agencies.

(3) The Strategic Growth Management Implementation Plan shall include the goals and measurable objectives for growth and development in the state.

(4) To implement the goals and measurable objectives established under subsection (3), the Strategic Growth Management Implementation Plan shall include, but not be limited to:

(a) Strategies state agencies will use to encourage or limit various types of growth.

(b) Identification of areas of state environmental significance and strategies to protect the natural values of these areas and prohibit their urbanization through regulation, acquisition of interests in property, and incentives and disincentives to steer growth away from the areas identified.

(c) Strategies for achieving an equitable system of taxation to accomplish the strategies included in the plan.

(d) Strategies for ensuring that there is an integrated approach at all levels of government toward accomplishing the concurrency requirements set forth in ss. 163.3177(10)(h) and 163.3202(2)(g).

(e) Strategies for ensuring that state agencies administer their regulatory, construction, and funding programs so as to encourage the efficient provision of urban services and protect areas of state environmental significance.

(f) Strategies to establish state solutions which will assist local governments in providing affordable housing.

(g) Strategies to resolve or reduce intergovernmental disputes in determining which unit of government will be the provider of particular urban facilities and services.

(h) Other strategies as are necessary to provide an integrated and comprehensive approach to growth and development and which are consistent with the state comprehensive plan.

(5) All rules of state agencies adopted or amended after the effective date of the rule and all expenditures for state agency purposes for capital improvements after the effective date of the rule shall be consistent with the Strategic Growth Management Implementation Plan, as it may be amended from time to time, except to the extent that the rule or expenditure cannot be consistent with the Strategic Growth Management Implementation Plan and still adhere to specific direction given to the agencies by the Legislature through law or appropriation.

Section 15. Effective October 1, 1990, section 339.178, Florida Statutes, is created to read:

339.178 Levels of service for the State Highway System.—

(1) The definition of the term "State Highway System" provided in s. 334.03 is incorporated by reference in this section.

(2)(a) The Department of Transportation shall establish and adopt, by rule, level-of-service standards for sections of roads on the State Highway System. In establishing level-of-service standards the Department of Transportation shall consider and balance:

1. Existing land development patterns, land development patterns in approved local government comprehensive plans, and policies and goals in the comprehensive regional policy plans and the state comprehensive plan;

2. Design and operational parameters as established by the Department of Transportation in accordance with Federal Highway Administration guidelines;

3. The safe and efficient movement of people and goods;

4. The geographic location of individual roads or a portion of a road, including, but not limited to, whether the road or a portion of a road is within an existing urbanized area, an incorporated place outside an existing urbanized area, an area projected to become part of an urban or urbanized area within a planning period of approximately 20 years, or a rural area;

5. The functional classification of the road; and

6. Existing access and access-management systems available to the department to maintain and enhance the capacity of state roads or transportation systems.

(b) In establishing level-of-service standards, the Department of Transportation shall designate sections of roads on the State Highway System for special consideration where:

1. The existing level of service is at the lowest established level-of-service standard and major capacity improvements are not included in the Department of Transportation's adopted work program or the capital improvement element of the local government's comprehensive plan;

2. The road is constrained either physically or environmentally from major capacity improvements; or

3. The road is parallel to a transit facility that is supported by local government efforts to promote that transit facility.

The Department of Transportation shall, in connection with such special state road designation, establish standards and methodologies on the amount of acceptable increases in the traffic volume on such designated roads on the State Highway System until the incorporation of major capacity improvements in the department's adopted work program or the capital improvement element of the local government's comprehensive plan. Such standards and methodologies shall include, but not be limited to, consideration of the range of impact of land densities and traffic flows to existing interchanges and major access points and specific transportation corridor policies and programs.

(c) Level-of-service standards established for roads on the State Highway System shall be financially feasible based on current operating conditions and currently available revenue sources which are projected in the department's adopted work program or the capital improvement element of the local government's comprehensive plan. Nothing contained herein shall be construed or interpreted to preempt the provisions of chapter 9J-5, Florida Administrative Code, as amended.

(d) The level of service standards shall be established in a manner that divides the State Highway System into sections of varying lengths. These sections may be continuous as long as highway and traffic characteristics remain significantly unchanged. Significant changes in such characteristics shall require the identification of new sections. Factors to be considered in establishing termini of sections include, but are not limited to:

1. A major change in access points or a change identified in an adopted access management classification;
2. A major change in existing land use, intensities, and densities;
3. A major change in land use, intensities, and densities projected in an approved local government comprehensive plan;
4. A change in the number of through lanes;
5. An intersecting principal arterial or freeway;
6. A change in functional classification;
7. A major change in traffic volume.

(3) The Department of Transportation shall hold at least one public hearing in each district at least 30 days prior to the filing of the notice of rulemaking. Such public hearing shall be noticed to the public in a manner similar to advertisement requirements for a public hearing in s. 163.3184(16)(c). Immediately following the public hearing, the affected local government may submit comments to the Department of Transportation. Adoption of rules establishing level-of-service standards on roads on the State Highway System shall not be subject to a rule challenge under s. 120.54(4) or drawout proceedings under s. 120.54(17), but shall be subject to challenge under s. 120.56. However, pursuant to s. 120.56, a local government, a regional planning council, or any affected person as defined in s. 163.3184(1) may challenge the establishment or modification of a level of service as applied to a road or segment of road on the State Highway System within the local government's jurisdiction.

Section 16. (1) The Florida Transportation Commission shall perform a study of the functional classification of roads on the State Highway System. The commission shall report its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than September 15, 1989. In its report, the commission shall, at a minimum:

(1) Determine the fiscal impact and any other effects of a transfer of responsibility to the counties, if made pursuant to s. 335.04, Florida Statutes, for those urban minor arterials on the State Highway System that should be reclassified and transferred.

(2) Evaluate the appropriateness of transferring responsibility to the counties for those minor arterial extensions into urban areas that are on the State Highway System. In addition, determine the fiscal impact and other effects of a transfer of responsibility for such roads and recommend a reasonable timeframe for the phased transfer of such roads, if different than that already provided by law.

(3) Evaluate existing requirements for establishing levels of service on public roads and recommend whether procedures for setting levels of service on segments and corridors of the State Highway System should be established and what those procedures should be.

(4) Provide an estimate of the costs for improving the State Highway System from the current, actual operating level of service standards to the financially feasible level of service standards established by the department and an estimate of the costs for improving the State Highway System from the financially feasible level of service standards to those levels of service standards that are derived from the Highway Capacity Manual Special Report 209, Transportation Research Board, National Research Council, 1985, and as defined by the Florida Highway System Level of Service Standards and Guidelines Manual dated January 1989.

(2) This section shall take effect July 1, 1989, or upon becoming a law, whichever occurs later.

Section 17. Effective July 1, 1989, or upon becoming a law, whichever occurs later, section 163.709, Florida Statutes, is created to read:

163.709 Analysis of local government funding.—

(1) To assist the Governor and Legislature in making decisions relating to shared state-local programs and funding, the Advisory Council on Intergovernmental Relations shall conduct an annual assessment of local government funding and publish an index of average taxpayer burden in each local jurisdiction by December 1 of each year.

(2) The assessment of local government funding shall be based upon the most recent financial information available and shall contain an analysis of the revenue sources available to the local government, including shared state resources, and an evaluation of the extent each tax source is utilized.

(3) The index of average taxpayer burden shall be developed by the council and shall reflect a composite of local taxes and fees levied by all local governmental units, including special districts and regional agencies, paid by an average household. In addition to the composite index, the council may provide analyses of individual services which are supported by local taxes or fees. In evaluating individual services, the council may survey and report its evaluation of the comparative effect of private providers, as well as various governmental providers, of the same services.

Section 18. Effective upon this act becoming a law, subsection (2) of section 335.182, Florida Statutes, 1988 Supplement, is amended to read:

335.182 Regulation of connections to roads on State Highway System; definition.—

(2) Counties, municipalities, or transportation or expressway authorities may adopt standards for access permitting on the State Highway System which meet or exceed the department's standards, provided that such standards may not be inconsistent with standards adopted by the department. ~~Except when the department has delegated its access-permitting function to another permitting authority pursuant to s. 335.189,~~ Permits from both the department and the other permitting authority shall be required for connections to the State Highway System. Where the permit conditions of such permitting authority are inconsistent with the permit conditions required by the department, the department's requirements shall control.

Section 19. Effective upon this act becoming a law, section 335.1825, Florida Statutes, 1988 Supplement, is amended to read:

(Substantial rewording of section. See s. 335.1825, F.S., 1988 Supp., for present text.)

335.1825 Access permit required; conditions; denial by department; local government action; expiration; closing of unpermitted connections.—

(1) Access to roads on the State Highway System shall be allowed only when authorized by a permit issued by the department and any other permitting authority authorized to do so pursuant to this act.

(2) Subject to all applicable provisions of chapter 120, access permits may be issued subject to conditions requiring the performance of certain actions by the permittee, including the use of joint-use connections, improving road segments on the State Highway System, connecting to existing local road systems that already connect to the State Highway System, or other actions that ensure the safe and efficient use of the State Highway System while ensuring that adopted level of service standards are maintained and are not reduced.

(3)(a) No access permit shall be issued if the estimated traffic volume from the proposed connection would cause a reduction in the level of service standard established by the department or in an approved local government comprehensive plan which has been deemed in compliance pursuant to part II of chapter 163.

(b) If the department denies an access permit pursuant to this subsection, the local government with jurisdiction for approving the development associated with the access permit may deny the development approval. Action in such case by the permittee shall be against the department.

(c) If the department denies an access permit pursuant to this subsection and the local government with jurisdiction for approving the development associated with the access permit approves the development, the local government shall, before issuing a final development order:

1. Undertake such improvements as are required to ensure that adopted level of service standards are maintained and are not reduced; or

2. Require the permittee, as a condition of development approval, to undertake such improvements; or

3. Require, as a condition of development approval, that the development be phased over time to correspond with planned road improvements or that the intensity or density of the development be changed so that the adopted level of service standards are maintained and are not reduced; or

4. Reduce the level of services standard for the affected road segment in order to meet the requirements of s. 163 3202(2)(g). The local government shall conduct a special hearing to take public testimony on the effects of the proposed development on the transportation system, especially the adopted level of service standard. Such hearing shall be in addition to any hearings required in order to adopt amendments to the local comprehensive plan or the capital improvements element pursuant to part II of chapter 163. A local government shall not use this option if the department officially determines that a reduction in the level of service standard is not in the best interests of the state because a particular road segment is critical to the functioning of the State Highway System. The hearing required by this subparagraph shall be held after 5 p.m. on a weekday and notice thereof shall be advertised at least 7 days prior to the hearing in accordance with the requirements of s. 125.66(5)(b)2.; the form of the notice shall be determined by the local government but shall conform to the intent of s. 125.66(5)(b)2.

If the local government complies with the requirements of subparagraph 1., subparagraph 2., subparagraph 3., or subparagraph 4., the department shall approve the access permit if all other requirements of this act have been met.

(4) All access permits issued pursuant to this act shall automatically expire and become invalid 1 year after issuance if the connection or required improvements are not constructed by such time.

(5) Except as otherwise provided in this act, an unpermitted connection shall be closed by the department or other permitting authority which may remove or install barriers across the connection. Reasonable notice shall be provided by the department or permitting authority to the property owners served by the connection to be closed. The department shall prescribe by rule its procedures for preventing the operation of unpermitted connections and for providing the notice required by this subsection.

Section 20. Effective upon this act becoming a law, section 335.185, Florida Statutes, 1988 Supplement, as created by chapter 88-224, Laws of Florida, is hereby repealed.

Section 21. Effective upon this act becoming a law, subsection (1) of section 335.187, Florida Statutes, 1988 Supplement, is amended to read:

335.187 Unpermitted connections; existing access permits; nonconforming permits; modification and revocation of permits.—

(1) Unpermitted connections to the State Highway System in existence on July 1, 1988, which have been in continuous use for a period of 1 year or more shall not require the issuance of a permit and may continue to provide access to the State Highway System. However, a permitting authority may require that a permit be obtained for such a connection if a significant change occurs in the use, design, or traffic flow of the connection or of the state highway to which it provides access. If a permit is not obtained, the connection may be closed pursuant to s. 335.1825(5)(a).

Section 22. Effective upon this act becoming a law, paragraph (c) of subsection (2) of section 335.188, Florida Statutes, 1988 Supplement, is amended to read:

335.188 Access management standards; access control classification system; criteria.—

(2) The principal component of the roadway access management standards shall be an access control classification system for all routes on the State Highway System, the purpose of which shall be to provide specific standards to be adhered to in the planning for and approval of access to roads on the State Highway System. Such classification system shall be developed consistent with the following:

(c) The rule required by this section shall provide that assignment of a road segment to a specific access category be made in consideration of the following criteria:

1. The current functional classification as well as potential future functional classification of each road on the State Highway System;

2. Existing and projected traffic volumes;

3. The adopted level of service standard for the road or road segment;

4. Existing and projected state, local, and metropolitan planning organization transportation plans and needs;

5. Drainage requirements;

6. The character of lands adjoining the highway;

7. Local land-use plans and zoning, as set forth in comprehensive plans;

8. The type and volume of traffic requiring access;

9. Other operational aspects of access;

10. The availability of reasonable access by way of county roads and city streets to a state highway as an alternative to a connection to a state highway; and

11. The cumulative effect of existing and projected connections on the State Highway System's ability to provide for the safe and efficient movement of people and goods within the state.

Section 23. Effective upon this act becoming a law, section 335.189, Florida Statutes, 1988 Supplement, is amended to read:

335.189 Authority of Delegation of access-permitting function to other governmental entities to permit access; permitting process; interlocal agreements.—

(1) The department may authorize is authorized to delegate its access-permitting function to those counties, municipalities, or expressway or transportation authorities it finds to be financially and technically capable of implementing such responsibility to act as access permitting authorities pursuant to this act the delegation.

(2) The department may grant such only delegate its permitting authority only when regulations have been adopted by the local governmental entity that address, at a minimum, all current access standards adopted by the department. The local regulations must meet or exceed those standards currently adopted by the department. Additional standards not contained in the department's standards which exceed such standards may be included.

(3) The department is authorized to enter into interlocal agreements to carry out the provisions of this act. Such agreements shall contain the following:

(a) A provision determining responsibility for any liabilities that might be incurred through performance of the interlocal agreement;

(b) A requirement that the department be provided notification of intent to issue a permit within a reasonable period of time before the permit is issued;

(c) A procedure for allowing the department to challenge the intent to issue a permit by the local governmental entity;

(d) A provision setting forth a procedure for relocating, altering, or closing of a connection when required by the department for good cause;

(e) A provision that any changes to the local access regulations that result in standards which do not meet or exceed the standards of the department shall provide grounds for rescinding or terminating the agreement; and

(f) A provision that a determination by the department that a particular road segment is critical to the functioning of the State Highway System allows the department to invalidate a permit issued by the local governmental entity; and

(g)(f) A provision that any changes to the department's standards shall be included in the local access regulations.

(4) A local governmental entity may request that permitting authority be granted ~~delegated~~ by the department. Upon a determination by the department that the requirements of this section have been met, such ~~authority delegation~~ shall be effective as provided in an interlocal agreement.

(5) A grant of authority ~~delegation~~ pursuant to this section may be rescinded if the secretary determines that such ~~authority delegation~~ is not being carried out in accordance with the interlocal agreement.

Section 24. Effective July 1, 1989, or upon this act becoming a law, whichever occurs later, section 163.3203, Florida Statutes, is created to read:

163.3203 *Impact fees.*—

- (1) This section may be cited as the "Florida Impact Fee Law."
- (2) Impact fees shall be assessed no later than at the time of the issuance of a building permit. Payment of the impact fee shall occur no later than the issuance of a certificate of occupancy or other final action authorizing the intended use of a structure.
- (3) Any governmental entity imposing a new impact fee or increasing the limit of an existing impact fee on residential property subsequent to October 1, 1989, shall make a legislative finding as to the effect of such impact fee on affordable housing within its jurisdictional limits. Such legislative finding shall be in the ordinance imposing such impact fee or in any documentation establishing the methodology for the calculation of the impact fees. Factors to be considered in making such legislative finding shall include, but not be limited to, the cumulative effect of all impact fees imposed on residential property by all governmental units within the jurisdiction, the need and availability of affordable housing within the jurisdiction or within areas of customary commuting distance, and the availability within the jurisdictional limits of the governmental entity of established programs to provide assistance to persons and families in obtaining affordable housing.
- (4) After adoption of a capital improvement element pursuant to s. 163.3177(3), a governmental entity may not impose a new impact fee or raise the level of an existing impact fee without having identified the type of facility or improvement for which the fee is being collected in the capital improvement element, or, for a facility or improvement not required to be in the capital improvement element, in a separate document adopted by the governmental entity. The ordinance imposing the impact fee shall establish a methodology for determining the impacts of new or expanded development on the facility or improvement to be funded at least in part by impact fees. The impact fees in the aggregate may not exceed such impact and shall be reduced by the future revenue credit provided in paragraph (5)(a).
- (5) A governmental entity collecting an impact fee shall adopt a method for providing credits against the amount of the impact fee that can be imposed for:
 - (a) Future revenues generated by new or expanded development which are allocated by the governmental entity for the same type capital facility or improvement for which the impact fee has been collected. The timeframe for consideration of future revenues shall be consistent with the planning timeframe of the capital improvement element, or, for a facility or improvement not required to be in the capital improvements element, a timeframe adopted by the local government in a separate document;
 - (b) Dedications of property and construction of a specific facility or improvement identified in the capital improvement element, or the separate document adopted by the governmental entity, which has a capacity in excess of that required to accommodate the development or burden imposed by the existence of the development; and
 - (c) Other mandatory monetary contributions exacted for the same type of capital improvement for which the impact fee has been collected.

(6) Governmental entities may recoup the proportionate share of the public facilities capital improvement costs of excess capacity in existing capital facilities where such excess capacity has been provided in anticipation of the needs of new development.

(7) A county or municipality may, by ordinance, provide for the waiver of any or all impact fees for the purposes of promoting affordable housing or urban redevelopment.

(8) This section does not alter, diminish, or increase the impact fee criteria as established by case law of the state other than to provide for the specific conditions and limitations provided in this section.

(9) This section does not limit a governmental entity from requiring construction of or contributions of internal onsite facilities or facilities built to serve the development to alleviate the impact caused by development if required by local, state, or federal regulations.

Section 25. Effective January 1, 1990, section 192.039, Florida Statutes, is created to read:

192.039 *Fractional-year assessment roll.*—

- (1) A structure or other improvement to real property which is not substantially complete as of January 1 of the prior year but which, prior to January 1 of the current year, is substantially complete, shall be assessed and listed on a fractional-year assessment roll in addition to being assessed and listed on the current real property tax roll.
- (2) The property appraiser shall annually prepare, publish, and extend taxes against the fractional-year assessment roll. All provisions of law relating to preparation, publication, and approval of real property assessment rolls and extension and collection of taxes shall apply to the fractional-year assessment roll, except that:
 - (a) The assessed value shall be the just value of comparable structures or improvements on January 1 of the prior year, prorated in proportion to the number of days in that year. A structure or other improvement to real property shall be placed on the fractional year assessment roll when the improvement or some self-sufficient unit within it is occupied or otherwise used, or 60 days after substantial completion of the improvement or the self-sufficient unit, whichever occurs first.
 - (b) In lieu of the information specified in s. 200.069, the taxpayer for each parcel listed on the fractional-year assessment roll shall be sent by first-class mail a notice containing the prorated assessment, the location of the property, the date from which the proration was made, and notice of the taxpayer's right to confer with the property appraiser and file a petition with the property appraisal adjustment board, as described in s. 200.069(8). The department shall specify the format of the notice by rule which shall include a brief statement explaining that structures or improvements completed during the year are back-assessed for the prior year and currently assessed for the present year.
 - (c) When extending taxes against the fractional-year assessment roll, the property appraiser shall use millage rates applicable in the prior year, and shall apply them based on the jurisdictional boundaries of the various taxing authorities in the prior year. However, taxes may not be extended for any taxing authority which does not levy a millage rate in the current year.
 - (d) The property appraiser may not certify value with respect to the fractional-year assessment roll and taxes levied thereon are not subject to the rollback and notice requirements of ss. 200.065 and 197.342.

(e) All exemptions authorized in chapter 196 based on ownership and use of property shall apply to property listed on the fractional-year assessment roll. The amount of the exemption shall be prorated in proportion to the number of days in the prior year that the property was owned and used for exempt purposes, but in no event shall the proportion exceed that determined under paragraph (a). The property appraiser shall grant or deny the exemption based on the original application for exemption made for the current year pursuant to s. 196.011. An additional exemption application may not be required with respect to the fractional-year assessment roll. Applications which claim a partial year exemption shall specify the time period for which exemption is sought. In situations where the applicant seeking an exemption has previously applied for and received an exemption for other property which no longer qualifies for an exemption based on the applicant's ownership and use, the exemption granted for the fractional-year assessment roll shall be reduced by the amount of the exemption granted on the property no longer in use.

Section 26. Effective January 1, 1990, subsection (1) of section 193.052, Florida Statutes, is amended to read:

193.052 *Preparation and serving of returns.*—

- (1) The following returns shall be filed:

(a) Tangible personal property; ~~and~~

(b) Structures or improvements to real property which are substantially completed, less real property removed, subsequent to January 1 of the prior year and which, prior to January 1 of the current year, have been substantially completed. Such return shall include a statement setting forth the date on which the structure or improvement was substantially completed; and

(c)(b) Property specifically required to be returned by other provisions in this title.

Section 27. (1) Each unit of local government that issues a building permit and each lending institution that issues a closing statement in this state shall advise the permit applicant or borrower of the provisions of s. 193.052(1)(b), Florida Statutes, and the applicable filing deadline and penalties.

(2) This section shall take effect January 1, 1990.

Section 28. *If any law which is amended by this act was also amended by a law enacted at the 1989 Regular Session of the Legislature, such laws shall be construed as if they had been enacted by the same session of the Legislature and full effect should be given to each if that is possible.*

Section 29 Unless otherwise provided herein, this act shall take effect upon becoming a law.

Amendment 2 to House Amendment 1—On page 53, line 16, strike “lending institution” and insert: person

Amendment 4 to House Amendment 1—On page 51, line 15, after “used” insert: *for the purpose for which it was constructed*

Amendment 2—On page 5, lines 21-31, and page 6, lines 1-2, strike all of said lines and insert: assessment roll; providing for act to be

On motions by Senator Meek, the Senate refused to concur in the House amendments and the House was requested to recede. The action of the Senate was certified to the House.

RECESS

On motion by Senator Scott, the Senate recessed at 8:30 p.m. to reconvene upon call of the President.

CALL TO ORDER

The Senate was called to order by the President at 10:46 p.m. A quorum present—30:

Mr. President	Dudley	Kiser	Stuart
Bankhead	Forman	Langley	Thomas
Beard	Gardner	Malchon	Thurman
Bruner	Girardeau	Margolis	Walker
Casas	Grant	Meek	Weinstock
Childers, D.	Grizzle	Myers	Woodson-Howard
Childers, W. D.	Johnson	Scott	
Deratany	Kirkpatrick	Souto	

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed Senate Bills 4-A and 5-A.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

ADJOURNMENT

On motion by Senator Scott, the Senate adjourned sine die at 10:51 p.m.