SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 40-E

SPONSOR: Senator Clary

SUBJECT: Economic Development

DATE: April 29, 2002 REVISED: ______ ______ ______ ______

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Birnholz	Maclure	CM	Favorable
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill makes several changes to state economic development programs and incentives. These changes include:

- expanding the eligible purposes for which Rural Infrastructure Fund grants may be used;
- broadening Rural Infrastructure Fund grant eligibility criteria, thereby increasing the number of communities that may obtain such grants;
- improving the efficiency of the budgeting process for the Qualified Defense Contractor Tax Refund Program (QDC Program) and the Qualified Target Industry Tax Refund Program (QTI Program);
- expanding the QDC Program's and the QTI Program's refund-prorating provisions for participating firms; and
- allowing QDC Program businesses and QTI Program businesses that fail to meet performance targets to request a temporary exemption from automatic termination from the programs.

This bill substantially amends the following sections of the Florida Statutes: 212.08, 288.0655, 288.095, 288.1045, 288.106, and 288.108.

II. Present Situation:

Rural Infrastructure Fund

In 1999, the Legislature created the Rural Infrastructure Fund within the Governor's Office of Tourism, Trade, and Economic Development (OTTED) to provide infrastructure grants to rural areas that are applicants for federal infrastructure funding programs (s. 288.0655, F.S.). Grants may be awarded for up to 30 percent of the total infrastructure project cost. Eligible projects must be related to specific job-creating opportunities.

Eligible uses of funds include improvements to public infrastructure for industrial or commercial sites and upgrades to or development of public tourism infrastructure. Grants may also be awarded for infrastructure feasibility studies, design and engineering activities, or other infrastructure and planning activities. Funds may also be provided to local governments for the identification and preclearance review of land that is suitable for preclearance review.

The Legislature has appropriated a total of $5.1 million for Rural Infrastructure Fund grants. Unexpended appropriations to the Rural Infrastructure Fund do not revert to the General Revenue Fund. The following is a summary of the status of all approved and pending Rural Infrastructure Fund grants as of April 24, 2002.[1]

	Applicants	Total Infrastructure Project Cost	Total Grant Amount	Number of Jobs Created	Number of Jobs Retained
Approved	7	$25,289,789	$2,277,355	747	462
Pending	6	$19,695,983 *est.*	$2,573,000 *est.*	N/A	N/A

Economic Development Trust Fund

Section 288.095, F.S., creates the Economic Development Trust Fund within OTTED and establishes the Economic Development Incentives Account within the trust fund. The Economic Development Incentives Account consists of moneys appropriated to the account for purposes of the Qualified Defense Contractor Tax Refund Program (QDC Program) (s. 288.1045, F.S.) and the Qualified Target Industry Tax Refund Program (QTI Program) (s. 288.106, F.S.), as well as local financial support provided under those sections.

Section 288.095(3), F.S., imposes a cap on the total state share of QDC Program and QTI Program tax refund payments scheduled in all active certifications for a fiscal year. For fiscal year 2001-2002, the cap is $30 million. During the 2001 Regular Session, the Legislature raised the cap for subsequent fiscal years to $35 million. This subsection also provides that the total amount of tax refund claims approved for payment by OTTED based on actual project performance may not exceed the amount appropriated to the Economic Development Incentives Account for such purposes for the fiscal year. In the event the Legislature does not appropriate an amount sufficient to satisfy "projections" by OTTED for tax refunds under the QDC Program

[1] Source: Office of Tourism, Trade, and Economic Development, April 25, 2002.

and the QTI Program in a fiscal year, OTTED must prorate the refunds. Section 288.095(3), F.S., also requires OTTED to submit to the board of directors of Enterprise Florida, Inc., by September 30 of each year, a complete and detailed report of all programs funded out of the Economic Development Incentives Account. [2]

Tax Refund Program for Qualified Defense Contractors

Finding that high technology jobs in the state were threatened by downsizing in the national defense budget, the Legislature during a special session in 1993 created a tax refund program designed to facilitate the employment of Florida citizens by defense contractors. The Qualified Defense Contractor Tax Refund Program (QDC Program) authorized tax refunds to a certified contractor that: (1) secured a new Department of Defense (DOD) contract; (2) consolidated an existing DOD contract in Florida; (3) converted defense production jobs to non-defense production jobs; or (4) contracted for the reuse of a defense-related facility (s. 288.104, F.S., 1994 Supp.). The program was repealed effective December 1, 1994.[3]

In 1996, the QDC Program was re-created and codified in s. 288.1045, F.S. (*See* s. 1, ch. 96-348, L.O.F.) In order to participate in the program and be eligible to receive tax refunds, a business must apply to OTTED for certification. The statute prescribes information that must be submitted by a defense contractor in order to be certified (s. 288.1045(3), F.S.). The QDC Program features a local financial support component, under which an eligible business must secure a resolution adopted by county government which recommends the project and which indicates that the necessary commitments of local financial support for the business exist. Local financial support means funding from local sources, public or private, which is equal to 20 percent of the annual tax refund for a qualified business (s. 288.1045(1)(o) and (3), F.S.).

Approved applicants enter into an agreement with OTTED and may receive refunds based on the payment of sales and use taxes, corporate income taxes, intangible personal property taxes, emergency excise taxes, excise taxes on documents, and ad valorem taxes.[4] Tax refunds generally are paid to a participating business over a period of several years. A qualified applicant may not be qualified for any project to receive more than $5,000 times the number of jobs provided for in the tax refund agreement.

[2] Created in 1992, Enterprise Florida, Inc., is a partnership between Florida's government and business leaders and is the principal economic development organization for the state (s. 288.901, F.S.).

[3] The Legislature had specified that the program would be repealed effective December 1, 1994, if no qualified applicant had entered into a valid new DOD contract or begun consolidation of an existing DOD contract, which was expected to result in the employment of at least 1,000 full-time employees. Because this condition was not satisfied by a single qualified applicant, the statute stood repealed.

[4] Although the Governor's Office is subject to the provisions of ch. 120, F.S., the use of the term "final order" with regard to the application and refund processes in ss. 288.1045 and 288.106, F.S., appears to be inconsistent with the term's definition under the chapter. (*See* s. 120.52(1) and (7), F.S.) According to staff of the Governor's Office of Tourism, Trade, and Economic Development (OTTED), the actions referred to in ss. 288.1045 and 288.106, F.S., are actually preliminary rather than final. As such, the actions are subject to appeal prior to the issuance of a final order. (*See* s. 120.569, F.S., and rule 28-106.111, F.A.C.) Final orders are then also subject to appeal (s. 120.68, F.S.).

The following are the results of the QDC Program for all active and completed projects through June 30, 2001:[5]

	Number of Projects	Direct Jobs Created / Retained	Average Wage Per Direct Job Created / Retained	Indirect Jobs Created	Capital Investment	Certified Incentive
Active	2	350	$53,472	331	$8.1 million	$1.6 million
Complete	2	390	$28,518	387	$6.1 million	$1.9 million

A QDC Program business's compliance with the terms and conditions of its tax refund agreement with OTTED is a condition precedent for the receipt of a tax refund each year (s. 288.1045(4)(b), F.S.). The failure to comply with the terms and conditions of the tax refund agreement results in the loss of eligibility for receipt of all tax refunds previously authorized and the revocation by the director of OTTED of the certification of the business entity as a QDC Program business. However, s. 288.1045(5)(g), F.S., provides for a prorated tax refund, less a 5-percent penalty, for a QDC Program business that proves it has achieved at least 80 percent of its projected employment goal. OTTED is concerned that recent economic conditions might cause some QDC Program businesses to miss their contractual performance targets, thus eliminating the businesses from the program.

Tax Refund Program for Qualified Target Industry Businesses

The Qualified Target Industry Tax Refund Program (QTI Program), s. 288.106, F.S., is one of the state's economic development incentives. Under the program, eligible businesses may receive refunds of previously paid taxes, based upon the creation of jobs at a certain salary level. The following are the results of the QTI Program for all active projects through June 30, 2001:[6]

Number of Projects	Direct Jobs Created	Average Annual Wage Per Direct Job	Indirect Jobs	Capital Investment	Certified Incentive
229	54,332	$36,914	61,163	$5.2 billion	$209.2 million

Section 288.106(4), F.S., requires each QTI Program business to enter into a written agreement with OTTED concerning the business's participation in the program. Compliance with the terms and conditions of a tax refund agreement is a condition precedent for the receipt of a tax refund each year. The failure to comply with the terms and conditions of the tax refund agreement results in the loss of eligibility for receipt of all tax refunds previously authorized and the revocation by the director of OTTED of the certification of the business entity as a qualified target industry business. However, s. 288.106(5)(d), F.S., provides for a prorated tax refund, less a 5-percent penalty, for a QTI Program business that proves it has achieved at least 80 percent of its projected employment goal. OTTED is concerned that recent economic conditions might

[5] *See* Office of Tourism, Trade, and Economic Development, *2001 Programs Funded From the Economic Development Trust Incentives Account*, p. 29.

[6] *See id.* at p. 24.

cause many QTI Program businesses to miss their contractual performance targets, thus eliminating the businesses from the program. Section 288.106(4), F.S., also provides that a tax refund agreement must be signed by OTTED and the agreeing QTI Program business within 120 days after the issuance of a letter of certification but not before passage and receipt of a resolution of local financial support.

Additionally, as currently written, s. 288.106, F.S., creates a situation in which it is necessary to appropriate a larger amount for the QTI Program than will actually be paid to QTI Program businesses in a given year, with the majority of those payments being made from funds certified forward at the end of the fiscal year.[7] Each August, when the Legislative Budget Request is prepared, OTTED requests sufficient appropriations to cover all tax refunds scheduled in active tax refund agreements and allows a small amount for new projects that may be approved and have tax refunds due in the following year. However, most of the funds will not actually be disbursed until after the end of the year for which the funds are budgeted – a potential spread of more than two years. When combined with the fact that the appropriations process begins nine months before the fiscal year begins and appropriation decisions are finalized in April of the previous fiscal year, the problems in estimating the required appropriation for the QTI Program are magnified. The following factors further complicate the appropriations process for the program:

- The QTI Program is an incentive program. Businesses must be approved before they have made a decision to expand or locate in Florida.
- There is a time lag between a QTI Program business's decision to expand or locate in Florida and the creation of the jobs and payment of taxes.
- The QTI Program is performance-based, and, therefore, actual tax refund payments are not made until a QTI Program business has created the jobs and is paying the wages upon which the incentive approval was based.
- Not all of the businesses approved for the QTI Program fully achieve the agreed-upon job creation and wage level, but such an occurrence is not known until a business has submitted its tax refund claim and the information has been verified.
- As allowed by statute, most QTI Program businesses wait until the end of the fiscal year to submit claims. Because the claims must be reviewed and verified before payment is made, refund payments are pushed past the end of the fiscal year.

Knowing that not all the funds appropriated will actually be paid out in refunds (since some businesses will drop out of the QTI Program during that two-year window and some claims will be disapproved), it might appear reasonable to appropriate a smaller amount based on an estimate of actual payments. However, current law requires that, if the Legislature does not appropriate an amount sufficient to pay all of the refunds scheduled in active agreements, OTTED must calculate what portion of each business's refund could be paid from the appropriation (s. 288.095(3)(b), F.S.). The businesses would be informed of the situation and told that they may only receive a pro rata share of the tax refund the state has agreed to pay if

[7] Due to its similar structure, the Qualified Defense Contractor Tax Refund Program is subject to the same situation, although to a lesser extent due to its smaller size.

they meet the performance requirements. Having to inform businesses that the state may not meet its QTI Program obligations would have negative consequences for the state's reputation in the national and international business community. A more detrimental situation could occur if the estimate of actual payments to be made under this scenario was not accurate and eligible businesses did not receive the contracted amount of tax refunds.

Section 288.106(5)(e), F.S., also provides that OTTED, with assistance from the Department of Revenue or the Department of Labor and Employment Security, must specify by written final order the amount of the tax refund that is authorized for a QTI Program business for the fiscal year within 30 days after the date that the claim for the annual tax refund is received by OTTED. Section 288.106(6)(b), F.S., provides that OTTED may request the assistance of those entities or any local government or authority with respect to monitoring the payment of QTI Program-related taxes.

Section 288.106(7), F.S., provides for the expiration of s. 288.106, F.S., on June 30, 2004.

Florida's Economy

The National Bureau of Economic Research (NBER) determined that the United States economy entered a recession in March 2001.[8, 9] However, the NBER notes that, before the September 11 terrorist attacks, "it is possible that the decline in the economy would have been too mild to qualify as a recession. The attacks clearly deepened the contraction and may have been an important factor in turning the episode into a recession."[10]

Parallel to the national economy, the events of September 11 affected Florida's economic conditions. Employers throughout the state began layoffs. The state's unemployment rate rose from 4.9 percent in August to 6.0 percent in December.[11] Although precise data is not currently available, OTTED has indicated that some companies currently approved under the Qualified Defense Contractor and Qualified Target Industry tax refund programs will not be able to meet job-creation targets as a result of the economic downturn and certain specific acts of terrorism and, thus, will be eliminated from the programs.[12]

[8] National Bureau of Economic Research, Business Cycle Dating Committee, *The NBER's Business-Cycle Dating Procedure*, April 10, 2002, p. 1. The National Bureau of Economic Research (NBER) is the "recognized arbiter" of when economic expansions and recessions begin and end in the United States. (*See* The Associated Press, "Downturn Began In March," *Tampa Tribune*, November 27, 2001.)

[9] According to the National Bureau of Economic Research, "signs indicate that the decline in activity that began last year may be coming to an end." (*See* National Bureau of Economic Research, *supra* note 8, at 1.)

[10] National Bureau of Economic Research, *supra* note 8, at 8.

[11] The state's unemployment rate dropped to 5.2 percent in March 2002. *See* Agency for Workforce Innovation, *Florida Employment and Unemployment, March 2002*, April 19, 2002.

[12] Interview of OTTED staff by staff of the Senate Committee on Commerce and Economic Opportunities, April 26, 2002.

III. Effect of Proposed Changes:

This bill makes several changes to state economic development programs and incentives. These changes include:

- expanding the eligible purposes for which Rural Infrastructure Fund grants may be used;
- broadening Rural Infrastructure Fund grant eligibility criteria, thereby increasing the number of communities that may obtain such grants;
- improving the efficiency of the budgeting process for the Qualified Defense Contractor Tax Refund Program (QDC Program) and the Qualified Target Industry Tax Refund Program (QTI Program);
- expanding the QDC Program's and the QTI Program's refund-prorating provisions for participating firms; and
- allowing QDC Program businesses and QTI Program businesses that fail to meet performance targets to request a temporary exemption from automatic termination from the programs.

The following is a section-by-section analysis of the bill.

Section 1 expands the eligibility to receive grants from the Rural Infrastructure Fund by eliminating a requirement that grant recipients be applicants to federal programs for infrastructure funding. The bill also expands the purposes for which grants from the Rural Infrastructure Fund may be used to include: fostering job-retention; improving existing infrastructure that has resulted in regulatory action prohibiting economic growth; and reducing the costs to community users of proposed infrastructure improvements that exceed such costs in other comparable communities.

Section 2 amends s. 288.095, F.S., by conforming certain terminology to changes made in the timeline for approval of Qualified Defense Contractor Tax Refund Program and Qualified Target Industry Tax Refund Program tax refunds in **Sections 3** and **4** of the bill. The bill also amends s. 288.095, F.S., to revise the content and re-assign the responsibility from the Governor's Office of Tourism, Trade, and Economic Development (OTTED) to Enterprise Florida, Inc., (Enterprise Florida) for completing and submitting the annual incentives report, and the bill changes the due date of the report from September 30 to December 31 of each year. Enterprise Florida is required to include a separate analysis of the impact of tax refunds on rural communities, brownfield areas, and distressed urban communities. OTTED must assist Enterprise Florida in the collection of data related to business performance and incentive payments.

Section 3 amends the Qualified Defense Contractor Tax Refund Program (QDC Program) under s. 288.1045, F.S., by:

- Expanding the meaning of the term "Department of Defense contract" under s. 288.1045(1)(e), F.S., to include competitively bid Department of Defense (DOD) subcontracts, competitively bid federal agency subcontracts issued on behalf of the DOD, and contracts or subcontracts for products or services for military use which contracts or subcontracts are approved by the DOD, the United States Department of State, or the United States Coast Guard; and by reducing various gross-receipt thresholds under s. 288.1045(3)(e)5., F.S., that program applicants must meet or exceed prior to application review. Except for the addition of a conforming repetition of the phrase “or subcontract” within the definition of the term “Department of Defense contract,” these changes are substantively identical to language in SB 1912, which was enacted by the Legislature during the 2002 Regular Session. Repetition of this language is necessary because SB 1912 has not yet been codified. **Section 7** of this bill provides for the reconciliation of the language in this bill with that of SB 1912.

- Replacing obsolete references to the Department of Labor and Employment Security with references to the Agency for Workforce Innovation.
- Conforming the timeline for approval of QDC Program refunds to the new timeline established for Qualified Target Industry Tax Refund Program refunds in **Section 4** of this bill. This new timeline will improve the budgetary process for the QDC Program. Conversion of existing agreements to the new QDC Program timeline might be accelerated if QDC Program businesses that are unable to meet the terms and conditions of their agreements qualify for and opt to exercise one of two new provisions in this section.

First, the bill amends s. 288.1045(4)(b), F.S., to provide that a QDC Program business that does not fulfill its tax refund agreement (an occurrence which, under current law, would result in termination from the program unless the business qualified for a prorated tax refund under s. 288.1045(5)(g), F.S.) may request an “economic-stimulus exemption” from OTTED in lieu of any tax refund claim scheduled to be submitted after January 1, 2001, but before July 1, 2003. (**Section 4** of this bill establishes the same economic-stimulus exemption for Qualified Target Industry Tax Refund Program businesses.) In determining whether to grant such an exemption, OTTED must consider the extent to which negative economic conditions in the requesting business’s industry or specific acts of terrorism prevented the business from complying with the terms and conditions of its tax refund agreement. If granted an economic stimulus exemption, a QDC Program business must agree to renegotiate its tax refund agreement with OTTED to, at a minimum, ensure that the terms of the agreement comply with current law (including the new timeline) and relevant OTTED procedures. When amending the agreement of a business receiving an economic stimulus exemption, OTTED may extend the duration of the agreement for no more than one year. A QDC Program business that receives an economic stimulus exemption may not receive a tax refund for the period covered by the exemption.

The second new provision amends s. 288.1045(5)(g), F.S., to expand conditions for approving a prorated tax refund by allowing a business to receive a prorated refund for achieving at least 90 percent of the average wage specified in the tax refund agreement (but not less than statutory minimum average-wage requirements) if it has achieved at least 80 percent of its projected employment and satisfied all other contractual requirements. (**Section 4** of this bill expands the same prorating option for Qualified Target Industry Tax Refund Program businesses.) Under s. 288.1045(5)(g), F.S., as amended, a QDC Program business qualifying and opting for a prorated refund would also have to agree to renegotiate its tax refund agreement with OTTED to, at a minimum, ensure that the terms of the agreement comply with current law (including the new timeline) and relevant OTTED procedures.

- Changing certain references relating to OTTED's administration of the QDC Program in order to make those references more accurately reflect OTTED's compliance with the provisions of the Administrative Procedure Act.
- Amending s. 288.1045(5)(a), F.S., to allow OTTED, upon written request of a QDC Program business, to grant a 30-day extension of the business's tax-refund claim-submission deadline.
- Amending s. 288.1045(5)(d), F.S., to authorize OTTED to grant an extension, for the purpose of allowing a QDC Program business to file additional information in support of its claim, of the time period during which OTTED must approve or disapprove the business's tax refund claim and, if approved, specify the amount of the tax refund that is authorized to be paid.
- Creating s. 288.1045(5)(h), F.S., which expressly states that s. 288.1045, F.S., does not create a presumption that a tax refund claim will be approved and paid.
- Amending s. 288.1045(6)(c), F.S., to add "jobs and wages" to the list of topics about which OTTED may ask the Department of Revenue, the Agency for Workforce Innovation, or any local government or authority with respect to monitoring the payment of QDC Program-related taxes.
- Creating s. 288.1045(6)(e), F.S., which expressly states that funds specifically appropriated for the QDC Program may not be used for any purpose other than the payment of tax refunds authorized by s. 288.1045, F.S.

Section 4 amends the Qualified Target Industry Tax Refund Program (QTI Program) under s. 288.106, F.S., by:

- Altering the timeline for approval of QTI Program refunds in order to improve the budgetary process for this appropriation. For all new QTI Program projects, or existing projects that request any modification to their agreement, QTI Program tax refund claims will be due by January 31 of each fiscal year for the jobs created by December 31 of that same fiscal year. The refunds associated with those claims will be paid out of the appropriation for the following fiscal year.

  Under the new timeline, OTTED will know which businesses have submitted claims by the time the legislative session begins. By the time the legislative budget is complete, some of the claims that had been scheduled for the coming fiscal year can be eliminated, thus reducing the amount of the appropriations request. OTTED will also have had an opportunity to evaluate the claims before the fiscal year has begun and, with the exception of possible appeals, will be able to pay claims at the beginning of the fiscal year rather than after the end of the year.

  The full advantages of these changes will not be realized immediately because they can only be applied to new QTI Program agreements, or to amended agreements, because the time frames and prerogatives specified in existing agreements must be honored.

However, over a period of several years, these changes will significantly reduce the amount of QTI Program funds appropriated over actual refund payments and eliminate the problem of excessive forward certification of QTI Program funds for payment after the end of the fiscal year. Conversion of existing agreements to the new QTI Program timeline might be accelerated if QTI Program businesses that are unable to meet the terms and conditions of their agreements qualify for and opt to accept an "economic stimulus exemption" under s. 288.106(4)(b), F.S., or a prorated refund under s. 288.106(5)(d), F.S. (For a discussion of these options, as described with regard to the QDC Program, *see* the analysis of **Section 3** of this bill.)

- Amending s. 288.106(4)(c), F.S., to allow OTTED, upon request of a QTI Program business, to grant an extension of the 120-day time period during which a tax refund agreement must be signed by OTTED and the agreeing QTI Program business.
- Amending s. 288.106(5)(a), F.S., to allow OTTED, upon written request of a QTI Program business, to grant a 30-day extension of the business's tax refund claim-submission deadline.
- Replacing obsolete references to the Department of Labor and Employment Security with references to the Agency for Workforce Innovation.
- Amending s. 288.106(5)(e), F.S., to allow OTTED to grant an extension, for the purpose of allowing a QTI Program business to file additional information in support of its claim, of the time period during which OTTED must approve or disapprove a QTI Program business's tax refund claim and, if approved, specify the amount of the tax refund that is authorized to be paid.
- Creating s. 288.106(5)(g), F.S., which expressly states that s. 288.106, F.S., does not create a presumption that a tax refund claim will be approved and paid.
- Changing certain references relating to OTTED's administration of the QTI Program in order to make those references more accurately reflect OTTED's compliance with the provisions of the Administrative Procedure Act.
- Amending s. 288.106(6)(b), F.S., to add "jobs and wages" to the list of topics about which OTTED may ask the Department of Revenue, the Agency for Workforce Innovation, or any local government or authority with respect to monitoring the payment of QTI Program-related taxes.
- Creating s. 288.106(6)(c), F.S., which expressly states that funds specifically appropriated for the QTI Program may not be used for any purpose other than the payment of tax refunds authorized by s. 288.106, F.S.

Sections 5 and **6** amend ss. 212.08(5)(j) and 288.108(7), F.S., respectively, to conform these two statutory provisions to the change made in **Section 2** of the bill re-assigning the responsibility from OTTED to Enterprise Florida for completing and submitting the annual incentives report required under s. 288.095, F.S.

Section 7 provides that, if any law that is amended by this act was also amended by a law enacted during the 2002 Regular Session, such laws must be construed as if they had been enacted at the same legislative session, and full effect should be given to each law, if possible.

Section 8 provides that this act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Section 1. By expanding the eligible purposes for which Rural Infrastructure Fund grants may be used and broadening Rural Infrastructure Fund grant eligibility criteria (thereby increasing the number of communities that may obtain such grants), this bill might spur rural infrastructure development, including improvements to public infrastructure for industrial or commercial sites, improvements to existing infrastructure that has resulted in regulatory action prohibiting economic or community growth, and reductions in the costs to community users of proposed infrastructure improvements that exceed such costs in comparable communities.

Sections 3 and **4.** For the Qualified Defense Contractor Tax Refund Program and Qualified Target Industry Tax Refund Program, expanding the conditions for approving prorated tax refunds and allowing non-compliant businesses to remain temporarily in the programs could allow businesses to remain in the programs until the economy fully rebounds.

C. Government Sector Impact:

Section 1. In 1999, the Legislature created the Rural Infrastructure Fund within the Governor's Office of Tourism, Trade, and Economic Development (OTTED) to provide infrastructure grants to rural areas that are applicants for federal infrastructure funding programs (s. 288.0655, F.S.). Associated moneys appropriated by the Legislature are distributed by OTTED through a grant program. The Legislature has appropriated a total of $5.1 million for such Rural Infrastructure Fund grants.[13] As of April 24, 2002, OTTED had approved grants totaling $2,277,355, and there were pending applications for an estimated $2,573,000 in grants. By expanding the eligible purposes for which Rural Infrastructure Fund grants may be used and broadening Rural Infrastructure Fund grant eligibility criteria (thereby increasing the number of communities that may obtain such grants), this bill might spur rural infrastructure development, thus increasing competition for remaining grant funds. OTTED, however, would be able to perform any additional grant-related functions with existing resources.[14]

Sections 2-4. Section 288.095(3), F.S., imposes a cap on the total state share of Qualified Defense Contractor Tax Refund Program (QDC Program) and Qualified Target Industry Tax Refund Program (QTI Program) tax refund payments scheduled in all active certifications for a fiscal year. For fiscal year 2001-2002, the cap is $30 million. During the 2001 Regular Session, the Legislature raised the cap in subsequent fiscal years to $35 million. Regardless of the cap established in law, the total amount of tax refund claims approved for payment by OTTED may not exceed the amount appropriated to the Economic Development Incentives Account for such purposes for the fiscal year.

By broadening QDC Program eligibility requirements and allowing QDC Program businesses and QTI Program businesses that do not comply with their tax refund agreements to potentially remain in the programs for up to three years, room under the cap could more quickly disappear. The bill also expands the conditions under which a prorated tax refund shall be approved, thus potentially keeping businesses in the programs that might normally have dropped out due to non-compliance with their tax refund agreements. Although OTTED's staff is not currently concerned about having enough room under the cap, they indicated that, should these provisions become law, they would have to more closely monitor the cap's status.

As a result of the amended QTI Program and QDC Program reporting/claims timelines, OTTED will be better able to gauge which businesses have submitted claims by the time each Regular Session begins. Over a period of several years, this change will significantly reduce the amount of QTI Program and QDC Program funds appropriated over actual refund payments and eliminate the problem of excessive forward certification of QTI Program funds for payment after the end of the fiscal year. Conversion of existing agreements to the new timelines might be accelerated if businesses that are unable to meet the terms and conditions of their agreements qualify for and opt to exercise either an economic stimulus exemption or a prorated refund under the amended guidelines because such businesses are required, under the provisions created by this bill, to renegotiate their tax refund agreements to ensure that the terms of the agreements comply with current law and OTTED procedures governing application for and award of tax refunds, including the amended reporting/claims timelines.

[13] Unexpended appropriations to the Rural Infrastructure Fund do not revert to the General Revenue Fund (s. 288.0655(5), F.S.).

[14] Interview of OTTED staff by staff of the Senate Committee on Commerce and Economic Opportunities, April 29, 2002.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.