SOUTH CAROLINA GENERAL ASSEMBLY

Legislative Audit Council

LAC

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REVIEW OF INCENTIVE PROGRAMS ADMINISTERED BY THE S.C. DEPARTMENT OF COMMERCE

Legislative Audit Council

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Introduction and Background

Audit Objectives

Members of the South Carolina General Assembly asked the Legislative Audit Council (LAC) to conduct an audit of the S.C. Department of Commerce (DOC). The requestors had concerns about the effectiveness and transparency of discretionary economic incentive programs overseen by DOC.

We conducted survey work at the agency, reviewed relevant documentation, and consulted with the primary audit requestors to clarify and define issues for review. We also identified other areas to be included in our review. Our audit objectives are as follows:

- Review the process for awarding incentives to determine the validity of the process.
- Examine processes for monitoring compliance by companies with the terms of the incentives.
- Evaluate the effectiveness and transparency of the incentives administered by DOC to determine whether desired results were achieved.
- Evaluate the accuracy and appropriateness of methodologies for estimating the economic and fiscal impacts of proposed projects.

Scope and Methodology

The period of our review was generally 2009 through 2019, with consideration of earlier and more recent periods when relevant. To conduct this audit, we used a variety of sources of evidence, including the following:

- Interviews with DOC employees, employees of other state agencies, and interested parties.
- DOC policies and procedures.
- DOC publications, press releases, and internal reports.
- State laws and regulations.
- DOC incentive package files.
- Information from other states' departments of commerce or like agencies.
- External reviews of DOC.

Criteria used to measure performance included state laws, best practices, agency regulation and policies, and agency performance measures. We also interviewed staff regarding information systems used by DOC. We determined how the data was maintained and what the various levels of control were. We determined that DOC's computer systems have controls in place and noted possible areas for improvement.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those generally accepted government auditing standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

S.C. Code §2-15-50(b)(2) requires us to review the effectiveness of an agency to determine if it should be continued, revised, or eliminated. We did not conclude from this review that the S.C. Department of Commerce should be eliminated; however, our audit includes recommendations for improvement in several areas.

Background

The primary focus of this report is to examine discretionary economic development incentives administered by the S.C. Department of Commerce (DOC). DOC is a cabinet agency that is responsible for promoting economic development in South Carolina. Discretionary incentives administered by DOC include tax credits and grants that are not offered to all businesses, but are instead only offered to businesses that obtain approval from the Coordinating Council for Economic Development (Coordinating Council).

DOC employs staff that support the Coordinating Council. Established by S.C. Code §13-1-1710, the Coordinating Council consists of the:

1. Secretary of Commerce, who also serves as the chairman.
2. Director of the S.C. Department of Revenue.
3. Chairman of the S.C. Public Service Authority (Santee Cooper).
4. Commissioner of Agriculture.
5. Secretary of the S.C. Department of Transportation.
6. Director of the S.C. Department of Parks, Recreation and Tourism.
7. Chairman of the S.C. Research Authority.
8. Chairman of the State Board for Technical and Comprehensive Education.
9. Chairman of the S.C. Ports Authority.
10. Director of the S.C. Department of Employment and Workforce.
11. Chairman of the S.C. Jobs Economic Development Authority.

The DOC staff who provide support to the Coordinating Council are housed in DOC's grants administration division. Based on the recommendations of the DOC staff, the full Coordinating Council approves discretionary incentives for businesses. The incentives awarded by the Coordinating Council are job development credits (JDC) and business development grants.

Job Development Credits

JDCs are tax rebates that businesses can take against their employee withholdings on their quarterly state withholding tax returns, in order to offset the cost of qualifying and eligible expenditures. JDCs were created pursuant to the Enterprise Zone Act of 1995. Companies must apply to the Coordinating Council to receive JDCs. The JDC program is administered by the staff of DOC.

Applications for JDCs are reviewed and approved by a subcommittee of the Coordinating Council known as the enterprise program committee. After being approved by the enterprise committee, JDCs are administered pursuant to a revitalization agreement (RVA) executed between the Coordinating Council and a qualifying business. The RVA specifies the number of jobs the company must create and the amount of capital investment the company must make in order to claim the JDC.
Per S.C. Code §12-10-80(A)(7), the Coordinating Council must approve of a company's documentation that the minimum job and capital investment requirements have been met before a JDC can be claimed.

Companies have five years to complete their investment and job creation requirements. Once a company completes its investment and job creation requirements and submits documentation confirming the attainment of these requirements to the Coordinating Council, the Coordinating Council certifies that the company may begin receiving its JDC reimbursement on a quarterly basis. Companies usually receive reimbursements over a 10-year period, though some larger projects may involve reimbursements up to a 15-year period.

The amount that a company can claim as a JDC depends on two primary factors:

1. *Wages for the new jobs.*
   If the new jobs pay over $25.94 per hour, the company can claim a maximum JDC equal to 5% of the taxable wages for those jobs. Companies can claim a maximum of 2% to 4% based upon a sliding scale of taxable wages for jobs that pay $25.94 or less per hour.

2. *Location of the project.*
   Companies that locate in less economically developed counties in South Carolina can claim a higher percentage of the maximum amount of JDCs. For the purpose of determining JDCs, South Carolina's 46 counties are classified into four tiers. The counties with a combination of the highest unemployment and lowest per capita income are classified as Tier IV counties while counties with a combination of the lowest unemployment and highest per capita income are classified as Tier I counties.

Table 1.1 shows that companies with projects in Tier IV counties can claim 100% of the maximum JDC while companies with projects located in Tier I counties can receive 55% of the maximum JDC. Counties are classified into the four tiers every year; a list of the counties in each tier for 2020 can be found in Appendix A. The remaining portion of JDCs from Tier I, II, and III counties is deposited in the Coordinating Council's rural infrastructure fund (RIF).

Table 1.1: County Classification Tiers for Job Development Credits

County Classification	Percent of JDC a Company May Claim
Tier IV	100%
Tier III	85%
Tier II	70%
Tier I	55%

Source: S.C. Code §12-10-80(D)(1)

In its annual report on the enterprise zone program, the Coordinating Council provided the following example of the calculation of the JDC value for a business in a Tier III county for 2019.

Table 1.2: Sample Calculation of the JDC Value for a Company Located in a Tier III County

Tier III County Sample	
Jobs Created	200
Wage	$15.00/hr
Total Payroll in Year 1	$6,000,000
Job Development Credit	x .03
Annual Job Development Credit	$180,000
County Tier Multiplier	x .85
Annual Job Development Credit to Company	$153,000
10 Years	x 10
TOTAL 10-year Value of Job Development Credits to Company	$1,530,000

Source: Coordinating Council for Economic Development

To claim JDCs, a company must incur qualified expenditures as specified in the RVA. Pursuant to S.C. Code §12-10-80(C)(3), qualified expenditures can include, among other things:

- Training costs.
- Real estate acquisition and improvements.
- Improvements to public and private utility systems.
- Fixed transportation facilities, including highway and rail.

According to the Coordinating Council, the eligible expenditures for the JDC program are meant to represent investments that will stay in South Carolina. Thus, moveable expenses such as machinery, furniture, and personal property, while allowable for overall project costs, are not allowable expenditures for purposes of JDCs.

Business Development Grants

In addition to the JDCs, the Coordinating Council approves grants for specific economic development projects and are awarded to the counties in which the businesses reside. Businesses are required to meet certain job creation and capital investment goals and are reimbursed through the counties with grant funds as the grant projects are completed. The grants are awarded pursuant to a grant award agreement that specifies the requirements.

The grants are financed by three separate funds, with their total amounts listed in Table 1.3:

ECONOMIC DEVELOPMENT SET-ASIDE FUND

The intended use of the set-aside fund is established by S.C. Code §12-28-2910. Pursuant to state law, $20 million is deposited in the economic development set-aside fund annually. Monies from this fund are derived from a utility tax. Projects funded by the set-aside fund include site preparation, water and sewer projects, and road construction.

GOVERNOR'S CLOSING FUND

The Governor's Closing Fund is funded by annual appropriations and, pursuant to proviso, transfers from other economic development funds. Pursuant to proviso, the closing fund is meant to "provide maximum flexibility and encourage the creation of new jobs and capital investment."

RURAL INFRASTRUCTURE FUND

The remaining portion of JDCs from Tier I, II, and III counties are deposited in the Coordinating Council's rural infrastructure fund (RIF). Pursuant to S.C. Code §12-10-85, the main purpose of the RIF is to provide financial assistance for local governments in less economically developed counties to develop infrastructure and economic development activities. Grants from the RIF support activities such as improvements to public and private water and sewer systems, site preparation, and acquiring real property.

Table 1.3: Total Business Development Grants Awarded by Funding Source, Calendar Years 2009–2018

Funding Source	Number of Grants	Amount Awarded	
		Total	Average
Set-Aside Fund	302	$150,319,231	$497,746
Rural Infrastructure Fund	210	78,775,385	375,121
Governor's Closing Fund	109	243,139,983	2,230,642
Combinations of Funds*	4	17,350,000	4,337,500
TOTAL	625	$489,584,599	$783,335

*The combinations of funds all occurred in calendar year 2010.

Source: Coordinating Council for Economic Development

Impact of COVID-19 Pandemic

The drafts of this audit report were completed prior to the largescale social distancing policies that have been implemented as a result of the novel coronavirus disease 2019 (COVID-19). Thus, this audit did not examine the impact of COVID-19 on the incentive programs administered by DOC. However, due to the enormous impact of COVID-19 on the economy, we asked DOC to provide information on how it plans to respond to COVID-19 as it relates to economic incentive programs. In response, DOC provided the following statement:

> We cannot speculate, but what we can say is that, given the unprecedented nature of this pandemic, there is no model for comparison to gauge the full effect of COVID-19. Our state like the rest of the nation and the world is facing historic unemployment and unprecedented economic collapse. We do not yet know the extent of the damage as we start the process of restarting our economy and getting South Carolinians back to work. That said, our team is committed to responding to the unique circumstances in a manner that will best enable the recovery of South Carolina businesses that have been impacted. And, while there are many unknowns in our current environment, SC Commerce has continued to make announcements and receive an increasing level of incoming projects. We are unwavering in our mission, while assuming additional responsibilities via our steering role as the lead agency in accelerateSC, to chart the path for South Carolina's economic development recovery.

DOC did not provide specific information related to the JDC and grant programs in its response.

Overview of Companies Awarded Incentives

We reviewed all projects approved for grant and job development credit (JDC) agreements from January 2009 through September 2019. We found:

- 972 total projects were approved, including 557 grants and 415 JDCs.
- Grant awards totaled $526.2 million.
- JDC approvals included up to nearly $6.2 billion in potentially reimbursable eligible costs with $223 million actually claimed.
- Collectively, the approved projects were required to create 153,457 jobs.

Overview of All JDC and Grant Recipients

Of the 972 projects, the average value of incentives approved for each company is approximately $10 million, with a median value of $500,000. In the 10-year timeframe, two companies were approved for over $400 million each and three companies were approved for $300–$399 million each. Of the 676 unique companies receiving incentives, 113 were approved for both a grant and JDC by the Coordinating Council.

Overview of Revitalization Agreements

From January 2009 through September 2019, the Coordinating Council executed 415 RVAs with JDC recipients. The 415 RVAs allow for up to nearly $6.2 billion potentially eligible costs to be claimed and require 66,684 new jobs be created within the state by the recipient companies. As of September 30, 2019, 70.8% of RVAs executed in the 10-year timeframe were still active and the eligible JDC funds being claimed by the companies. According to a Coordinating Council official, most companies are not able to claim the maximum amount of JDC funds they are approved due to the method in which the JDCs are calculated.

Of the 415 RVAs:

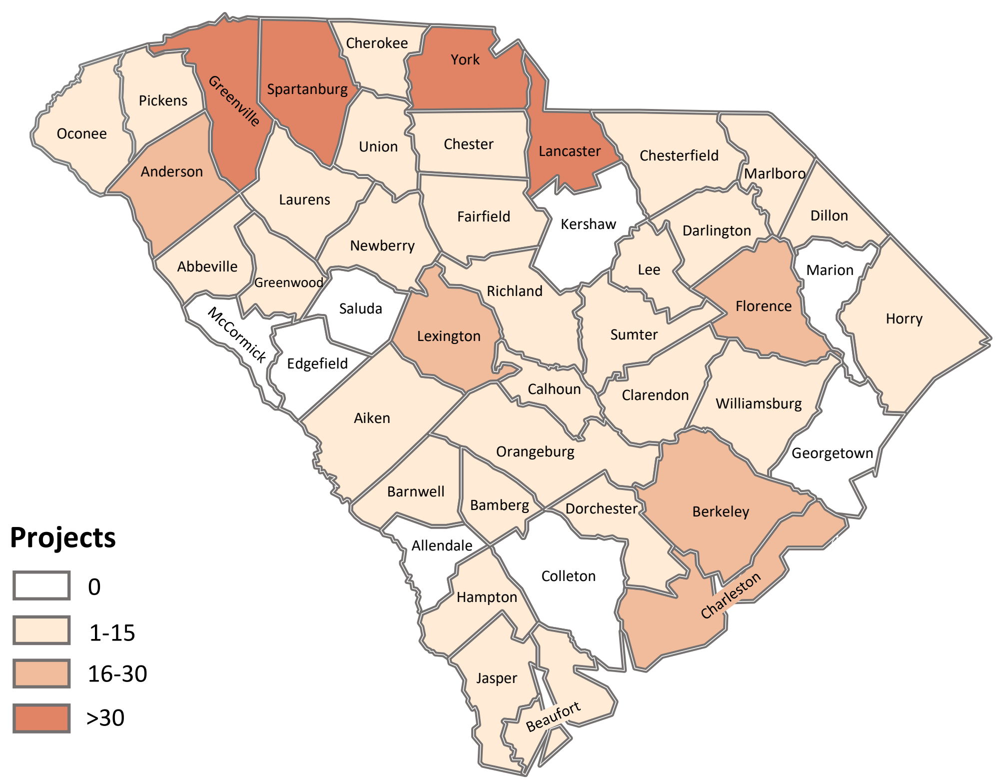
- Spartanburg, Greenville, and Lancaster Counties each had 40 or more RVAs executed during the 10-year timeframe.
- York County had the most required new jobs (9,300) of all the counties.
- Spartanburg County had the most eligible project costs (over $1 billion) approved.

- Of the 46 South Carolina counties, 8 counties did not receive any JDC projects in the 10-year timeframe:

McCormick	Edgefield
Saluda	Kershaw
Marion	Georgetown
Colleton	Allendale

According to a Coordinating Council official, it is difficult to attract projects to rural counties. Map 1.4 provides information on the number of enterprise zone (i.e., JDC) projects with executed RVAs by county.

Map 1.4: Number of Enterprise Zone Projects With Executed RVAs by County



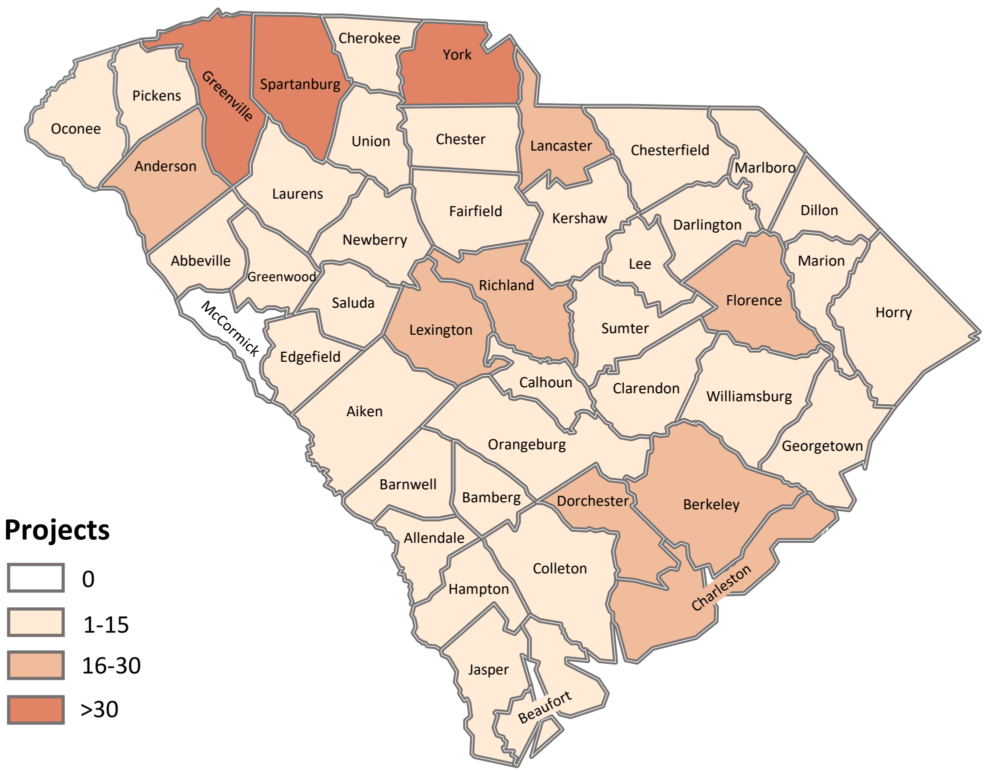
Source: LAC Analysis of DOC data

Overview of Grant Awards

The Coordinating Council awarded approximately $526 million in grant funds to 557 projects between January 2009 and September 2019. The companies awarded these grant funds are required to invest approximately $23 billion and create 86,773 new jobs. As of September 30, 2019, 46.5% of the grants were fully expended and only 18.5% were still open and have available money to expend.

As with the JDCs, Greenville and Spartanburg Counties were among the top three counties awarded the most projects, and York County had the second highest number of awarded projects. These three counties were also required to create the highest number of new jobs in the state, with York County required to create the highest number of new jobs (8,400). Spartanburg County was required to invest the most capital into the state (approximately $3.4 billion), and Anderson County had the second highest investment requirement (approximately $2.5 billion). Of the 46 South Carolina counties, only 1 county, McCormick, did not receive a grant for a new project in the 10-year timeframe. Map 1.5 provides information on the number of grant projects awarded by county.

Map 1.5: Number of Grant Projects Awarded by County



Source: LAC Analysis of DOC data

Overview of Top Ten Companies

The top ten JDC recipient companies by eligible cost amounts include eight manufacturing companies, one marketing and technology firm, and one financial service company. The top 10 companies were awarded 52 separate projects totaling approximately $2.8 billion in eligible costs and required to create 15,096 new jobs. The 52 projects were located in 10 counties.

The top ten grant recipient companies by grant amount were all manufacturing companies, six of which are the same manufacturing companies that were awarded the most JDCs. The top 10 companies receiving grants were awarded 18 separate projects totaling approximately $287 million, required to create 11,451 new jobs, and invest approximately $7 billion into the state, collectively. The 18 projects were located in 8 counties.

Effectiveness and Transparency of Incentive Programs

In this chapter, we discuss the effectiveness and transparency of the JDC and business development grant programs. Our goal was to identify the actual number of jobs and capital investment generated by companies that have received JDCs or grants. We were also asked to examine the transparency of the incentive programs. We found:

- DOC does not continue to track additional job creation numbers for companies that receive JDCs once they have reached their required amount, so it is not possible to know the number of actual jobs created by companies that received JDCs.
- Of the 121 closed JDC projects executed since September 1, 2009, only 11 projects maximized their job development credits through job creation.
- Of the 248 grants that have been closed since 2009, 31,298 of the required 34,172 jobs were created by those companies. Of the $10 billion required total investment, the companies invested $11.8 billion.
- DOC does not have sufficient performance measures to determine the overall effectiveness of the JDC or grant programs.
- DOC does not publicize the number of jobs and amount of capital investment actually generated by the JDC and grant programs.
- DOC does not examine the fiscal impact of the JDC or grant programs.
- The Palmetto Partners program, which is administered by DOC and funds special marketing events through donations, does not have adequate performance measures. There are no internal guidelines at DOC regarding the avoidance of conflicts of interest between companies that donate to the Palmetto Partners program and also apply for JDCs and grants.

Actual Jobs Created by JDC and Grant Projects

We reviewed the Customer Relations Management database that DOC uses to record incentive program information. The database contains information related to projects that have received grants and/or JDC awards; however, actual jobs created through the JDC program are not recorded in the database, if above the minimum required level. From the database, we examined information on 41 JDC revitalization agreements (RVA) that were executed in 2014 and 40 grant projects that were awarded in 2014. We chose to examine these projects in order to see how projects approved in the past have materialized. Additionally, we reviewed an analysis prepared by DOC for all JDC projects with executed RVAs during the audit period.

We reviewed the actual jobs created for all JDC and grant projects awarded during the audit period and we found:

- Actual job numbers created by all JDC projects are not recorded and/or tracked by DOC officials, if above the minimum required level.
- The JDC projects approved in 2014, which were certified to claim the JDCs, created 81% of the total jobs required to be created by JDC recipients.
- According to DOC's analysis, 205 of 415 JDC projects have certified their RVAs, thus meeting their job creation goals.
- Of the 40 grant projects reviewed from 2014, 25 projects have closed or are maintaining their required jobs, and have exceeded their job creation goals.
- Grant projects that have closed or are maintaining the level of required jobs (45% of projects) created 92% of the total jobs required by those companies.

Review of JDC Projects

We reviewed the database system for all JDC projects that executed their RVAs in 2014, which totaled 41 projects. We chose to examine projects executed in 2014 because doing so would allow us to examine the long-term effectiveness of JDCs compared to more recently-executed projects.

Of those 41 projects, 27 projects are certified, open, and active, and able to claim the JDCs for which they were approved. The remaining 14 projects were terminated from the program for not paying fees or not meeting their goals, withdrew from the program on their own, or closed their facility.

The 27 projects that certified their RVAs were required to create 6,347 jobs. At the time we reviewed the sample, the projects had created 6,369 jobs. Therefore, the certified projects exceeded their goals. One project reached its job creation goals, but decided not to move forward in claiming the JDCs. Overall, all JDC projects that executed their RVAs in 2014 were required to create 8,050 jobs. The projects that certified and the project that voluntarily withdrew created 6,484 of the required jobs, 81% of the total required job creation.

Table 2.1 shows the amount of jobs created by the sampled JDC projects.

Table 2.1: Job Creation by Sampled JDC Projects, Calendar Year 2014

JDCs	Number of Projects	Jobs		
		RVA Minimum	Recorded in Database	Difference
Certified	27	6,347	6,369	22
Facility Closed	1	112	0	-112
Terminated—Fees Not Paid	3	409	0	-409
Terminated—Past Cutoff	6	825	60	-765
Withdrawn	4	357	55*	-302
TOTAL	41	8,050	6,484	-1,566

*All 55 jobs were created by 1 company whose minimum job requirement was 55.

Source: DOC and LAC Analysis

In addition to the JDC projects approved in 2014, we reviewed an analysis conducted by DOC discussing all RVAs executed between September 1, 2009 and September 30, 2019. A total of 415 RVAs were executed during this timeframe. The presence of confidential taxpayer information prevented us from verifying the accuracy of this information.

Of the 415 RVAs, 174 projects have certified and are entitled to claim their eligible JDCs. As of September 30, 2019, these projects had collectively created 31,116 jobs.

Of the 415 RVAs, 121 projects were closed for various reasons, as of September 30, 2019. Of these 121 projects, 11 projects closed after *maxing out* their eligible JDCs; these projects created 1,354 jobs. Four projects closed after *timing out* of the program; these four projects created 851 jobs. Of the 121 closed projects, 16 projects closed after certifying but not continuing in the program; these 16 projects created 1,241 jobs. The remaining 90 closed projects never certified their RVAs.

Table 2.2 shows the number of jobs created by all certified JDCs projects, though, as noted below, these numbers are imprecise due to DOC's method of counting jobs.

Table 2.2: Jobs Created by Certified JDC Projects, September 2009–September 2019

JDCs	Number of	
	Projects	Jobs Created
Maxed Out	11	1,354
Timed Out	4	851
Certified but Not Continuing	16	1,241
Certified and Open	174	31,116
TOTAL	205	34,562

Source: DOC and LAC Analysis

The actual number of jobs created by these projects is unknown, because the actual jobs recorded for JDC projects are only maintained to the level they are required to create the jobs. If figures for certain projects exceed the required amount, that figure is not always entered into the database system. According to a DOC official, the actual number of jobs created by JDC projects does not matter for program administration because the companies can claim JDCs only to the level for which they were approved.

However, it is important to the general public and policy makers to know the exact number of jobs that have been created with the aid of JDCs in order to gauge program effectiveness. Additionally, knowing how many jobs are created by JDCs approved in the past can assist DOC staff in projecting the number of jobs that might be created by future projects. Without complete information on the actual number of jobs created by JDC projects, DOC has no way to know the amount by which companies are exceeding their prescribed goals.

Review of Grant Projects

We reviewed the database system for 40 grant projects that were approved in 2014. We chose to examine projects executed in 2014 because it would allow us to examine the long-term effectiveness of grants, compared to more recently-executed projects.

Of the 40 projects approved, 5 projects are being assessed for their performance and job creation. In this status, the actual number of jobs created is not finalized. Seven projects are in repayment status because they did not meet their job creation goals. However, they created 415 out of 995 jobs, or 42% of their collective goal. Of the 40 projects, 18 projects are closed or within their maintenance periods. These 18 projects have created 127% of the required jobs, 4,186 jobs out of a collective goal of 3,300 jobs. The remaining 10 projects were still open and have time to meet their job creation goals. A summary of the 25 projects that created jobs is in Table 2.3.

Table 2.3: Jobs Created by Reviewed Grant Projects, Calendar Year 2014

Grants Status	Number of Projects	Jobs		
		Minimum Required	Actually Created	Difference
Repayment	7	995	415	-580
Closed/ In Maintenance	18	3,300	4,186	886
TOTAL	25*	4,295	4,601	306

*This number does not include the 15 projects that still have time to complete their job creation requirement.

Source: DOC and LAC Analysis

We reviewed data on all projects that were awarded grants between January 2009 and September 2019. A total of 557 projects were reviewed. Of the total 557 projects, 309 projects are still open and are either working toward meeting their goals or are being reviewed to determine if they have met their goals. These projects are required to collectively create 52,099 jobs.

Table 2.4 shows the remaining 248 projects that are either closed, pending closeout, or maintaining their job creation numbers. These 248 projects are required to collectively create 34,172 jobs, of which 92% have been created for a total of 31,298 jobs.

Table 2.4: Status of Closed and Maintenance Period Grants, January 2009–September 2019

Grants	Number of Projects	Jobs		
		Minimum Required	Actually Created	Difference
Closed	187	24,539	21,415	-3,124
Closeout Pending	17	2,047	890	-1,157
Expended / PA in Maintenance*	44	7,586	8,993	1,407
TOTAL	248	34,172	31,298	-2,874

* Expended means all grant funds have been distributed. Performance Agreement (PA) in Maintenance means the company is maintaining its job creation figures per the terms in the agreement.

Source: DOC and LAC Analysis

Review of Actual Job Data Entry

We asked about the procedures for inputting job creation data into the database system. According to DOC officials, no written procedures are maintained to prescribe how the information should be entered or from what source of documentation. Having written procedures and consistent, reliable sources for the job creation data would allow for greater confidence in the accuracy of the job creation numbers for the grants and JDCs.

Recommendations

1. The S.C. Department of Commerce should record actual job creation figures even in excess of the revitalization agreement minimum job requirements, for all job development credit projects.

2. The S.C. Department of Commerce should develop procedures on how to enter job creation data and from what source the information should be obtained.

Actual Capital Investment Made by JDC and Grant Projects

We reviewed capital investment data for all 557 grant awards during the audit period, data for all 415 JDCs, as well as a sample of grants and JDCs awarded in calendar year 2014. We found:

- Complete capital investment made by all JDC projects is not recorded and/or tracked by the agency.
- The certified JDC projects we reviewed exceeded the collective capital investment requirements of their RVAs.
- According to DOC's analysis of all executed RVAs, certified JDC projects met the collective capital investment required in their RVAs.
- Grant projects that have closed, are pending closeout, or are in the maintenance period have collectively made higher capital investments than required in their performance agreements.

We were not able to review data on all JDC projects for actual capital investment because DOC does not maintain that information in an accessible format. We reviewed 18 JDC files from DOC in order to examine actual capital investment information. However, the results of our JDC sample cannot be used to accurately determine the effectiveness of the JDC program as a whole. Additionally, we reviewed an analysis prepared by DOC for all JDC projects with executed RVAs during the audit period.

Review of JDC Projects

We requested information on the actual capital investments recorded for all approved JDC projects for the period of our review. However, a DOC official stated that the actual capital investment information for JDCs is maintained only to the level the companies are required to certify their RVAs. If figures for certain projects exceed the required amount, that figure is not always entered into the DOC database.

According to a DOC official, the actual amount of capital investments made by JDC projects does not matter for program administration purposes because the companies can claim JDCs only up to the level for which they were approved. However, it is important to the general public and policy makers to know how much actual capital investment is made with the aid of JDCs in order to gauge the effectiveness of the program. Without information on the actual amount of capital investment made by JDC-aided projects, it is impossible to completely determine the effectiveness of the JDC program regarding its ability to attract capital investment.

We reviewed 18 JDC files obtained from DOC. The 18 files were judgmentally selected based on factors such as geographic location and amount awarded. The RVAs were executed across the full audit period.

Of the 18 projects reviewed, 7 projects have certified and are able to claim the JDCs for which they were approved. Nine projects are still within their timeframe to certify their RVA. Two projects were removed from the program or voluntarily withdrew from the program.

The seven projects that certified were required to collectively invest $220,579,428. According to the files reviewed, these seven projects collectively invested $230,778,434; therefore, the certified projects exceeded their goals. The nine projects reviewed that still have time to certify are required to invest a total of $136,508,300. However, the two projects that were removed/withdrawn from the JDC program did not meet their capital investment requirements, which totaled $22,518,940, and neither project was able to certify or claim JDCs.

Table 2.5 shows the amount of capital investment made by the sampled JDC projects.

Table 2.5: Capital Investment of Sampled JDC Projects, January 2009–September 2019

JDCs	Number of Projects	Capital Investment	
		Minimum Required (Rounded)	Actual
Certified	7	$220,579,428	$230,778,434
Open	9	136,508,300	-
Removed/Withdrawn	2	22,518,940	-
TOTAL	18	$379,606,668	$230,778,434

Source: DOC and LAC Analysis

Although the results of the sample indicate the JDC projects are exceeding their goals, our judgmental sample cannot be extrapolated to the entire population of JDC projects.

In addition to our sample of 18 files, we reviewed an analysis conducted by DOC discussing all RVAs executed between January 1, 2009 and October 24, 2019. A total of 415 RVAs were executed during this timeframe. The accuracy of this analysis could not be verified by LAC auditors due to the presence of confidential taxpayer information.

Of the 415 RVAs, 174 projects have certified and are eligible to claim JDCs. As of September 30, 2019, these projects have collectively invested $8.1 billion.

Of the 415 RVAs, 121 projects were closed for various reasons as of September 30, 2019. Of these 121 projects, 11 projects closed after *maxing out* their eligible JDCs; these projects collectively invested a minimum of approximately $45.9 million. Four projects closed after *timing out* of the program; these four projects collectively invested a minimum of approximately $92.5 million. Sixteen projects closed after certifying but did not continue in the program. These 16 projects collectively invested a minimum of approximately $182.6 million. The remaining 90 closed projects never certified their RVAs. The actual amount of investment made by these projects is unknown.

Table 2.6 shows the amount of capital investment made by all certified JDC projects, up to the required investment amount.

Table 2.6: Status of Certified JDC Projects, as of October 24, 2019

JDCs	Number of Projects	Amount of Investment
Maxed Out	11	$45,957,372
Timed Out	4	92,499,186
Certified but Not Continuing	16	182,604,364
Certified and Open	174	8,100,000,000
TOTAL	205	$8,421,060,922

Source: DOC and LAC Analysis

Review of Grant Projects

We reviewed data for all 557 projects that were awarded grants between January 2009 and September 2019. Of the 557 projects, 309 projects are still open and working toward meeting their goals, or are being reviewed to determine if they have met their goals. These in-progress grant projects are required to collectively invest approximately $13 billion.

The remaining 248 projects are either closed, pending closeout, or maintaining their job creation numbers. These 248 projects were required to collectively invest approximately $10 billion. A total of approximately $11 billion has been invested by these projects, thus exceeding their goals.

Table 2.7 shows the capital investment made by all grant projects.

Table 2.7: Capital Investment of All Grant Projects, January 2009–September 2019

Grants	Number of Projects	Investment		
		Required	Actual	Difference
Closed / Closeout Pending / Maintenance	248	$10,000,812,972	$11,811,292,679	$1,810,479,707
Open / Assessing Performance	309	13,542,165,368	154,510,647	(13,387,654,721)
TOTAL	557	$23,542,978,340	$11,965,803,326	$(11,577,175,014)*

* This difference can possibly be met or exceeded because companies still have time to create the capital investment.

Source: DOC and LAC Analysis

Recommendation

3. The S.C. Department of Commerce should record and publish the actual capital investments made for all job development credit projects, including any capital investment that exceeds the amount agreed upon in the revitalization agreement.

Transparency and Performance Measures

We reviewed the availability of job creation and capital investment data to the public related to projects that were awarded economic incentives. We evaluated the annual reports issued by DOC and the Coordinating Council for the inclusion of actual job creation and capital investment data. The availability of job creation and capital investment data as a result of incentives by other Southeastern states was also reviewed. We found:

- DOC and the Coordinating Council's annual reports and press releases only include projected figures for job creation and capital investment.
- Neither DOC nor the Coordinating Council publish actual job creation and capital investment data.
- Neither DOC nor the Coordinating Council have performance measures that effectively measure the impact of its discretionary incentive programs.
- The Coordinating Council does not require or record the wage levels for new jobs created from grant projects.
- Other Southeastern states report useful data regarding their economic incentive award programs.

Review of Performance Measures

DOC and the Coordinating Council do not have sufficient performance measures regarding the effectiveness of the JDC and grant programs. According to a DOC official, the performance measures for the JDC and grant programs are the actual job numbers achieved and capital investment made compared to the original performance requirements for the incentives. However, as discussed below, these numbers are not publicized.

Additionally, DOC and the Coordinating Council do not have benchmarks for determining whether the JDC and grant programs are, as a whole, successful. Although projected capital investment and job creation are important measures, overall information on the program is also necessary in order to determine the effectiveness of the grants and JDCs. Such information, which can be found in our analysis included in *Actual Jobs Created by JDC and Grant Projects* and *Actual Capital Investment Made by JDC and Grant Projects*, can include:

- Long-term job projections versus actual job creation.
- Long-term capital investment projections versus actual capital investment.
- Percentage of projects that were not successful.
- Information on recently closed projects.

Currently, in order to determine whether a company has met its goals prescribed in the agreements, DOC utilizes the reports submitted by the companies, which include information on job creation, as well as property tax assessments or actual invoices for capital investment verification. The company reports are also used to enter the job creation and capital investment figures into the DOC database.

For grant projects, the job creation and capital investment figures are verified once after the company claims to have met its goals. If a grant project has a maintenance period, the figures are verified each year of the maintenance period. The figures are verified by utilizing payroll and property assessment records submitted by each company.

For JDC projects, the job creation and capital investment figures are verified when the company claims to have completed its requirements. After the companies have certified that they have met their requirements, they submit quarterly and annual reports to document maintenance of jobs created until they have reached the end of their claiming timeline.

In order for a company to claim JDCs on the new jobs created, those jobs must pay at or above the minimum wage requirement outlined in the signed RVA. Eligible jobs with wages below the minimum wage requirement may still be counted toward the minimum job creation requirement, even though the jobs are not themselves eligible for job development credits. In our review of project files, the Coordinating Council does not require companies to submit wage information for the new jobs created by the grant projects. Without knowing the wage levels these new jobs are paying, it is more difficult to assess the quality of employment these projects are bringing to the state with the use of public funds.

Interested Parties

In order to gain perspectives from outside of DOC regarding the effectiveness of incentive programs administered by DOC, we spoke with several officials outside of DOC who are involved in economic development activities that relate to incentives. These officials included representatives from companies that have received incentives, local economic development professionals, and site development consultants.

The officials we talked to uniformly agreed that the incentives overseen by DOC are vital to attracting businesses to South Carolina and fostering the development of existing businesses. The officials mostly expressed satisfaction with the job DOC does in administering the incentives.

Feedback from interested parties alone is not in itself sufficient evidence of the effectiveness of the incentive programs. As beneficiaries of the programs, the interested parties have a stake in the continuance of the incentive programs. However, feedback from interested parties is useful in helping to gauge the effectiveness of the incentives and satisfaction regarding DOC's administration of the incentives, and the interested parties agreed as to their views on the program's effectiveness.

Evaluation of the Annual Reports

DOC and the Coordinating Council creates and issues annual reports to publicize how many projects were approved each year. DOC and the Coordinating Council issues annual reports for:

- The S.C. Department of Commerce Annual Accountability Reports.
- The Coordinating Council's grant programs.
- The Coordinating Council's Enterprise Zone Activity, including the Job Development Credit (JDC) program.

Included in the Coordinating Council's grant program annual reports are the number of jobs projected to be created or retained and how much capital investment the company is projected to make in the state. The Enterprise Zone reports also include information on projected job creation and minimum capital investment in the state, but additionally discuss projected net economic benefit from the JDC projects.

In each annual report, DOC and the Coordinating Council compare the number of projects approved over the most recent three years. The annual reports relating to grants provide a breakdown of how much money is coming from each of three grant funds. A DOC official explained that JDC funds are rebates from the employee withholding taxes.

While the reports may show *projected* jobs, investment, or economic benefit, the reports do not show any *actual* figures related to the projects' performances. In addition to the lack of performance data, the reports do not include the number of approved projects that were not successful in job creation efforts.

Additionally, the reports do not contain performance measures. Performance measures regarding the JDC and grant programs are necessary in order for DOC and the Coordinating Council to have benchmarks with which to measure the success of those programs. Such performance measures could incorporate some of the analysis described in *Actual Jobs Created by JDC and Grant Projects* and *Actual Capital Investment Made by JDC and Grant Projects*, which shows the number of jobs created and capital investment made by the JDC and grant programs, compared to the number of jobs originally required in the grant agreement. In addition to the number of jobs created by these projects, including the median wage level for the new jobs in the annual reports would allow the General Assembly and the general public to see the quality of jobs being created using public funds.

Transparency to General Public and Policymakers

Since public funds are utilized to provide grants and JDCs to companies, it is important for the general public and policy makers to know whether those funds are being used effectively. Without transparent disclosure of how these projects are performing, the general public and policy makers are unable to determine if the incentives awarded to companies are successful.

In addition to the actual figures for jobs created and capital investment, the status and compliance of projects are important as well. For example, if a company received an incentive and closed, executed a mass layoff, or filed for bankruptcy, the public should know if enforcement efforts are being taken to recapture some of the expended taxpayer funds.

Other Southeastern States

We found that other Southeastern states' economic development agencies provide current details on awards and incentivized projects, such as the number of new jobs created, on their websites. For example;

- North Carolina publishes information related to the actual jobs created and retained, as well as the reported average wage for each company. North Carolina also publishes a report detailing the amount of funds recovered through clawbacks.
- Tennessee has a searchable, online database that allows the public to see the number of jobs created by each company receiving an incentive from the state.
- Virginia has an interactive website that provides transparent data related to incented project performance. Additionally, according to Virginia Code, three years of historical performance data is required in its reports.

See Appendices C, D, E, and F for excerpts of information publicized by neighboring states.

Publicizing incentives awarded would allow the General Assembly and the general public to see the advantages and disadvantages of providing economic incentives. The General Assembly would be better informed for policy-making when addressing economic incentives.

Recommendations

4. The S.C. Department of Commerce and the S.C. Coordinating Council for Economic Development should develop and publicize performance measures for the grant and job development credit programs, including measures for the overall effectiveness of the programs.

5. The S.C. Department of Commerce and the S.C. Coordinating Council for Economic Development should require grant projects to report the wage levels of the new jobs created from the project.

6. The S.C. Department of Commerce and the S.C. Coordinating Council for Economic Development should report actual figures in its annual reports, as well as comparisons of those figures with the projected jobs and capital investments reported at the beginning of each project.

7. The S.C. Department of Commerce and the S.C. Coordinating Council for Economic Development should report instances where projects were approved for incentives, but were canceled either due to the company withdrawing or failing to meet the requirements of the incentives

8. The S.C. Department of Commerce and the S.C. Coordinating Council for Economic Development should report the median wage levels for all new jobs created by both job development credit and grant projects.

9. The S.C. Department of Commerce and the S.C. Coordinating Council for Economic Development should report the status of projects that have received, or are receiving, incentives.

Evaluation of Fiscal Impact

We examined whether DOC conducts fiscal impact analyses regarding grants and JDCs. In addition, we reviewed the Governmental Accounting Standards Board (GASB) standards related to the disclosure of tax abatement programs. We found:

- DOC does not conduct fiscal impact analyses aside from the initial cost-benefit analysis.
- DOC does not look back on projects and their fiscal impacts.
- Statement No. 77 of GASB requires the disclosure of forgone tax revenues by tax abatement programs. However, it is questionable as to whether this statement applies to the JDC program.

Review of Fiscal Impact Analyses

According to a DOC official, fiscal impact analyses are not conducted on grant and/or JDC projects. Additionally, DOC does not perform any sort of "look back" analysis at the cost-benefit analysis performed prior to an award to determine if the project was successful and actually created the projected jobs and investment stated in the news releases.

A fiscal impact analysis would examine the effect of incentives on government revenues and spending. Fiscal impact analyses can include:

- The amount of revenue foregone due to companies' receiving tax credits.
- The amount of spending on grant projects.
- The cost of infrastructure associated with new economic developments.
- The cost of services associated with population growth resulting from new employment opportunities.

According to DOC, there is no reasonable way to assess the actual fiscal impact of the projects on the state or locality. However, in March 2009, DOC's division of research released a publication, Impact of Economic Development: A Community's Guide to Understanding the Impact of a Newly Located Business, explaining the methodology and modeling tools for conducting a fiscal impact analysis. The research publication also stated performing a fiscal impact analysis is essential to making wise development decisions.

Connecticut's Department of Economic and Community Development performs fiscal impact analyses on several of the tax programs and utilizes the REMI Tax-PI model software to estimate whether the revenue generated by the program exceeds the expenses. Connecticut worked with REMI developers to structure the model to fit the specific type of analysis it was seeking to conduct.

We also examined whether Statement No. 77 of GASB is applicable to the JDC program. Statement No. 77 of GASB discusses the disclosure of tax abatements by state and local governments. The objective of the statement is to provide financial statement users with essential information relating to the reduction in tax revenues as a result of tax abatement programs.

Several counties in South Carolina have included GASB tax abatement information in their comprehensive annual financial reports. However, after review of GASB Statement No. 77's applicability to performance-based tax incentive programs such as the JDC program, it appears GASB Statement No. 77 may not apply to those particular kinds of programs.

DOC states that GASB Statement No. 77 does not apply to the JDC program because it interprets GASB Statement No. 77 as applying only to tax abatements received prior to performance under incentive agreements. Since JDCs can only be claimed after the performance of the RVA stipulations, DOC concludes that GASB Statement No. 77 is not applicable to JDCs.

Although GASB Statement No. 77 may not apply to the JDC program, credits claimed by companies participating in the JDC program have a fiscal impact on tax revenues. Reporting the credits claimed by companies participating in the JDC program would provide policy makers and the general public with relevant information about the fiscal impact of the JDC program.

Recommendations

10. The S.C. Department of Commerce should conduct a "look back" analysis of the fiscal impact of projects approved for grants and job development credits.

11. The S.C. Department of Commerce should report forgone tax revenue due to the claiming of job development credits.

Palmetto Partners Program

We examined the Palmetto Partners program, which is a program that is managed by DOC for the purpose of assisting in special marketing events and initiatives in order to bring jobs and investment to South Carolina. We found:

- Palmetto Partners does not have adequate performance measures in place with which to measure its effectiveness in attracting jobs and capital investment.
- DOC has guidelines for the spending of Palmetto Partners funds. Based on an examination of documentation of Palmetto Partners spending, those guidelines appear to have been followed.
- DOC does not have guidelines relating to the interaction of the Coordinating Council for Economic Development and companies that have contributed to the Palmetto Partners program.

Background of the Palmetto Partners Program

The Palmetto Partners program was established in 1991 by the State Budget and Control Board as the Special Events Account. Its purpose is to raise and expend private funds for special marketing events to attract jobs and to make investments in South Carolina. The 1993 restructuring of state government moved the Special Events Account into DOC. The Special Events Account was renamed the Crescent Fund in 2005 and was renamed Palmetto Partners in 2011.

Palmetto Partners funds are used to make disbursements that are normally not allowed, or limited, pursuant to state laws and regulations. These disbursements include the purchase of alcohol, meals, and entertainment for members of the business community. Funds are used for activities such as travel and costs for attending economic development conferences, and groundbreaking ceremonies. Table 2.8 shows Palmetto Partners' financial position for calendar years 2018 and 2017 and Table 2.9 summarizes Palmetto Partners' spending areas.

Table 2.8: Palmetto Partners Financial Position, Calendar Years 2018–2017

	Year Ending	
	December 31, 2018	December 31, 2017
Initial Balance	$604,958	$498,837
Receipts	$1,024,925	$1,616,376
Disbursements	$897,670	$1,510,255
Ending Balance	$732,213	$604,958

Source: DOC

Table 2.9: Palmetto Partners Program Spending Areas, Calendar Years 2018–2017

	Year Ending	
	December 31, 2018	December 31, 2017
Lead Generation*	$254,541	$232,759
Tradeshow/Site Consultant	235,020	147,852
Site Selector Guild	137,099	26,000
Foreign Missions and Trade	54,987	43,295
Site Development	49,521	-
Heritage Golf Tournament	38,908	33,581
Rural Summit	30,883	25,321
Branding Campaign	26,439	2,929
Business-to-Business Events	19,181	12,751
Economic Development Training	14,277	11,268
Southeast U.S./Japan Association	8,580	536,900
Workforce-ManuFirst	7,500	-
Volvo Car Open Tennis Tournament	4,375	394,824
Women's U.S. Open Golf Tournament	2,925	-
Opportunity Zone Conference	2,030	-
Other Expenditures	11,404	42,775
TOTAL	$897,670	$1,510,255

* Lead generation involves firms that receive funds in order to seek out companies willing to invest in jobs and facilities in South Carolina.

Source: DOC

Spending Guidelines

DOC implemented an updated departmental policy regarding the use of Palmetto Partners funds in 2013. Palmetto Partners funds are required to be spent on the categories listed in Table 2.10.

Table 2.10: Palmetto Partners Spending Categories

Category	Description
Special Marketing Events	Activities sponsored wholly or in part by DOC, including, but not limited to, activities associated with marketing campaigns/initiatives, international and domestic missions, company announcements, and groundbreaking ceremonies.
Economic Development Programs	Include special purpose economic development programs sponsored and/or facilitated wholly, or in part, by DOC, including the Rural Summit and Industry Appreciation Week.
Prospect Expenses	Includes meals, gifts, and entertainment for company officials or their representatives as it relates to a new or existing industry locating or expanding in South Carolina.
Ally Development	Meals and receptions for local economic developers, county and municipal officials, site consultants, regional allies, and those companies which are involved in attracting new or existing industry to South Carolina in conjunction with DOC.

Source: DOC

The DOC guidelines prohibit the use of Palmetto Partners funds for operating expenses or capital expenditures. DOC's guidelines require documentation for all Palmetto Partners expenditures. Additionally, the guidelines require that the expenses be approved by any two of the following DOC officials:

- Secretary of Commerce.
- Legal counsel.
- Chief of staff.
- Chief financial officer.
- Controller.

The guidelines state that spouse travel and meal expenses are generally not allowable unless specific justification is provided and approved in advance by the Secretary of Commerce. We examined documentation for all Palmetto Partners expenditures for the last six months of calendar year 2019. Based on our examination, DOC followed its guidelines for spending the Palmetto Partners funds.

Lack of Performance Measures

The Palmetto Partners program does not have performance measures specific to the activities funded by the program. According to a DOC official, Palmetto Partners uses the same performance measures as the DOC, which are in the annual accountability report. However, the accountability report does not have any specific discussion of the performance of Palmetto Partners. Without performance measures, it is impossible for policy makers and the general public to know whether these funds administered by DOC are effectively attracting jobs and investment to South Carolina.

Potential performance measures for Palmetto Partners projects could be based on the category area of the spending. Examples of such potential performance measures, by category, are listed in Table 2.11.

Table 2.11: Potential Performance Measures for Palmetto Partners Initiatives Based on Category Area

Palmetto Partners Spending Category	Potential Performance Measure
Prospect expenses (such as meals and gifts)	Jobs created by the prospect during a time period following the expense.
Special marketing events	Company feedback based on the event.
Lead generation	New jobs and investment attributable to lead generation spending.

Source: DOC

Palmetto Partners currently gathers information that could be published as a performance measure. For example, for business matchmaking summits, DOC conducts surveys that provide valuable information regarding the effectiveness of those events. Those surveys capture, among other things:

- Contracts in progress as a result of the event.
- Establishment of new relationships.
- Satisfaction feedback.

Such information could be cumulated and published as part of a performance measure report for Palmetto Partners activities.

Relationship with the Coordinating Council for Economic Development

Several companies that have received incentives authorized by the Coordinating Council donated to the Palmetto Partners program. We discussed this issue with DOC officials to determine whether a conflict of interest exists.

According to DOC officials, the Coordinating Council and Palmetto Partners program do not interact. A Coordinating Council official stated that they do not take into account whether a company has contributed to Palmetto Partners when determining whether to recommend them for incentives. However, DOC stated that a lawyer attempted to use the lawyer's law firm's status as a Palmetto Partner to negotiate more incentives for a client. DOC states that the law firm's status as a Palmetto Partner had no effect on the negotiation, and there was no evidence that the client company sought preferential treatment through its counsel.

DOC does not have guidelines regarding the interaction of the Coordinating Council with companies that have contributed to the Palmetto Partners program. Such guidelines could be used to minimize potential conflicts of interest. Examples of such guidelines could include:

- Prohibition of companies from leveraging their contributions to Palmetto Partners in their applications for JDCs or grants.
- Affidavits stating that any potential contributions to Palmetto Partners were not a factor in the incentive decision-making process.
- Protocols regarding interactions between contributing companies and the Coordinating Council.

We did not find evidence that any decision of the Coordinating Council was influenced by knowledge that a company potentially receiving incentives donated to the Palmetto Partners program. However, guidelines specifying the relationship between Palmetto Partners and Coordinating Council could minimize the appearance of a conflict of interest and ensure a fair decision-making process.

Recommendations

12. The S.C. Department of Commerce should develop performance measures for activities funded by the Palmetto Partners program.

13. The S.C. Department of Commerce should adopt guidelines relating to the interaction of the Coordinating Council for Economic Development and companies that have contributed to the Palmetto Partners program.

Oversight of Incentive Programs

We reviewed county oversight of grant funds, examined a selection of files for documentation regarding DOC oversight, and examined the S.C. Department of Revenue's (DOR) auditing of the JDC program, and found:

- Counties do not submit quarterly status reports regarding the compliance of grant recipients with the grant agreement, as required.
- Information companies submit to prove that they have created the requisite number of jobs to qualify for grants is insufficient to verify whether those jobs were actually created.
- For projects that received grant funds, but did not create the requisite number of jobs and/or capital investment, DOC has been repaid $7,825,362 of $9,263,522 sought.
- DOR reports that its auditors have completed 15 to 29 audits per year over the past three calendar years, but a range of 138 to 184 companies claimed JDCs over the past four years.

Grant Compliance

Of the 557 grants that were awarded by the Coordinating Council and had signed performance agreements from January 2009 through September 2019, we reviewed 13 to determine if DOC is effectively tracking grant recipient compliance with grant award agreements and performance agreements. The grant projects reviewed were judgmentally selected based upon the following criteria:

- Year of approval.
- Amount of grant funds awarded.
- Location of grant project.
- Current status of the grant project (i.e., open or closed).
- Outcome of grant project (i.e., successful completion of requirements or not).

We specifically chose some projects that were unsuccessful due to interest from audit requestors and because such projects could highlight processes that need improvement. While this sample is not statistically valid and results may not represent the entire population, the findings obtained from this sample coupled with feedback from DOC highlight areas in need of improvement in the compliance process.

We found that counties are not:

- Submitting quarterly status reports as required.
- Submitting required audit reports after a project's completion.

We found that companies did not always:

- Begin a project within the required three-month timeframe.
- Use grant funds within the required 18-month timeframe.
- Meet the minimum investment and job requirements within the specified timeframes.

County Compliance

By state law, counties are technically the recipients of all grant funds approved by the Coordinating Council. When grants are awarded, the Coordinating Council and the county enter into an agreement that sets requirements for counties that are intended to help the grant program run more effectively and ensure the grant funds are being used for their intended purposes.

The following are the areas for which we found non-compliance.

Grant Award Agreement Requirement #1

REQUIREMENT

Counties must submit quarterly progress reports that provide a status update and identification of any material issues affecting a grant project.

WHAT WE FOUND

Only 3 of the 13 sampled projects had submitted all of the required quarterly reports. One project was the most recently-approved project in our sample and only had two required quarterly reports. Another project only had one required quarterly report. The final project submitted all four of its required quarterly reports.

IMPORTANCE OF THIS REQUIREMENT

These reports are used by the Coordinating Council for informational purposes. However, it is important that the counties keep the Coordinating Council up-to-date on the status of projects receiving grants. If the Coordinating Council knows that projects are not proceeding at the pace that they should, they could relay that information to DOC staff or county officials. Additionally, it would allow DOC staff to more effectively help the project with obtaining permits, provide help with workforce training, etc.

Grant Award Agreement Requirement #2

REQUIREMENT

The county must certify, to the best of its knowledge, that the work of the project for which reimbursement is requested has been completed in accordance with the terms of the grant award agreement.

WHAT WE FOUND

We found certifications for payment and supporting backup documentation in DOC's files for each project that received grant funds.

IMPORTANCE OF THIS REQUIREMENT

Having the counties conduct their own review of the use of grant funds by companies for a project provides an extra layer of assurance that the funds are being used for their intended purpose.

Grant Award Agreement Requirement #3

REQUIREMENT

Counties must submit a copy of an audit report that includes an examination and accounting of the expenditures of grant funds following the completion of a project to the Coordinating Council. The audit shall be prepared using generally accepted auditing standards established by the American Institute of Certified Public Accountants or Government Accountability Office Yellow Book standards.

WHAT WE FOUND

Of the 13 projects in our sample, 12 were completed projects. No audit was found in any of the completed projects' files. In addition, when asked about the audit requirement, a Coordinating Council official informed us that they could not remember an audit report ever being provided by a county to the Coordinating Council.

IMPORTANCE OF THIS REQUIREMENT

An audit of a county's handling of grant funds provides assurance that companies receive the grant funds for which they were approved.

Company Compliance

Whenever grants are awarded to a project that is locating or expanding in South Carolina, the Coordinating Council enters into a performance agreement with the company undertaking the project and the county in which the project is locating. Performance agreements specify the requirements companies must follow throughout the course of a project.

Performance Agreement Requirement #1

REQUIREMENT

Companies must begin a project within three months of the effective date of the performance agreement.

WHAT WE FOUND

Of the ten performance agreements with this requirement, we found evidence that all but one project started within the required timeframe. The project lacked documentation to show that it started within three months; however, there was documentation to show that it started shortly thereafter.

Performance Agreement Requirement #2

REQUIREMENT

Companies must complete the portion of the project to be funded in whole or in part with grant funds within 18 months of the effective date of the performance agreement.

WHAT WE FOUND

Of the ten performance agreements with this requirement, we found that all but three of the projects expended the grant funds within the required timeframe. One of the projects that did not use the grant funds within the required timeframe relocated and eventually closed before all grant funds were disbursed. A lack of documentation for another company confirmed that the company did not use its grant funds. A problem obtaining stormwater permits prevented this project from starting within the required 18-month period.

Performance Agreement Requirement #3

REQUIREMENT

Companies agree to make and maintain a capital investment of not less than a certain amount at the project site for specified purposes (e.g. land, building construction, etc.) within the grant period, which is typically three to five years.

WHAT WE FOUND

All 13 projects had this requirement in the performance agreement. We were able to verify that four of the projects met the investment requirement, time still remains for five of the projects to meet the requirement, and four of the projects did not meet the requirement. Two of the four declared bankruptcy, one relocated and later dissolved, and the other was acquired by another company.

Performance Agreement Requirement #4

REQUIREMENT

Companies agree to create and maintain no fewer than a certain number of new, full-time jobs at the project site within the grant period, typically three to five years.

WHAT WE FOUND

All 13 projects had this requirement in the performance agreement. We found documentation to show that three companies met the requirement, but one of the companies used temporary workers to meet the requirement. Four companies did not meet the requirement—two due to bankruptcy, one due to an acquisition, and another due to relocation/closure of the project. Time still remains for five of the projects to meet the requirement.

Performance Agreement Requirement #5

REQUIREMENT

Once the company has satisfied the job and investment requirements within the grant period, the company agrees to maintain the job and investment requirements at the project for a period of time, typically three to five years.

WHAT WE FOUND

Seven of the performance agreements in our sample had this requirement, but none of the projects had completed the first full year of their maintenance periods, so the projects do not have to report compliance with this requirement yet.

Performance Agreement Requirement #6

REQUIREMENT

During the grant period, the company shall provide the Coordinating Council an annual written report that provides (1) the total number of new jobs filled and maintained by the company as of such date, and (2) the monthly average of total investment of the company at the project site during such year.

WHAT WE FOUND

Of the five projects with this requirement, only one project had submitted all of the required annual reports. The one project that met this requirement has only been required to submit one annual report as of December 2019.

Compliance Tracking

Since annual reports and quarterly reports were not submitted as required for the vast majority of projects in our sample, the Coordinating Council would not know, until the end of a project's grant period, whether the project would meet either the jobs or investment requirements. This is unless the company undertaking the project or a DOC staff member would proactively contact the other party.

A DOC staff member informed us that the staff is small and are not able to ensure that all of the required status reports are submitted. Both performance agreements and grant award agreements contain clauses that allow the Coordinating Council to refrain from extending any further assistance or grant funds if the county or company fails to abide by the conditions of the agreements. While these measures may only be appropriate for severe cases of non-compliance, the DOC staff could take a more proactive approach to ensure that counties and companies submit all of the project status reports as required. This can include developing a system that automatically notifies counties and companies when status reports are due and staff follow-up when status reports are past due.

Verifying Jobs

We found that the only evidence DOC uses to verify companies' job creation/retention is documentation provided by the company, itself. We also found that companies submitted different, non-uniform forms of documentation to verify that they had created and/or retained the number of jobs that were agreed to in the performance agreement. Some projects simply submitted what appeared to be a Microsoft® Office Excel spreadsheet with a list of employee names and variations of the following information: employee ID numbers, last four digits of social security numbers, dates of hire, wage amounts, and job titles.

Employee lists that only provide an employee's last name, first initial, last four digits of the social security number, and date of hire, as submitted by one company and shown in Appendix G, are insufficient evidence of jobs created for the project. Additional verification should be conducted to confirm that the company employs the number of individuals that it claims are new, full-time employees.

One way to verify a company's job claims is to use quarterly employee data that is submitted by companies to the S.C. Department of Employment and Workforce (DEW). The quarterly wage contribution reports provide an employee's full name, social security number, total wages, and hours worked. A DOC staff member told us that the Coordinating Council used to receive these reports, but have not received the reports since the mid-1990s.

A data sharing agreement with DEW could allow for the efficient sharing of data that would allow for greater certainty regarding a company's job claims information. While the information provided to DEW is self-reported by an employer, DOC staff could use the reports to verify whether the company is providing the same information to DEW that it is providing to DOC.

In addition, the Coordinating Council could partner with the S.C. Department of Revenue (DOR) to use information that employers submit on their employees to verify new, full-time jobs or jobs retained. The Coordinating Council and DOR already share some information for the job development credit program. It is important to note that the head of DEW and DOR are both statutory members of the Coordinating Council.

Verifying Investment

Most of the performance agreements require the grant funds be used on real property improvements (e.g. improvements to roads or a building). Therefore, a DOC staff member stated that they usually use a company's property tax return to verify whether the company met the minimum investment requirement or not. When a company does not submit a property tax return to verify investment, it submits invoices and proofs of payment, usually in the form of copies of checks or bank statements, to verify that the investment was made.

Site Visits

In addition to the submission of invoices/proofs of payment and/or property tax returns, DOC staff started conducting site visits at a grant recipient's project location to verify that grant funds were used on the things that were agreed upon between the parties. According to a DOC official, the first site visit was conducted in 2014 in response to a company that fraudulently claimed expenditures for grant funds that it did not actually make.

From September 2014 to February 24, 2020, DOC staff conducted 53 site visits with 21 of the visits conducted since the start of our audit in August 2019. Prior to the start of our audit, DOC staff had not conducted a site visit since September 2018. DOC claims site visits have been conducted sporadically in the past due to a lack of dedicated, full-time staff to ensure the visits are performed.

During site visits, a DOC employee meets with a company official to discuss what the project's eligible expenditures were and is then physically shown what the grant funds were used to purchase. The DOC employee documents the improvements with pictures that are submitted with the rest of the findings to Coordinating Council.

Currently, DOC plans to conduct site visits for companies that receive grant funds for building upfits (i.e., modifications) because that is where fraud occurred in the past and where DOC staff believe fraud risk is the greatest. Companies can also receive grant funds for site work and public infrastructure.

Recommendations

14. The Coordinating Council for Economic Development should take a more proactive approach to ensure that companies and counties submit all of the project status reports as required.

15. The Coordinating Council for Economic Development should continue conducting site visits at all grant projects where fraud risk is the greatest.

16. The Coordinating Council for Economic Development should conduct additional verification of the new or retained jobs that a grant recipient claims.

17. The Coordinating Council for Economic Development should seek a data sharing agreement that would allow it to use data from the S.C. Department of Employment and Workforce and/or the S.C. Department of Revenue to verify that a grant recipient created the new, full-time jobs, or retained jobs that it claimed to have created.

Grant Repayments

When companies fail to satisfy and maintain job and/or investment requirements as set forth in performance agreements, the Coordinating Council may "claw back" (i.e., require repayment of) grant funds. The Coordinating Council may also claw back grant funds when a company defaults on its performance agreement. Events of default include a company providing false or misleading information and a company voluntarily filing a petition for bankruptcy. Furthermore, companies who did not meet the investment and/or jobs requirements can be given additional time to invest and/or create jobs, but must make an initial/partial repayment of the grant funds.

How Grant Clawbacks are Calculated

Performance agreements require repayment of all grant funds if a company:

- Does not locate in South Carolina.
- Fails to create any new jobs and make any investment in South Carolina.

A company is required to repay a portion of the grant funds expended if it:

- Creates jobs and/or makes investment but fails to meet the job requirement and/or the investment requirement.
- Meets, but then fails to maintain, either requirement (if the company has a contractual maintenance requirement).

The portion of grant funds that is required to be repaid is based upon the actual number of jobs created and/or investment made. In addition, a pro rata repayment for failure to meet either the job requirement or the investment requirement will be calculated, independently, with each calculation based on 50% of the grant funds expended.

For example, if a company receives a $100,000 grant and, at the end of its performance period, only creates 80% of the required jobs and makes 90% of the required investment, its repayment would be calculated as shown in Table 3.1.

Table 3.1: Sample Grant Repayment Calculation

Grant Funds Repayment Calculation	
Jobs Repayment	
Grant Funds Disbursed	$100,000
50% Funds Allocated to Jobs Requirement	x 50%
	$50,000
Only 80% of Jobs Requirement	x 20%
Jobs Repayment	$10,000
Investment Repayment	
Grant Funds Disbursed	$100,000
50% Funds Allocated to Invest. Requirement	x 50%
	$50,000
Only 90% of Investment Requirement	x 10%
Investment Repayment	$5,000
TOTAL Repayment	$15,000

Grants That Did Not Meet Performance Requirements

The scope of our audit included all 557 grants that were approved by the Coordinating Council and had signed performance agreements from January 1, 2009 through September 30, 2019. Of the 557 grants, 248 have been evaluated by DOC staff for performance compliance. The remaining 309 either have not reached the end of their performance periods or are still being evaluated. Of the 248 grants that have been evaluated:

- 156 met or exceeded both the jobs and investment requirements.
- 47 met or exceeded one of the requirements, but failed to meet the other requirement.
- 45 failed to meet either requirement. This number includes 18 projects that did not provide documentation and were assumed to fail to meet both requirements.

Table 3.2 shows an overview of the 248 grants and includes the actual investments made and jobs created.

Table 3.2: Total Grants That Have Been Evaluated for Performance, January 2009–September 2019

Requirements	Number of Companies	Total Grants Awarded	Required Investment	Actual Investment Made	Required Jobs	Actual Jobs Created
Met or Exceeded Both	156	$132,933,903	$7,849,716,104	$9,431,832,993	21,515	25,361
Met or Exceeded Only One	47	24,630,000	1,000,534,414	1,741,439,368	6,318	4,809
Failed to Meet Both	45	20,068,057	1,150,562,454	638,020,318	6,339	1,128
TOTAL	248	177,631,960	10,000,812,972	11,811,292,679	34,172	31,298

Source: DOC

Calculation of Grant Clawbacks

Using data provided by the Coordinating Council, we calculated the amount of clawbacks that could have been issued based upon the clawback calculation in the performance agreements. We found that, of the projects in our scope that failed to meet the jobs requirement and/or the investment requirement, the Coordinating Council could have issued approximately $17 million in clawbacks. However, there is a clause in performance agreements that allows the Coordinating Council to amend performance agreements if the company fails to meet either requirement. The clause states:

> If (a) the Investment Requirement is not met or (b) the total number of full time jobs created is less than the Job Requirement or (c) the investment is not made or the jobs are not created within the Grant Period, the Company may provide detailed documentation that a good faith effort was made to achieve both the Job Requirement and the Investment Requirement. To the extent that extenuating circumstances prevent the Company from fulfilling its commitments contained herein, and the Grantee and the Council, in their sole discretion, acknowledge such circumstances in writing, this Agreement may be modified in writing by mutual agreement of the parties.

In essence, the clause allows the Coordinating Council flexibility to reduce or waive any repayment that would otherwise be required for a company that fails to meet either performance requirement. A DOC staff member provided examples of circumstances that would justify a waiver or reduction of the repayment required:

- Job requirements are often harder to fill in a rural county due to high attrition and lack of qualified workers.
- South Carolina’s low unemployment rate makes it difficult for some companies to fill openings.
- Some companies experience delays in construction, which causes delays in the timing of the project.
- Downturns in the economy change business plans for some companies. For example, the staff member noted that recent tariffs have increased costs of supplies for some companies and have required them to scale back investment and/or job creation.

Due to the Coordinating Council's ability to waive or reduce repayment amounts, of the $16,961,041 for which the Coordinating Council could have issued clawbacks, it has only issued clawback letters for $9,263,522. As of February 21, 2020, it has received $7,825,362. There is still a balance of $1,438,160 owed, and a DOC staff member said that the Coordinating Council will use its best efforts to collect this amount.

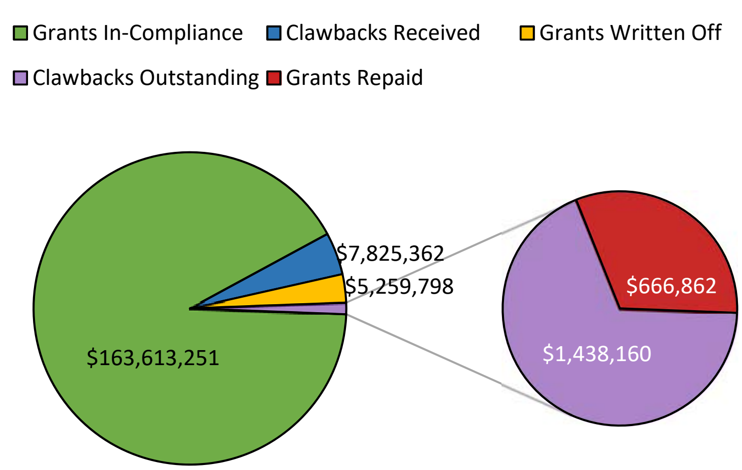
Other Grant Repayments

In addition to the clawbacks mentioned above, some companies who have not met their investment or job requirements are allowed additional time by the Coordinating Council to create jobs or investment but are required to make an initial/partial repayment of grant funds. As of February 21, 2020, four projects fell into this category and had made initial/partial repayments totaling $300,000.

The Coordinating Council also received grant repayments from companies that had failed to maintain the minimum job requirement for a period of time. As of February 21, 2020, two projects fell into this category and had made repayments totaling $125,000.

Chart 3.3 provides an overview on the status of the 248 closed grants and 4 grants with partial repayments in our review as of February 21, 2020.

Chart 3.3: Overview of the 248 Grants Evaluated for Performance and 4 Grants with Partial Repayments, January 2009 – September 2019



Note: These amounts are based on grant funds drawn rather than grant funds awarded.

Source: Coordinating Council and LAC analysis.

Problems Collecting All Clawback Funds

Included in the 45 grants that failed to meet the job and investment requirements are 20 grants for which the Coordinating Council required repayment, but has written off, or is pending write-off, as uncollectable. Seventeen of the grants are complete write-offs, and the Coordinating Council received partial payment for the remaining three projects. The reasons why these grants are mostly uncollectable vary greatly, but provide an insight on the challenges that the Coordinating Council has faced in recouping grant funds. For example, in three separate projects in Marion County:

COMPANY A

This company was awarded $1,100,000 by the Coordinating Council in 2010, of which $880,776 was actually dispersed. In 2011, the Coordinating Council learned that some of the work that had been reimbursed had not been done. In September of that same year, the Coordinating Council submitted a request to the S.C. Attorney General's Office to refer the matter to the S.C. Law Enforcement Division to substantiate a claim of fraud. The Coordinating Council talked to the lawyer for the company and demanded $306,000 in repayment or be prosecuted for criminal fraud. The Coordinating Council was repaid $229,000, and the company still owes $77,000 as of February 13, 2020. Also, the project never located in South Carolina, so no investment was made and no jobs were created.

COMPANY B

This company was awarded $1,000,000 by the Coordinating Council in 2009, and all of the grant funds were dispersed to the company. According to the Coordinating Council, the company has had minimal investment and job creation. The company claims that it is still in South Carolina and in business, although there is little sign of work done. Several people involved with the project have now been convicted of fraud. The company claims that it has created 80 jobs but has not provided documentation to verify investment amounts to the Coordinating Council. The Coordinating Council required the company to repay $847,328 of the grant funds, but has not received any of it. After talking with the Federal Bureau of Investigation, DOC staff do not believe that the repayment is worth pursuing and the Coordinating Council has written off the $847,328 in grant funds.

COMPANY C

This company was awarded $1,200,000 by the Coordinating Council in 2012, and all of the grant funds were dispersed to the company. The company never met its job or investment requirements. In 2017, the chief executive officer (CEO) of the company was sentenced to 15 years in prison in connection with two separate fraud schemes: $1.2 million that was fraudulently obtained from the Coordinating Council and a separate $30 million Ponzi scheme. The $1.2 million was fraudulently obtained from the Coordinating Council using a fraudulent "audited" financial report. The company also provided fraudulent contractor invoices and fraudulent bank statements in order to obtain the grant funds. Some of the grant funds were used for the CEO's personal living expenses, including a Palm Beach wedding and a luxury SUV.

Of the remaining 17 projects, 5 either filed bankruptcy or were insolvent, and the others ceased operations for various reasons (e.g. one partner pulled out of a joint venture).

Bankruptcy

Grant recipients filing for bankruptcy presents obvious challenges to the Coordinating Council when seeking repayment. As an unsecured creditor, the Coordinating Council receives repayment only after all of the secured creditors, such as banks, are paid. According to DOC staff, 6 of the 557 grant recipients in our audit scope have filed for bankruptcy. The Coordinating Council has received repayment from two of the grant recipients that filed for bankruptcy. For the first recipient, the repayment amount was $9,614 of a $25,000 grant. For the second recipient, the repayment amount was $3,247.69 of a $250,000 grant.

Fraud

Three grant recipients are known to have committed fraud against the Coordinating Council within the period under review. In each case, the companies were reimbursed for expenditures that did not actually occur, but, in the case of Company C, the Coordinating Council did obtain photographic evidence that grant funds were expended for significant improvements within the scope of the grant (i.e., a new roof and HVAC system). A total of $3,080,776 was disbursed to the three companies. The Coordinating Council sought repayment of $2,928,104 of the disbursed funds, but has only able to obtain a $229,000 repayment from one of the projects.

The best way to prevent fraud is to ensure that due diligence is conducted on an applicant before grant funds are awarded. This is discussed in detail in Chapter 4.

Unresponsiveness

DOC staff received no response from 6 of the 20 grant recipients after attempts to contact the companies or a principal officer of the company were made. In three of these instances, mailed communication was returned as undeliverable; however, in one case, a letter that was sent to the personal address of the CEO of a grant recipient was returned as refused.

When asked why the Coordinating Council did not seek legal action against these companies, a DOC staff member informed us that the legal costs could outweigh any repayment that the Coordinating Council would receive. In addition, the Coordinating Council has not sought repayment by using a collection agency because it is an unsecured creditor, and staff believe that the Coordinating Council would likely see little repayment, if anything at all.

Transparency

State economic development grants are provided to public and privately-held companies using taxpayer money. Thus, information should be available to taxpayers when grant recipients fail to meet job and investment requirements, and when the recipients meet or exceed the requirements. As stated in Chapter 2, if a company received an incentive and closed, executed a mass layoff, or filed for bankruptcy, the public should know if enforcement efforts are being taken to claw back some of the expended taxpayer funds.

Recommendations

18. The S.C. Department of Commerce should begin reporting on the amount of clawbacks that have been issued, received, and balance due by grant recipients in its annual report.

19. The S.C. Department of Commerce should begin reporting the amount of grants that have been written off for grant recipients in its annual report.

Audits of JDC Recipients

Some officials at the S.C. Department of Commerce stated that the Job Development Credit (JDC) program is risk-free due, in part, to the fact that the S.C. Department of Revenue (DOR) is statutorily-required to audit all JDC recipients with claims over $10,000 in a calendar year at least once every three years. However, DOR is unable to complete all statutorily-required audits. Moreover, some companies that received JDCs have never been audited by DOR.

S.C. Code §12-10-80(A)(11) requires DOR to audit each qualifying business with JDC claims in excess of $10,000 in a calendar year "at least once every three years to verify proper sources and uses of the funds." DOR reports that its auditors have completed 15 to 29 audits per year over the past three calendar years, but there have been an average of 138 to 184 companies claiming JDCs over the past four years.

Table 3.4: Number of JDC Claims and DOR Audits by Year, 2016–2019

Calendar Year	Average Number of Companies Claiming JDCs	Number of Audits Completed by DOR
2016	184	N/A*
2017	166	15
2018	159	26
2019	138	29

* Due to a new audit system that was implemented in 2017, DOR does not have any information for either the number of audits completed or the number of companies claiming JDCs prior to the years listed above.

Source: DOR

DOR is not completing all statutorily-required audits. A DOR official stated that a major reason for its inability to complete the statutory requirement is a lack of resources. As of October 2019, DOR only had two auditors conducting audits of JDCs and one audit manager. A DOR official stated that the agency was placing an emphasis on getting additional help with the program. In its response to the preliminary draft of this report, DOR stated that it would require approximately $389,576 for four full-time auditors in order to fulfill its statutory audits of JDCs. DOR proposes increasing the annual audit fee to $2,000 in order to fund these positions.

Discrepancies in JDC Claims

DOR staff informed us that discrepancies are found in JDC claims in up to 95% of audits. Some types of discrepancies that are found include companies who do not adhere to the cap on JDCs that it can claim against each employee and companies claiming JDCs for unqualified (i.e., terminated) employees. DOR staff and DOC staff are conducting joint quarterly training sessions for companies to learn how to accurately calculate the number of JDCs they are eligible to claim, an action which may help reduce the number of discrepancies.

Recommendation

20. The S.C. Department of Revenue should allocate resources so that the job development credit audit program is able to fulfill its statutorily-required duty to audit each company claiming job development credits in excess of $10,000 in a calendar year, at least once every three years.

JDC Compliance

Of the 415 projects that were approved for job development credits (JDCs) and had executed revitalization agreements from January 2009 through September 2019, we reviewed 18 to determine if DOC is effectively tracking JDC recipient compliance with revitalization agreements. We used the requirements found in the agreements as our criteria for assessing JDC recipient compliance.

Company Compliance

Whenever JDCs are awarded to a project that is locating or expanding in South Carolina, the Coordinating Council enters into a revitalization agreement with the company undertaking the project. Revitalization agreements lay out the requirements that a company must meet before it can claim JDCs along with the requirements that a company must meet while claiming JDCs. We reviewed compliance with the requirements for the 18 projects in our sample (see Appendix B for a list of revitalization agreement requirements).

Supplier Report Requirement

Due to taxpayer confidentiality statutes and our own enabling statutes, we were unable to verify that companies claiming JDCs were complying with all of the requirements in revitalization agreements, except for the supplier report requirement. The supplier report requirement in revitalization agreements states:

> Within thirty (30) days after execution of this Agreement, the Company shall provide the Council with a list of companies or persons that have supplied the Company with materials and services in excess of twenty-five thousand dollars ($25,000) since the commencement of the Project. This report shall include the name, address, and telephone number of the supplier company or person as well as a contact person for each supplier company and must be updated annually.

Regarding this requirement we did not find any supplier reports in the files of the eight JDC projects in our sample that had the requirement. A DOC staff member stated that the supplier report requirement was originally added in the revitalization agreements as a means to get potential leads for further recruiting. However, companies were very resistant to supply the reports, and the Council did not receive many of the reports. The staff member stated that the Coordinating Council removed the requirement from the agreements because of resistance to the provision and the fact that the state received no real benefit from the reports it did receive.

Hindrance of Taxpayer Confidentiality Statutes

S.C. Code of Laws §2-15-61 and §12-54-240(A) prevent the LAC from obtaining information on tax returns from companies that are claiming JDCs. The two sections of law specifically state:

S.C. Code of Laws §2-15-61:

> For the purposes of carrying out its audit duties under this chapter, the Legislative Audit Council shall have access to the records and facilities of every state agency during that agency's operating hours with the exception of reports and returns of the South Carolina S.C. Department of Revenue as provided in Sections 12-7-1680 and 12-35-1530.

S.C. Code of Laws §12-54-240(A):

> Except in accordance with proper judicial order or as otherwise provided by law, it is unlawful for a person to divulge or make known in any manner any particulars set forth or disclosed in any report or return required under Chapters 6, 8, 11, 13, 16, 20, or 36 or Article 17, Chapter 21 of this title. A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both. If the offender is an officer or an employee of the State, he must be dismissed from office and is disqualified from holding any public office in this State for a period of five years thereafter. If the offender is an officer or employee of a company retained by the State on an independent contract basis under subsection (B)(3) of this section or Section 12-4-350, the contract is immediately terminated and the company is not eligible to contract with the State for this purpose for a period of five years thereafter.

The laws listed above hinder our ability to evaluate the effectiveness of the JDC program because we are prevented from knowing if a company has claimed any JDCs at all. If we do not know which specific companies have claimed JDCs, we cannot fully review whether the Coordinating Council is effectively tracking compliance with the JDC program. However, through interviews with DOC staff and DOR auditors, we found information that merits additional review.

A DOC official stated that DOC relies on the "honor system" regarding the number of jobs and investment that a company claims it has created or made on quarterly status reports. This is concerning because companies could claim more JDCs than they are entitled to without proper verification of jobs created and investment made. Nevertheless, DOC officials told us multiple times that there is no risk to the state with the JDC program because companies can only claim credits against the jobs that the company has already created or investment that has already been made, and DOR audits all JDC recipients.

However, as we discuss in *Audits of JDC Recipients*, many companies do not receive audits by DOR as statutorily-required. If the JDC recipients are not receiving statutorily-required audits, their job creation figures could be inflated, causing the companies to claim more JDCs than they are entitled.

While we could not review compliance with all requirements in the revitalization agreements, we found that there is a lack of communication between the Coordinating Council and DOR concerning the JDC program based upon the level of review DOR auditors actually conduct and what DOC staff believe the auditors conduct. Since more than $200 million in JDCs has been claimed by the 415 companies in the scope of our audit and JDCs represent a cost to the state in the form of lost revenue, we should be able to review all aspects of the program to ensure compliance with and effectiveness of the program while looking for ways to maximizing the value of the program to the state.

Recommendations

21. The S.C. General Assembly should amend S.C. Code of Laws §2-15-61 to give the Legislative Audit Council the authority to review reports and returns of the S.C. Department of Revenue when necessary to conduct audits.

22. The Coordinating Council for Economic Development and the S.C. Department of Revenue should have better communication to ensure that all job development credit recipients are complying with state law and revitalization agreements.

Evaluation of Proposed Incentive Projects

We examined DOC's process for examining projects that have applied for grants or JDCs, DOC's cost-benefit analysis model for determining the potential economic impact of the proposed projects, and DOC's evaluation of the financial status of applicants for grants and JDCs. We found:

- DOC's cost-benefit analysis model was adopted in the mid-1990s and has not been updated to reflect current economic conditions.
- Our analysis using updated economic conditions showed that the projected employment numbers of incentive recipients may have been inflated.
- DOC uses a company's estimate of its proposed number of new jobs when conducting cost-benefit analysis.
- DOC's process for analyzing an applicant's financial condition could be improved.

Cost-Benefit Model

We reviewed the model used by DOC to estimate the economic and fiscal impacts of a proposed project. We evaluated the accuracy and appropriateness of the model, as well as the methodologies used by DOC in awarding economic incentives to a proposed project. We reviewed economic incentive programs offered by other Southeastern states, in addition to best practices for economic development work. We found:

- The model used by DOC to estimate the economic and fiscal impacts of proposed projects has not been regularly updated to reflect current economic conditions.
- All 32 impact analyses we reviewed indicated that DOC's use of outdated data potentially inflated new employment numbers for companies seeking incentives and provided an inaccurate evaluation of the economic effects of a proposed project.
- The model relies on job creation numbers provided by the prospective company with little documentation required to support the numbers and no research conducted by DOC to determine the feasibility of the numbers.
- DOC's process for determining which proposed projects receive economic incentives could be improved with the use of best practices, such as using economic modeling software.
- DOC has not preserved institutional knowledge by documenting the process for conducting its economic impact analysis.
- According to DOC, its cost-benefit model is conservative in estimating whether the costs to the state outweigh the benefits.

Economic Impact Analysis Model Outdated

We reviewed the economic impact analysis model used by DOC to determine its effectiveness. The model used by DOC to estimate the economic and fiscal impacts of a proposed project is outdated. The State Budget and Control Board's Board of Economic Advisors prepared the model, which was adopted 25 years ago in the mid-1990s.

A DOC official acknowledged that the model is outdated and explained that conversations have been held with consultants, including the University of South Carolina (U*of*SC), about potential changes to the model. Upon being told that U*of*SC's proposed model could take a month per project, DOC thought too much time and expense would be involved to adopt that model. The official stated that DOC has not looked at software as an option.

DOC's model uses some data related to economic conditions, which are constantly changing. For example, the model uses multipliers in its evaluation of a proposed project. The multiplier is the amount of direct and indirect payroll that would be generated in the state from $1 of new direct payroll. The multipliers are estimates which change every year based on spending patterns as determined from surveys conducted by the U.S. Bureau of Economic Analysis. DOC obtained the multipliers from a division of the State Budget and Control Board, now the S.C. Revenue and Fiscal Affairs Office (RFA), when the model was first adopted.

DOC has not updated the multipliers used in its model to determine the economic and fiscal impacts of a proposed project since the model's inception in the mid-1990s. DOC's model also includes other variables, such as the average annual salary in South Carolina, the median county home value, and the inflation rate. DOC was not able to provide the date for the last time the numbers for those variables had been updated, but an agency official told us it has been a significant amount of time.

DOC uses Standard Industrial Classification (SIC) codes in its impact analysis to identify the type of industry for the proposed project. However, the newest classification system is the North American Industry Classification System (NAICS), established in 1997 to replace the SIC system, which was considered to be insufficient. Although SIC codes are still widely used, NAICS codes provide more precise descriptions of the industry types. DOC's analyses would provide better clarity for the types of industries considered for incentives with the use of NAICS codes.

An official from RFA stated that, although the basic premise of the model is still valid, the economic analysis model used by DOC is outdated. The official stated the last update provided to DOC was 20 years ago, after the census, when there was a comprehensive change in home values.

The official stated that it would be best to incorporate economic changes every year, but DOC has not asked for many updates to the model. The official stated it would be best for an outside firm with specialized skills to assist DOC in updating its economic impact analysis.

The RFA official also explained that the model was not designed to analyze the economic impact of providing incentives to professional sports teams. As recently publicized, DOC awarded incentives in 2019 to the Carolina Panthers, a professional football team, to move its headquarters to York County, South Carolina, which includes building a training facility there. As DOC pursues changes to its model, it should take into account situations that involve companies with special economic circumstances, such as professional sports teams.

By not updating the multipliers and the other variables, which are subject to a changing economy, DOC is not accurately determining the economic and fiscal impact of a proposed project. Using outdated economic data could lead to DOC awarding incentives to projects that would have fewer estimated benefits to costs if the analyses were conducted using current data (see *Economic Impact Analyses Yields Inaccurate Results*). Since incentives generally should not be offered to proposed projects when the estimated costs outweigh the estimated benefits, it is imperative that DOC accurately analyze each proposed project for its economic impacts.

According to DOC, the cost-benefit analysis model is conservative in estimating whether the costs to the state outweigh the benefits. Examples, as stated by DOC, include:

- The state income and state cost estimates in the model are very conservative.
- The only revenue in the model is derived from $.07 (equivalent to the state withholding tax) from every dollar of direct and indirect payroll.
- State revenues generated by sales and use taxes, utility taxes, or any other revenues generated via the anticipated direct or indirect employment by the proposed project or the company itself, are not included in the model.
- The model assumes every credit earned is used in the year it is earned for a period of 15 years. However, most companies recruited by DOC have no state income tax liability and cannot use many, if any, of these credits. So, while the model includes zero revenue from corporate income, it includes the cost of job tax credits as if every single credit earned is used, making the model extremely conservative from a state cost standpoint.

Additionally, DOC stated that counties should, and generally do, evaluate the impact of economic development projects on their respective communities, as is required when entering into a fee-in-lieu of property taxes agreement for a project.

Economic Impact Analyses Yields Inaccurate Results

We reviewed the economic impact analyses of 32 companies awarded incentives by DOC. DOC performed an impact analysis and gave it to the Coordinating Council to consider for approval of each application. Although DOC consistently performed an impact analysis for each company, we found that the data used in the analysis was outdated, yielding inaccurate results.

In all 32 impact analyses we reviewed, DOC used outdated values for the average annual salary in South Carolina. We found the actual average annual salary in the state was significantly higher in each instance, with differences ranging from $10,444 to $16,614 when compared with the values used by DOC in its analyses. We included results from the last five years in Table 4.1.

**Table 4.1:
Average Salary Analysis,
February 2015–October 2019**

County Location of Project	Date of DOC Analysis	Average Salary		Difference *
		LAC Analysis	DOC Analysis	
Spartanburg	2/17/2015	$39,570	$26,596	$12,974
Aiken	6/25/2015	$39,570	$26,596	$12,974
Dorchester	2/26/2016	$40,580	$26,596	$13,984
Laurens	5/20/2016	$40,580	$26,596	$13,984
Richland	12/1/2016	$40,580	$26,596	$13,984
York	8/15/2017	$41,530	$26,596	$14,934
Florence	11/16/2017	$41,530	$26,596	$14,934
Lexington	12/5/2017	$41,530	$26,596	$14,934
York	1/31/2018	$42,240	$26,596	$15,644
Greenville	4/16/2018	$42,240	$26,596	$15,644
Lancaster	6/6/2018	$42,240	$26,596	$15,644
Lexington	7/26/2018	$42,240	$26,596	$15,644
York	10/22/2018	$42,240	$26,596	$15,644
Laurens	11/2/2018	$42,240	$26,596	$15,644
Charleston	2/8/2019	$43,210	$26,596	$16,614
Oconee	2/12/2019	$43,210	$26,596	$16,614
Pickens	2/26/2019	$43,210	$26,596	$16,614
York	4/8/2019	$43,210	$26,596	$16,614
Spartanburg	5/16/2019	$43,210	$26,596	$16,614
Lancaster	10/23/2019	$43,210	$26,596	$16,614

* The difference indicates LAC’s analysis found higher values than DOC's analysis. The values used by DOC resulted in inflated employment projections.

Sources: DOC, U.S. Bureau of Labor Statistics, and LAC Analysis

Recalculation of Impact Analyses

We attempted to recalculate each economic impact analysis to determine how the use of accurate data would change the final result of the analysis, but DOC files did not contain sufficient documentation for a complete recalculation. However, we were able to partially recalculate the analyses. Using DOC's template for the analyses, we inserted the accurate values for the average annual salary in the state according to the respective time period. We found all 32 analyses formerly conducted by DOC were inaccurate in the following components, which are used to determine the final result of the impact analyses, the cost-benefit ratio:

- Employment Multiplier.
- Indirect Employment.
- Total Employment Impact.

Table 4.2 shows the results of our partial comparison of economic impact analyses from a sample for the last five years. The projected employment impact determined by DOC was as much as 2,197 more jobs than the results of LAC's analyses. DOC's analyses were inaccurate, yielding higher employment multipliers and job creation numbers that made projects appear more attractive by inflating the employment impact.

Table 4.2:
Employment Analysis, February 2015–October 2019

County Location of Project	Date of DOC's Analysis	Difference – Results of LAC Analysis *		
		Employment Multiplier **	Employment - Indirect	Total Employment Impact
Spartanburg	2/17/2015	0.33	192	192
Aiken	6/25/2015	0.72	72	72
Dorchester	2/26/2016	0.46	15	15
Laurens	5/20/2016	0.38	13	13
Richland	12/1/2016	1.06	106	106
York	8/15/2017	0.43	233	233
Florence	11/16/2017	1.66	582	582
Lexington	12/5/2017	0.45	45	45
York	1/31/2018	0.97	1,068	1,068
Greenville	4/16/2018	0.78	15	15
Lancaster	6/6/2018	0.91	95	95
Lexington	7/26/2018	0.79	61	61
York	10/22/2018	0.88	56	56
Laurens	11/2/2018	0.86	37	37
Charleston	2/8/2019	0.61	112	112
Oconee	2/12/2019	0.68	68	68
Pickens	2/26/2019	0.71	40	40
York	4/8/2019	14.65	2,197	2,197
Spartanburg	5/16/2019	0.46	51	51
Lancaster	10/23/2019	0.71	708	708

* The difference indicates DOC's analysis found higher values than LAC's analysis.

** The employment multiplier is the amount of direct and indirect payroll that would be generated in the state from one dollar of new direct payroll. The values used by DOC resulted in inflated employment projections.

Sources: DOC, U.S. Bureau of Labor Statistics, and LAC Analysis

Median Home Values

We also found that DOC used outdated data for another component of the impact analysis, the median home value in the county of the project. Of the four counties we reviewed, we found median home values in the respective time period were actually as much as $197,225 higher than the values used by DOC in its analyses. Each of the four counties had higher actual median home values than those used by DOC as shown in Table 4.3.

Table 4.3: Median Home Values

County Location of Project	LAC Median Home Value	DOC Median Home Value	Difference *
Charleston	$295,600	$98,375	$197,225
Fairfield	$92,500	$61,014	$31,486
Marion	$77,800	$56,848	$20,952
York	$186,000	$95,015	$90,985

*The difference indicates LAC's analysis found higher values than DOC's analysis.

Sources: DOC, RFA, and LAC Analysis

The county median home values factor into DOC's impact analysis in multiple areas. Using outdated data affects the final result of the analysis, providing an inaccurate evaluation of the economic effects of a proposed project by inflating the cost-benefit ratio, a determination of whether the benefits from the project outweigh the costs involved.

DOC's use of outdated data caused its impact analyses to be inaccurate, yielding inflated employment projections for proposed projects. Therefore, DOC made decisions on whether to award incentives without having the best information.

Job Creation Numbers

The DOC cost-benefit model relies on job creation numbers provided by the prospective company in its application with little documentation required to support the company's estimated job numbers. According to a DOC official, the agency does not conduct research regarding the feasibility of the numbers provided in the applications. The official noted that the company is required to certify that information in the application is correct to the best of its knowledge. Since companies submitting proposed projects are seeking incentives, it is possible that companies could inflate the number of jobs to be created in order to obtain more favorable incentives.

A DOC official noted that the agency reviews financial statements of applicants, but takes risks, especially in rural counties. Better documentation of the number of jobs to be created, the use of industry standards, and DOC's own judgment may better determine if the job projections appear to be reasonable. This is particularly important since DOC uses the job creation number from the company in its impact analysis as well as in press releases regarding the incentives.

Outside Analysis of Carolina Panthers Incentives

Some of the issues we examined above regarding the 2019 incentives awarded to the Carolina Panthers professional football team were addressed by Dr. Rebecca Gunnlaugsson, an economist who specializes in public finance and taxation. Dr. Gunnlaugsson noted potential problems with the cost-benefit analysis for the Panthers' project. DOC responded to Dr. Gunnlaugsson's concerns. Dr. Gunnlaugsson's concerns and DOC's responses are summarized in Table 4.4.

Table 4.4: Comparison of Dr. Gunnlaugsson's Analysis to S.C. Department of Commerce's Analysis

Dr. Gunnlaugsson's Analysis	Department of Commerce's Response
The relocation of the Carolina Panthers' headquarters is simply a shift of activity from one location in the Charlotte metro area to another.	There is no way to guess what portion of economic activity may shift from Charlotte to York County. DOC anticipates significant growth around the proposed new facility, which will bring investment to the Rock Hill area.
Because the new location is essentially a suburb of Charlotte, it is likely that most established coaches, players, staff, and executives will continue to live at their current residences and commute.	While all coaches, players, and staff may not move initially, DOC expects that they will over time. Due to significant traffic congestion between Charlotte and Rock Hill, the coaches and players will be want to live in close proximity to the fields to be on time for practice and other functions.
DOC assumes all 150 players, coaches, staff, & owners will relocate to South Carolina and spend ALL of their wages in South Carolina.	This cost benefit analysis assumes the relocation of 150 jobs to South Carolina, with at least 80% of the payroll for such jobs to be taxable in South Carolina.
DOC's analysis overstates the employment multiplier, asserting that 150 new jobs will spawn the development of 5,715 additional new jobs in the area.	DOC concedes that the income level used in the employment multiplier may be outdated. DOC calculated that, if they use the S.C. average income for 2019 of $42,736, the number would be reduced from 5,715 to 3,556. DOC notes that its model accounts for only 150 jobs for the professional sports team, and does not include any additional jobs created in future headquarters' staff growth.
DOC does not include the costs of additional required infrastructure (police, fire, roads, sewer, services, etc.).	No upfront state infrastructure costs are anticipated other than the new interchange to enhance I-77 (included in the cost benefit) and minor road improvements. Police, fire, etc., are local government issues not included in the state impact analysis. Local expenses are not part of the analysis.
The DOC model appears to use antiquated input values.	The model used by the DOC was created by RFA. Although DOC does not believe that assumptions need to be corrected, even if the net benefit is overstated by $2.684 billion as Dr. Gunnlaugsson has concluded, the net benefit to the State would still be $1.105 billion.

Other Southeastern States

We contacted the commerce departments in several Southeastern states to request information regarding the process for conducting an economic analysis for proposed projects. However, Maryland was the only state to provide a response.

Maryland's General Assembly prescribes the methodology for commerce's cost-benefit analysis. Maryland uses the IMPLAN model for its analysis. Clawback (recovery) provisions vary from a prorated clawback to a full recovery in the event of fraud. Maryland's Department of Commerce is required to submit annual job reports to the legislature and governor detailing job creation status by incentive program. Maryland's General Assembly has a Tax Credit Evaluation Committee that reviews the tax credits and makes recommendations for revisions as necessary. Although we requested it, Maryland did not share its economic impact analysis model with us.

Best Practices

A professor at U*of*SC with expertise in economic analysis informed us that economic modeling software is a critically important tool when conducting an economic impact analysis. The professor explained the amount of the investment to be spent in the state needs to be considered when conducting an analysis for proposed projects. The economist noted that IMPLAN software uses regional purchase coefficients for the inflow and outflow of goods in a region. This would take into consideration how much money is projected to be spent locally.

DOC's analysis of proposed projects could be improved by researching the types of available software, such as IMPLAN or REMI, and adopting the use of the software with the best fit. The software uses mathematical equations to apply national data on inter-industry input-output linkages to states and localities, calibrating the multipliers based on the area. DOC should examine the utility of economic modeling software in order to determine whether it can be used to better analyze proposed projects for awarding economic incentives.

A study conducted in 2010 by the School of Government at the University of North Carolina-Chapel Hill found that complex, large-scale projects might justify the hiring of an external consultant. An external consultant would have more expertise and provide an independent analysis of the proposed project.

We also found that the Microsoft® Office Excel spreadsheets used in DOC's impact analysis lacked column headings to properly identify the data. Detailed instructions, including proper headings for data, are important for documenting DOC's process in order to maintain institutional knowledge.

Recommendations

23. The S.C. Department of Commerce should adopt and implement a policy to annually update the model used to estimate the costs and benefits of a proposed project.

24. The S.C. Department of Commerce should maintain records for all of the components used in its impact analyses for proposed projects.

25. The S.C. Department of Commerce should consider using the North American Industry Classification System (NAICS) in its economic impact model to identify the type of industry for the proposed project.

26. The S.C. Department of Commerce should consider hiring an external firm with specialized skills to assist in updating its economic impact analysis.

27. The S.C. Department of Commerce should take into consideration companies with special economics, such as professional sports teams, when evaluating incentive awards.

28. The S.C. Department of Commerce should require sufficient documentation be submitted with the application that would support the number of projected jobs to be created.

29. The S.C. Department of Commerce should review the applications to compare the number of jobs to be created with industry standards to ensure feasibility.

30. The S.C. Department of Commerce should use economic impact modeling software to evaluate proposed projects.

31. The S.C. Department of Commerce should consider hiring an external consultant to evaluate complex, large-scale prospective projects.

32. The S.C. Department of Commerce should add identifiers (column headings) to Microsoft® Office Excel spreadsheets used in its impact analysis.

33. The S.C. Department of Commerce should have a written manual detailing the process for conducting the impact analysis in order to preserve institutional knowledge.

Vetting Applicants for Economic Development Incentives

We reviewed the Coordinating Council's processes for vetting JDC and grant applicants, which includes a review of the financial status of applicants. We found that the Coordinating Council:

- Has made a positive change to its vetting process for JDC and grant applicants by adding special stipulations to its agreements with companies.
- Needs to require multiple years of audited financial data, when available, for an applicant of incentives, especially when a company does not have a strong financial status.
- Needs to conduct fraud risk assessments for projects seeking grant funds.
- Needs to be presented with applications by all companies who complete an application and pay the applicable fee for discretionary incentives.
- Should keep records of all projects that were denied discretionary incentives.

Process of Determining Economic Viability

When a company applies for grants or JDCs that must be approved by the Coordinating Council for Economic Development, the company is required to include financial statements to show that the project is economically viable. Based upon the provided financial documents, DOC staff conduct a financial assessment that includes a summary of project costs, proposed financing, and a high-level overview of the financial state of the applicant.

DOC staff stated that they primarily look for negative numbers, such as negative net income, negative working capital, or an excessive debt-to-worth ratio when reviewing a company's financial documents. However, our review of a sample of projects approved for grants and JDCs found 7 of the 13 grant recipients and 3 of the 18 JDC recipients were approved for incentives despite having negative net income, negative working capital, or high debt-to-worth ratios. In addition, the staff typically provide cursory notes such as, "Despite its net loss in 2013, the company is growing and should have sufficient financial support for this project," when explaining why a certain negative financial figure appears on the assessment.

The financial assessment should contain more information on how certain negative financial figures might affect the outcome of the project. Furthermore, if a company's financial status is questionable, the Coordinating Council should require additional years of financial statements to more effectively determine if a negative financial figure is due to an isolated event or if it is part of a trend for the company.

Requiring Documentation for Privately-Held Companies

Grant applications require financial statements to be included with the application before it will be processed. The options of acceptable financial statements listed on the grant application include annual reports, U.S. Securities and Exchange Commission (SEC) reports, or audited financial statements. However, our review of grant and JDC files found several projects that did not have any supporting financial statements. We were informed by DOC staff that privately-held companies are hesitant to allow the Coordinating Council to keep its financial documents on file. Thus, privately-held companies will sometimes visit the Coordinating Council in person with their financial documents for the DOC staff to review without having to submit copies of the financial documents.

A more thorough financial review of privately-held companies needs to be conducted by DOC staff. Many publicly-traded companies, in contrast to privately-held companies, are required to have audited financial statements and submit reports on a regular basis to the SEC. These documents are often readily available to the public.

A Coordinating Council official stated that while the Coordinating Council prefers to receive audited financial statements, companies do not always have these documents available. The only companies that might not have audited financial statements are those not regulated by the SEC (i.e., most privately-held companies). When asked if it requested tax returns for these companies, DOC staff responded that the Coordinating Council prefers not to receive those because companies typically try to show as little income as possible in order to have a low tax bill.

Consequently, the Coordinating Council allows privately-held companies to use unaudited financial documents that are not subject to an audit by the Internal Revenue Service (IRS) to obtain state grant funds. Privately-held companies should be held to the same standards as publicly traded companies when applying for state economic development grants.

While there have only been three known cases of fraud involving companies that received incentives approved by the Coordinating Council, all three companies were privately-held. The Coordinating Council should require all companies, regardless of whether they are publicly-traded or not, to submit audited financial statements, reports and returns that are subject to audit by the IRS and SEC, or verified bank statements and/or loan guarantees as proof of a project's financial wherewithal.

Safeguarding Grant Money

Included in all grant performance agreements is the stipulation that no state grant funds will be disbursed until the approval of a project's expenditures, through submission of invoices and proof of payment to the grantee (i.e., the county government of project's location). This means that grants approved by the Coordinating Council are a reimbursement to companies rather than an upfront advance. In theory, the stipulation helps ensure that grant funds are used for the intended purpose.

In situations in which a company's financials are questionable or are not available (as may be the case for a start-up company), the Coordinating Council can put special stipulations on companies before grant funds are dispersed. For example, one company in our sample was a start-up company that sought grant funds to help construct a building that was to be over 100,000 square feet. Since the Coordinating Council was not provided with audited financial documents, it required the company to complete construction of the building and submit a certificate of occupancy in the grant performance agreement before funds would be disbursed.

Along with the aforementioned company, which was the only company in our sample that had a special stipulation included in its grant performance agreement, we attended a meeting of the Coordinating Council in December 2019. At that meeting, the Coordinating Council put a special stipulation on another company due to its financial status. Special stipulations are a relatively recent addition to performance agreements; a Coordinating Council official informed us that the Coordinating Council has only started using them in the past three or four years. That official informed us that special stipulations were implemented in response to previous grant recipients who were convicted of fraud or filed bankruptcy after receiving grant funds.

Special stipulations can help provide an extra safeguard of taxpayer money, and the Coordinating Council should continue its use when appropriate.

If the Coordinating Council required additional information, it could make a more informed decision of when special stipulations should be used. Currently, grant applications require companies to submit proposed project funding, historical information on the company, and categories and wage rates for new jobs, among other things.

However, requiring grant applicants to provide the following information (that the Coordinating Council already requires JDC applicants to provide) would further help the Coordinating Council in its decision-making process:

- A listing of all of the principal officers of the company.
- Information on whether the company or any principal officer has ever been convicted of any criminal offense other than a motor vehicle violation.
- Information on whether the company or any principal officer has ever been in receivership or adjudicated a bankruptcy.
- Information on whether the company or any principal officer has ever been denied a business-related license or had it suspended or revoked by any administrative, governmental, or regulatory agency.

Risk Avoidance

Providing financial incentives to companies is inherently risky. Even when incentives are performance based, meaning that a company must meet certain requirements such as a minimum investment or minimum job threshold before incentives are awarded, taxpayer money is still being provided to private and publicly-traded companies. A DOC staff member informed us that the Coordinating Council is willing to take more risks for companies that are looking to locate in rural communities because it is more difficult to get companies to locate in those areas.

We recognize that the incentive award process must consider many factors aside from just a company's financial status. In addition, we recognize that the Coordinating Council needs discretion to approve incentives for companies that, despite a riskier financial situation, are willing to locate in areas where attracting employers is more difficult than in other counties. However, the Coordinating Council can do more to deter the misuse of taxpayer money.

Fraud Risk

The Coordinating Council does not currently conduct a fraud risk assessment when vetting projects. While there have been only three known cases of fraud involving companies that received incentives approved by the Coordinating Council during the scope of our audit, each of the three companies were approved for grants of at least $1 million. The Coordinating Council can implement a fraud risk assessment as part of the vetting process for a project to deter fraud from occurring again.

In its response to our preliminary draft, DOC stated that a federal agent investigating the latest case of fraud acknowledged that one of the instances of fraud would have occurred no matter what system was in place and that smart criminals will find a way to cheat the system. However, it is impossible to measure the efficacy of a fraud detection system if one does not exist. DOC staff believe the financial assessment that they conduct protects against fraud, but a fraud risk assessment should look at more than just a project's financials. It should examine the likelihood that fraud has, or will, occur based upon grant fraud indicators.

According to a 2012 report compiled by representatives of federal Offices of the Inspectors General, grant fraud indicators include:

- Organizations with an ineffective or unqualified Board of Directors.
- A grant project that by its design or purpose is difficult to assess or track.
- A grant recipient's lack of proper internal controls, such as separation of duties, or unsupervised use of checking accounts, cash, debit, or credit cards that does not require supervisory approval.
- Organizations that have personnel with excessive debt or gambling issues, or employees that clearly live outside their means.
- Organizations that engage in transactions that are less than "arm's length" indicating there may be a bargain or gift element, such as transactions with friends and relatives, or receiving gifts from contractors.

Projects Denied Discretionary Incentives

We attempted to review files for projects that were denied incentives by the Coordinating Council, but we were informed by DOC staff that it does not have a list or any files for denied projects because they would not bring projects before the Coordinating Council unless the DOC staff recommends approval. In essence, the decision on whether a project will receive discretionary economic development incentives in South Carolina is decided by a few DOC staff members. A member of the Coordinating Council informed us that they could not remember any project ever being denied that was brought before the Coordinating Council.

The current decision-making process for discretionary economic development incentives is not transparent and leaves little accountability from independent, oversight organizations. During Coordinating Council meetings, even though much of the discussion on the merits of a project occurs in executive session, there is still an open voting process where the public can find out which projects will or will not receive taxpayer funds. Furthermore, independent, oversight organizations, such as the LAC, have the ability to sit-in on executive session meetings to assess the validity of the process.

While the DOC staff present all grant and JDC applications to the Coordinating Council, the staff does not make the applications available to the general public. In fact, the staff will only provide grant or JDC applications to companies for which the Secretary will recommend approval. While the Secretary has the authority to recommend approval of projects, opening up applications to all business who meet program eligibility requirements, and presenting the completed applications with a paid fee to the Coordinating Council for a public vote, would provide greater transparency into how taxpayer funds are awarded to businesses.

Recommendations

34. The Coordinating Council for Economic Development should require applicants to show multiple years of financial data, when available, to gain a more complete picture of the applicant's financial state.

35. The Coordinating Council for Economic Development should require all applicants for grants to submit audited financial statements, reports and returns subject to review by the Internal Revenue Service or the Securities and Exchange Commission, or verified bank statements and/or loan guarantees as proof of a project's financial wherewithal.

36. The Coordinating Council for Economic Development should require additional information from grant applicants in order to make a more informed decision of when special stipulations should be used on risky projects.

37. The Coordinating Council for Economic Development should conduct a fraud risk assessment for each project seeking discretionary grant funds.

38. The Coordinating Council for Economic Development should provide applications for job development credits and discretionary grants to all businesses who meet program eligibility requirements, regardless of whether the Secretary of the S.C. Department of Commerce will recommend approval.

39. The Coordinating Council for Economic Development should keep records of all projects that were denied discretionary incentives by the Coordinating Council for outside review from independent, oversight organizations.

2020 County Classification for the Job Development Credit

TIER IV	TIER III	TIER II	TIER I
Allendale Bamberg Barnwell Chester Clarendon Dillon Lee Marion Marlboro Orangeburg Union Williamsburg	Abbeville Calhoun Cherokee Chesterfield Colleton Darlington Fairfield Hampton Horry Jasper Laurens McCormick	Aiken Edgefield Florence Georgetown Greenwood Kershaw Lancaster Newberry Oconee Pickens Saluda Sumter	Anderson Beaufort Berkeley Charleston Dorchester Greenville Lexington Richland Spartanburg York

Appendix A
2020 County Classification for the Job Development Credit

Revitalization Agreement Requirements

Number	Requirement	Number of Projects in Sample with Requirement
1. (Version a)	"Within 30 days after the end of each of the first quarter, second quarter and third quarter of each taxable year and within 60 days after the end of the fourth quarter of each taxable year, the Company shall provide the Council a written report…as to: (i) a representation that the Company has maintained its Base Employment, if applicable; (ii) the total number of New Jobs filled and maintained by the Company and the wage levels of all Eligible Jobs; (iii) total Eligible Project Costs incurred by the Company, accompanied by such documentation as the Council and the Department shall require; (iv) the amount of Job Development Credits claimed during such Reporting Period; and (v) the total amount of any return of an overpayment of Withholding resulting from the claiming of Job Development Credits used to pay or offset Eligible Project Costs since inception."	9 of 18
1. (Version b)	"Prior to Certification: Until the Company has notified the Council that it has met the Minimum Job Requirement and the Minimum Capital Investment…on the date that is six months after the Effective Date and within thirty (30) days after each anniversary of the Effective Date, the Company shall provide the Council a written status report…to provide (i) the total number of New Jobs filled and maintained by the Company at the Project as of such date and (iii) the total investment of the Company at the Project as of such date." "After Certification: After the Company has notified the Council that it has met the Minimum Job Requirement and the Minimum Capital Investment…the status reports as described above are no longer required and the Company must comply with the following quarterly reporting requirements. Within thirty (30) days after the end of each of the first quarter, second quarter and third quarter of each taxable year and within sixty (60) days after the end of the fourth quarter of each taxable year, the Company shall provide the Council a written report…as to: (i) a representation that the Company has maintained its Base Employment, if applicable; (ii) the total number of New Jobs filled and maintained by the Company and the number and wage levels of all Eligible Jobs; (iii) total Eligible Project Costs incurred by the Company, accompanied by such documentation as the Council and the Department shall require; (iv) the amount of Job Development Credits claimed during such Reporting Period; and (v) the total amount of any return of an overpayment of Withholding resulting from the claiming of Job Development Credits used to pay or offset Eligible Project Costs since inception."	9 of 18
2.	"Within thirty (30) days after execution of this Agreement, the Company shall provide the Council with a list of companies or persons that have supplied the Company with materials and services in excess of twenty-five thousand dollars ($25,000) since the commencement of the Project."	8 of 18
3.	"No later than thirty (30) days after the end of the Final Quarter, the Company shall file a Final Report with the Council and the Department setting forth the information requested in Section 3.6(b) above and stating that it is the Final Report."	18 of 18
4.	"Any Job Development Credit must be claimed on a quarterly basis…The Company shall be entitled to claim Job Development Credits against its Withholding otherwise owed to this State in an amount not to exceed the lesser of: (i) the amounts provided in Code Section 12-10-80(B) as limited by Code Section 12-10-80(0) or (ii) the total amount of Eligible Project Costs listed in Exhibit A, Item 5(b)…The Company may only claim Job Development Credits on Eligible Jobs included in the Minimum Job Requirement as calculated pursuant to Section 4.1…"	18 of 18
5.	"The Company may claim Job Development Credits only if it maintains 100% of the Minimum Job Requirement and 100% of the Minimum Capital Investment. Once the Company has met the Minimum Job Requirement and the Minimum Capital Investment, if it fails to maintain 100% of the Minimum Job Requirement or the Minimum Capital Investment during any Reporting Period, the Company shall not claim Job Development Credits for such period."	18 of 18

Number	Requirement	Number of Projects in Sample with Requirement
6.	"On or before the Cut-off Date, the Company agrees…to expend upon the Project and maintain at the Project amounts equal to or exceeding the Minimum Capital Investment (without regard to depreciation)."	18 of 18
7.	"Within the time period beginning on the first day of the taxable year that includes the Effective Date and ending on the Cut-off Date, the Company shall create New Jobs at the Project in a number equal to or exceeding the Minimum Job Requirement and thereafter must maintain its Base Employment, if applicable, in addition to the Minimum Job Requirement, until after the Final Quarter."	18 of 18
8.	"Eligible Jobs created by the Company at the Project may only include New Jobs that that are paid an hourly wage rate equal to or greater than [a certain amount] per hour…"	18 of 18

Source: S.C. Department of Commerce Revitalization Agreements with Job Development Credit Projects.

Excerpt from North Carolina Annual Report

NORTH CAROLINA DEPARTMENT OF COMMERCE

Job Development Investment Grant

2018 Annual Report

Submitted on behalf of the Economic Investment Committee

J·D·I·G
JOB DEVELOPMENT INVESTMENT GRANT

Attachment C. Certified JDIG Grantee Report Findings for Payments Made in CY 2018 (All Grantees)

Note: 2017 is the latest year company results have been certified. 2017 information is not included for several companies whose annual grantee reports have not been finalized. Most delays relate to changing names, corporate structures, or completing financial statements. Any of these could be eligible for payments based on CY 2017 performance. The companies are:Albemarle Corporation I, Aurobindo Pharma U.S.A., Inc., Bayer Cropscience LP, Citco Fund Services (USA) Inc., EMC Corporation, Enviva Management Company, LLC, Everest Textile USA, LLC, Frontier Communications of the Carolinas LLC, GKN Driveline North America, Inc. I (Roxboro), GKN Driveline North America, Inc. II (Alamance & Lee), GKN Driveline North America, Inc. III, Honda Aero, Inc., JELD-WEN, Inc. I, JELD-WEN, Inc. II, K-Flex USA L.L.C., LendingTree, LLC I, Sealed Air Corporation, Siemens Energy Inc. I (637), Siemens Energy, Inc. II (Cardinal), TWC Administration LLC (II), and TWC Administration LLC (III).

Some companies were paid based on CY 2016 performance in 2018 due to the types of delays noted above as well as delayed appropriations to use for making grant payments. They are included here.

Term Year	Company Name	Total Certified Jobs	Total Certified Jobs Retained	Reported Average Wage	Reported Investment	Annual Disbursement to Company	Annual Disbursement to Utility Account	Eligible Withholdings
2016	AIG PC Global	158	123	$177,462	$5,055,283	$424,586	$141,529	$1,236,632
2016	Fidelity Global	2,023	1,700	$124,906	$74,191,163	$4,783,000	$1,594,000	$13,306,152
2016	Hamilton	344	-	$178,742		$1,124,882	$374,961	$2,703,942
2016	Honda Aero, Inc.	64	33	$139,212	$26,835,257	$167,000	$29,000	$457,610
2016	InVue Security	47	88	$116,377		$56,219	$18,739	$248,650
2016	IQVIA RDS Inc. (fka	1,000	1,572	$131,555	$55,779,067	$2,206,000	$735,000	$9,899,278
2016	Ralph Lauren	206	1,273	$44,306	$34,161,024	$160,000	$54,000	$380,971
2016	Ralph Lauren	57	1,422	$76,376	$104,708,793	$0	$0	$289,889
2016	RBUS, Inc. I	264	198	$50,169		$107,438	$35,813	$567,137
2016	RBUS, Inc. II	-	462	$0		$0	$0	$0
2016	RC Creations, LLC	132	-	$31,455	$35,619,639	$75,000	$25,000	$169,030
2016	Relias LLC (fka Relias	29	313	$74,204		$0	$0	$34,499

Excerpt from North Carolina Clawback Report

ROY COOPER
Governor

ANTHONY M. COPELAND
Secretary

MEMORANDUM

To: N.C. General Assembly – Revenue Laws Study Committee, the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, and the Joint Legislative Economic Development and Global Engagement Oversight Committee, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the Legislative Services Commission

From: N.C. Department of Commerce

Date: October 1, 2019

Re: Clawback Report

Pursuant to N.C. Gen. Stat. § 143B-435.1(d), the following report is submitted by the N.C. Department of Commerce for all state and federal programs it administers for economic development purposes. This report is for clawbacks received as of September 1, 2019.

PROGRAM	COMPANY OR LOCAL GOVERNMENT RECIPIENT	TOTAL AMT OWED	AMT REPAID	DATE RECOVERED	AMT LEFT TO BE REPAID	TRIGGERING EVENT
OneNC[1]	Philip Morris USA	$750,000.00	$750,000.00	7/5/2007	$0.00	Facility closed
OneNC	Pulte Mortgage	$55,000.00	$55,000.00	10/6/2008	$0.00	Facility closed
OneNC	Menlo Logistics	$15,000.00	$15,000.00	5/27/2010	$0.00	Facility closed
OneNC	AmeriKart (NC) Corp	$11,616.00	$11,616.06	7/27/2010	$0.00	Local match not completed
OneNC	IWCO	$93,750.00	$93,749.94	5/21/2011	$0.00 ($.06 forgiven)	Facility closed
OneNC	Spirit AeroSystems North Carolina, Inc.	$98,181.82	$98,181.82	4/9/2015	$0.00	Job creation goals not met
OneNC	Timco Aerosystems, LLC	$12,090	$12,090	9/22/2015	$0.00	Job creation goals not met
OneNC	Chiquita Brands International, Inc.	$1,021,275	$1,021,275	1/5/2016	$0.00	Facility closed

[1] In accordance with the One North Carolina Fund statute, grant agreements under the program include the ability to recapture funds for a grantee's failure to comply with specific requirements of the agreement. *See* N.C. Gen. Stat. § 143B-437.72(b)(7). In addition, Section 2.7 of The Guidelines for One North Carolina also requires that agreements contain recapture provisions for nonperformance.

State of North Carolina | Department of Commerce
301 North Wilmington Street | 4301 Mail Service Center | Raleigh, NC 27699-4301
919 814 4600 T

OneNC	Celgard, LLC (1)	$143,247	$143,247	3/9/2016	$0.00	Job creation goals not met
OneNC	Pro Refrigeration, Inc.	$3,000	$3,000	3/19/2016	$0.00	Investment fell short
OneNC	Caterpillar Inc. (CAMO)	$142,800	$142,800	10/19/2016	$0.00	Job creation goals not met
OneNC	Timco Aerosystems, LLC	$26,598	$26,598	2/28/2018	$0.00	Job creation goals not met
OneNC	Linamar North Carolina, Inc.	$6,456	$6,456	2/28/2018	$0.00	Job creation goals not met
OneNC	Siemens Energy, Inc.	$137,865	$137,865	12/12/2016	$0.00	Job creation goals not met
OneNC	Celgard, LLC (1)	$80,806	$80,806	2/15/2017	$0.00	Job creation goals not met
OneNC	Caterpillar Inc. (CAMO)	$57,800	$57,800	5/4/2017	$0.00	Job creation goals not met
OneNC	Timco Aerosystems, LLC	$1,612	$1,612	2/28/2018	$0.00	Job creation goals not met
OneNC	Linamar North Carolina, Inc.	$6,732	$6,732	2/28/2018	$0.00	Job creation goals not met
OneNC	Ralph Lauren Corp.	$156,000	$156,000	10/24/2018	$0.00	Job creation goals not met
JDIG[2]	Brunswick Corporation	$83,524.00	$83,524.00	4/23/2009	$0.00	Facility closed
JDIG	Dell Products LP	$1,512,000.00	$1,512,000.00	11/16/2009	$0.00	Termination of project activities
JDIG	Volvo Construction Equipment	$69,247.00	$69,247.00	1/4/2010	$0.00	Termination of project activities
JDIG	General Electric Company II	$411,692.00	$411,692.00	5/30/2010	$0.00	Termination of grant
JDIG	Novo Nordisk	$129,750.00	$129,750.00	8/12/2010	$0.00	Reduced hiring need; repaid in order to commence other competitive project eligible for grant
JDIG	ITG Automotive Safety Textiles, LLC (Narricot Industries)	$13,780.00	$13,780.00	9/1/2010	$0.00	Termination of project activities
JDIG	Headway Corporation	$50,175.00	$50,175.00	10/29/2010	$0.00	Termination of project activities
JDIG	GE-Hitachi Nuclear Energy Americas LLC	$199,993.00	$199,993.00	1/27/2012	$0.00	Termination of grant
JDIG	Chris-Craft Corporation	$54,212.00	$54,212.00	12/13/2012	$0.00	Termination of project activities
JDIG	Chiquita Brands International, Inc.	$543,368.00	$543,368.00	1/5/2016	$0.00	Termination of project activities
JDIG	Sequenom Center for Molecular Medicine, LLC	$54,457.00	$54,457.00	6/14/2016	$0.00	Company failed to maintain operations at the

[2] In accordance with the JDIG statute, grant agreements under the program include the ability to recapture funds if a grantee fails to maintain operations at the project location for at least 150% of the grant term. *See* N.C. Gen. Stat. § 143B-437.57(a)(10). This requirement is also reflected in Section 11.3 of the Criteria for Operation and Implementation of the Job Development Investment Grant Program. There are other circumstances of reduced activity that have resulted in grantees voluntarily repaying grant amounts previously disbursed.

2

						Facility for the full Agreement Term
JDIG	Peds Legwear (USA) Inc.	$274,657.00	$274,657.00	9/10/2018	$0.00	Termination of Project Activities
JDIG	RBUS, Inc. I	$406,586	$406,586	7/08/2019	0.00	Termination of Project Activities
IDF[3]	Town of China Grove	$5,130.59	$5,130.59	2/14/2013	$0.00	Job creation goals not met
IDF	Elizabeth City	$65,000.00	$65,000.00	11/18/2013	$0.00	Job creation goals not met
IDF	Wilson County	$10,000	$10,000	1/29/2016	$0.00	Job creation goals not met
IDF	Halifax County	$64,869	$64,869	8/28/2015	$0.00	Job creation goals not met
IDF	Town of Spindale	$46,851.00	$46,851.00	1/31/2018	$0.00	Job creation goals not met
Green Business Fund[4]	Evans Environmental Energies, Inc.	$15,40.42	S15,540.42	10/29/2009	$0.00	Project terminated due to industrial accident and declining economy
Building Reuse[5]	City of Mount Airy	$22,180.53	$22,180.53	2/12/2014	$0.00	Job creation goals not met
Building Reuse	Town of Sawmills	$9,738.00	$9,738.00	4/9/2014	$0.00	Job creation goals not met
Building Reuse	Pitt County	$18,481.99	$18,481.99	3/24/2014	$0.00	Job creation goals not met
Building Reuse	Town of Benson	$15,009.84	$15,009.84	11/20/2013	$0.00	Job creation goals not met
Building Reuse	City of Lenoir	$54,509.00	$54,509.00	1/28/2014	$0.00	Job creation goals not met
Building Reuse	Town of Elkin	$2,873.87	$2,873.87	3/11/2015	$0.00	Job creation goals not met
Building Reuse	Caldwell County	$16,000.00	$16,000.00	12/9/2015	$0.00	Job creation goals not met
Building Reuse	Town of Franklinton	$16,000.00	$16,000.00	12/15/2015	$0.00	Job creation goals not met
Building Reuse	Caldwell County	$36,000.00	$36,000.00	8/26/2016	$0.00	Job creation goals not met
Building Reuse	Town of Granite Falls	$36,000.00	$36,000.00	7/14/2016	$0.00	Job creation goals not met
Building Reuse	Town of Wadesboro	$6,077.62	$6,077.62	10/25/2016	$0.00	Job creation

[3] In accordance with the Industrial Development Fund statute and administrative rules, if grant awards to units of local government are tied to job creation, the Department may recapture grant payments disbursed should a company fail to create the required number of jobs. *See* N.C. Gen. Stat. § 143B-437.01 and 4 N.C.A.C. 1I .0202(i).

[4] In accordance with the N.C. Green Business Fund statute, grant agreements and program guidelines include the ability to recapture funds for performance failures. *See* N.C. Gen. Stat. § 143B-437.6(5).

[5] These Building Reuse grants were originally transferred to the Department from the Rural Economic Development Center on October 31, 2013 and are administered by the Department's Rural Economic Development Division. REDD continues to make new Building Reuse grants with subsequent appropriations.

3

						goals not met
Building Reuse	Randolph County	$128,682.50	$128,682.50	6/30/2016	$0.00	Job creation goals not met
Building Reuse	Town of Pilot Mountain	$337,170.69	$337,170.69	11/30/2016	$0.00	Job creation goals not met
Building Reuse	City of Greenville	$45,000.00	$45,000.00	2/1/2017	$0.00	Job creation goals not met
Building Reuse	Town of Aberdeen	$65,000.00	$65,000.00	3/16/2017	$0.00	Job creation goals not met
Building Reuse	Stokes County	$16,344.00	$16,344.00	6/5/2017	$0.00	Job creation goals not met
Building Reuse	Cleveland County	$95,000.00	$95,000.00	2/7/2018	$0.00	Job creation goals not met
Building Reuse	City of Cherryville	$240,000.00	$240,000.00	4/20/2018	$0.00	Job creation goals not met
Building Reuse	Alexander County	$20,000.00	$20,000.00	6/5/2018	$0.00	Job creation goals not met
Building Reuse	Alexander County	$50,000.00	$50,000.00	6/5/2018	$0.00	Job creation goals not met
Building Reuse	Vance County	$208,620.72	$208,620.72	4/4/2019	$0.00	Job creation goals not met
Building Reuse	Martin County	$30,570.04	$30,570.04	10/4/2018	$0.00	Job creation goals not me.
Building Reuse	Johnston County	$25,000.00	$25,000.00	12/7/2018	$0.00	Job creation goals not met.
Building Reuse	City of Washington	$25,000.00	$25,000.00	1/10/2019	$0.00	Job creation goals not met.
Building Reuse	Rutherford County	$75,000.00	$75,000.00	10/4/2018	$0.00	Job creation goals not met
Economic Infrastructure[6]	Moore County	$180,000.00	$180,000.00	9/2/2014	$0.00	Job creation goals not met
Economic Infrastructure	City of Rocky Mount	$29,532.30	$29,532.30	04/28/15	$0.00	Job creation goals not met
Economic Infrastructure	City of Mount Airy	$100,000.00	$100,000.00	04/06/15	$0.00	Job creation goals not met
Economic Infrastructure	Town of Lillington	$39,976.00	$39,976.00	07/31/15	$0.00	Job creation goals not met
Economic Infrastructure	City of Locust	$5,000.00	$5,000.00	12/21/2015	$0.00	Job creation goals not met
Economic Infrastructure	Camden County	$59,964.00	$59,964.00	5/11/2016	$0.00	Job creation goals not met
Economic Infrastructure	McDowell County	$100,000.00	$100,000.00	9/5/2017	$0.00	Job creation goals not met
Economic Infrastructure	Cherokee County	$60,575.00	$60,575.00	2/8/2018	$0.00	Job creation goals not met
Economic Infrastructure	Town of Rutherfordton	$62,274.30	$62,274.30	7/15/2019	$0.00	Job creation goals not met
CDBG	City of Roanoke Rapids	$538,155.12	$538,155.12	7/1/2015	$0.00	Job creation goals not met

[6] These Economic Infrastructure grants were originally transferred to the Department from the Rural Economic Development Center on October 31, 2013 and are administered by the Department's Rural Economic Development Division. REDD makes new Economic Infrastructure grants with subsequent appropriations.

4

CDBG	Town of Fairmont	$251,093.06	$188,319.79	7/1/2016	$0.00	Job creation goals not met
CDBG	Cleveland County	$200,000.00	$200,000.00	7/1/2015	$0.00	Job creation goals not met
CDBG	Town of Long View	$367,002.00	$244,668.00	7/1/2017	$122,334.00	Job creation goals not met
CDBG	Vance County	$750,000.00	$440,000.00	9/1/2017	$310,000.00	Job creation goals not met
CDBG	Jones County	$24,000.00	$8,000.00	7/1/2017	$16,000.00	Job creation goals not met
CDBG	City of Shelby	$46,717.00	$46,717.00	9/17/18	$0.00	Proposed business owner withdrew from project
CDBG	Davidson County	$80,000.00	$80,000.00	5/7/19	$0.00	Job creation goals not met
CDBG	City of Eden	$300,000.00	$300,000.00	6/10/19	$0.00	Job creation goals not met

Appendix D
Excerpt from North Carolina Clawback Report

Excerpt from Tennessee Incentive Tracking Website

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FastTrack Project Database

Access Project Data for FastTrack Grants

The Tennessee Department of Economic and Community Development (TNECD) is committed to an open and transparent government. This searchable database is designed to better assist the public in accessing project data for FastTrack grants.

Please Note: This resource includes all located projects since 2015 that have one or more contracted FastTrack grants. Capital grants or projects which were not awarded FastTrack grants are not listed within this database.

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Search:

Company	Landed Month / Year	Capital Investment	New Jobs	Project Type	County	County Tier	FJTAP	FIDP	ED	Grants Total
Smile Direct Club, LLC	3/20/19	$217,000,000	2,010	Expansion	Davidson	1			$3,500,000	$3,500,000
ALSAC St Jude Children's	11/30/16	$1,000,000,000	1,800	Expansion	Shelby	2			$36,000,000	$36,000,000
Tyson Foods, Inc.	11/20/17	$320,000,000	1,600	Expansion New Location	Gibson	3		$14,000,000	$6,000,000	$20,000,000
Community Health Systems Inc.	5/14/15	$66,150,000	1,500	Expansion New Location	Davidson	1			$6,750,000	$6,750,000
AllianceBernstein L.P.	5/2/18	$71,510,967	1,050	Recruitment	Davidson	1			$17,500,000	$17,500,000
Denso Manufacturing Tennessee, Inc.	10/6/17	$1,000,000,000	1,000	Expansion	Blount	1	$1,500,000		$20,000,000	$21,500,000
Textile Corporation of America	7/24/17	$27,100,000	1,000	Recruitment	Bledsoe	4			$3,000,000	$3,000,000
Philips North America, Inc.	8/24/17	$35,940,000	815	Recruitment	Davidson	1	$7,400,000		$4,212,500	$11,612,500
Aegis Sciences Corporation	12/31/15	$31,100,000	740	Expansion	Davidson	1	$370,000			$370,000
Indigo Ag., Inc.	12/12/18	$6,532,820	700	Expansion New Location	Shelby	2	$1,750,000		$2,750,000	$4,500,000
DHL Supply Chain	12/31/16	$81,758,125	655	Expansion New Location	Shelby	2	$655,000			$655,000
Van Hool TN Manufacturing, LLC	4/12/18	$47,000,000	640	Recruitment	Hamblen	3		$250,000		$250,000
JNJ Express	2/26/19	$83,575,000	610	Expansion New Location	Shelby	2			$1,220,000	$1,220,000
Ryder Integrated Logistics, Inc.	8/11/15	$16,508,600	606	Expansion New Location	Maury	1	$606,000			$606,000
Amazon.com.dedc, LLC	10/18/17	$35,000,000	600	Expansion New Location	Shelby	2			$3,000,000	$3,000,000
Ernst & Young LLP	11/13/18	$22,880,000	600	Expansion New Location	Davidson	1	$6,000,000			$6,000,000
LG Electronics	2/27/17	$250,583,000	600	Recruitment	Montgomery	1	$1,500,000	$3,032,150		$4,532,150
Lowe's Companies, Inc.	7/28/16	$100,020,000	600	Recruitment	Robertson	1		$792,500	$3,000,000	$3,792,500
Agero, Inc.	3/4/16	$3,500,000	585	Expansion New Location	Sullivan	2	$438,750			$438,750
Lyft Inc.	9/27/15	$5,115,000	578	Recruitment	Davidson	1	$578,000			$578,000
FICOSA North America	5/26/15	$57,947,584	550	Expansion New Location	Putnam	3			$2,272,600	$2,272,600
CGS Administrators, LLC	1/31/15	$5,600,000	527	Expansion	Davidson	1	$527,000			$527,000
Gestamp Chattanooga, LLC	6/22/15	$180,155,000	510	Expansion	Hamilton	1			$5,500,000	$5,500,000
Gap, Inc.	6/9/17	$41,593,203	503	Expansion	Sumner	1	$441,812			$441,812
Hardwick Clothes, Inc.	12/31/15	$3,545,080	503	Expansion	Bradley	2	$251,500			$251,500
Arrive Logistics	3/21/19	$3,600,000	500	Expansion	Hamilton	1	$500,000			$500,000
Denso Manufacturing Tennessee, Inc.	8/24/15	$400,000,000	500	Expansion	Blount	1		$5,000,000		$5,000,000
Lifetime Products, Inc.	11/20/15	$115,000,000	500	Recruitment	Knox	1			$1,650,000	$1,650,000
Morgan Olson	10/21/15	$45,000,000	500	Expansion New Location	Loudon	1	$500,000		$2,000,000	$2,500,000
Allied Dispatch Solutions	10/14/15	$4,800,000	481	Expansion	Washington	2			$962,000	$962,000
Sykes Enterprises, Inc.	6/22/15	$3,270,000	456	Recruitment	Hamblen	3			$502,000	$502,000

Appendix E
Excerpt from Tennessee Incentive Tracking Website

Pilot.com, Inc.	6/25/19	$6,260,000	455	Recruitment	Davidson	1	$775,500			$775,500
Automotive Lighting North America	4/14/15	$70,100,000	450	Expansion	Giles	2	$2,385,000		$1,000,000	$3,385,000
Service Source Delaware, Inc.	8/31/17	$1,098,000	450	Expansion	Davidson	1	$450,000			$450,000
Team Health Holdings Inc	1/28/15	$16,800,000	450	Expansion	Blount	1	$270,000		$230,000	$500,000
Smile Direct Club, LLC	2/7/17	$4,500,000	439	Expansion	Davidson	1	$330,000			$330,000
Unipres U.S.A., Inc.	2/24/15	$61,500,865	435	Expansion	Sumner	1	$435,000		$1,565,000	$2,000,000
Saar Summit Tennessee	10/28/15	$24,623,973	416	Expansion	Giles	2	$624,000			$624,000
ABF Freight System Inc	5/31/15	$19,500,000	415	Expansion New Location	Shelby	2	$166,000			$166,000
Corrections Corporation of America	10/31/15	$140,000,000	408	Expansion New Location	Trousdale	2		$750,000		$750,000
Asurion, Inc.	2/7/18	$288,000,000	400	Expansion New Location	Davidson	1			$4,400,000	$4,400,000
Denso Manufacturing Athens Tennessee, Inc.	1/28/15	$85,000,000	400	Expansion	McMinn	3	$400,000		$2,600,000	$3,000,000
Nokian Tyres	5/3/17	$360,000,000	400	Recruitment	Rhea	4	$6,435,600			$6,435,600
The Lampo Group Inc	5/31/15	$58,576,878	398	Expansion New Location	Williamson	1	$1,279,600			$1,279,600
Granges Americas Inc.	1/31/17	$360,000,000	375	Expansion	Carroll	4			$1,375,000	$1,375,000
Cavalry Logistics LLC	12/4/15	$1,670,000	368	Expansion New Location	Davidson	1	$110,400			$110,400
Oshkosh Corporation	7/12/18	$30,600,000	359	Recruitment	Jefferson	2			$3,000,000	$3,000,000
Shomax USA	11/10/15	$28,000,000	350	Recruitment	Davidson	1			$525,000	$525,000
Roadtec Inc	6/30/17	$0	335	Expansion	Hamilton	1	$335,000			$335,000
Tyson Foods Inc.	8/16/17	$80,115,000	330	Expansion	Obion	4			$3,000,000	$3,000,000

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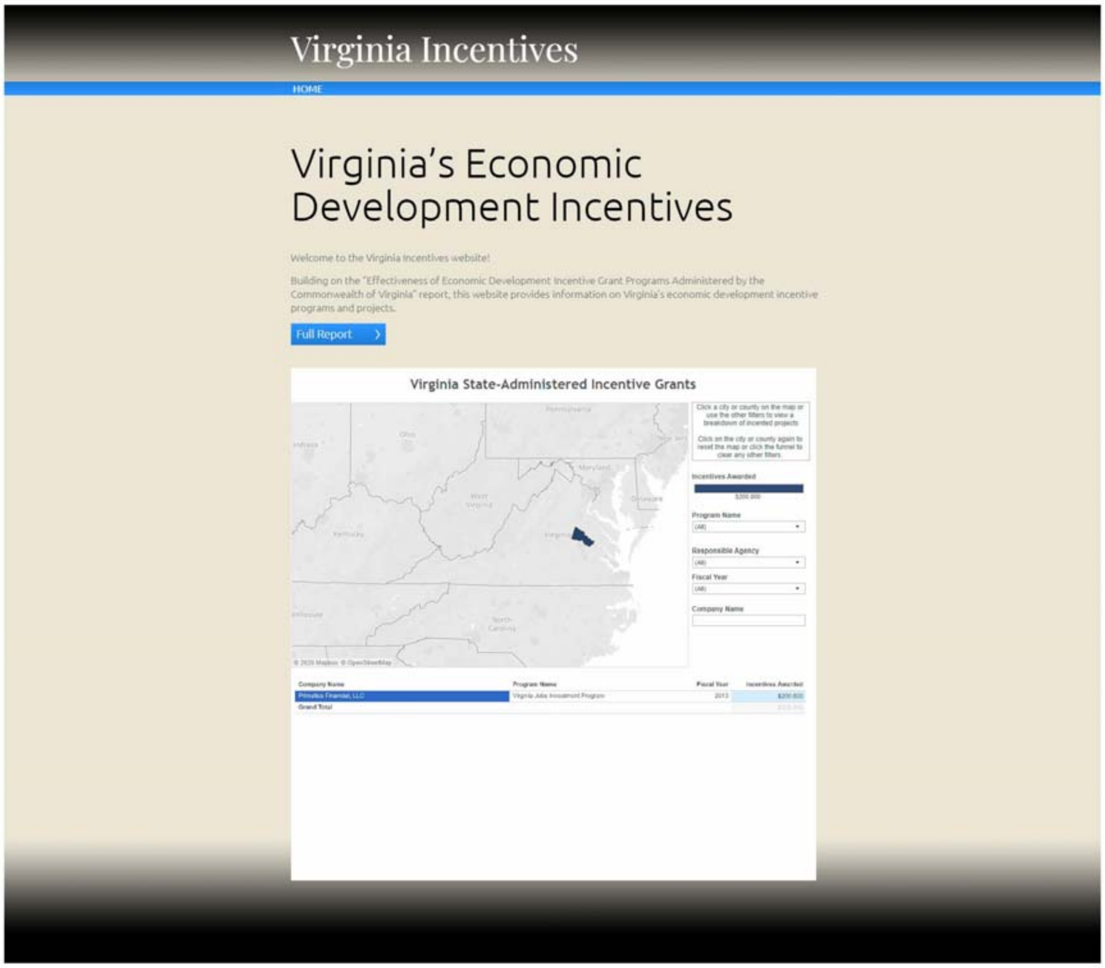
Excerpt from Virginia Incentive Tracking Website



Appendix F
Excerpt from Virginia Incentive Tracking Website

Example of a Job Verification Document Submitted by a Grant Recipient

Name	Last 4 of SSN	Hire Date
A[redacted], N	[redacted]	[redacted]/2014
A[redacted], T	[redacted]	[redacted]/2014
A[redacted], B	[redacted]	[redacted]/2015
A[redacted], C	[redacted]	[redacted]/2015
A[redacted], C	[redacted]	[redacted]/2015
A[redacted], E	[redacted]	[redacted]/2014
A[redacted], J	[redacted]	[redacted]/2015
A[redacted], A	[redacted]	[redacted]/2014
A[redacted], D	[redacted]	[redacted]/2014
A[redacted], P	[redacted]	[redacted]/2014
A[redacted], T	[redacted]	[redacted]/2014
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A[redacted], R	[redacted]	[redacted]/2014
B[redacted], R	[redacted]	[redacted]/2014
B[redacted], D	[redacted]	[redacted]/2014
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B[redacted], E	[redacted]	[redacted]/2014
B[redacted], C	[redacted]	[redacted]/2015
B[redacted], T	[redacted]	[redacted]/2014
B[redacted], W	[redacted]	[redacted]/2015
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B[redacted], Q	[redacted]	[redacted]/2014
B[redacted], S	[redacted]	[redacted]/2014
B[redacted], A	[redacted]	[redacted]/2015
B[redacted], C	[redacted]	[redacted]/2014
B[redacted], H	[redacted]	[redacted]/2014
B[redacted], J	[redacted]	[redacted]/2014
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C[redacted], S	[redacted]	[redacted]/2015
C[redacted], D	[redacted]	[redacted]/2014
C[redacted], J	[redacted]	[redacted]2014

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Appendix G
Example of a Job Verification Document Submitted by a Grant Recipient

Agency Comments

Appendix H
Agency Comments

Henry McMaster
Governor

SOUTH CAROLINA
DEPARTMENT OF COMMERCE

Robert M. Hitt III
Secretary

June 4, 2020

Mr. K. Earle Powell
South Carolina General Assembly
Legislative Audit Council
1331 Elmwood Avenue, Suite 315
Columbia, South Carolina 29201

RE: *A Review of S.C. Department of Commerce Incentive Programs*

Dear Director Powell:

Thank you for giving the South Carolina Department of Commerce ("Commerce") an opportunity to respond to the above referenced report. My understanding is that your staff was very professional in its dealings with my staff during the course of the investigation by the Legislative Audit Council ("LAC") of, primarily, the effectiveness of discretionary incentive programs administered by the South Carolina Coordinating Council for Economic Development (the "Coordinating Council").

The LAC's report is very thorough and demonstrates significant effort by your staff to understand and evaluate the processes related to discretionary incentives and to make recommendations on how Commerce and the Coordinating Council might be able to improve those processes. While we may not agree with how the LAC chose to analyze the data in portions of the report, the analysis is very detailed as are the recommendations, which are many.

Significantly, the LAC acknowledges in the report summary that the two primary incentives provided to Commerce and the Coordinating Council by the South Carolina General Assembly have been very effective. The LAC states that certified job development credit (JDC) projects have met 100% of their collective job creation goals and that the 248 (out of 557) grants that are closed, pending closeout or in maintenance have collectively met 92% of their job creation requirements and exceeded minimum investment requirements by $1.8 billion. The LAC's primary criticism is that Commerce should be measuring actual job creation in excess of contractual commitments to better demonstrate effectiveness of these incentive programs.

These performance results are a significant factor in the overwhelming economic development success that our state enjoyed during the 10-year period analyzed. With a team-first approach and using the very tools the LAC audited, South Carolina saw some pretty remarkable growth.

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tel: (803)737-0400 · fax: (803)737-0418 · www.sccommerce.com

Before the COVID-19 global health crisis changed the world, our state's budget estimate for the 2020-2021 fiscal year was $10.1 billion, an increase of almost 98% - nearly doubling since 2011 - and with a $1.9 billion expected surplus. In that same period, the budget estimate for state income tax revenue expanded by over 75%. And, from 2014 through 2019, South Carolina state income tax collections grew on average 6.6% each year. This happened without a tax increase. It was all due to growth, including new jobs and wage increases for our families.

Additionally, and also during the period of the LAC audit, one of the pillars of our economy - manufacturing - saw employment growth of more than 16%. Gross wages for goods-producing jobs increased by $1 billion annually for the last five years. In total, these wages, including full benefits, grew from $16 billion to more than $20 billion. Broadly speaking, there were more South Carolinians working at the end of 2019 than previously on record, and they were working with higher wages.

If only we could turn back the clock. Today, South Carolina may be in a better starting position than many other states because of our sustained economic development success, but our state, like the rest of the nation and the world, is facing historic unemployment and unprecedented economic challenges. We do not yet know the extent of the damage as we continue the process of restarting our economy and getting South Carolinians back to work. Commerce is actively engaged with the Governor, members of the General Assembly, other agencies and private sector businesses to develop strategies for moving forward. We may need new and entirely different tools to address the current and, in some cases, overwhelming needs of our citizens and our existing businesses. What we will not need is more bureaucracy.

Despite the LAC's acknowledgement of the overall effectiveness of our discretionary incentive programs, many of the LAC's recommendations translate into exactly that—more bureaucracy, with more cost, but minimal benefit. The LAC may not fully appreciate how Commerce's relationship and interaction with prospective companies plays a key role in attracting economic development projects that could locate anywhere. If Commerce cannot sell South Carolina as business-friendly, our incentive programs never come into play. Commerce is the face of our state to the global business world, so compelling your chief recruiter to be more bureaucratic may undermine Commerce's effectiveness. There has to be a balance with public accountability, which is extremely important, and not creating unnecessary burden that is inconsistent with our message that "South Carolina is Just Right for Business."

For example:

- The LAC recommends that the Coordinating Council not rely on certifications by companies regarding job creation and investment performance that are supported by payroll and property tax records, even though tax filings to the Internal Revenue Service and to the South Carolina Department of Revenue (DOR) are similarly self-reported, subject to audit and penalties for noncompliance and/or false reporting. (Instead of requiring Commerce and/or the Coordinating Council effectively to tell businesses who certify (with documentation) to their performance that “we don’t believe you”, we would support the LAC’s recommendation that DOR perform more audits and are in favor of raising fees for DOR to add staff.)

- The LAC states that “DOC and the Coordinating Council do not have sufficient performance measures regarding the effectiveness of the JDC and grant programs” even though the LAC acknowledges the overall effective performance of these discretionary incentive programs.[1] If the programs are working as intended by the General Assembly, is it necessary to allocate more state resources to measure performance?

- The LAC recommends that Commerce report “forgone tax revenue due to the claiming of job development credits.” (DOR and Commerce have informed the LAC that the DOR already includes JDC claims in its annual reporting.)[2]

- The LAC report states: “While there have only been three known cases of fraud involving companies that received incentives approved by the Coordinating Council [over the 10-year review period], all three companies were privately-held. The Coordinating Council should require all companies, regardless of whether they are publicly traded or not, to submit audited financial statements, reports and returns that are subject to audit by the IRS and SEC, or verified bank statements and/or loan guarantees as proof of a project’s financial wherewithal.” Report at p. 71. The cost of such a requirement would be prohibitive for smaller or new companies, and this recommendation does not acknowledge that these types of companies typically are approved only for JDCs (which a company only receives if it performs as promised) or grants with extra stipulations requiring achievement of certain investment and/or job creation thresholds before any grant funds may be disbursed.

- The LAC recommends that the Coordinating Council undertake much more detailed fraud risk assessment with regard to companies benefiting from grants even though the LAC recognizes that only three out of 557 grants awarded over 10 years (two under a former secretary) involved fraud (or some evidence of misuse of grant funds).[3] All three

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[1] The LAC states in its report summary that certified JDC projects have met 100 percent of their collective job creation goals and that the 248 (out of 557) grants that are closed, pending closeout, or in maintenance have collectively met 92 percent of their job creation requirements and exceeded minimum investment requirements by $1.8 billion.

[2] While Commerce believes aggregate JDC claims should be reported (as they are by DOR), we do take issue with the characterization of JDCs as “forgone tax revenue”. Governor Campbell in the defense of discretionary state and local tax incentives was known for his view that “half of nothing is nothing.” In the absence of the new jobs and investment, the state gets nothing, so there is no revenue foregone.

[3] Additionally, as the LAC acknowledged in the report, a federal agent investigating one of the three grants at issue advised that there was nothing Commerce or the Coordinating Council could have done to protect itself from a smart, sophisticated criminal determined to perpetuate fraud.

grants were also in Marion County, a county with persistently higher unemployment than the rest of the state and where legislative leadership has consistently advised Commerce that the agency should take more risk, if necessary, to attract jobs and investment to these areas.

There are other portions of the LAC report that we disagree with but in the interest of brevity will not discuss here. However, I am compelled to challenge the LAC's recommendation that "[t]he Coordinating Council for Economic Development should provide applications for job development credits and discretionary grants ***to all businesses who meet program eligibility requirements, regardless of whether the Secretary of Commerce will recommend approval."***

With all due respect to the LAC, if we simply allow any qualifying business to apply for discretionary incentives, then there is no need for South Carolina to have a Department of Commerce with an experienced professional staff.[4] I sincerely believe that our results speak for themselves. Doubling the state budget over the last 10 years and an almost $2 billion surplus anticipated prior to the COVID-19 pandemic did not just magically happen. That was the result of robust economic activity. Our hope is that the General Assembly recognizes the value Commerce has provided and will provide through our ongoing efforts to restart South Carolina's economy and return to the prosperity to which we have been accustomed.

There are certainly portions of the LAC report that we agree with, notably, that the cost-benefit model used by the Coordinating Council needs updating. Accordingly, we will carefully review the many recommendations the LAC has made on how Commerce can improve what we do. We embrace improvement where it makes sense and where benefits outweigh costs.

Again, I would like to thank the LAC for courteous treatment of my staff and its effort to identify areas where Commerce can improve. We may not agree on everything, but we certainly can agree that self-review and analysis are always beneficial. We are in the process of implementing (or already have implemented) some of the recommendations that we believe are helpful and will look forward to guidance from the General Assembly with regard to recommendations that may require additional funding or legislative authorization.

Sincerely,

Robert M. Hitt III

RMHIII/km

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[4] An unintended consequence of allowing any business to apply for discretionary incentives is the likelihood that Commerce's very low incidence of fraud or misused grant funds—only three grants out of 557 over 10 years—would go up substantially. This result would undermine the LAC's recommendations concerning fraud prevention, which we disagree with because cost of implementation far exceeds any actual or perceived benefit.