



## 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:** April 1, 2023

**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, 2022.

| PROGRAM            | COMPANY OR LOCAL GOVERNMENT RECIPIENT   | TOTAL AMT OWED | AMT REPAID   | DATE RECOVERED | AMT LEFT TO BE REPAID    | TRIGGERING EVENT           |
|--------------------|-----------------------------------------|----------------|--------------|----------------|--------------------------|----------------------------|
| OneNC <sup>1</sup> | 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 (\$0.06 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            |

<sup>1</sup> 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.

|                   |                                                           |                |                |            |            |                                                                                               |
|-------------------|-----------------------------------------------------------|----------------|----------------|------------|------------|-----------------------------------------------------------------------------------------------|
| 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                                                                    |
| OneNC             | HCL America Inc.                                          | \$69,000       | \$63,000       | 5/12/2020  | \$6,000.00 | Job creation goals not met                                                                    |
| OneNC             | Sealed Air Corp.                                          | \$483,750      | \$483,750      | 10/5/2022  | \$0.00     | Job creation goals not met                                                                    |
| JDIG <sup>2</sup> | 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                                                             |

<sup>2</sup> 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.

|                                  |                                             |              |              |            |        |                                                                                   |
|----------------------------------|---------------------------------------------|--------------|--------------|------------|--------|-----------------------------------------------------------------------------------|
| 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 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                                | \$406,586.00 | \$406,586.00 | 7/08/2019  | \$0.00 | Termination of Project Activities                                                 |
| JDIG                             | ABB Inc.                                    | \$705,00.00  | \$705,000.00 | 6/14/2022  | \$0.00 | Repaid as condition of another JDIG                                               |
| IDF <sup>3</sup>                 | 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                               | \$10,000.00  | \$10,000.00  | 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 <sup>4</sup> | Evans Environmental Energies, Inc.          | \$15,40.42   | \$15,540.42  | 10/29/2009 | \$0.00 | Project terminated due to industrial accident and declining economy               |
| Building Reuse <sup>5</sup>      | 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                                                        |

<sup>3</sup> 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. 11 .0202(i).

<sup>4</sup> 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).

<sup>5</sup> 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.

|                |                        |              |              |            |              |                             |
|----------------|------------------------|--------------|--------------|------------|--------------|-----------------------------|
| 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 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  |
| Building Reuse | Caldwell County        | \$32,242.28  | \$32,242.28  | 3/6/20     | \$0.00       | Job creation goals not met  |
| Building Reuse | City of Greenville     | \$15,000.00  | \$15,000.00  | 2/11/21    | \$0.00       | Job creation goals not met  |
| Building Reuse | City of Gastonia       | \$100,000    | \$100,000    | 5/24/2021  | \$212,500.00 | Job creation goals not met  |
| Building Reuse | City of Gastonia       | \$50,000     | \$50,000     | 6/04/2021  | \$162,500.00 | Job creation goals not met  |
| Building Reuse | City of Gastonia       | \$50,000     | \$50,000     | 8/4/2021   | \$112,500.00 | Job creation goals not met  |
| Building Reuse | City of Gastonia       | \$312,500    | \$50,000     | 9/21/2021  | \$62,500.00  | Job creation goals not met  |
| Building Reuse | City of Gastonia       | \$312,500    | \$62,500     | 10/21/2021 | \$0          | Job creation goals not met  |
| Building Reuse | Lincoln County         | \$250,000    | \$250,000    | 12/9/2021  | \$0          | Job creation goals not met  |

|                         |                        |              |              |            |              |                                               |
|-------------------------|------------------------|--------------|--------------|------------|--------------|-----------------------------------------------|
| Building Reuse          | Caswell County         | \$120,000    | 120,000      | 06/23/2023 | \$0          | Job creation goals not met                    |
| Building Reuse          | City of Lenoir         | \$55,000     | \$55,000     | 03/24/2023 | \$0          | Job creation goals not met                    |
| Building Reuse          | Granville County       | \$205,000    | \$205,000    | 05/17/2023 | \$0          | Job creation goals not met                    |
| Building Reuse          | Polk County            | \$74,999.77  | \$74,999.77  | 06/21/2023 | \$0          | 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                    |
| Economic Infrastructure | Henderson County       | \$33,825.82  | \$33,825.82  | 6/18/20    | \$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                    |
| 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                    |
| CDBG                    | Town of Forest City    | \$140,000.00 | \$140,000.00 | 2/1/21     | \$0.00       | Job creation goals not met                    |