Hickey & Associates (H&A) is a global leader in site location strategy, economic incentive advisory, and workforce solutions with active projects in the Americas, Asia, Europe, Australia, and Africa. Utilizing state-of-the-art tools and techniques, H&A assists businesses in determining the best location to expand, relocate or consolidate anywhere in the world.

Over the past three decades, H&A’s incentive advisory team has identified, negotiated, captured, and administered economic incentives for their corporate clients. Offering experience in every major sector, H&A has developed proprietary models, innovative tools, high-tech resources that streamline the process of incentive identification, negotiation and delivery, ultimately ensuring clients receive the most value with limited risk.

Our site selection and public incentives experts are based in key strategic markets to maximize your business goals with enhanced local knowledge and client service. With fifteen offices across the U.S., H&A ensures our service is always aligned with each unique local environment. Internationally, our locations in Mexico City, São Paulo, London, Berlin, Shanghai, Hong Kong, Singapore, and Sydney ensure global site considerations are well covered.
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INTRODUCTION

The H&A team tracks all major state legislative activities related to business incentives and economic development policies around the United States. The H&A US Legislative and Incentive Update - Winter 2016 summarizes this information, showing how states are embracing the competitive economic climate by introducing and promoting incentives to attract the highest value industries to their communities.

The following report covers the changes directly affecting state incentive programs. With governments trying to manage their budgets accordingly, there has been significant activity seen around the country dealing specifically with incentives and economic development policies. Many states are creating new programs, adjusting current programs, or removing certain programs that are deemed unprofitable. Several states such as Illinois, Florida, Kansas, Alabama and others cut their budgets tremendously and suspended certain programs. Understanding the details of these changes will help businesses capture increased incentive values and avoid potential hurdles and challenges in the future.
STATE

LEGISLATIVE & INCENTIVE SUMMARY
This map highlights the states with pending or recently completed legislative actions on business incentives and economic development policies over recent months. The legislative actions include, but not limited to, new tax incentives, expired legislation, changes to current incentives, and many others.
ALABAMA

Alabama passed the “Made in Alabama” incentives platform to attract companies investing and creating jobs in the state. The new incentives allow companies to offset certain taxes as they add jobs and build or expand in Alabama. The new “pay-as-you-go” approach is preferable to the state, which has had to take on debt in the past to pay for incentives. The new legislation provides for tax credit carry forward provisions that are new to the state.

ARIZONA

Despite significant cuts from economic development programs, Arizona officials have utilized remaining funds for the successful Job Training Program to provide companies important resources for their new hires and incumbent employees.

CALIFORNIA

Legislation passed the senate to allow small businesses to convert a portion of R&D tax credits into cash grants. The law would allow up to 10% of the unused tax credit in 2015 and 2016 to be converted into grants in 2017. For the credits between 2017 and 2022, it would be eligible for up to 15% of cash grants. Governor Jerry Brown ultimately vetoed the bill.

Governor Brown signed another bill to allow cities to create local community improvement-focused property tax increment financing.

The California Tax Incentive Program for Renewable Technology Businesses reached its $100 million annual cap. The California Alternative Energy and Advanced Transportation Financing Authority may seek an increase to the annual cap on the incentive program.

COLORADO

Governor John Hickenlooper signed legislation that would qualify companies for the Job Growth Credit if they partner with colleges and universities in the state. They would only need to create five jobs, meet the average county salary, and retain the jobs for one year. Another bill would qualify renewable energy projects to waive 20% of the enterprise zone investment tax credit value and instead get a refund of the remaining 80%.

DISTRICT OF COLUMBIA

DC introduced a new bill that would provide a performance-based abatement of real property taxes of up to $6 million annually on property leased by the Advisory Board Company for 10 years. The company has to meet the annual hiring target during that time period, including a net increase of 1,000 residents employed through 2029.

FLORIDA

Florida Department of Revenue extended the Community Contribution Tax Credit to June 2018 for sales and use tax and corporate income tax. The state has also elected to sunset the Enterprise Zone Incentive Program at the end of the calendar year. This ends a 33 year program that provided, as of this past budget year, $16 million in tax credits to a network of 65 zones statewide.

Governor Rick Scott set a goal of $1 billion in tax cuts and a $250 million investment in a new Florida Enterprise Fund. His reductions would come primarily from eliminating income taxes for manufacturing and retail businesses. He also proposes permanently extending a sales tax exemption on manufacturing machinery and equipment valued at $76.9 million.
GEORGIA

Georgia’s Film Tax Credit has been extended to taxable years beginning on or after January 1, 2019. The aggregate amount of credits available for qualified interactive entertainment production companies must not exceed $12.5 million for each taxable year. The Georgia Department of Revenue has added Historic Rehabilitation Tax Credits of 25% on certified rehabilitations expenditures completed on or after January 1, 2017. The program will also have an additional 5% if the historic home is located in target areas.

ILLINOIS

Governor Bruce Rauner announced the immediate suspension of all future business attraction and retention incentives, the deferring of Film Tax Credit and high impact business designation approvals, and other administrative measures to cut spending as a result of the state’s nearly $4 billion budget deficit for fiscal 2016. Illinois senator filed the legislation that would end the EDGE Credit Program until the budget is passed.

INDIANA

Indiana started the Regional Cities Initiative in which the state partners with regions to develop economic development plans to attract investment and talents. In addition, a new act established a fund that’s authorized by the Indiana Economic Development Corporation to spend $84M on competitive proposals from the applying regions throughout Indiana. The program is intended to fast track bold projects that improve quality of life, make regions more dynamic and attract an evolving workforce.

IOWA

Governor Terry Branstad approved an expansion of the Solar Energy Tax Credit and expanded the per project cap to $5 million per year from $4.5 million but reduced the credit from 60% to 50% starting January 1, 2016. He also signed into law a 10-year Property Tax Exemption for high-speed broadband infrastructure projects once approved by a local assessor.

KENTUCKY

Kentucky Economic Development Office announced that it is accepting 2016 qualified investment applications for Angel Investment Tax Credits. Applicants must apply prior to making an investment and the Kentucky Economic Development Finance Authority must approve each application before credits are issued. The program will offer a maximum $3 million in tax credits limited to $200,000 per investor annually.

LOUISIANA

Louisiana has a new law limiting the Motion Picture Investment Tax Credit to $180 million for years 2016 to 2018, and includes a project cap of $30 million but lowers the investment requirement from $300,000 to $50,000.

Another law will lower the Sales Tax Credit on Thermal Energy Systems to the lesser of $2 per kilowatt, 50% of the cost, or $10,000 per system. The state also extended the expiration date of the Angel Investor Tax Credit by two years to end on July 1st, 2017.

MARYLAND

Governor Larry Hogan announced the reorganization of the Department of Business and Economic Development to be named the Department of Commerce. The new agency oversees several agency, including Labor, Licensing and Regulation, Transportation, Environment, Planning, and Housing and Community Development.

The Baltimore City Council’s tax committee approved legislation that would create 80% tax credit against taxes applied to building materials. It’s catered mainly to supermarkets offering a full range of fresh meat, dairy products, fruits and vegetables to impoverished areas of the city without such stores.

MASSACHUSETTS

Governor Charlie Baker legislated an increase to the earned Income Tax Credit in the state and maintained the FAS-109 Deduction. They were both eliminated in the state's fiscal year 2016 budget. Members of the senate proposed few changes to the budget. Some of the changes are an increase to the R&D Credit, the Historic Rehabilitation Tax Credit, and the Conversation Land Tax Credit.

MICHIGAN

Michigan lawmakers have signed legislation to stop issuing any new film tax credits or extending exiting credits in the state. This change in policy was driven by a disappointment in the economic impact generated from the estimated $475 million spent on the program over the last 8 years.

Michigan signed into law a sales tax exemption for data center equipment sold to an operator of a qualified data center or a co-located business.
NEVADA

Nevada has implemented a new law that allows a partial abatement of personal property and sales taxes of data center projects that expand or locate in Nevada. Depending on the investment, the abatement could extend to 20 years. Another bill signed into law qualifies aircraft businesses for sales tax abatements if they have 5 or more employees and increase their employment by 3 jobs or 3%, whichever is greater.

The state also passed an expansion on Nevada’s Film Tax Credit program which removes the $10 million per project cap.

NEW JERSEY

The state considered proposed legislation that would offer businesses who operate within five designated areas with electric grid congestion issues, a 15 percent incentive to install a solar system, and $1.50 per watt of energy produced by that system. The state announced a bill that would limit tax incentives to be awarded to companies that defaulted in previous incentives.

NEW MEXICO

Governor Susana Martinez signed a new law with several economic development provisions. The law restores a tax deduction for trade companies who locate within 20 miles of the U.S. and Mexico border. It also expanded the Angel Investment Credit to $2 million and removes certain requirements such as type and number of investments. The new legislation changes the Technology Jobs Tax Credit to Technology Jobs and Research and Development Tax Credit.

Governor Martinez has also unveiled a new state energy plan which calls for promoting New Mexico as a hub for renewable energy.

NEW YORK

Governor Andrew Cuomo announced the designation of 11 new Brownfield Opportunity Areas (BOAs) in New York State.

NORTH CAROLINA

North Carolina Governor Pat McCrory signed into law the NC Competes Act. This legislation completes an extended debate in the state regarding public incentives and sets a path going forward to attracting businesses and creating jobs. More details available on page 11 of this report.

OHIO

Ohio introduced a bill to propose changes to the Job Creation Tax Credit (JCTC) and the Job Retention Tax Credit (JRTC). The bill will change the credit to be a payroll-based which will be calculated over a particular year. The change makes the credit subject to decrease and increase depending on employees’ salary. In addition, a clawback is added which could allow 100% return of the credit if the investment and job requirements are not met. The state announced a bill that would limit tax incentives to be awarded to companies that defaulted in previous incentives.

OREGON

Governor Kate Brown signed an omnibus bill extending several tax credits while prohibiting credits from being used to offset the state’s corporation minimum tax. The bill imposes a six-year suspension on the use of tax credits to satisfy the minimum tax liability. The new bill doesn’t include a waiver or abatement of any interest on the consequent underpayment of estimated tax. Tax credits may again be used to satisfy the minimum tax liability for tax years beginning on or after January 1, 2021.

On July 1st 2015, the Jobs Development Act was discontinued, but companies qualified prior to that date would receive their reductions. The maximum tax credit of program will be 20 percent of a project’s cost, although – under certain circumstances – an applicant can be eligible for an additional tax credits of up to 10 percent of the project cost. The maximum credit will be $15 million per project.

SOUTH CAROLINA

The Department of Revenue issued a letter that requires applications submitted for investments made in future years must be made by December 31st of the year the investment is made. Applications received after the deadline will not be considered.

TENNESSEE

Senator Jack Johnson proposed new legislation to stop local governments from sanctioning any charter provision, ordinance, resolution, referendum or regulation on companies that requires them to employ workers that reside within their jurisdiction.
TEXAS

During the biannual state legislative session, Texas Moving Image Industry Incentive Program budget was cut by almost two thirds, which is more than $60 million with the program changes taking place starting September 1, 2015. This includes cuts to the popular Texas Enterprise Fund (TEF), as included in the H&A Spring Report.

VIRGINIA

Governor Terry McAuliffe proposed a new R&D Tax Credit with an annual cap of $15 million. The credit is created to benefit companies with more than $5 million in annual research spending. He also proposed a $4 million increase in the cap on Virginia’s Angel Investor Tax Credit, from $5 million to $9 million.

WASHINGTON

A new law has been introduced that extends property tax exemption for new construction projects in targeted urban areas. The State’s Department of Revenue announced an extension to the Commute Trip Reduction Tax Credit Program to be available until July 1, 2024 and increased the cap to $2.75 million.

BUDGET TRENDS

Numerous US states adjust their budgets on an annual basis. Certain programs values would be decreased while other programs values would be increased depending on the state’s strategy. Below are a few of the budget changes in several US states.

- Illinois EDGE Tax Credit Program has been suspended as part of various cost-cutting measures being implemented to balance the state’s 2016 budget.
- Florida Quick Action Closing Fund annual budget has been cut by Florida Legislature after requesting $85M of incentives and it was trimmed to $53M.
- Kansas Cuts $3.9M from several economic development programs, including the Disability Employment Incentive Program.
- Alabama Gov. Bentley attempts to persuade legislators to choose tax increases over cuts to state services to balance a shortfall of at least $200 million.
- Maine passed a bipartisan budget with a reduced income tax.
- Texas Cuts the Texas Enterprise Fund biannual budget to $95 million from $200 million during the last funding cycle.
- Maryland reduces spending across state agencies by 2 percent, or $121 million, to shrink an estimated $1.7 billion “structural deficit”
- Alaska cuts $600 million in spending. It decreased the capital budget, which is used to build roads and schools, and cut back education spending and marine ferry service.
- North Carolina leaders agreed to cut $415 million from their proposal and limit budget increase to 3.1%, after accounting for inflation and population growth.
- Michigan cuts $6 million from the film incentives program from the state’s budget.
On September 30, 2015, North Carolina Governor Pat McCrory signed into law the NC Competes Act. This legislation completes an extended debate in the state regarding public incentives and sets a path going forward to attracting businesses and creating jobs. Over recent months, company executives and industry experts have been tracking the progress, or lack thereof, of the legislation as it navigated through the legislature, particularly as it positions North Carolina competitively against neighboring states.

The following is a brief review of the NC Competes Act:

**JOB DEVELOPMENT INVESTMENT GRANT (JDIG)**
Discretionary program that provides funds to incentivize new or expanding business to create jobs.

- Increases statutory annual cap to $20M on an on-going basis, with a potential increase for high-yield projects to $35M. High-yield projects are defined as being at least an investment of $550M and creation of at least 1,750 jobs;
- Extends the program for three years through 1/1/2019;
- Modifies the maximum withholding percentage to incentivize growth in high-unemployment areas by allowing up to 80% in Tier 1 counties;
- Requires an increased job creation requirement for Tier 3 counties of 50 jobs, an increase from the previous minimum threshold of 20 jobs;
- Splits the funding commitment caps into 2 equal semiannual installments of $10M;
- Adds new reporting functions and benchmarking reviews for the program; and,
- Strengthens clawbacks for failure to maintain operations for 150% of the grant term.

**ONE NC FUND**
Discretionary fund to provide funding to local governments to secure commitments for recruitment, expansion, or retention of new or existing businesses.

- Modifies the local match obligations to a tiered requirement: $3 state => $1 local for Tier 1, $2 state => $1 local for Tier 2, and $1 state => $1 local for Tier 3.

**DATA CENTER INFRASTRUCTURE**
Sales tax exemption for electricity and eligible business property that is located and utilized at a datacenter.

- Requires an investment of at least $75M within 5 years;
- Allows an initial investment made on or after 1/1/2012 to be included in calculation; and,
- Creates new exemption effective for purchases made on or after 1/1/2016.

**MOTORSPORTS SALES TAX PREFERENCES**
Sales tax preferences for motorsports parts and fuel.

- Codifies and clarifies the law regarding current administrative practices for exemption of sales tax on service contracts and the lease or rental of parts;
- Extends refund on sales tax paid on aviation fuel for travel to or from a motorsports event in North Carolina or another state; and,
- Continues a refund equal to 50% of sales tax paid on tangible personal property related to a professional motorsports vehicle, aside from tires or accessories.

**AVIATION SALES TAX**
Sales tax refund for interstate passenger air carrier with a hub in NC.

- Replaces expiring sales tax refund with a sales tax exemption for aviation gasoline and jet fuel sold to an interstate airline for use in a commercial aircraft and,
- Exempts sales taxes for service contracts on qualified aircraft and jet engines, along with sales taxes on repair parts and repair, maintenance, and installation services.
STATE BUDGET SUMMARY

ANNUAL GENERAL FUND SPENDING

IN BILLIONS

FISCAL YEAR

$687 2008
$661 2009
$623 2010
$645 2011
$667 2012
$695 2013
$723 2014
$756 2015
$780* 2016*

*Fiscal 2016 spending is based on governor’s recommended budgets.

**Aggregate spending levels would need to total $780 billion in fiscal 2015 to be equivalent with real 2008 spending levels.

ANNUAL GENERAL FUND REVENUES

IN BILLIONS

FISCAL YEAR

$680 2008
$626 2009
$610 2010
$650 2011
$669 2012
$716 2013
$728 2014
$756 2015
$772* 2016*

*Fiscal 2016 spending is based on governor’s recommended budgets.

**Aggregate spending levels would need to total $772 billion in fiscal 2015 to be equivalent with real 2008 spending levels.
FEDERAL VIEW

On December 18, President Barack Obama signed the Protecting Americans from Tax Hikes Act (PATH) of 2015, a law extending a number of critical tax provisions, along with providing much needed reforms. A number of these programs, which were set to expire at the end of 2015, are vital to businesses in the U.S. The PATH Act included the following critical provisions:

- R&D Tax Credit Extension
- Low-income Housing Tax Credit Permanent Extension
- New Markets Tax Credit Extension
- Work Opportunity Tax Credit Extension and Modification
- Section 179 Expensing Permanent Extension
- Bonus Depreciation Extension
- Depreciation of Leasehold Improvements Permanent Extension
- Biodiesel Tax Credit Extension
- New Homes Energy-Efficient Credit Extension
- Fuel Cell Motor Vehicles Credit Extension

Agriculture Secretary Tom Vilsack announced $63 million in loans and grants for 264 renewable energy and energy efficiency projects nationwide that USDA is supporting through its Rural Energy for America Program. These REAP projects are expected to generate and/or save 207.8 million kilowatt hours (KWh) of energy—enough to power more than 13,600 homes for a year.

USDA has also announced that 21 states will receive grants through the Biofuel Infrastructure Partnership (BIP) to add infrastructure needed to supply more renewable fuel to America’s drivers. The program which was announced last May has $100 million set aside for matching grants to provide biofuel solutions across the country.

Governmental Accounting Standards Board (GASB), the body that oversees public sector accounting standards, has introduced a new standard for state and local governments to report on the costs of their economic development tax programs and incentives. The standard will require the local governments to disclose its financials when it comes to economic development tax programs. It will also require government bodies that lose revenue due to the action of other public bodies to report such losses. The rules will apply to the agreements made by state and local governments with companies to waive or reduce sales, property and income taxes. The rule will require the disclosing of the tax being abated, the revenues being lost as a result of the abatement, the types of agreements made by the beneficiaries of the abatements and provisions for recapturing the lost taxes.