LABI Louisiana Association OF BUSINESS AND INDUSTRY

Why It Matters: THE INDUSTRIAL TAX EXEMPTION PROGRAM (ITEP)

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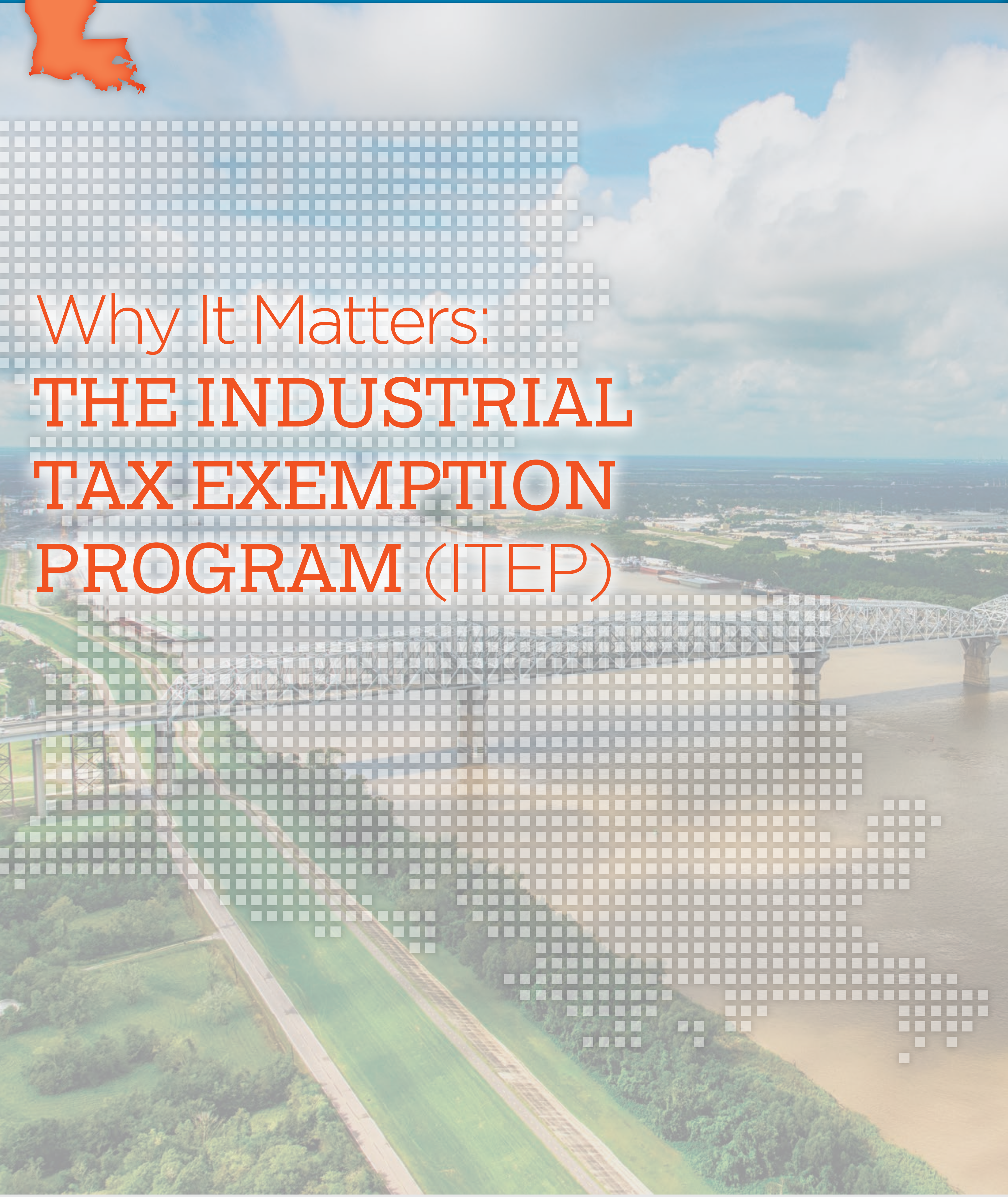

Why It Matters: THE INDUSTRIAL TAX EXEMPTION PROGRAM (ITEP)

In June 2016, Governor John Bel Edwards initiated seismic changes for local government and Louisiana employers with an Executive Order significantly limiting the decades-old Industrial Tax Exemption Program (ITEP). The Louisiana Association of Business and Industry (LABI) raised significant concerns with the governor's changes and urged state leaders to modify and reconsider the 2016 rules. In the ensuing months, it became clear to stakeholders across the spectrum that more guidance and structure was required if the Program were to continue to attract sought-after manufacturing investment to Louisiana. As a result, the governor's administration issued another framework to re-define ITEP, which took effect in August 2018.

The new rules are certainly an improvement, although ITEP remains far more limited than in previous years with less recognition of the importance of manufacturing investment. Now, local governments and employers are working to understand and implement the 2018 process and criteria on a project-by-project basis or, in some cases, with new local rules and standards that would apply to all decisions. Despite these major changes, critics continue to spread misinformation and insist that more taxes should be collected from Louisiana employers. LABI strongly supports a robust Industrial Tax Exemption Program to help overcome persistent challenges facing Louisiana employers and to bring high-wage jobs and opportunity to Louisiana families.

Manufacturing Brings Opportunity and Prosperity to Louisiana

Manufacturers in Louisiana employ more than 130,000 people, which is nearly seven percent of the state's workforce.[1] The average annual compensation for manufacturing workers in Louisiana is $87,212 – more than double the state average of $41,587.[2] The hourly wage is estimated at $20.94 – $5 above the median hourly wage in the state.[3]

Manufacturing accounts for nearly one-fifth of the total Gross State Product – which ranks Louisiana third in the nation for the positive impact manufacturing has on the economy.[4] Most of this activity is in the petro-chemical industries, where jobs range from sales representatives and truck drivers to engineers and warehouse workers.[5] Of note, some estimates indicate that half of jobs at certain manufacturing facilities are actually full-time contract workers classified in other sectors such as construction – but are jobs directly dependent on the presence of the manufacturer.[6]

Manufacturing by definition relies on a multitude of raw products and services from other industries, including energy and construction. As a result, the "multiplier effect" of manufacturing far exceeds that of other sectors of the economy such as technology, education, healthcare, or retail – which is a key reason that many states work to create a climate that will grow this industry.[7] For the petro-chemical industry – the largest share of manufacturing jobs in Louisiana – the multiplier effect is estimated at 6.10, meaning jobs and income are created well beyond the company's fence line.[8]

LSU Poll Found Support for ITEP in Baton Rouge in 2018[9]

"Do you support or oppose the Industrial Tax Exemption Program?"

49% *Support*

36% *Oppose*

16% *Don't Know or Didn't Answer*

Manufacturing experienced a nationwide decline early in the 21st century as a result of complex factors in the global economy, ranging from the loss of jobs to foreign countries with cheaper labor to technological innovation and increased automation. While the federal Department of Labor predicts that manufacturing jobs will continue to wane in the years ahead, policy changes at the federal level – namely tax reform and deregulation – have led to a recent manufacturing resurgence.[10] States are competing all the more fiercely for what are widely recognized as high-wage jobs that add value well beyond the individual worker and his/her family.

In Louisiana, those parishes with the greatest manufacturing presence and the highest utilization of ITEP are also among the most prosperous. For example, St. James Parish tops the list for the percentage of people employed in the manufacturing industry in Louisiana (35%) and ranks #7 for active ITEP contracts.[11] The average weekly wage of people living in St. James Parish ranks third in the state at $1,403, which is well above the US average, and correspondingly the poverty rate is also lower than the vast majority of Louisiana parishes.[12] Similarly, Iberville Parish has the second highest weekly wage in the state, and manufacturing jobs in the parish pay 68 percent more than the national average for manufacturing jobs.[13] Dozens of other rural parishes in the state without a strong manufacturing base fare far worse on all these indicators.

In urban areas, despite a more diverse economy and much higher population numbers, the benefits can be similar. The second highest number of workers in the manufacturing sector in Louisiana live in Calcasieu Parish with the second highest value of active ITEP contracts as well. Median household income in Calcasieu is above the state average, and the poverty rate is 7th lowest in the state.[14]

In fact, the top dozen parishes with the greatest utilization of ITEP all rank above the Louisiana average for annual weekly wages (see chart below). Similarly, of the top dozen parishes with the highest teacher pay, eight have a strong manufacturing presence and/or are among the top parishes that utilize ITEP.[15] The effect of high-wage manufacturing jobs is felt directly and indirectly in a very tangible way for Louisianans in rural, urban, or suburban areas.

PARISH	RANK FOR ACTIVE ITEP CONTRACTS 2011-2016[16]	RANK FOR ANNUAL AVERAGE WEEKLY WAGE	AMOUNT OF ANNUAL AVERAGE WEEKLY WAGE[17]
CAMERON	#1	#1	$1,607
CALCASIEU	#2	#16	$942
ASCENSION	#3	#8	$1,072
ST. CHARLES	#4	#4	$1,384
EAST BATON ROUGE	#5	#11	$984
IBERVILLE	#6	#2	$1,409
ST. JAMES	#7	#3	$1,403
JEFFERSON	#8	#18	$928
DE SOTO	#9	#9	$1,022
ORLEANS	#10	#14	$945
ST. JOHN THE BAPTIST	#11	#6	$1,283
ST. BERNARD	#12	#17	$930
LOUISIANA AVERAGE	——	——	$900

Parishes with ITEP Benefit from Higher Tax Collections

The benefits of manufacturing activity and high wages that workers enjoy also extend to local government and services. With a new or expanded manufacturing facility, the state collects income tax, and the local government collects inventory tax and property tax, and both the state and local government collect sales tax on numerous types of purchases.

Parishes with high levels of ITEP tend to have higher property tax collections per capita.[18] The statewide average property tax per person is $935, but 11 of the top dozen ITEP parishes beat this average.[19] Cameron Parish collects $4,850 in property taxes per person annually with 87 percent paid by business.[20] Similarly, St. Charles Parish collects $2,748 in property taxes per person with 76 percent paid by business.[21] Even the more heavily populated East Baton Rouge Parish collects $1,015 in property taxes per person with 45 percent paid by business.[22]

PARISH	RANK FOR ACTIVE ITEP CONTRACTS 2011-2016[23]	RANK FOR PROPERTY TAX COLLECTIONS PER CAPITA 2016	AMOUNT OF PROPERTY TAX COLLECTIONS PER CAPITA 2016[24]
CAMERON	#1	#1	$4,850
CALCASIEU	#2	#19	$1,102
ASCENSION	#3	#21	$1,043
ST. CHARLES	#4	#5	$2,748
EAST BATON ROUGE	#5	#22	$1,015
IBERVILLE	#6	#8	$1,907
ST. JAMES	#7	#7	$2,554
JEFFERSON	#8	#26	$836
DE SOTO	#9	#3	$2,863
ORLEANS	#10	#12	$1,373
ST. JOHN THE BAPTIST	#11	#16	$1,153
ST. BERNARD	#12	#23	$986
LOUISIANA AVERAGE	——	——	$935

Those parishes with a manufacturing base – but lower current ITEP use – also reap similar benefits. Bienville Parish, for example, ranks third in the state for manufacturing employment (29%) and collects $2,816 annually in property taxes per capita.[25] ITEP is time-limited, and while those tax payments are temporarily deferred, the positive impact to the economy and to local government extends far beyond the life of the abatement. The value of the property vastly improves with the investment of a manufacturer compared to rural acreage or vacant property that is not serving an economic purpose.

The trend holds true for sales tax collection as well, where eleven of the top dozen ITEP parishes collect above the state average in sales taxes.[26] Iberville, for example, ranks second highest in the state for sales tax collections at $1,382 per person while Ascension ranks number five with $912 per capita.[27]

Calcasieu Parish officials project an additional $780 million in sales tax collection during the 5-year construction phase of a single industrial facility that was approved for ITEP this year.[28] The primary methods of local tax generation – property and sales – both increase with a manufacturing presence.

The benefits of higher tax collections are evident in local services as a result. For instance, teacher pay is above the state average in parishes with high utilization of ITEP. The teachers in St. James are the third highest paid in the state at $58,673 annually. With the sixth highest share of manufacturing employment (20%), Natchitoches Parish ranks #11 for teacher pay at $53,130.[29] It is important to note that this benefit to local services existed even when ITEP was authorized up to 100 percent, and LABI continues to advocate for the flexibility to abate the full amount of the investment. However, the 2018 rules cap new applications for ITEP at 80 percent of the assessment, allowing local programs and services to immediately receive additional property tax dollars from new manufacturing investment.

PARISH	RANK FOR ACTIVE ITEP CONTRACTS 2011-2016[30]	RANK FOR SALES TAX COLLECTIONS PER CAPITA 2017	AMOUNT OF SALES TAX COLLECTION PER CAPITA 2017[31]
CAMERON	#1	#1	$3,481
CALCASIEU	#2	#7	$854
ASCENSION	#3	#5	$912
ST. CHARLES	#4	#8	$707
EAST BATON ROUGE	#5	#9	$692
IBERVILLE	#6	#2	$1,382
ST. JAMES	#7	#3	$1,223
JEFFERSON	#8	#6	$880
DE SOTO	#9	#33	$298
ORLEANS	#10	#13	$605
ST. JOHN THE BAPTIST	#11	#14	$599
ST. BERNARD	#12	#22	$425
LOUISIANA AVERAGE	——	——	$551

ITEP Exists to Help Overcome Persistent Challenges

Louisiana's business climate faces well-documented, perennial challenges: an unfriendly legal environment, an under-skilled workforce, and an unnecessarily complex tax system, among others. Louisiana's business tax climate is currently ranked #44 in the nation as a result of this complicated framework as well as the imposition of numerous taxes on businesses that other states do not impose.[32] The inventory tax, high state and local sales taxes on business inputs such as utilities and manufacturing machinery and equipment, and an expanding franchise tax top the list of uncompetitive taxes imposed on Louisiana businesses.

To help offset this challenging business environment and particularly hostile tax climate, Louisiana's policymakers – across decades and administrations – have turned to a variety of tax credits, exemptions, and incentives in an attempt to encourage investment and job growth in the state. Chief among these is ITEP established in 1936 and enshrined in the Louisiana Constitution in 1974 whereby the governor is authorized to grant temporary local property tax exemptions to new and growing manufacturers.

Quite simply, ITEP put Louisiana on the map to attract major investments. The Tax Foundation ranked Louisiana #1 as the most competitive state in the country for new manufacturing at its peak in 2015.[33] Without ITEP, Louisiana would have ranked #44 with the sixth highest effective tax burden for new capital-intensive manufacturing projects.[34] During legislative debate in recent years, Sasol – in the midst of an $11 billion investment in southwest Louisiana – released an open letter to reiterate this point: "The fact is Sasol did have choices regarding where to site our U.S. mega projects, and the tax incentives granted to Sasol did heavily influence our decision making. In fact, if one particular exemption – the industrial property tax exemption or ITEP – were not in place today, it is unlikely we would have chosen Louisiana for one of the largest capital investments in our company's history."[35]

The Louisiana Constitution, **ARTICLE 7.21 (F):**

"...the State Board of Commerce and Industry or its successor, with the approval of the governor, may enter into contracts for the exemption from ad valorem taxes of a new manufacturing establishment or an addition to an existing manufacturing establishment, on such terms and conditions as the board, with the approval of the governor, deems in the best interest of the state.

The exemption shall be for an initial term of no more than five calendar years, and may be renewed for an additional five years. All property exempted shall be listed on the assessment rolls and submitted to the Louisiana Tax Commission or its successor, but no taxes shall be collected thereon during the period of exemption."

LOUISIANA HAS...

FRANCHISE TAXES
36 STATES DO NOT

STATEWIDE INVENTORY TAXES
40 STATES DO NOT

TAXES ON MANUFACTURING UTILITIES
38 STATES DO NOT

LOCALIZED TAX COLLECTION AND AUDITING
48 STATES DO NOT

Thirty-nine states offer incentives to manufacturers that are similar to the new version of Louisiana's ITEP with similar exemption periods and percentages.[36] In fact, 26 states offer a version of ITEP to other industries, not only manufacturers.[37] In many cases, these states already fare better than Louisiana in other areas such as infrastructure and a skilled workforce, making ITEP even more important to attracting investment and high-wage jobs.

The Louisiana Business Tax Burden is Above the National Average

Louisiana business paid an estimated $10.1 billion in taxes to state and local government in Fiscal Year 2017. Sales tax made up the largest share of this tax revenue (37%) followed by property tax (32%), excise taxes (15%), licenses (8%), and income tax (7%).[38]

According to the Council on State Taxation, Louisiana businesses paid 40 percent of all state taxes and 58 percent of all local taxes for a total of just under half of all taxes collected in Louisiana (**49%**). Of note, Louisiana businesses fund state and local government **above** the national average, where businesses pay 38 percent of state taxes, 52 percent of local taxes, and a total of **44 percent** of all state/local taxes in the United States.[39]

In fact, Louisiana ranked #1 in the nation for the annual increase in business taxes from 2016 to 2017[40] – largely as a result of legislative action to increase collections of corporate income and franchise tax, raise the sales tax rate, and expand the business inputs to which sales tax applies. Legislation also passed in 2016 that directly affected ITEP, forcing certain manufacturers to choose between the inventory tax credit and ITEP.[41] The statutory and policy changes to ITEP have come at a particularly challenging time for Louisiana businesses who are facing a growing tax burden on income, sales, and property at both the state and local level.

BUSINESS SHARE	LOUISIANA	UNITED STATES
STATE TAXES	40%	38%
LOCAL TAXES	58%	52%
TOTAL TAXES	49%	44%

Despite political rhetoric that tax incentives such as ITEP have negated business property tax, the Louisiana Tax Commission estimates business pays the majority of property taxes collected in the state.[42] Even without agricultural and timber lands utilized in commerce, Louisiana businesses actually pay property tax at a rate 50 percent higher than individuals. Unlike homeowners, the inventory, machinery, equipment, and even office furniture of business is also taxed. Louisiana businesses paid an estimated $3.2 billion in property taxes to local government in 2017.[43]

NOTE: Texas has no individual income tax and does not charge sales tax on manufacturing utilities. Counties have the ability to offer 100 percent property tax abatement for manufacturing projects as well as other sectors of the economy such as warehousing and retail. Texas ranks #15 on the Tax Foundation's business tax climate index.[44]

Uncertainty Harms the Louisiana Economy

Over several decades, national research has proved that uncertainty negatively affects business decisions to invest – not only for large corporations but for small business as well. Significant evidence shows that hiring and capital investment, such as the type of manufacturing projects subject to ITEP, can be delayed or reconsidered due to changes in governmental policies.[45]

When the governor issued his Executive Order with new program rules in 2016 that required the approval of local governments for ITEP, companies immediately put applications on hold and the pipeline for new projects slowed significantly. Capital investment related to ITEP projects decreased from more than $20 billion in 2015 to $13 billion in 2017. New ITEP projects decreased over this same period from 769 to just 192. The associated new jobs similarly decreased from 3,086 in 2015 to 1,850 in 2017, and related construction jobs for these projects fell from 58,233 to 34,468.[46] Without knowing the criteria or process at the local level – or what the cost of those investments would ultimately be – companies had little choice but to delay or defer ITEP applications to build, expand, or improve their Louisiana facilities with a direct and immediate impact on jobs.

	2015	2017
NEW ITEP PROJECTS	769	↓ 192
CAPITAL INVESTMENT	$20B	↓ $13B
NEW JOBS	3,086	↓ 1,850
CONSTRUCTION JOBS	58,233	↓ 34,468

Despite the administration's new rules in 2018 that seek to provide a more certain and streamlined process from a policy perspective, the reality on the ground in each parish remains in flux. The approach to ITEP is different in each locale with some parishes announcing a unique process and criteria for project review and approval. Others are simply deferring to the state's decisions. Still others have created sub-committees to review each project on its own merits. The vast majority of parishes have not announced a particular decision-making process at all.

The New ITEP

The Industrial Property Tax Exemption allows the state and local government to temporarily defer property tax payments for manufacturers. Under no circumstances are taxpayer dollars actually distributed to companies under ITEP. Rather, a portion of the manufacturer's property tax payments are delayed for a set period of time pursuant to a binding contract with the state.

The governor's 2016 Executive Order outlined five major changes to ITEP that would apply to new projects. The process was subsequently refined in the rules approved by the Board of Commerce and Industry in August 2018.

1. New ITEP contracts are limited to an ad valorem exemption of 80 percent for a maximum of five years. Based on performance and compliance, companies may apply for a renewal exemption contract under these same terms – 80 percent for up to five years. (Of note, "mega-projects" can qualify for up to 93 percent exemption.)

2. In a Cooperative Endeavor Agreement with Louisiana Economic Development, companies seeking the exemption must specify the number of new jobs and payroll that will be created or offer a "compelling reason" for ITEP to help in the retention of existing jobs. ITEP contracts also include penalties for failure to meet specified goals for job creation and payroll.

3. Applications for new ITEP contracts must also have a letter of no objection or letter of approval from the Louisiana Department of Revenue and a statement of Return on Investment from Louisiana Economic Development.

4. After the Board of Commerce and Industry approves the ITEP contract, local governmental entities – the parish council or police jury, municipal council, school board, and the sheriff – have 30 days to initiate action to approve or reject the Board's decision. If the application is placed on a public meeting agenda, the local governmental bodies have an additional 30 days for action for a total of 60 days. If the local government takes no action, the application is considered approved. For renewal contracts, the Board has the option to repeat this process for local approval, but it is not required. Each local entity can act independently from the others; that is, for example, a parish council may approve the abatement and the school board may not and millages will be assessed accordingly.

5. Certain activities are no longer eligible for new ITEP contracts, including miscellaneous capital additions, required environmental capital upgrades, new replacements of existing machinery and equipment, or maintenance capital with limited exceptions for rehabilitation or restoration.

Manufacturing Investment Should be Prioritized in New Local Processes

There is no single approach that local governments are taking to execute the new authority to approve ITEP, and companies will face distinct processes and policies in each parish. Yet several trends have emerged:

1. Certain localities have indicated votes will be taken on the merits of every project by each of the elected boards.
2. In other areas, statements have been made that the local entities will essentially defer to the state and only take action if necessary.
3. Sub-committees are being formed – in some cases with participation by local economic development agencies.
4. General criteria have been offered by which applications will be judged by some local entities.
5. Rubrics with set levels of exemptions and criteria have been approved in some areas, in part to rely on staff recommendations rather than votes of elected bodies.

The City Council of New Orleans has announced three major standards employers must meet for ITEP consideration: 1) the manufacturing facility must be located in an economically distressed area; 2) the jobs must be full-time with basic healthcare coverage and a minimum wage of $18/hour; and 3) the employer must "demonstrate good faith effort" to sub-contract at least 40 percent of their construction work hours to New Orleans workers including 10 percent to disadvantaged local workers.[47] In neighboring Jefferson Parish, a rubric has been adopted by the major local governing authorities that caps the exemption at 75 percent and bases the amount on job creation and investment benchmarks as well as bonus increases for meeting community and economic development objectives (i.e. high wages, a particular industry cluster, or a national headquarters).[48]

In Baton Rouge, the Metro Council has approved a resolution that also goes above and beyond state requirements for ITEP contracts. Specifically, to receive City-Parish approval, companies must create at least 15 permanent full-time positions or ten percent of the pre-project baseline of employment. The City also prohibits the use of the Enterprise Zone credit when the ITEP abatement is in place and prohibits approval of any project where construction is complete prior to action by the Council on the exemption.[49] While pledging to create a common in-take form with the City, the East Baton Rouge Parish School Board still crafted its own rules that slightly diverge from the Metro Council – for example, no project can be approved by the School Board if construction has *begun*, while the City rules specify no project can be approved if construction is *complete*.[50] Both entities have pledged a public hearing on every project recommended by the Board of Commerce and Industry.

In the Shreveport area, companies are facing regulations from both Bossier and Caddo Parishes. The Caddo Sheriff became the first to actually reject an ITEP application altogether early in 2018. Since then, the Caddo Parish School Board has created a matrix with set percentages for exemptions based on if the project is new to the parish, the number of jobs for small vs. large businesses, and the capital investment for small vs. large businesses.[51] Next door, the Bossier Parish Police Jury passed a unanimous resolution establishing the Bossier Parish ITEP Committee with all four governmental bodies and outlining a process whereby the Committee will meet within 10 days of receipt of an approved ITEP application, hold a meeting where the applicant must be present, and consider jobs, capital investment, and "other economic factors."[52]

In Lake Charles, the local governing bodies have each approved the creation of a sub-group to make recommendations on ITEP applications. The Calcasieu Parish Taxing Authority is facilitated by the Southwest Louisiana Economic Development Alliance and consists of representatives from the police jury, school board, and the sheriff as well as municipal members when relevant to the application. The sub-group meets privately with the company and deliberates the application, then forwards draft recommendations in the form of resolutions to the relevant governing bodies for action.[53] This model is perhaps the most streamlined and provides optimal simplification for manufacturers seeking to invest in Louisiana.

LED EXAMPLE PROJECTS[54]	ITEP EXEMPTION 100% FOR FIRST CONTRACT 80% FOR RENEWAL	AMOUNT OF LOCAL TAXES GENERATED OVER 30 YEARS
$50M CAPITAL EXPENDITURE $1M PAYROLL	$4.7M	$8M
$100M CAPITAL EXPENDITURE $5M PAYROLL	$9.5M	$24M
$1B CAPITAL EXPENDITURE $50M PAYROLL	$95M	$244M

A handful of other parishes have offered new processes, including Allen, Beauregard, St. James, West Baton Rouge and West Feliciana, but most have not taken official action within the 60-day window suggested by the Board of Commerce and Industry rules that took effect in September. While the state process is certainly more streamlined, many unknown variables remain in ITEP depending on the location of the manufacturer.

LABI encourages all local governing authorities to

- *Streamline the process for decision making within the parish to a single point of contact where possible;*
- *Provide a standard policy and process across local entities within a parish to offer predictability to companies and communities;*
- *Develop rubrics and criteria that utilize data and facts to recognize the short and long-term value that manufacturing brings to a community; and*
- *Publicize the information so that companies clearly understand the rules of the program and are treated fairly in the process.*

LABI urges the governor and the Board of Commerce and Industry to

- *Consider requiring a single local policy and point of contact for each parish; and*
- *Provide local authorities with the flexibility to offer up to 100 percent of the abatement.*

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26 Note: Figures represent state sales tax collections, which are reported annually by the Louisiana Department of Revenue. Local collections for local government will vary depending on the local rate and could be even higher than the state rate. The connection of manufacturing to higher sales tax collections, however, remains the same whether it is paid to state or local government.

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LABI Louisiana Association OF BUSINESS AND INDUSTRY