



NOTICE OF MEETING

**Board of Commerce and Industry
Rules Committee Meeting
Industrial Ad Valorem Tax Exemption Program Rules
Thursday, November 14, 2024
1:30 p.m. – 4:00 p.m.**

LASALLE BUILDING
617 North 3rd Street, Floor 1 – LaBelle Room
Baton Rouge, LA

AGENDA

1. Call to order– Jerry Jones, Chairman
2. Roll Call –Deborah Simmons, Administrative Assistant
3. Approval of minutes from August 12th and October 18th 2024 committee meetings
4. LED Presentation of proposed new ITEP review and approval process, second edition.
 - a. Public comment will be permitted at any point in the meeting prior to any action requiring a vote from the committee
5. Scheduling next steps
6. Adjournment no later than 4:00 p.m.

Note:

This official notice of public meeting is posted in accordance with La. R.S. 42:19. Official notice has been posted no less than twenty-four hours prior to the scheduled time of the meeting.

Any person requiring a disability accommodation to participate in this open meeting should contact Deborah Simmons at 225.342.5398 Deborah.Simmons@la.gov to request the necessary accommodation.

NOTICE OF INTENT

Louisiana Economic Development Office of Business Development

Industrial Ad Valorem Tax Exemption Program (LAC 13:I. Chapter 5)

Louisiana Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 36:104 hereby provide notice of their intent to amend the rules of the Industrial Tax Exemption Program to: align with Executive Order JML 24-23, to set forth the criteria the Board of Commerce and Industry will consider for purposes of determining what is in the best interests of the state for consideration of ITEP contracts, and also to implement procedural revisions for more effective program administration.

Title 13 ECONOMIC DEVELOPMENT Part I. Financial Incentive Programs Chapter 5. Industrial Ad Valorem Tax Exemption Program

Subchapter A. ITEP Rules for projects with advances filed prior to February 21, 2024

§529. Renewal of Tax Exemption Contract; Amendment of Tax Exemption Contract

A. Application for renewal of the exemption must be filed with LED through its online Fastlane portal not more than six months before, and not later than, the expiration of the initial-contract. A renewal fee, and late filing fee if applicable, shall be filed with the renewal application, in accordance with LED's fee schedule, as defined in R.S. 36:104. The document shall not be considered officially received and accepted until the appropriate fee is submitted. Upon proper showing of compliance with the initial contract of exemption, a renewal contract of exemption may be approved by the board for an additional period of no more than five years and provide for an ad valorem exemption of up to 80 percent.

B. . . .

C. . . .

D. . . .

E. Companies with ITEP contracts existing under 2017 & 2018 Rules may "opt out" of the jobs, payroll and compliance components by amending Exhibit A's to reflect zero jobs and zero payroll regardless of whether the contract is up for renewal. Because the amendment of jobs and payroll will have no impact on the local tax exemption, the amendment will not require approval by the local governmental entities.

F. Application for a contract amendment, including but not limited to an Exhibit A amendment, must be filed with LED through its online Fastlane portal and shall include a filing fee, in accordance with LED's fee schedule, as defined in R.S. 36:104.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution Of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 41:2319 (November 2015), LR 43:1137 (June 2017), LR 44:1423 (August 2018).

§537. Reporting to the Parish Assessor

A. The applicant shall file annually with the assessor of the parish in which the manufacturing establishment is located, a complete taxpayer's report on forms approved by the Tax Commission, in order that the exempted property may be separately listed on the assessment rolls.

B. All property exempted shall be listed on the assessment rolls and submitted to the Tax Commission or its successor, and up to 80 percent of the taxes shall not be collected thereon during the period of exemption.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, September 1974, amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 43:1138 (June 2017), LR 44:1424 (August 2018).

Subchapter B. ITEP Rules for Projects with Advances Filed on or after February 21, 2024

§539. Statement of Purpose

A. Purpose

1. Louisiana values its manufacturers and their contributions to its economy.
2. Article VII, Section 21 (F) of the Louisiana Constitution of 1974 provides that the Board of Commerce and Industry ("Board"), 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 is in the best interest of the state.

B. Best Interest of the State

1. The provisions set forth in this Subchapter establish the criteria that the governor and the board will consider for purposes of deciding what is in the best interest of the state.

C. Applicability

1. The provisions set forth in this Subchapter shall apply to projects with advances filed on or after February 21, 2024.
2. The provisions set forth in this Subchapter shall not apply to projects with advances filed prior to February 21, 2024, or ITEP projects approved by the board prior to February 21, 2024.

D. Property Exemption rates

1. As a general rule, approved Projects may be eligible for an ad valorem tax exemption rate of 80%;
2. In exceptional circumstances, Mega Projects may be eligible for an increased ad valorem tax exemption rate range beginning at 93% up to 100%, if so recommended by the local ITEP Committee, or as otherwise approved by the Governor.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and Louisiana Economic Development, LR 50:

§541. Definitions

Addition to a Manufacturing Establishment—

- 1.a. a capital expenditure for property that would meet the standard of a new manufacturing establishment if the addition were treated as a stand-alone establishment;

b. a capital expenditure for property that is directly related to the manufacturing operations of an existing manufacturing establishment; or

c. an installation or physical change made to a manufacturing establishment that increases its value, utility or competitiveness;

2. maintenance capital, required environmental capital upgrades, and replacement parts, required in the rehabilitation or restoration of an establishment, to conserve as nearly, and as long as possible, original condition, shall qualify as an addition to a manufacturing establishment;

3. a capital expenditures associated with the rehabilitation or restoration of an establishment as provided for in §511 shall be included as an addition to a manufacturing establishment.

4. a capital expenditure associated with the expansion of an existing manufacturing establishment may be considered an addition, if the expansion project is a planned initiative to increase the size, capacity, scope, or reach of an existing establishment, or adds new components or features to accommodate growth.

Beginning of Construction—the first day on which foundations are started or, where foundations are unnecessary, the first day on which installations of the manufacturing establishment begins.

Board—Board of Commerce and Industry, or BCI.

Capital Expenditure—the cost associated with a new manufacturing establishment or an addition to an existing manufacturing establishment, including purchasing or improving real property and tangible personal property, whose useful life exceeds one year and which is used in the conduct of business.

Committee—Local ITEP Committee

Construction was Completed - A construction project shall be deemed complete when construction is finished to the extent that the project can be used or occupied for its intended purpose. A construction project shall be deemed finished, for purposes of this exemption, if during its inspection, testing, or commissioning stages, Company can produce 70% or more of its primary and intended product capacity.

Contiguous - Property that is adjoining. Rights of way do not prevent property from being considered contiguous. Two or more parcels of land with a common boundary or separated solely by a roadway or other right of way.

Department—Louisiana Department of Economic Development.

Exemption Term – the period of the exemption for an asset or group of assets, which shall begin when placed in service, as set forth in Company's Annual Project Property Report (APPR) annual filings submitted to LED.

Integral- equipment, structures or materials needed to make the product in accordance with applicable environmental, health and safety requirements, and associated activities supporting operations at the site, as approved by LED.

ITEP Contract – a contract for exemption between applicant company, BCI, and the Governor, setting forth the Project Period, the Exemption Percentage and the general terms and conditions of the contract deemed in the best interest of the state.

LED – Louisiana Economic Development, formerly known as the Department or the Louisiana Department of Economic Development.

LDR—Louisiana Department of Revenue.

LWC – Louisiana Workforce Commission

Local Governmental Entity—the parish governing authority, school board, sheriff, or any municipality in which the manufacturing establishment is or will be located.

Maintenance Capital—costs required in the rehabilitation or restoration of an establishment to conserve as nearly as possible the original condition.

Manufacturer—a person or business who engages in manufacturing at a manufacturing establishment.

Manufacturing—working raw materials by means of mass or custom production, including fabrication, applying manual labor or machinery into wares suitable for use or which gives new shapes, qualities or combinations to matter which already has gone through some artificial process. The resulting products must be suitable for use as manufactured products that are placed into commerce for sale or sold for use as a component of another product to be placed, and placed into commerce for sale.

Manufacturing Establishment —a new plant or establishment or an addition or additions to any existing plant or establishment which engages in the business of working raw materials into wares suitable for use or which gives new shapes, qualities or combinations to matter which already has gone through some artificial process.

Mega-Project-a manufacturing establishment expansion or addition Project, with capital expenditures meeting or exceeding the following benchmarks, in accordance with statewide data posted on LED’s website, to be updated annually:

1. 200% of the 10 year parish average for capital expenditures by completed ITEP Projects; if none,
2. 200% of the 10 year regional average for capital expenditures by completed ITEP Projects;
 - a. In accordance with the geographic boundaries of the 8 regional economic development organizations; if none,
3. 200% of the 10 year statewide average for capital expenditures by completed ITEP Projects.

Miscellaneous capital additions- capital expenditures that are not part of the Project Application.

Obsolescence—the inadequacy, disuse, outdated or non-functionality of facilities, infrastructure, equipment or product technologies due to the effects of time, decay, changing market conditions, invention and adoption of new product technologies or changing consumer demands.

Place in Service and Placed in Service – the date when an asset is substantially complete and ready for its intended use, as reflected in a company’s fixed asset register, books or records.

Project – a brief but adequate description of the general scope of work intended by the Company at a single site, for which ITEP benefits are being pursued, and as stated by the Company on the Project Application. This should include what is planned to be constructed, added and the purpose of the project. If a project spans two or more parishes, one project application may be submitted, however, separate annual filings with a breakdown of assets by parish will be required.

Project Period – the designated project period during which the Applicant Company may place in service new assets or spend capital expenditures on assets within the scope of the approved project.

Qualified Disaster—

1. a disaster which results from:
 - a. an act of terror directed against the United States or any of its allies; or
 - b. any military action involving the Armed Forces of the United States and resulting from violence or aggression against the United States or any of its allies (or threat thereof), but not including training exercises;
2. any disaster which, with respect to the area in which the manufacturing establishment is located, resulted in a subsequent determination by the president of the United States that such area warrants assistance by the federal government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act;
3. a disaster which is determined by an applicable federal, state, or local authority (as determined by the secretary) to warrant assistance from the federal, state, or local government, or agency or instrumentality thereof; or
4. any other extraordinary event that destroys or renders all or a portion of the manufacturing establishment inoperable.

Regional economic development organization – any of the following eight organizations: the Baton Rouge Area Chamber; the Central Louisiana Economic Development Alliance; Greater New Orleans, Inc.; the Northeast Louisiana Economic Alliance; the North Louisiana Economic Partnership; One Acadiana; the South Louisiana Economic Council; the Southwest Louisiana Economic Development Alliance, or any of their successors. Abbreviated and also known as “REDO”.

Rehabilitation—the extensive renovation of a building or project that is intended to cure obsolescence or to repurpose a facility.

Required Environmental Capital Upgrades—upgrades required by any state or federal governmental agency, as a result of an enforcement action by said agency. *Restoration*—repairs to bring a building or structure to at least its original form or an improved condition.

Secretary—secretary of the Louisiana Economic Development.

Site—one or more contiguous parcels of land which are under the control of the manufacturing establishment or which contains certain assets of the manufacturing establishment. Assets leading to and from the site legal fence line, such as pipelines, rail lines, or other forms of transporting goods to and from the site or between sites that reside on easements or right of ways shall not be included as the contiguous area of the entire manufacturing operation.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and Louisiana Economic Development, LR 50:

§543. Ineligible Property

A. Notwithstanding any provision to the contrary, the following property is ineligible for the tax exemption:

1. **Property**

- a. Miscellaneous capital additions;
- b. Maintenance capital, required environmental capital upgrades and replacement parts, except those replacements required in the rehabilitation or restoration of an establishment, to conserve as nearly, and as long as possible, original condition, are not eligible for the tax exemption.
- c. If the establishment or addition is on the taxable rolls and property taxes have been paid at more than 20 percent, the establishment or addition is not eligible for the exemption, unless one or more of the following conditions are met:
 - i. if the Applicant paid the taxes under protest, then the property may be eligible for exemption once the protest and appeals process concludes and concludes in favor of the tax payer;
 - ii. if the Applicant has a change order approved by the Louisiana Tax Commission and the change order results in a reimbursement of property taxes paid on eligible property, then such property, or the proportional value thereof, may be considered by exemption.
- d. The board shall not consider for tax exemption any property previously subject to an ad valorem tax exemption that has expired or otherwise been terminated.

2. **Land.** The land on which a manufacturing establishment is located is not eligible for tax exemption.

3. **Inventories**

- a. inventories of raw materials used in the course of manufacturing;
 - b. inventories of work-in-progress or finished products;
 - c. any other consumable items.
4. Maintenance and repair costs not eligible for capitalization shall not qualify.

5. **Moveable property**, such as office furniture and fixtures that are not permanently located at the manufacturing establishment.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and Louisiana Development, LR 50:

§545. Illustrative Examples of Eligible Items.

A. The following items may be eligible for the tax exemption:

1. **Buildings and Facilities Used in Manufacturing.** The board shall consider for tax exemption buildings and facilities used in the operation of new manufacturing establishments located within the state of Louisiana (subject to the limitations stated in §543) and additions to manufacturing establishments within the state of Louisiana. Exemptions are granted to the owners of buildings that house a manufacturing establishment and facilities that are operated specifically in the manufacturing of a product. The board recognizes two categories of ownership:

- a. owners who engage in manufacturing at said facilities; and

b. owners who are not engaged in manufacturing at said manufacturing establishment, but who have provided either or both of the following for a predetermined manufacturing establishment:

- i. buildings to house a manufacturing establishment;
- ii. facilities that consist of manufacturing equipment operated specifically in the manufacturing process;

c. owners who are not engaged in manufacturing at the manufacturing establishment are eligible for the exemption only if the manufacturer at the site is obligated to pay the property taxes if the exemption were not granted.

2. **Leased Property.** Leased property is eligible for the exemption, if the property is used in the manufacturing process, is and remains on the plant site, and the manufacturer is obligated under the lease agreement to pay the property taxes if the exemption were not granted.

3. Capitalized Materials

a. Capitalized materials which are an essential and integral part of a manufacturing process, but do not form part of the finished product, may be exempted along with the manufacturing establishment. Some examples of these are:

- i. ammonia in a freezing plant;
- ii. solvent in an extraction plant; and
- iii. catalyst in a manufacturing process.

b. To be eligible for exemption, a manufacturing establishment must be in an operational status and engaged in manufacturing. An owner of a new manufacturing establishment under construction may apply for an exemption with the expectation that the manufacturing establishment will become operational. If the manufacturing establishment fails to become operational or ceases operations without a reasonable expectation of recommencing operations, the facility shall no longer be eligible for exemption and its contract shall be subject to termination under §569.

4. **Integral Parts of the Manufacturing Operation.** The following may be considered an integral part of the manufacturing operation:

- a. quality control/quality assurance;
- b. packaging;
- c. transportation of goods on the site during the manufacturing process;
- d. portable equipment that is necessary to the operation of the manufacturing process, and permanently located at the manufacturing establishment.
- e. other on site essential activities as approved by the secretary and the board.

5. Rehabilitation and Restoration of Property

a. Capital expenditures for the rehabilitation or restoration of an existing establishment may be exempted if replacements or upgrades are made as part of a rehabilitation or restoration to an establishment, only the capital expenditures in excess of original cost shall be eligible for tax exemption. A deduction for the original cost of property to be replaced shall not be made if the project will result in capital additions that exceed \$50,000,000.

b. Exemption may be granted on the costs of rehabilitation or restoration of a partially or completely damaged facility, but only on the amount in excess of the original cost.

c. Original costs deducted from rehabilitation or restoration made or rebuilding shall be clearly documented.

d. A deduction for the original cost of property to be replaced as part of a rehabilitation or restoration, as provided by sections a or b above, shall not be made if the project is related to the replacement or reconstruction of property after the destruction of or damage to such property, as a result of a qualified disaster.

6. Relocations

a. A manufacturing establishment moved from one location in the state to another place within the state shall be eligible for the unexpired consecutive years, if any, of the tax exemption contract granted at the original location.

b. If a manufacturing establishment moves from one location in the state to another location within the state, the company shall be required to seek approval of the local ITEP Committee in which the manufacturing establishment will be located if this is a different entity than that which approved the exemption at the original site.

7. Used Equipment. Used equipment is eligible for tax exemption provided no more than 20% of ad valorem property taxes have been paid in Louisiana on said property.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and Louisiana Economic Development, LR 50:

§547. Project Application

A. A Project Application for tax exemption may be filed with LED through its online Fastlane portal, subject to the following conditions:

1. the filing shall be prior to the beginning of construction or installation of facilities on all projects for tax exemption;

2. an application fee shall be submitted with the application, in accordance with LED's fee schedule, as defined in R.S. 36:104.

B. Project Applications shall include but not be limited to the following information: a project description, legal description of the project site, NAICS code, project start and end dates.

1. Documents that further define and show the boundaries of a project site, such as surveys or boundary maps, may be submitted to LED.

C. LED reserves the right to request additional information necessary to make an eligibility determination, or if the correct fee is not submitted. Such information or fees shall be provided to LED within 90 days of written request.

D. Project Applications with insufficient fees or inadequate information after this time frame may result in a determination of ineligibility of the project, and subsequent cancellation of the application.

a. Project Applications with insufficient fees or inadequate information shall not be cancelled unless the deficiency is more than 90 days delinquent with no bi-lateral communications between LED and the company during these 90 days.

E. Project Applications shall be made available for review by the local ITEP Committee as soon as practicable after LED has completed its review, but no earlier than 15 calendar days prior to a scheduled BCI Board Meeting, as support documentation for any published Agenda.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974. HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and Louisiana Economic Development, LR 50:

§549. Consultation with the LDR and LWC

A. LED will provide a copy of the Project Application and all relative information to the Louisiana Department of Revenue (LDR) for review. LDR may require additional information from the applicant. LED must receive a letter-of-no-objection or a letter-of-approval from the LDR, prior to submitting the Project Application to the board for action.

B. If a company has no employees at the time of Project Application, LED may elect to provide a copy of the Project Application and all relative information to the Louisiana Workforce Commission (LWC) for review to verify assigned or anticipated NAICS codes and appropriate industry sector classification. LWC may require additional information from the applicant. LWC may submit a letter of objection to LED within 14 calendar days of receipt of Project Application. If LWC does not take action or provide information as required herein, then the ITEP Project Application shall be deemed approved.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974. HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and Louisiana Economic Development, LR 50:

§551. Local ITEP Committee

A. Establishment

1. If local governmental entities wish to provide input to the Governor or BCI on pending ITEP Project Applications, local officials or employees, collectively comprising an ad hoc Local ITEP Committee (the Committee) shall follow the procedures outlined in this Section..

2. If a Local ITEP Committee is to be established, it shall be composed of one voting member representative from each of the following local governmental entities; the parish or policy jury, as applicable; the school board; the sheriff; and the mayor, if applicable;

a. Representatives shall be elected by each local governmental entity, by a majority vote at a public meeting conducted in accordance with Open Meetings Laws;

b. Each local ITEP Committee shall submit to LED within 45 calendar days of the promulgation of these rules, or prior to consideration of an ITEP Project in any given jurisdiction, whichever is later, the following information: each designated representative's name, provision for a designee if desired, and contact information for receipt of ITEP related communications. Thereafter, updated information may be submitted annually to LED by January 31st of any calendar year.

i. LED shall make the Local ITEP Committee contact information available to the public via a posting on its website and upon written request.

c. If a local ITEP Committee does not take action or provide information as required herein, then the ITEP Project Application shall be deemed approved by each such entity.

3. Additional, ex-officio non-voting members may include:

a. the assessor;

b. the parish's highest-ranking economic development staff;

c. members of the local economic development organization; or

i. if no local economic development organization exists, a representative from the regional economic development organization.

4. One member of the local economic development organization can serve as coordinator for the Committee, to provide administrative capacity and project management expertise.

B. Consideration of ITEP Applications

1. Notice of Project Applications shall be made available for review by the local ITEP Committee as soon as practicable after LED has completed its review.

C. Meetings

1. Upon receipt of notice, a 45 calendar day notice period begins.

a. in exceptional circumstances a notice of Project Application may be submitted to the Local ITEP Committee for consideration within the standard 45 day notice time frame.

b. Therefore, in order for a Project Application to be placed on an upcoming BCI Meeting Agenda, the Company must provide evidence to LED of either:

i) written approval from the Committee, or

ii) 45 calendar days' notice to the Committee.

2. The committee is not required to hold a meeting, however, any such meeting held to consider an ITEP Application shall be considered public business and conducted by officials in accordance with Open Meetings laws.

D. Determination

1. The committee shall submit notice of the issuance of a resolution to LED stating the support or lack thereof for issuance of industrial ad valorem tax exemption applications within its jurisdiction, except that Committees composed of four voting members may also indicate a tie vote.

2. When considering Mega Project applications, any determination and subsequent resolution by the committee shall also indicate a recommended applicable ad valorem tax exemption amount rate, at either the base rate of 80%, or an increased rate range from 93% up to 100%.

3. If the committee does not take action or provide a resolution as required herein, then the application will be deemed approved by such entity.

E. Decisions by the committee are not dispositive and do not bind the governor or the board.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974. HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and Louisiana Economic Development, LR 50:

§553. Presentation to the Board

A. After its review and determination of eligibility, LED will prepare the Project Application information in a format suitable for presentation to the board.

B. The board must approve the Project Application prior to a contract being issued.

C. Applicant or its representatives will be notified of the board meeting date at which their Project Application will be considered. The applicant should have someone present who is able to answer any questions the board may have regarding the information contained in the Project Application, otherwise the Project Application may be deferred or denied.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974. HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and Louisiana Economic Development, LR 50:

§555. Board Consideration of Project Application

A. Eligibility of the applicant and the property for the exemption, including whether the activities at the site meet the definition of manufacturing, will be reviewed by the board based upon the facts and circumstances existing at the time the Project Application is considered by the board.

1. Applications which provide for a new manufacturing establishment or which provide for an expansion of, or an addition to an existing manufacturing establishment, shall be favored by the board.

2. The board will receive all public comment given at the board meeting, or any written comments filed with LED prior to the board meeting date.

B. The property exempted may be increased or decreased based upon review of the application, project completion report or affidavit of final cost.

C. An application filed prior to completion of construction may be considered by the board and a contract may be executed based upon the best available estimates, subject to adjustments, as necessary, upon review and approval of the project completion report and affidavit of final cost.

1. If the applicant fails to timely file the project completion report or affidavit of final cost the board may, after notice to the applicant, terminate the contract.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974. HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and Louisiana Economic Development, LR 50:

§557. The Contract

A. Upon board approval of a Project Application and receipt of the Local ITEP Committee's determination, if any, LED shall draft an ITEP contract setting forth the terms and conditions, which may include but not be limited to the following:

1. an initial term of no more than five calendar years;
2. a term of renewal for an additional time period of up to five years;
3. the applicable ad valorem exemption percentage; and
4. contract holder business name; and if applicable, a list of any contract holder affiliates that may seek tax exemption for assets related to the approved ITEP Contract project, which shall be included as Schedule I to the contract.

B. The ITEP Contract effective date shall be the Project Start Date, as specified in the Project Application, but no earlier than the Project Application submission date.

1. The Beginning of Construction for the ITEP Contract Project must occur prior to the completion of the initial five (5) year ITEP Contract term.

2. If Company is compliant with the terms of its ITEP Contract, including but not limited to its annual APPR filings, then Company may request the Board to consider a change of its ITEP Contract effective date.

C. During the initial five (5) year ITEP Contract term, the Company may place in service an asset or group assets that are eligible for the exemption and that are related to the ITEP Contract Project.

1. The exemption term of any asset or group of assets shall be established through the Company's Annual Project Property Report (APPR) annual compliance filings submitted to LED.

D. The ITEP contract shall be submitted to the Company electronically via LED's electronic document signing system, or other method as may otherwise be approved by all parties.

E. The Company must execute its portion of the contract within 90 days of receipt of notification from LED's electronic document signing system. If the ITEP Contract is not executed and submitted to LED within 90 days, the Company shall submit documentation of continued eligibility prior to reissuance for Company signature and further processing. Documentation may include but not be limited information from the applicable taxing authority verifying that either property taxes have not been paid at more than 20 percent, or as otherwise authorized pursuant to #543 (b).

F. Once the ITEP contract has been executed by the Company and the board, the ITEP contract, including any Local ITEP Committee determination, included as an Exhibit to the ITEP contract, shall be submitted to the governor for review and consideration.

G. The governor may approve or deny the ITEP contract, and an ITEP contract shall not be considered effective or binding upon the state until signed by the governor.

H. Any occurrence that operates to change, suspend, or breach the terms of the contract shall render the approval of the governor null and void.

I. The exemption term of certain assets placed in service during the term of the ITEP Contract and associated tax exemption benefits may extend beyond the ITEP Contract Term.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974. HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and Louisiana Economic Development, LR 50:

§559. Annual Project Property Reports

A. Company or its named affiliates listed on Schedule I shall file an Annual Project Property Report (APPR) with LED on or before March 31st of each calendar year following the full execution of the ITEP Contract and shall continue annually during the term of the ITEP Contract.

1. Provided Company requests an extension to file its APPR in writing on or before March 31st of each calendar year, LED shall grant an extension to file the APPR to April 30th.

2. Late APPR filings shall be subject to penalties. The penalty shall be the loss of one (1) year of exemption for each calendar year or portion thereof, that the filing is late.

a. Companies may make a special request of the Board for reconsideration of the above late filing penalties. Board shall consider each request and make a determination based on the merits of the request and on the Board's judgement as to what is in the best interest of the State.

B. The APPR shall include but may not be limited to the following:

1. An ITEP Contract Project status update;

2. A list of assets, if any, related to the ITEP Contract Project that were placed into service during the prior calendar year and eligible for the exemption.

C. The APPR shall establish the exemption term for assets eligible for the exemption.

1. For assets physically located in parishes other than Orleans Parish, the exemption term for each asset or group of assets listed on the APPR, and approved by LED, shall begin December 31 of the calendar year in which the asset or group of assets were Placed in Service or Construction was Completed.

a. The exemption term shall be for (10) consecutive years and subject to the provisions of the ITEP Contract and surviving provisions thereof;

2. For property located in Orleans Parish, the exemption term for each asset or group of assets listed on the APPR, and approved by LED, shall begin July 31 of the calendar year in which the asset or group of assets were Placed in Service or Construction was Completed.

a. The exemption term shall be **reflected on the APPR**.

D. In the event an asset or group of assets were disposed of, then Company shall be required to submit an amended APPR.

1. Amended APPRs are due on or before March 31st of each calendar year.

2. Provided Company requests an extension to file an amended APPR in writing on or before March 31st of each calendar year, LED shall grant an extension to file the amended APPR to April 30th.

3. Late APPR filings shall be subject to penalties. The penalty shall be the loss of one (1) year of exemption for each calendar year or portion thereof, that the filing is late.

a. Companies may make a special request of the Board for reconsideration of the above late filing penalties. Board shall consider each request and make a determination based on the merits of the request and on the Board's judgement as to what is in the best interest of the State.

E. Processing fee(s) shall be submitted with the APPR or amended APPR, in accordance with LED's fee schedule, as defined in R.S. 36:104.

F. LED shall review the APPR filing to ensure the Placed in Service date for the asset or group of assets and the Completion of Construction date includes the proper calendar year, and to ensure the asset or group of assets are in accordance with the terms and conditions of the fully-executed ITEP contract.

G. LED may perform a detailed examination of at least 10 percent of all APPR's received, to ensure that only qualifying assets, within the scope of the approved project, are submitted for exemption.

1. Upon notice that their application has been selected for detailed examination, the applicant shall provide all applicable supporting documentation requested by LED.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and Louisiana Economic Development, LR 50:

§561. Renewal of Tax Exemption Contract

A. Application for renewal of the exemption must be filed with **LED** through **its** online Fastlane portal within the final year of the initial contract term but prior to expiration of the initial contract. A renewal fee shall be filed with the renewal application, in accordance with LED's fee schedule, as defined in R.S. 36:104. The document shall not be considered officially received and accepted until the appropriate fee is submitted. Upon proper showing of compliance with the initial contract of exemption, including but not limited to filing of all required Annual Project Property Reports, a renewal contract of exemption may be approved by the board for an additional period of no more than five years and provide for an applicable ad valorem exemption percentage.

B. Eligibility of the applicant and the property for renewal of the exemption will be reviewed by the board using the same criteria that was used for the initial contract, and based upon the facts and circumstances existing at the time the renewal application is considered. ITEP contracts shall be renewed unless the particular circumstances indicate bad faith on the part of the Company.

C. The board shall have the option of submitting a board approved renewal application to the local governmental entities for approval in accordance with the procedures for approval of the initial exemption contract.

D. The term of the renewal contract shall be reduced by one year for each calendar month, or portion thereof, that the renewal application is filed late. The board may impose any other penalty for late renewal submission that it deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974. HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and Louisiana Economic Development, LR 50:

§563. Violation of Rules or Documents; Inspection

A. The board reserves the right, on its own initiative or upon written complaint of an alleged violation of terms of tax exemption rules or documents, to conduct an inspection. During the inspection, LED may cause to be made a full investigation on behalf of the board and shall have full authority for such investigation including authority to demand reports or pertinent records and information from the applicant and complainants. Results of the investigation will be presented to the board.

B. All contracts of exemption shall be subject to inspection. If an inspection indicates that the applicant has violated any terms of the contract or rules, or that the exempt facility is not engaged in manufacturing, the board may conduct a hearing to reconsider the contract of exemption, after giving the applicant not less than 60 days' notice.

C. If the board determines that there has been a violation of the terms of the contract or the rules, that the property exempted by the contract is not eligible because it is not used in a manufacturing process, or that the facility has not commenced or has ceased manufacturing operations, the board may terminate or otherwise modify the contract.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974. HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and Louisiana Economic Development, LR 50:

§565. Reporting Requirements for Changes in Operations or Contract Amendment

A. LED shall be notified in writing on or before December 31st of any proposed amendments to Company's ITEP Contract.

1. ITEP Contract amendments that do not require Board approval include:

- a. A physical change of the manufacturing location occurring in the same Parish.
- i. A physical change of the manufacturing location to a different Parish than originally indicated on the Project Application shall require a new Project Application that shall include an exemption term no longer than the remaining term of the current ITEP Contract.
- b. A change in the manufacturing site boundaries, but within the bounds of the legal description indicated on the Project Application.
- c. Project start date amendments, provided the amendment request is received in writing by LED prior to the listed start date.

2. ITEP Contract amendments that require Board approval include:

- a. Any changes in the ownership or operational name of a legal entity holding an ITEP Contract.
- b. A sale, assignment, lease, or other transaction involving an independent 3rd party that includes all or some of the assets associated with the ITEP Contract that shall remain in the same Parish.
- c. A cessation in whole or in part of the manufacturing operations at the ITEP Contract site.
- d. The board may consider restrictions or cancellation of a contract for cessation of the manufacturing operation;

B. The Board shall consider all such ITEP Contract amendments strictly on the merits of the request.

C. Failure by Company to report any of the changes listed above constitutes a breach of the ITEP Contract and could result in a restriction or the termination of the ITEP Contract or a reduction of an exemption term for an APPR.

D. A filing fee shall be submitted with a request for any contract amendment, in accordance with LED's fee schedule, as defined in R.S. 36:104.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974. HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and Louisiana Economic Development, LR 50:

§567. Sale or Transfer of Exempted Manufacturing Establishment

A. In the event a named contract holder should sell or otherwise dispose of all property covered by a contract of exemption, to an unrelated third party, the purchaser of the said plant or property may, within three months of the date of such act of sale, apply to the board for a transfer of the contract. A transfer fee shall be filed with a request to transfer the contract, in accordance with LED's fee schedule, as defined in R.S. 36:104. The board shall consider all such applications for transfer of contracts of exemption strictly on the merits of the application for such transfer. No such transfer shall in any way impair or amend any of the provisions of the contract so transferred other than to change the name of the contracting applicant. Failure to request or apply for a transfer within the stipulated time period shall constitute a violation of the contract.

B. In the event a named contract holder should sell or otherwise dispose of some but not all property covered by a contract of exemption, to a named affiliate listed on Schedule I to the ITEP Contract, no board approval or transfer fee shall be required.

C. In the event a named contract holder should sell or otherwise dispose of some but not all property covered by a contract of exemption, to an unrelated third party, the purchaser of the said property may submit a new Project Application to LED, however, the exemption term for such property shall be limited to the remaining balance of the maximum 10 year term.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974. HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and Louisiana Economic Development, LR 50:

§569. Reporting to the Assessor

A. The applicant shall file annually with the appropriate taxing authority of the parish in which the manufacturing establishment is located, a complete taxpayer's report on forms approved by the Tax Commission, in order that the exempted property may be separately listed on the assessment rolls.

B. All property exempted shall be listed on the assessment rolls and submitted to the Tax Commission or its successor and up the applicable percentage of the taxes shall not be collected thereon during the period of exemption.

C. Taxes shall be exempted in accordance with the provisions of the contract, which are available to Parish Assessors through LED's online Fastlane portal.

D. All property for which an ITEP Contract has been approved by the Board, but awaiting a final determination by the Governor. Shall be reported by the Company to the appropriate taxing authority as "Pending Exemption".

1. Any property identified as "Pending Exemption" that fails to receive final approval from the Governor by August 31st shall be subject to taxation for that year.

2. Applicant Company may follow the proper guidelines as outlined by the Louisiana Tax Commission to have taxes paid under protest and prevail or have a change order approved and the paid taxes refunded to have such property reconsidered and eligible for exemption.

E. Any new asset shall be subject to property tax unless the item is included on the applicable Annual Project Property Report and attached to a fully executed ITEP Contract as of August 31st following the January 1st in which the items are first subject to tax assessment.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974. HISTORICAL NOTE: Promulgated by the State Board of Commerce and Industry and Louisiana Economic Development, LR 50:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.

Small Business Statement

The proposed Rule is not anticipated to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Public Comments

Interested persons should submit written comments on the proposed Rules to [X] through the close of business on [date] at Louisiana Economic Development, 617 North 3rd Street, 11th Floor, Baton Rouge, LA 70802 or via email to X@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 10:00 a.m. on [date] at the La Salle Building, 617 North Third Street, La Belle Room, Baton Rouge, LA 70802.

Susan B. Bourgeois
Secretary

DRAFT