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LA23

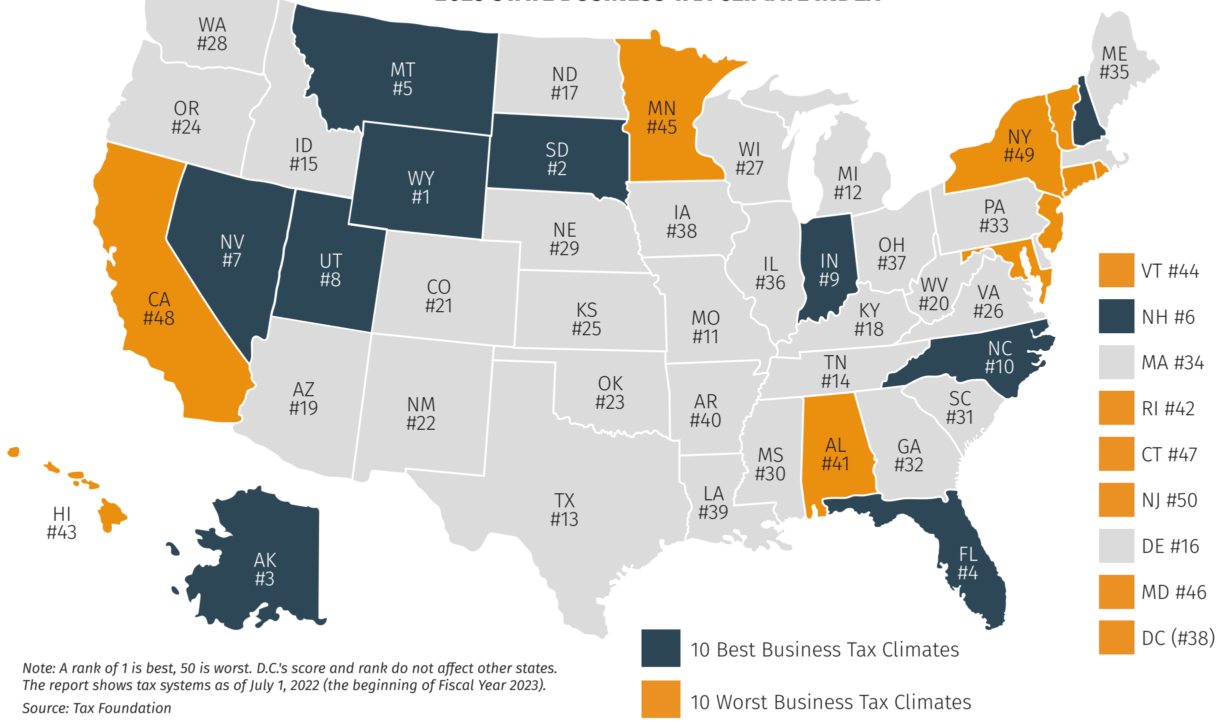
A ROADMAP TO LOUISIANA'S FUTURE

23

Policy Expressway
Tax Reform

Louisiana has one of the least competitive business tax climates in the country. The state's fiscal framework heavily relies on a comparatively large number of taxes with multiple brackets and a myriad of high rates that exceed national averages. In addition, Louisiana's tax code is riddled with complex administrative procedures that burden taxpayers with sometimes costly compliance issues which directly hinder the state's economic competitiveness.

2023 STATE BUSINESS TAX CLIMATE INDEX



Note: A rank of 1 is best, 50 is worst. D.C.'s score and rank do not affect other states. The report shows tax systems as of July 1, 2022 (the beginning of Fiscal Year 2023).

Source: Tax Foundation

While progress has been made in recent years to strategically reform the complexities of the state's tax code, the truth remains that Louisiana's existing tax system continues to put the state at an economic disadvantage both regionally and nationally. Rather than continuing to enact temporary, short-term solutions to fix long-term problems, Louisiana needs to strategically implement policies that encourage a tax system that is modern, fair, transparent, easy to comply with, and nationally competitive.

RECOMMENDATIONS

SALES AND USE TAX

RECOMMENDATION: Streamline and centralize state and local sales tax collections and administration.

Louisiana must streamline and centralize state and local sales tax collections and administration by creating an independent state and local sales tax authority run jointly by appointed representatives from local tax collection bodies, the Department of Revenue, and legislative leadership.

RECOMMENDATION: Modernize sales tax code to allow for a broader, uniform base and lower rates.

Louisiana should update its antiquated sales tax code to account for the digital transaction of final-end consumer products, allowing for a broader tax base and lower rates. To avoid pyramiding, any broadening of the sales tax base should not include business-to-business transactions.

INCOME AND FRANCHISE TAX

RECOMMENDATION: Lower and flatten corporate income tax rates.

Louisiana should consider moving its graduated corporate income tax structure to a single flat rate. Moving to a single rate will reduce the number of tax brackets, simplifying the corporate tax code for businesses.

RECOMMENDATION: Eliminate the corporate franchise tax.

As the Legislature continues to assess the effectiveness of automatic rate reduction triggers, they should simultaneously explore alternative methods to phase out the corporate franchise tax. Alternative statutory action may include modifying the existing trigger mechanisms so that the tax will automatically reduce in years when Louisiana has a budget surplus.

RECOMMENDATION: Flatten and eventually phase out the personal income tax.

Louisiana should move its graduated rate structure to a single flat rate with the goal of a complete repeal in the future. To do so, the Legislature should continue to utilize the automatic rate reduction triggers for individual income tax to allow for the implementation of fiscally responsible reductions to the tax based on actual collections.

ADMINISTRATION

RECOMMENDATION: Create a Comptrollers Division to oversee the functions of the state's fiscal agencies.

The creation of a Comptrollers division comprised of Louisiana's Department of Revenue, Department of Treasury, and Division of Administration, would provide Louisiana citizens, businesses, and policymakers with a one-stop resource to receive assistance on all fiscal matters, simplifying the overall structure and allowing for transparency between divisions.

PROPERTY TAX

RECOMMENDATION: Streamline Industrial Tax Exemption Program (ITEP) process.

To adequately serve as the state's foremost property tax abatement program, further simplification of the ITEP approval process is necessary. Louisiana should streamline the approval process at the state level and ensure that local governments have the necessary resources to properly evaluate ITEP applications to the extent they are involved in the approval process. Furthermore, if Louisiana lawmakers maintain the 80 percent abatement amount with local governments receiving 20 percent more property tax revenue from each qualifying manufacturer, they should proportionately reduce state funding to local governments.

RECOMMENDATION: Phase out the tax on business inventory.

State leadership should actively support and facilitate local governments exploring alternative revenue sources while gradually phasing out the inventory tax within a reasonable timeframe. As the inventory tax is phased out, the inventory tax credit should be proportionately reduced. Furthermore, the inventory tax credit should not be restricted or repealed as long as the inventory tax exists.

SEVERANCE TAX

RECOMMENDATION: Standardize and reduce the severance tax.

Louisiana should standardize the severance tax structure so oil and gas are both taxed by value. By moving to a value-based tax for both oil and gas, the severance tax rate will be set to align with the rise and fall of gas prices in real-time, providing the state and taxpayers more predictability and stability. This standardization will allow the state to reduce the severance tax rate to a more competitive rate with our neighboring states.

MOTOR FUEL TAX

RECOMMENDATION: Increase Louisiana's Motor Fuel Tax and expand it to account for increased use of alternative-fuel vehicles.

Louisiana should increase its tax on gasoline, motor fuels, and special fuels to increase the amount of revenue available to address the ever-growing backlog of infrastructure projects. While currently addressing the existing problem of inadequate revenue, the tax should also be indexed in a way that prevents future erosion of buying power. Furthermore, the legislature should explore ways of addressing the growing usage of electric and hybrid vehicles so that those highway users are also paying their "fair share". In the long run, it will be necessary for the State to implement a highway usage fee system that addresses the future realities of its transportation users.

WHAT ROLE DOES TAX POLICY PLAY IN ECONOMIC DEVELOPMENT?

SOUTHEAST OVERALL RANKINGS
(Tax Foundation 2023 Business Tax Climate Index)

4. FLORIDA
10. NORTH CAROLINA
13. TEXAS
14. TENNESSEE
18. KENTUCKY
30. MISSISSIPPI
31. SOUTH CAROLINA
32. GEORGIA
39. LOUISIANA
40. ARKANSAS
41. ALABAMA

Tax policy plays a crucial role in economic development as it directly influences a state's economy, including investment decisions, industry expansion, job creation, and overall competitiveness.

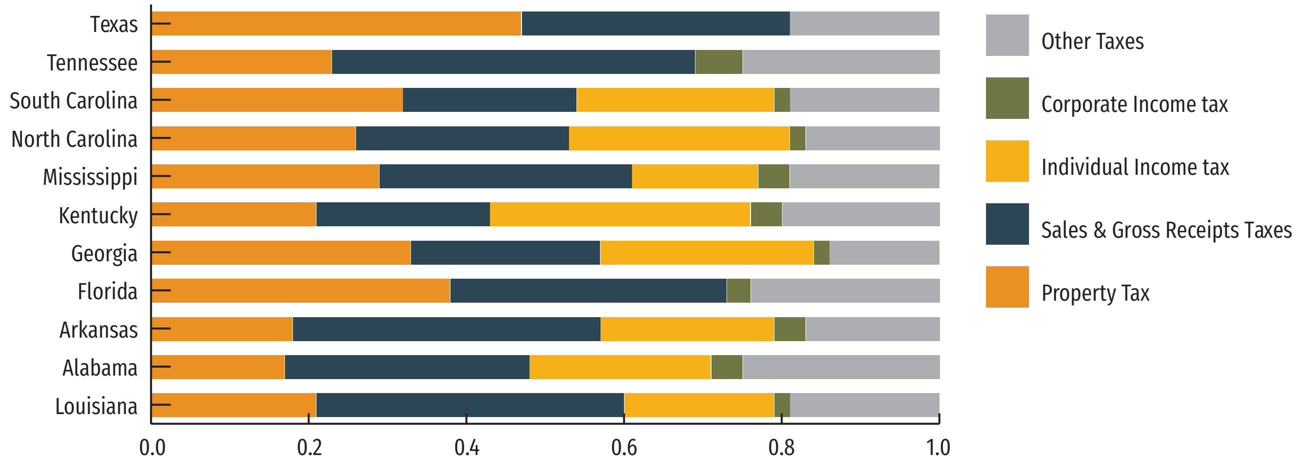
An effective tax structure would provide predictability and stability to our state's economy.[5] When deciding where a business wants to invest its capital, the final decision often comes down to a state's tax code. Does the state have high tax rates and burdens? Are its administrative procedures compliance-friendly? Does the state provide access to business tax credits and incentives? A business seeking to make responsible investment decisions will consider all these factors.

A state's tax policies can also play a vital role in strategically promoting economic diversification to reduce the risk associated with relying on a few industries. Implementing sound tax policies and incentives targeted at specific industries or sectors allows states to drive the development of new industries to expand the base of their economies. The more diversified a state's economy is, the less vulnerable it will be to inevitable economic fluctuations. Louisiana is specifically well-positioned to encourage the growth of industries such as technology, advanced manufacturing, and transitional energy.

LOUISIANA RANKING BREAKDOWN
(Tax Foundation 2023 Business Tax Climate Index)

39 OVERALL RANK	**48** Sales Tax Rank
32 Corporate Tax Rank	**23** Property Tax Rank
25 Individual Income Tax Rank	**6** Unemployment Insurance Tax Rank

SOURCES OF STATE AND LOCAL TAX COLLECTIONS: SOUTHERN STATES (FY 2020)[10]



(Source: Tax Foundation Unpacking the State and Local Tax Toolkit: Sources of State and Local Tax Collections (FY 2020))

FACTORS TO CONSIDER

CONSTITUTIONAL BARRIERS AND BUDGETARY CONSTRAINTS

Louisiana's tax structure is, by design, deeply rooted in the state's Constitution, which serves as the framework for the imposition, collection, and utilization of taxes by both state and local government.

Articles VI and VII of the Louisiana Constitution, in conjunction with Article 47 of the Louisiana Revised Statutes, establish the fundamental aspects of the state's tax structure. For many, these areas of law, specifically the state's Constitution, are also perceived to be the proverbial handcuffs that constrain lawmakers from enacting necessary reforms to the state's antiquated tax code. Articles VI and VII of the Louisiana Constitution institute tax rate limitations, mandate specific revenue dedications, dictate voter approval requirements for new taxes, and safeguard certain exemptions.[11] Additionally, Article III, section 2 of the state's Constitution limits the type of legislation the Legislature can introduce and enact during regular legislative sessions that occur on even-numbered years. The Legislature is only constitutionally authorized to introduce measures that levy or authorize a new tax; increase an existing tax; or legislate relative to tax exemptions, exclusions, deductions, or credits in legislative sessions that occur on odd-numbered years, referred to as "fiscal" sessions.

The issue is that many of the reforms needed to improve Louisiana's tax code to remain economically competitive can only be accomplished every other year and, furthermore, require constitutional amendments. For years, Louisiana lawmakers have attempted to navigate these constitutional constraints and gradually amend the Constitution to accomplish tax reform. However, it is evident that a mass overhaul of the Constitution is necessary, and this overhaul may only have the potential to be accomplished through a constitutional convention rather than piecemeal attempts.

A limited constitutional convention would allow the Legislature to comprehensively revise the revenue and finance provisions of the Louisiana Constitution. However, it is worth noting that there has been considerable study and debate surrounding the provisions in law that would or would not allow for a constitutional convention to be called in a limited fashion. Many believe if a limited constitutional convention were called to focus on Articles VI and VII of the Constitution, the Legislature would be allowed the opportunity to restore the state constitution to fulfill its original purpose: to serve as a foundational document that allows for flexibility to implement necessary reforms to the state's tax code.

FACTORS TO CONSIDER

LOCAL RELIANCE ON STATE FUNDING

Louisiana's state-to-local funding structure dates back to the 1930s when Governor Huey P. Long held office.[13] In the state's early years, the funding of local governments primarily relied on local taxes and fees. As the state grew and its needs expanded, Governor Long introduced a hierarchical funding structure for which the Legislature began to play a more significant role in allocating funds to local jurisdictions. As a result, various funding schemes have since been embedded in the state Constitution, including shared revenue programs, grants, and state-mandated allocations.

While these constitutional provisions fund the projects and operations of local government entities, this local dependency on state funding adds another level of constraint on the Legislature when it comes to tax reform. When proposing fiscal reforms, the Legislature must take into account the potential impact on local government funding.

Restructuring the relationship between state and local government to minimize local dependence on state funding would be a mutually beneficial exercise. Local governments would be given the autonomy to budget based on the needs of the parish as opposed to being subjected to the one-size fits all approach of the state budget. Furthermore, the state dollars that currently fund local government could be reappropriated in the state budget to reduce the state tax burden, pay off debt, or fund the ever-expanding list of state infrastructure projects.

However, restructuring this decades-old funding system will not be simple and will require time and compromise from both state and local governments. As the Legislature reevaluates and revises constitutional provisions that institute this state-local-funding structure, it needs to simultaneously revise the constitutional provisions that set limitations on local taxation.

For example, Article VII, section 20 of the Constitution grants certain taxpayers a homestead exemption. Some criticize this exemption for reducing local property tax revenue. If the Legislature were to reduce state funding to local government, many believe they should repeal the homestead exemption to increase local property tax collections.

STATE FUNDING OF LOCALS THROUGH THE STATE CONSTITUTION

Art. VII, §4
SEVERANCE TAX AND ROYALTIES

Art. VII, §26
REVENUE SHARING

Art. VIII, §13
MFP

Art. VII, §18(B) & R.S. 47:6006
AD VALOREM TAX ON INVENTORY & INVENTORY TAX CREDIT

CONSTITUTIONAL LIMITATIONS ON LOCAL TAX STRUCTURE

Art. VII, §4
PROHIBITION ON THE TYPES OF TAX LOCALS CAN LEVY

Art. VI, §26
CAP ON PARISH AD VALOREM MILLAGE RATE

Art. VI, §27
CAP ON MUNICIPAL AD VALOREM MILLAGE RATE

Art. VI, §29
CAP ON LOCAL SALES AND USE TAX

Art. VII, §20
HOMESTEAD EXEMPTION

Art. VII, §21
ITEP

Art. VII, §27
PROHIBITION ON LOCAL TAX ON GASOLINE

In 2016, the Legislature passed a resolution to form the Louisiana Task Force on Structural Changes in Budget and Tax Policy.[14] The resolution tasked the group with developing recommendations for improving the state's budget and tax laws. The task force's final report further explored this state-to-local funding consideration, providing the following recommendation,

> ***"The first step in dealing with the state and local division is to create a fiscal structure for local governments that will allow local governments an opportunity to financially handle their responsibilities. Sales tax reform and property tax reform are essential if local governments are to have the capacity to raise sufficient revenues to provide for themselves and not have to depend on the state. The state should allow local governments to increase their sales tax rate without a vote of the Legislature; instead, only require a vote of the people in the area that will be subject to the new tax rate. The state should also consider reducing some of its commitment to local government as locals are given more authority to raise revenues, and those revenues are collected."***

FACTORS TO CONSIDER

"EXEMPTIONS"

When discussing the complexity of Louisiana's tax structure, many attribute the extensive list of "exemptions" the state offers as a roadblock to true tax reform. The point lawmakers, local government entities, and anti-business coalitions continually attempt to make is that if the state was not giving away so much money in exemptions, then the Legislature could consider reducing or repealing certain taxes. However, this notion is flawed. Taxpayers are placed with the burden of funding state and local government, and many of these exemptions serve as a way to limit that burden.

It is important to also note that the term "exemption" is frequently misused to broadly apply to all tax credits, exclusions, deductions, and rebates. According to Louisiana Revised Statute 47:1517(E), tax exemptions refer to "those revenue losses attributable to provisions of the state tax statutes or rules promulgated pursuant to such statutes, which allow a special exclusion, exemption, or deduction from gross income or sales or which provide a special credit, a preferential rate of tax, or a deferral of tax liability." Each year the Louisiana Department of Revenue releases its *Tax Exemption Budget* which utilizes the term "exemption" in a much broader fashion for purposes of creating this annual report. However, this administrative definition is not consistent with the generally known legal definition of a tax "exemption" which is significantly narrower in scope. For example, tax exclusions are outlined in this report, but exclusions and exemptions have two different legal meanings. While it is tempting to simply propose that eliminating all exemptions on the books would resolve all the structural issues plaguing Louisiana's tax code, the programs encompassed within this broad "exemptions" category take many shapes. These exemptions include but are not limited to, federal prohibitions the state does not have the authority to modify, and exemptions authorized by the state constitution (i.e., food for home consumption and prescription drugs). The exemptions for food for home consumptions and prescription drugs, despite contrary belief, come at a high cost to the state with food for consumption costing $550, 232,490 and prescription drugs costing $398,116,394 in fiscal year 2021-2022.[3] In the same regard, the exemptions outlined in this report include business tax incentives that have long served as economic development tools for the state and remain indispensable without comprehensive tax reform.

Therefore, while several outdated exemptions funded by the state may warrant further evaluation, particularly in terms of return on investment, the Legislature needs to proceed with caution when determining which exemptions should be reduced or repealed in the future.

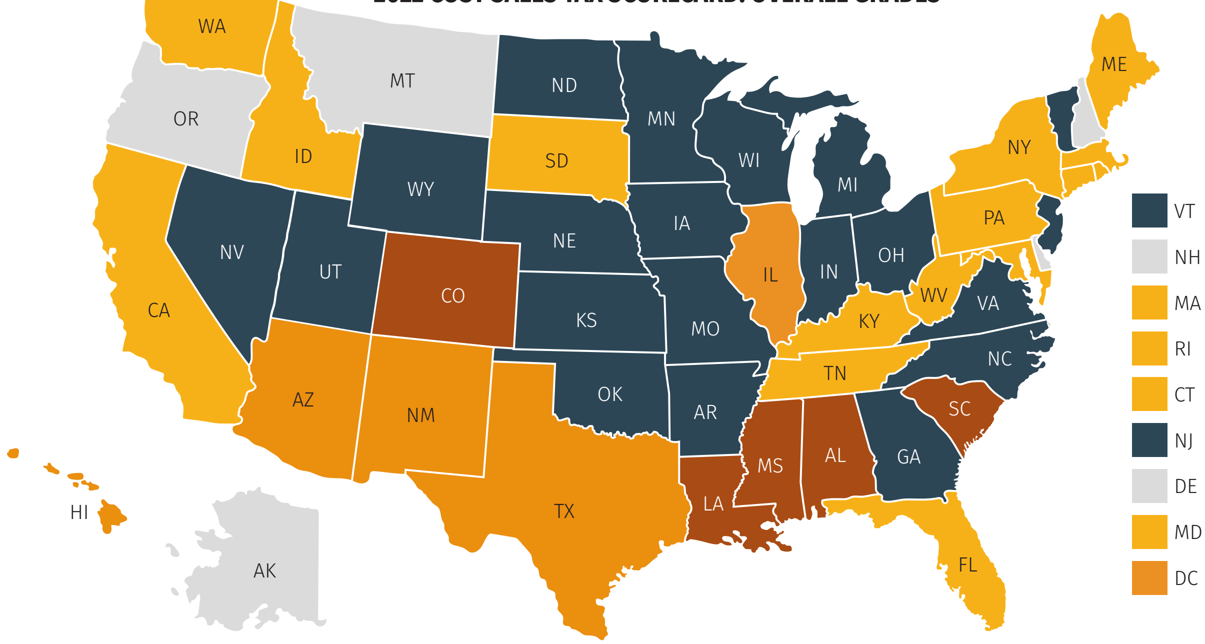
RECOMMENDATIONS

SALES AND USE TAXES

With a burdensome decentralized collection system and the highest combined state and local tax rate nationally, Louisiana's sales tax structure is one of the most uniquely complex structures in the country.

The Council On State Taxation (COST) releases an annual scorecard which grades each state's sales tax administration systems with the goal of objectively evaluating each state's sales taxes on their effectiveness in exempting business inputs, and on implementing uniform, fair, and centralized administration of their sales taxes.[6] In 2022, Louisiana received an 'F' letter grade and ranked in the bottom five state sales tax systems alongside Alabama, Colorado, Mississippi, and South Carolina.

2022 COST SALES TAX SCORECARD: OVERALL GRADES



Note: Because Alaska has no statewide sales tax, it was not given an overall grade.

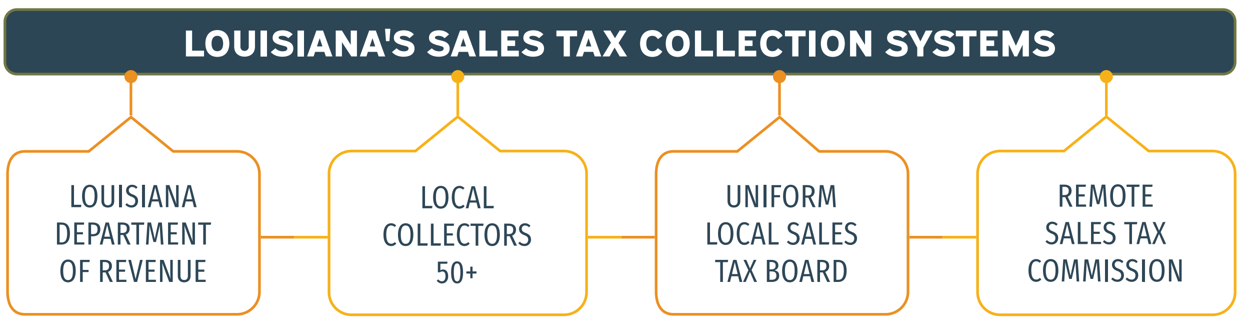
OVERALL SALES TAX SCORECARD GRADES					
N/A	0-12	13-20	21-26	27-29	30+
N/A	A	B	C	D	F

SUMMARY GRADING CHART – SOUTHERN STATES (2022 COST Sales Tax Scorecard)										
STATE	Business Inputs Exemption 8 pts	Software & Digital Products 7 pts	Simplification & Uniformity 6 pts	Central Admin. 5 pts	Sales Tax Process 6 pts	Reasonable Payments/ Credits 6 pts	Fair Audits/ Refunds 5 pts	Other Issues 2 pts	Total Points 45 pts	GRADE
LA	6	6	3	5	5	3	2	0	30	F
FL	7	2	3	0	6	1	3	0	22	C+
TX	7	7	4	2	3	1	4	1	29	D
MS	7	5	4	2	6	3	3	0	30	F
TN	5	4	1	3	3	3	2	0	21	C+
GA	4	1	2	1	4	3	2	0	17	B
AL	6	6	5	4	6	4	2	0	33	F

RECOMMENDATION: *Streamline and centralize state and local sales tax collections and administration.*

Louisiana stands alone with Colorado as the only two states in the country with decentralized sales tax systems. Louisiana's current system burdens taxpayers with navigating and complying with sales tax requirements across multiple parishes. Businesses may often find themselves interfacing with up to 56 local collectors, each with its own distinct collector and administrative process, which can lead to administrative burdens, compliance issues, and added costs for the taxpayer. These concerns have been further exacerbated by the shift towards remote sales and the 2018 U.S. Supreme Court ruling for *South Dakota v. Wayfair, Inc.,* which established standards and thresholds for states' remote sales tax collections.[16]

South Dakota v. Wayfair, Inc. is a landmark court decision that eliminated the requirement that a seller must have a physical presence in a state to collect and remit sales taxes to that state and established the thresholds for economic nexus. Since the *Wayfair* ruling, Louisiana has remained a national outlier with its treatment of both in-state and out-of-state taxpayers. This decision served as a blueprint and catalyst for many states to reform their sales tax collections, but Louisiana chose a different approach. Rather than utilizing the provisions of this court decision to centralize its sales tax system, Louisiana has made several attempts to streamline certain parts of its system rather than overhaul it. This approach has ultimately led to a system that is even more decentralized and complex for taxpayers to navigate.



In recent years, Louisiana has created the Louisiana Remote Sellers Commission as a one-stop shop for online retailers and remote sellers to remit their sales and use taxes to state and local government. While this Commission addressed some concerns for out-of-state businesses, in-state businesses remain burdened by the obligation to report to multiple collection bodies, including the Department of Revenue for their state sales taxes, local government entities on a parish-by-parish basis, and the Uniform Local Sales Tax Board.

Though the state's sales tax system remains decentralized, the Legislature has come close in recent years to passing legislation to rectify this issue. In 2021, a constitutional amendment that sought centralization passed both houses with overwhelming support but narrowly failed on the state ballot due to low voter turnout and a lack of education. Following the measure's defeat, the state and certain parishes were immediately faced with a lawsuit *(Halstead Bead, Inc. v. Louisiana)* filed by an out-of-state retailer, Halstead Bead, Inc.[8] The plaintiff argued that Louisiana's sales tax system was non-compliant with the *Wayfair* court ruling, rendering it unconstitutional. The plaintiff ultimately dismissed the lawsuit after the passage of Act 15 during Louisiana's 2023 Regular Session. Act 15 by Representative Beau Beaullieu adjusted remote sales tax collection laws for marketplace facilitators by removing the 200 transactions threshold, meaning Halstead Bead, inc. is no longer required to collect and remit remote sales to Louisiana. However, the substantive issue of whether Louisiana's sales tax collection system is compliant with the *Wayfair* court ruling has still not been fully addressed by the court. Therefore, the state's decentralized system remains on shaky legal ground.

Louisiana must streamline and centralize state and local sales tax collections and administration by creating an independent state and local sales tax authority run jointly by appointed representatives from local tax collection bodies, the Department of Revenue, and legislative leadership.

RECOMMENDATION: *Modernize sales tax code to allow for a broader, uniform base and lower rates.*

At 9.55 percent, Louisiana's combined state and local sales and use tax rate is the highest in the nation. This rate includes a 4.45 percent state rate and a 5.1 percent average local rate which differs depending on the parish.

In 2016, the Louisiana Legislature approved a 1 percent "clean penny" tax to address the perceived budget crisis. This act raised the state sales tax rate from 4 to 5 percent. As the state approached the 2018 expiration date of this increase, the Legislature reinstated 0.45 percent of the tax, making the overall state rate 4.45 percent. The law currently provides that the 0.45 percent portion of the tax will expire on June 30, 2025. Assuming the Legislature does not extend the expiration date of the temporary tax, the rate will reduce back to 4 percent. These constant changes have not only created instability in our rate but have also increased the administrative burden on businesses.

While Louisiana's state rate is comparatively low from a national perspective, the uniquely high average local rate is the highest in the country. Though the allowable maximum local rate a jurisdiction can levy is constitutionally capped at 3 percent, this cap can be exceeded with legislative authorization and voter approval. With that being said, local rates drastically vary across the 63 parishes that levy local sales tax (Cameron Parish does not levy a local sales tax).

Louisiana levies a sales tax on only eight taxable services and provides for almost 200 exemptions, resulting in an extremely narrow tax base and high rates. Additionally, Louisiana's sales tax rates and base lack uniformity between the state and local levels, causing compliance issues for businesses remitting only a single tax payment.

A challenge faced by many states, including Louisiana, is a shrinking sales tax base. This challenge directly results from its antiquated tax code and definitions, which do not account for modern consumer behavior. Items once purchased in-store are now being purchased online, meaning the state is no longer capturing sales tax on these products. For example, final-end consumer products such as movies, books, and music were previously purchased tangibly in a store. Now these products are predominately purchased online. While Louisiana's sales tax code has provisions allowing for the taxation of the tangible versions of these products, it does not currently have provisions that allow for the taxation of the digital version of these products. The reality is that digital consumption will only grow more prevalent. If Louisiana does not modernize its tax code to account for these behaviors, the state will miss out on significant sales tax revenue.

Louisiana should update its antiquated sales tax code to account for the digital transaction of final-end consumer products, allowing for a broader tax base and lower rates. To avoid pyramiding, any broadening of the sales tax base should not include business-to-business transactions.

RECOMMENDATIONS

INCOME AND FRANCHISE TAXES

In 2021, the Legislature made significant strides toward reforming Louisiana's income and franchise tax structure through a package of tax measures authored by legislative leadership. This package of bills, which was thoroughly vetted and supported by all involved stakeholders, reduced corporate and individual income tax rates, decoupled Louisiana's income tax structure from federal income tax changes, and enacted provisions to begin gradually phasing out the corporate franchise tax. This package also included trigger mechanisms that will automatically reduce individual income and corporate franchise tax rates further if actual corporate income and franchise tax collections, as adjusted by an annual growth factor, exceed the baseline revenue collections in fiscal year 2019.

Through the enactment of this package, Louisiana has seen improvement in its national rankings. However, with several states moving towards eliminating income and franchise taxes, a greater push towards phasing out these taxes in Louisiana is necessary to put the state on the same playing field as regional and national competitors.

RECOMMENDATION: *Lower and flatten corporate income tax rates.*

The corporate income tax is a tax levied on business profits. Forty-four (44) states currently levy a corporate income tax. Of those, twenty-nine (29) states and the District of Columbia have single-rate corporate tax systems. With a top rate of 7.5 percent, Louisiana has the 15th highest rate in the country. Looking at regional competitors, Florida levies a flat 5.5 percent rate, while Mississippi's two-bracket structure has a top rate of 5 percent. In contrast, Texas opts out of the corporate income tax altogether and instead imposes gross receipts taxes on businesses.

Through the 2021 tax reform package, Louisiana moved from a five-bracket corporate income tax structure to a three-bracket structure. Additionally, the state reduced its top rate from 8 percent to 7.5 percent. Louisiana's current corporate income tax structure is as follows:

LOUISIANA CORPORATE INCOME TAX RATES
Beginning January 1, 2022

3.5%	5.5%	7.5%
$0 - $50,000 of net income	$50,000 - $100,000 of net income	$100,000+ of net income

When evaluating the benefits of a single flat rate structure versus a graduated rate structure, many tax experts, such as Tax Foundation, consider single-rate structures to be better tax policy as they align with the ideals of simplicity and equitability. Tax Foundation's 2023 Business Tax Climate Index highlights that the twenty-nine (29) states—and the District of Columbia—that have single rate structures continue to score best nationally.[7]

Louisiana should consider moving its graduated corporate income tax structure to a single flat rate. Moving to a single rate will reduce the number of tax brackets, simplifying the corporate tax code for businesses.

RECOMMENDATION: *Eliminate the corporate franchise tax.*

The corporate franchise tax is widely regarded as one of the most harmful taxes a state can levy, as it directly taxes a corporation's capital. Unlike the corporate income tax, which is typically levied based on a company's profits, the franchise tax is levied regardless of profitability. This tax on capital has continually placed Louisiana at an economic disadvantage compared to neighboring states.

For example, while Mississippi does currently levy a corporate franchise tax, the state enacted legislation in 2016 to phase out the tax by 2028. On the other hand, Texas' corporate franchise tax differs from most states in that it taxes a business' gross receipts rather than its capital.

Through the 2021 reforms, Louisiana exempted the first $300,000 of taxable capital from the tax and reduced the rate for the remaining taxpayers to $2.75 per $1,000 of taxable capital. Furthermore, the enacted automatic rate reduction triggers allow for the potential reduction of the tax. However, these mechanisms are complex, and many believe that meeting the established threshold requirements to trigger a rate reduction will be a difficult feat to achieve.

LOUISIANA CORPORATE FRANCHISE TAX STRUCTURE

Beginning January 1, 2023

FIRST TIER
No tax due on the first $300,000 of taxable capital

SECOND TIER
$2.75 for each $1,000 in excess of $300,000 of taxable capital

As the Legislature continues to assess the effectiveness of automatic rate reduction triggers, they should simultaneously explore alternative methods to phase out the corporate franchise tax. Alternative statutory action may include modifying the existing trigger mechanisms so that the tax will automatically reduce in years when Louisiana has a budget surplus.

RECOMMENDATION: *Flatten and eventually phase out the personal income tax.*

There are currently forty-three (43) states that levy individual income taxes. Of those forty-three(43), eleven (11) states have a single-rate structure. Thirty (30) states and the District of Columbia have graduated-rate income tax structures, including Louisiana. When looking at our regional competitors, Louisiana is quickly becoming an outlier, with Texas, Florida, and Tennessee not levying an individual income tax and Mississippi moving to a flat rate last year coupled with a rate reduction schedule.[7]

Through the 2021 tax reform package, Louisiana reduced the three-bracket individual income tax structure rates, lowering the top rate from 6 percent to 4.25 percent. Additionally, the state reduced the constitutional cap for the tax from 6 percent to 4.75 percent, meaning the top rate can only be raised to exceed this cap through a constitutional amendment. Furthermore, like the corporate franchise tax, the automatic rate reduction triggers allow for the potential reduction of the tax.

Louisiana's current individual income tax structure is as follows:

LOUISIANA INDIVIDUAL INCOME TAX RATES | *Beginning January 1, 2022*

Single, Married Filing Separately, or Head of Household:	Married Filing Jointly or Qualified Surviving Spouse:	Rate:
$0 - $12,500	$0 - $25,000	**1.85%**
$12,500 - $50,000	$25,000 - $100,000	**3.5%**
$50,000 +	$100,000 +	**4.25%**

While many would love to see the individual income tax reduced or repealed in Louisiana, there are concerns as to how the state can effectively accomplish this reform in a fiscally responsible manner. Looking at regional competitors that have successfully eliminated the tax, Tennessee passed the IMPROVE Act in 2017, which established a schedule to gradually reduce the state's individual income tax rate by 1 percent each year, leading to a total tax repeal beginning January 1, 2021. To account for the revenue loss of the tax, Tennessee heavily relies on a high state and local sales tax rate in addition to excise tax or "sin tax" revenue on tobacco products, alcohol, and gambling. Looking at Texas, the state constitutionally prohibited individual income tax in 2019 through Proposition 4. Rather than collecting revenue from income taxes, Texas relies on high property and sales tax rates. Similarly, Florida levies high sales tax and property tax rates rather than levying an individual income tax which the state repealed in 1855.

If Louisiana were to further reduce and eventually repeal the individual income, the revenue loss could be compensated for by many of the recommended reforms in this report including reforming the state-to-local funding structure, streamlining sales tax collections to capture more revenue on remote sales, broadening the sales tax base to capture the tax revenue from digital goods and services.

Louisiana should move its graduated rate structure to a single flat rate with the goal of a complete repeal in the future. To do so, the Legislature should continue to utilize the automatic rate reduction triggers for individual income tax to allow for the implementation of fiscally responsible reductions to the tax based on actual collections.

RECOMMENDATIONS

PROPERTY TAX

Louisiana's property tax is levied by political subdivisions and as a major revenue source for local government along with sales tax. Louisiana's Constitution provides for the fundamental aspects of the property tax, meaning a constitutional amendment is necessary to make virtually any changes to the tax. Specifically, the Constitution provides for a variety of property tax exemptions, such as the previously mentioned homestead exemption, in addition to exemptions for specific property types and taxpayers.

A state's property tax treatment of business and industry plays a significant role in its economic competitiveness. According to Tax Foundation's 2023 Business Tax Climate, because businesses own a higher amount of real property, and tax rates on commercial property are often higher than those on comparable residential property, they tend to pay more in property taxes. Additionally, states and localities levy taxes on a business' owned land and buildings in addition to its tangible property, which includes machinery, equipment, and office furniture, as well as intangible property like patents and trademarks. Therefore, states that maintain competitive tax rates on real property and avoid levying harmful taxes on tangible personal and intangible property tend to fare better when attracting business investment into the state.[7]

Looking at Louisiana's regional competitors, the state's property tax structure received a considerably better ranking (23rd) from Tax Foundation in 2023 than its neighbor to the west, Texas (38th). Texas is known for its extremely high property tax rates, which are used to compensate for the fact that the state does not levy an individual income tax. To compensate for its high rates, Texas previously utilized a property tax abatement program, referred to as Chapter 313, to attract businesses to the state. However, this program expired in December of 2022. As a result of the 88th Regular Session, in addition to two special sessions, Texas passed a new economic incentives package that, while not an exact replacement for Chapter 313, will be used as an economic development tool.

Like Texas, Louisiana utilizes a property tax abatement incentive known as the Industrial Tax Exemption Program (ITEP) to specifically attract manufacturers to the state.[9] However, in the last eight (8) years, the program has undergone several changes which have complicated the approval process and decreased its value.

RECOMMENDATION: *Streamline Industrial Tax Exemption Program (ITEP) process.*

After Governor John Bel Edwards took office in 2016, he issued an executive order (JBE 2016-26) that decreased the ITEP abatement amount from 100 percent of an exempted property's assessed value to 80 percent, with the 20 percent that is no longer exempt now going directly to local government. JBE 2016-26 additionally gave local government entities a say in ITEP application approvals. Overall, these changes to ITEP reduced the program's benefit and created an incredibly onerous approval process, reducing the incentive for manufacturers to locate their capital in the state. These changes to ITEP immediately prompted companies to suspend investments, resulting in a drastic decrease in new projects entering the state. With the unknowns surrounding the local-level requirements and procedures and their impact on investment costs, companies had little choice but to delay decisions to build, expand or improve their Louisiana facilities, which had a direct and immediate impact on jobs.

	2015		2016		2017		2018		2019		2020
New ITEP Projects	769	↓	610	↓	192	↓	150	↓	144	↓	86
Capital Investment	$20B	↑	$25.6B	↓	$13B	↑	$36B	↓	$23B	↓	$19B
New Jobs	3,086	↑	3,179	↓	1,850	↑	4,596	↓	3,714	↓	1,760
Construction Jobs	58,233	↓	34,073	↓	34,468	↑	34,600	↓	28,483	↓	9,883

Source: LABI Where Are We Now? The Industrial Tax Exemption Program (ITEP)

Per LABI's 2022 study *Where Are We Now? The Industrial Tax Exemption Program (ITEP),* Manufacturers in Louisiana employ more than 130,000 residents, nearly 7 percent of the state's workforce. In Louisiana, parishes with the greatest manufacturing presence and the highest utilization of ITEP are among the most prosperous. In fact, nine (9) of the top twelve (12) parishes with the greatest utilization of ITEP rank above the Louisiana average for annual weekly wages.[18]

With every new or expanded manufacturing facility, both state and local governments reap the benefits of increased tax revenue. While the state collects income tax, the local government collects inventory and property tax, and the state and local governments collect sales tax. Furthermore, parishes with high levels of ITEP tend to specifically have higher sales and property tax collections per capita.

To adequately serve as the state's foremost property tax abatement program, further simplification of the ITEP approval process is necessary. Louisiana should streamline the approval process at the state level and ensure that local governments have the necessary resources to properly evaluate ITEP applications to the extent they are involved in the approval process. Furthermore, if Louisiana lawmakers maintain the 80 percent abatement amount with local governments receiving 20 percent more property tax revenue from each qualifying manufacturer, they should proportionately reduce state funding to local governments.

RELATIONSHIP BETWEEN ACTIVE ITEP CONTRACTS & AVERAGE WEEKLY WAGE

Parish	Rank for Active ITEP Contracts & Renewal Contracts	Rank for Annual Average Weekly Wage	Amount of Annual Average Weekly Wage
Calcasieu	#1	#12	$1,038
Ascension	#2	#9	$1,098
East Baton Rouge	#3	#10	$1,069
St. Charles	#4	#2	$1,425
Iberville	#5	#3	$1,399
West Baton Rouge	#6	#15	$1,012
St. Mary	#7	#17	$971
Lafayette	#8	#21	$909
Jefferson	#9	#14	$1,018
Caddo	#10	#23	$898
St. James	#11	#4	$1,353
St. John the Baptist	#12	#8	$1,143
Louisiana Average	-	-	$977

Source: LABI Where Are We Now? The Industrial Tax Exemption Program (ITEP)

RELATIONSHIP BETWEEN ACTIVE ITEP CONTRACTS & SALES TAX PER CAPITA

Parish	Rank for Active ITEP Contracts & Renewal Contracts	Rank for Sales Taxes Per Capita 2020	Amount of Sales Taxes Per Capita 2020
Calcasieu	#1	#6	$637
Ascension	#2	#4	$651
East Baton Rouge	#3	#10	$490
St. Charles	#4	#14	$467
Iberville	#5	#20	$402
West Baton Rouge	#6	#3	$693
St. Mary	#7	#13	$475
Lafayette	#8	#9	$539
Jefferson	#9	#2	$708
Caddo	#10	#8	$574
St. James	#11	#7	$631
St. John the Baptist	#12	#5	$643
Louisiana Average	-	-	$318

Source: LABI Where Are We Now? The Industrial Tax Exemption Program (ITEP)

RELATIONSHIP BETWEEN ACTIVE ITEP CONTRACTS & PROPERTY TAXES PER CAPITA

Parish	Rank for Active ITEP Contracts & Renewal Contracts	Rank for Property Taxes Per Capita 2020	Amount of Property Taxes Per Capita 2020
Calcasieu	#1	#16	$1,362
Ascension	#2	#17	$1,297
East Baton Rouge	#3	#19	$1,246
St. Charles	#4	#2	$3,781
Iberville	#5	#8	$2,385
West Baton Rouge	#6	#10	$2,072
St. Mary	#7	#21	$1,200
Lafayette	#8	#40	$779
Jefferson	#9	#25	$1,006
Caddo	#10	#24	$1,067
St. James	#11	#3	$3,511
St. John the Baptist	#12	#11	$2,042
Louisiana Average	-	-	$1,275

Source: LABI Where Are We Now? The Industrial Tax Exemption Program (ITEP)

RECOMMENDATION: *Phase out the tax on business inventory.*

Louisiana is currently one of only nine (9) states that fully taxes inventory. These taxes are levied locally on the value of a company's inventory, meaning companies with high volumes of inventory, such as manufacturers and retailers, are heavily impacted by the tax.

State and local tax experts across the country widely regard the inventory tax as a prime example of poor tax policy. Like the corporate franchise tax, the inventory tax is imposed without considering a company's profitability. Tax Foundation criticizes the tax as being highly distortionary because the tax misleads companies to make production decisions that are not entirely based on economic principles but rather on how to avoid these harmful taxes.[15]

To reduce the burden of this tax on businesses, Louisiana offers businesses a refundable inventory tax credit that offsets the amount paid to local governments.

While this regressive tax often acts as an economic deterrent for the state, there are several parishes whose local governments are heavily funded by inventory tax revenue. Based on the Louisiana Tax Commission's 2022 Annual Report, the parishes with the largest inventory fair market assessed value were East Baton Rouge, St. Charles, Jefferson, Calcasieu, Lafayette, Ascension, St. James, Caddo, St. John, and Iberville.[2]

State leadership should actively support and facilitate local governments exploring alternative revenue sources while gradually phasing out the inventory tax within a reasonable timeframe. As the inventory tax is phased out, the inventory tax credit should be proportionately reduced. Furthermore, the inventory tax credit should not be restricted or repealed as long as the inventory tax exists.

RECOMMENDATIONS

SEVERANCE TAX

With Louisiana's rich natural resources and prevalent energy industry presence, the severance tax is one of the state's most important revenue sources. However, the state remains an outlier with respect to its high severance tax rates and the different manners in which it taxes oil versus natural gas.

Louisiana taxes oil by value. At 12.5 percent, the state's severance tax rate on oil is one of the highest in the country, deterring oil companies from continuing operations or purchasing new wells in the state. On the other hand, Louisiana taxes natural gas by volume, calculating the rate based on the prior year's average price of gas. Taxing by volume is widely viewed as a poor tax policy as it presents issues with matching revenue and economic forecasting. Looking at regional competitors with prevalent oil and gas activity similar to Louisiana, value-based taxation for both oil and gas is the standard practice.

RECOMMENDATION: *Standardize and reduce the severance tax.*

Louisiana should standardize the severance tax structure so oil and gas are both taxed by value. By moving to a value-based tax for both oil and gas, the severance tax rate will be set to align with the rise and fall of gas prices in real-time, providing the state and taxpayers more predictability and stability. This standardization will allow the state to reduce the severance tax rate to a more competitive rate with our neighboring states.

RECOMMENDATIONS

MOTOR FUEL TAX

Louisiana currently levies a $0.20 per gallon excise tax on gasoline, motor fuels, and special fuels. Of the total, $0.16 per gallon is dedicated to the state's Transportation Trust Fund for highway construction and maintenance, statewide flood control, ports, transit, and the Parish Transportation Fund. The remaining $0.04 per gallon is dedicated to debt service to pay for sixteen (16) specific road and bridge projects within the Transportation Infrastructure Model for Economic Development (TIMED) program – fourteen (14) of which have been completed. Unfortunately, the dedicated $0.04 does not adequately cover the annual debt service, and a portion of the $0.16 general fuel tax is appropriated to make up the shortfall.

Louisiana's fuel excise tax is currently the eighth lowest in the nation and has not been raised for more than 30 years, making it one of the three (3) longest standing rates among states. Since 1990, the purchasing power of the $0.20 per gallon has been eroded by multiple factors – the most significant of which is inflation, but other contributors include improved fuel efficiency dictates and the significant growth in electric and hybrid vehicles – to less than half its original impact.

Efforts in recent years to increase the tax, which many view as a user fee, have been unsuccessful. While opponents point to a lack of interest by the general public in paying a higher price at the pump, proponents have maintained that the increase in dollars paid at the pump would be far less than the current costs associated with driving on inferior infrastructure, not to mention the societal costs tied to safety and congestion issues.

The bottom line is that although Louisiana is in the lowest quintile of motor fuel taxes levied, they are also in the lowest quintile of per capita spending on the state's infrastructure system, and the perpetual "D" grade from the American Society of Civil Engineers reflects that reality. The lack of an appetite to raise the tax, combined with no indexing mechanism, increasing inflation erosion, and shrinking base leave Louisiana with an inadequate funding stream to address the growing backlog of infrastructure needs across the state.

RECOMMENDATION: *Increase Louisiana's Motor Fuel Tax and expand it to account for increased use of alternative-fuel vehicles.*

Louisiana should increase its tax on gasoline, motor fuels, and special fuels to increase the amount of revenue available to address the ever-growing backlog of infrastructure projects. While currently addressing the existing problem of inadequate revenue, the tax should also be indexed in a way that prevents future erosion of buying power. Furthermore, the legislature should explore ways of addressing the growing usage of electric and hybrid vehicles so that those highway users are also paying their "fair share". In the long run, it will be necessary for the State to implement a highway usage fee system that addresses the future realities of its transportation users.

RECOMMENDATIONS

ADMINISTRATION

RECOMMENDATION: *Create a Comptrollers Division to oversee the functions of the state's fiscal agencies.*

The decentralized nature of the state's fiscal agencies warrants more discussion when considering further simplifying Louisiana's fiscal structure. Currently, Louisiana has a Department of Revenue, Department of Treasury, and Division of Administration, which each play a vital role in the financial administrative functions of state government. However, these agencies do not currently work in tandem with each other. The Department of Revenue is responsible for collecting taxes. At the same time, the Department of Treasury oversees state investments and cash flow. Meanwhile, the Division of Administration is supposed to operate as the state's financial operations "hub," developing the state budget. The function of these agencies is dependent on each other. The state can only make wise investment decisions with a real-time understanding of its budget, developed based on tax collection statistics. Therefore, consolidating these agencies and housing them under one division would allow for improved checks and balances.

The Texas Comptroller Office is an ideal example of an agency that operates in this fashion. The office, headed by an elected Comptroller of Public Accounts, acts as the state's chief tax collector, accountant, revenue estimator, treasurer, and purchasing manager. In the office's words, "The agency is responsible for writing the checks and keeping the books for the multi-billion-dollar business of state government."[17] Other states with similar agency composition include Kentucky, Tennessee, and Alabama. Of the nineteen (19) states with a state-level Comptroller or Controller, the position is elected in nine (9) states, appointed by the governor in seven (7) states, and appointed by the Legislature or other state agency director positions in three (3) states.[4]

The creation of a Comptrollers division comprised of Louisiana's Department of Revenue, Department of Treasury, and Division of Administration, would provide Louisiana citizens, businesses, and policymakers with a one-stop resource to receive assistance on all fiscal matters, simplifying the overall structure and allowing for transparency between divisions.

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