Excise Taxes Supplemental Information Requested by the Task Force on Structural Changes in Budget and Tax Policy-July 8, 2016 Meeting

1) Tobacco tax - most current collections are as follows:

FY 16 Net Cigarette Tax	Tax Due on Cigars & Other Tobacco
$29,507,115	$8,207,678
58,172,886	7,754,213
87,912,910	7,723,404
36,004,823	8,685,027
$211,597,734	**$32,370,322**

2) Are there any dry parishes or just municipalities?

Of the 64 parishes, 49 are wet and 15 are wet and dry.

Wet / Dry Parishes

REGION 1
Ascension - Wet
Assumption - Wet
East Baton Rouge - Wet
East Feliciana - Wet
Iberville - Wet
Livingston - Wet
St. Helena - Wet
St. James - Wet
St. John - Wet
Tangipahoa - Wet
Washington - Wet
West Baton Rouge - Wet
West Feliciana - Wet

REGION 2
Jefferson - Wet
Lafourche - Wet
Orleans - Wet
Plaquemines -- Wet
St. Bernard - Wet
St. Charles - Wet
St. Tammany - Wet

***Ward 2 & Ward 6 (Low Content Only)**
Terrebonne - Wet

REGION 3
Acadia - Wet
Calcasieu - Wet
Cameron - Wet
Iberia - Wet
Jefferson Davis - Wet
Lafayette - Wet
St. Martin - Wet
St. Mary - Wet
Vermilion - Wet

REGION 4
Caldwell - Wet
Catahoula - Wet
Concordia - Wet
Evangeline - Wet
LaSalle - Wet
Pointe Coupee - Wet
Red River - Wet
St. Landry - Wet
Vernon - Wet
Allen - Wet & Dry
Avoyelles - Wet & Dry
Beauregard - Wet & Dry
DeSoto - Wet & Dry
Grant - Wet & Dry
Natchitoches - Wet & Dry
Rapides - Wet & Dry
Sabine - Wet & Dry
Winn - Wet & Dry
***Note: Some of these areas are wet for "low content" only**

REGION 5
Bienville - Wet
Bossier - Wet
Caddo - Wet
***Exception is the Village of Greenwood**
Claiborne - Wet
East Carroll - Wet
Franklin - Wet
Jackson - Wet & Dry

***Ward 1, Ward 3 (one place grandfathered in) Ward 6 and Ward 7 are Dry & Jonesboro, Hodge, Kelley's, Eros and Chatham are Wet.**
Lincoln - Wet & Dry
***Districts 4 & 5 are Dry except for the town of Choudrant. All other areas are Wet.**
Madison - Wet
Morehouse - Wet & Dry
***All of Morehouse is Wet except for the Northwest quadrant that is Dry except for existing permits. If those permits expire, the Parish will not renew.**
Ouachita - Wet
Richland Wet & Dry
***Rayville, Bee Bayou, Mangham & Delhi are Wet. Wards 4 & 7 are Dry.**
Tensas - Wet
Union - Wet & Dry
***Farmerville, Marion, Sterlington in the East portion of the Parish are Wet.**
Bernice and Spearsville in the West portion of the Parish are Dry.
Webster - Wet & Dry
***Minden is wet for Restaurants only. West of Minden and North of I-20, Dixie Inn, Cotton Valley, Serepta, Cullen, Springhill, Leton and Shongaloo are Wet. East of Minden along and South of I-20 is Dry, including the town of Sibley and Village of Dubberly.**
West Carroll Dry

Source: ATC's website http://www.atc.rev.state.la.us/wet-and-dry-parishes-doc.php

3) Tax on alcohol, p. 38 of presentation discussing comparison to other states, submit information prepared for the Special Session.

The chart below contains the alcohol taxes for the Southern States and Texas before the alcohol taxes were increased with the passage of Act No. 13 during the 2016 First Extraordinary Session.

Regional Averages per FTA website

State	Liquor	Sparkling Wine	Wine <14%	Wine 14-24	Beer
Alabama	*	9.16	1.7	9.16	0.53
Arkansas	2.5	0.75	0.75	0.75	0.23
Florida	6.5	3.5	2.25	3	0.48
Georgia	3.79	2.54	1.51	2.54	0.32
Kentucky	1.92	0.5	0.5	0.5	0.08
Louisiana	2.5	1.59	0.11	0.23	0.32
Mississippi	*	1	0.35	0.35	0.4268
Tennessee	4.4	1.21	1.21	1.21	1.29
Texas	2.4	0.516	0.204	0.408	0.2
Total	24.01	20.766	8.584	18.148	3.8768
Divided by	7	9	9	9	9
Average	3.43000	2.30733	0.95378	2.01644	0.43076

*The state government directly controls the sales of distilled spirits. Revenue in these states is generated from various taxes, fees, price mark-ups, and net liquor profits.

The chart below contains the alcohol taxes for the Southern States and Texas after the passage of Act No. 13 during the 2016 First Extraordinary Session.

Regional Averages per FTA website for Liquor & Beer

State	Liquor	Sparkling Wine	Wine <14%	Wine 14-24	Beer
Alabama	*	9.16	1.7	9.16	0.53
Arkansas	2.5	0.75	0.75	0.75	0.23
Florida	6.5	3.5	2.25	3	0.48
Georgia	3.79	2.54	1.51	2.54	0.32
Kentucky	1.92	0.5	0.5	0.5	0.08
Louisiana	3.03	2.08	0.76	1.33	0.4
Mississippi	*	1	0.35	0.35	0.4268
Tennessee	4.4	1.21	1.21	1.21	1.29
Texas	2.4	0.516	0.204	0.408	0.2
Total	24.54	21.256	9.234	19.248	3.9568
Divided by	7	9	9	9	9
Average	3.50571	2.36178	1.02600	2.13867	0.43964

*The state government directly controls the sales of distilled spirits. Revenue in these states is generated from various taxes, fees, price mark-ups, and net liquor profits.

4) Alcohol - provide list of the 17 controlled states and explain what that means.

According to historical information obtained from the National Alcohol Beverage Control Association, with the repeal of prohibition through the adoption of the 21st Amendment in 1933, the regulation of alcoholic beverages reverted to the individual states. Many states chose to resume the legal sale of alcohol through licensed private sellers. Several states and a few local jurisdictions opted for a different course – control. Depending on the state, control of alcohol includes everything from distribution, licensing, enforcement and education. Some states operate retail stores to sell liquor to consumers. Listed below are the control states:

Alabama
Idaho
Iowa
Maine
Maryland - Montgomery County
Michigan
Mississippi

Montana
New Hampshire
North Carolina
Ohio
Oregon
Pennsylvania
Utah
Vermont
Virginia
West Virginia
Wyoming

The states closest to Louisiana geographically are Mississippi and Alabama. Below is the Beverage Alcohol Control Agency Information for each state:

Alabama – The state is involved in both wholesale and retail operations. The state is responsible for spirits and independent wholesalers are responsible for wine and beer. The state delivers the spirits to its stores and to other retailers that purchase the product. Wine is distributed by the wholesalers and delivered directly to the accounts. Restaurants and bars buy spirits from the state stores. The state does NOT allow direct shipping of wine. The state has 175 state operated package stores. Grocery stores can sell beer and wine.

Mississippi – The state's office of Alcohol Beverage Control is the state's wholesaler and imports, stores, and sells spirits and wine from its warehouse. The permitted retail outlets buy from the state. According to the NACBA website, the state controls spirits and wine at wholesale and retail and has 550 individually owned and operated package stores and 2,000 individually owned retail outlets. Grocery stores are allowed to sell beer and light wines. The state does NOT allow direct shipping of wine.

Attached are the Beverage Alcohol Control Agency Info Sheets for the states and local jurisdiction listed above.

5) Transportation & Communications Utilities Tax, chart on p. 47, explain the variation in the amounts collected.

The variations in the amounts collected are due to amnesty and settlements.

6) Does UBER fall within the transportation tax? If UBER is not regulated by the PSC, does that mean it is not subject to the tax?

According to a representative from the Public Service Commission (PSC), it does not regulate Uber because it is an app. However, any company or driver that contracts with Uber and the similar on-line companies, must be registered with the PSC if they go outside any municipality. The PSC regulates common contract carriers who go 10 miles beyond the town or city limits and the contracted company or drivers are considered contract carriers. If the contracted company or driver stays within the city limits, then they do not need to register with PSC. Uber and the other like entities have been notified of the registration requirements. Therefore, if the contract driver or company registers with PSC, they are subject to the Inspection & Supervision Fee and also Transportation and Communication Utilities Tax.

7) Definition/explanation of tertiary.

La. R.S. 30:127.1 (C) defines a qualified tertiary recovery project as follows:

For purposes of this Section, a "qualified tertiary recovery project" is an enhanced crude oil recovery project utilizing one of the following methods:

(1) Miscible fluid displacement.
(2) Steam drive injection.
(3) Micro emulsion, or micellar/emulsion flooding.
(4) In situ combustion.
(5) Polymer augmented waterflooding.
(6) Cyclic steam injection.
(7) Alkaline (or "caustic") flooding.
(8) Carbon dioxide augmented waterflooding.
(9) Immiscible carbon dioxide displacement.
(10) Specific variations of any of the above listed general techniques, as determined in any particular case by the assistant secretary of the office of conservation.
(11) Any other method approved by the assistant secretary of the office of conservation as constituting tertiary recovery within the contemplation of that term in the profession of petroleum engineering.

Pursuant to La. R.S. 47:633.4(B)(1) no severance tax is be due in regard to production from a qualified tertiary recovery project approved by the assistant secretary of the office of conservation of the Department of Natural Resources until the project has reached payout from total production of:

(a) Investment costs;
(b) Expenses peculiar to the tertiary recovery project, not to include charges attributable to primary and secondary operations on that reservoir; and
(c) Interest at commercial rates.

8) How much of total oil comes from stripper wells?
The total tax collected for stripper oil was $12,136,608.56 for FY 15.

9) Do other states impose a Telecommunication tax for the deaf on cell phones?

Arkansas
Delaware
Florida
Illinois

New York—if the mobile service provider is also the home service provider
Utah

10) Specific recommendations to address current issues with oil/gas and include what states we are using as models (issues caused by statutory language re: posted field price or amount actually received as well as any other items)

1. Posted field price no longer exists as a result of recent court decisions. Therefore, the language should be removed from R.S. 47:633(7)(a)(i) and replaced with a biannual valuation methodology and no deductions should be allowed. The valuation methodology selected will be one that is used by industry such as PLATTS, Bloomberg, Argus, Energy Information Administration (EIA) etc. If the valuation methodology recommendation is not accepted then we recommend that "gross receipts" should be defined since the language is used in the current statute.
2. Currently R.S. 47:634 defines "owner", "purchases on the open market" and "severed". Additional definitions are indicative of industry practices and are needed to clarify the law so that there is no misinterpretation of the law especially when it comes to computing "gross receipts". Below are some definitions that need to be added:

   <u>*Allocation of Value*—inasmuch as oil and condensate are accounted for on a lease basis, rather than on an individual well basis, the gross value received for runs from a lease shall be allocated to the wells within the lease on the basis of the pro rata barrels run from each well. The value received shall be apportioned to all producing wells in a lease without regard to the tax rate applicable to each well.</u>

   <u>*Arm's-Length Transaction*—a transaction, contract or agreement which represents or results in fair market value that has been arrived at in the marketplace between independent, unrelated, nonaffiliated parties with opposing economic interests regarding that transaction, contract or agreement and who are presumed to have roughly equal bargaining power.</u>

   <u>*Condensate*—liquid hydrocarbons, other than natural or casinghead gasoline, which will remain in a liquid state, under atmospheric conditions of pressure and temperature and are recovered by ordinary production methods from a gas well classified as such by the Office of Conservation. The term "condensate" includes liquid hydrocarbons recovered from separators or scrubbers situated at inlets to plants, compressors, dehydrators, or metering stations, regardless of the type of well that produced the gas stream.</u>

   <u>*Department*—the Department of Revenue.</u>

   <u>*Fair Market Value*—the price a willing buyer would pay to a willing seller in an arm's-length transaction. For severance tax purposes, the term "fair market value" shall be synonymous with terms such as "market value", "market price", and "fair market price" and shall be used interchangeably with either or all of them, with no distinction.</u>

   <u>*First Purchaser*—the first person who purchases oil from a producer or operator.</u>

Gas—gaseous phase hydrocarbons recovered by separation from an oil or gas well.

Gas Tax Rate—the gas tax rate as adjusted annually in accordance with R.S. 47:633(9)(a)(i) will be rounded to the nearest 1/10 of 1 cent. When rounding, if the fourth decimal digit is five or greater, the rate shall be rounded up to the nearest tenth; if the fourth decimal digit is less than five, the rate shall be rounded down to the nearest tenth.

Gross Receipts—the total amount of payment received by the producer from the first purchaser in an arm's-length transaction or received or transferred from the first purchaser in a non-arm's-length transaction. Gross receipts shall include bonus or premium payments when made by the purchaser to the owner of the product, all advanced payments, and any other thing of value including, but not limited to, exchanges, barter, or reimbursement of costs. However, advanced payments are not taxable until the oil or condensate for which such payments are made are actually severed and delivered to the purchaser.

Incapable Gas Well—a well classified by the Office of Conservation as a gas well and which has been determined by the secretary to be incapable of producing an average of 250,000 cubic feet of gas per day under operating conditions during the entire taxable month.

Low Pressure Oil Well—a well classified by the Office of Conservation as an oil well and which has been determined by the secretary to have a wellhead pressure of 50 pounds per square inch gauge or less under operating conditions, whether it be tubing flow or casing flow, throughout the entire taxable month. In the absence of a determination to the contrary by the secretary, an oil well producing oil by any artificial method, such as gas lift, pumping or hydraulic lift, shall be presumed to have a wellhead pressure of 50 pounds per square inch gauge or less under operating conditions.

Natural Gas Liquids—liquid hydrocarbons such as natural or casinghead gasoline and other natural gas liquids, including but not limited to butane, propane, ethane, or methane, that are extracted or recovered from gas after the ultimate separation or scrubbing of the gas stream by specifically applied mechanical processes of absorption, adsorption, compression cooling, cryogenics and refrigeration to the entire volume of gas from which the natural gas liquid is recovered. The term "natural gas liquids" includes liquid hydrocarbons recovered from hydrex and HRU (hydrogen recovery unit) units, i.e., gas plants.

Non-Arm's-Length Transaction—a transaction, contract or agreement between subsidiaries or related parties or affiliates that is not arm's-length. The term "non-arm's-length transaction" includes, but is not limited to, exchanges, buy/sell agreements, and balancing agreements, and other transactions where the intent is not to sell the product but to move it for the benefit of the parties, even if the parties to the transaction, contract or agreement are not subsidiaries, related parties, or affiliates.

Oil—liquid hydrocarbons recovered by initial separation from a well classified as an oil well by the Office of Conservation.

Operator—a person who assumes responsibility for the physical operation and control of a well and is the operator of record with the Office of Conservation.

Payout—the payout of the well cost for a horizontal well as referred to in R.S. 47:633(7)(c)(iii), a deep well as referred to in R.S. 47:633(9)(d)(v), or a new discovery well as referred to in R.S. 47:648.3 occurs when gross revenue from all products produced from the well, less royalties and operating costs directly attributable to the well, equals the well cost as approved by the Office of Conservation. Operating costs are limited to those costs directly attributable to the operation of the exempt well, such as direct materials, supplies, fuel, direct labor, contract labor or services, repairs, maintenance, property taxes, insurance, depreciation, and any other costs directly attributed to the operation of the well. Operating costs do not include gathering and marketing costs or any other costs that were included in the well cost approved by the Office of Conservation. Charges or costs for transportation shall not be included or used to determine the payout of the well cost.

Point of Disposition—the point at which a purchaser or transporter assumes custody of liquids. The disposition point can be a lease, unit, well, commingling facility, common battery, lease battery, gas well, pipeline, or market center.

Producer—the owner of a well capable of producing oil, gas or both oil and gas. The terms "producer" and "operator" shall have the same meaning and may be used interchangeably.

Raw make—liquid hydrocarbons extracted or recovered from a natural gas stream, regardless of the type of well that produced the gas stream.

Secretary—the secretary of the Department of Revenue or representative of the secretary.

Severer—any person engaged in severing oil or gas from the soil or water of this state, or operating oil or gas property or other property from which oil or gas is severed, regardless of whether the person is severing from their own property, the property of another, is the owner of the oil or gas and is severing from property of another person, or is severing oil or gas under contracts or agreements requiring payment as described in R.S. 47:636.

Stripper Field—a field in which all crude oil production is from certified stripper oil wells.

Value—fair market value.

In 2006 LDR established a Severance Tax Task Force within the agency to review severance taxes. The task force focused on the laws of New Mexico, Oklahoma and Texas. Some of the definitions above were drafted as a result of reviewing the laws of those states.

3. Certification for reduced rates (stripper wells and incapable wells)-currently if a well overproduces it must be recertified. We recommend that after 3 consecutive months of overproducing, the well must be recertified.

4. Exempt wells language already exists in the law. We recommend adding to that law that returns for O-5 and G-5 must be filed.