

CITY OF OAKLAND

AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Erin Roseman
Director of Finance

SUBJECT: Blue Ribbon Equitable Business Tax
Task Force Recommendations

DATE: January 4, 2022

City Administrator Approval 

Date: Jan 7, 2022

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report On Analyses And Policy Recommendations Prepared And Adopted By The Blue Ribbon Equitable Business Tax Task Force Regarding The Proposed New Rates And The Economic Impacts Of The Recommended Business Tax Rates As Requested By The City Council Pursuant To Resolution 88478 C.M.S.

EXECUTIVE SUMMARY

On October 21, 2021, the Blue Ribbon Equitable Business Tax Task Force (“Task Force”) completed its work and issued a report titled, City of Oakland Blue Ribbon Equitable Business Tax Task Force Analyses and Recommendation (“Task Force Report”). This supplemental report should be read in concert with the Task Force Report.

The purpose of this informational report is to 1) provide additional analysis of information provided in the informational memo issued by the Blue Ribbon Equitable Business Tax Task Force (“Task Force”) of the current tax rates¹, as well as other factors to consider when making changes to the Business License Tax Structure (BLT); 2) provide information about taxes related to transportation of persons and goods; and 3) request that the City Council refer consideration of these changes to the BLT as proposed by the Task Force and by the City Council under Resolution Nos. 88227 and 88478 C.M.S. to the Finance & Management Committee for further analysis and discussion.

City BLT is a key source of the City’s General Purpose Fund (GPF) revenues. In Fiscal Year (FY) 2019-20 business taxes receipts totaled \$98.04 million, and in FY 2020-21 business tax receipts were \$104.2 million. These receipts historically account for over 15.5 percent of GPF

¹ View *Blue Ribbon Equitable Business Tax Task Force Analyses & Recommendation Report* informational memo: <https://cao-94612.s3.amazonaws.com/documents/Info-Memo-Blue-Ribbon-Task-Force-Report-October-21-2021.pdf>

revenues². Any changes to the BLT structure must be carefully considered and thoroughly vetted for unintended impacts, given the lingering and dramatic effects of COVID-19 and businesses expanding telecommuting opportunities, which may negatively impact taxable gross receipts derived from Oakland-based companies.

Both the City Council and Task Force BLT proposals would substantially increase taxes collected from Oakland businesses. The City Council's proposal is estimated to generate approximately \$30.8 million annually, while the Task Force proposal would raise an estimated \$32.7 million annually. Both proposals reflect an average increase in taxes of approximately 70 percent for businesses in affected sectors, though some businesses would pay substantially more while other businesses would see a small tax reduction. **Each of these proposals is expected to result in a net decline of more than 2,000 jobs in the city of Oakland.**

It is important to keep in mind that Covid has had profound effect on the global and local economies, and that any revenue estimates may not materialize. It is possible that businesses could downsize their footprint in Oakland and apportion gross receipts generated by telecommuting staff to the jurisdiction in which the employee resides. Thus, the forecasted tax revenue increase may not materialize. Given the uncertainty surrounding the lingering effects of the pandemic on the City's economy and the increased mobility of many businesses and workers who may continue to telecommute from areas outside of Oakland, staff recommends that any BLT increase be phased-in over a period of several years. For example, one option the City Council may consider is to ask the voters to approve an increase up to a specified threshold (e.g., \$27 million), but start at a much lower level. Then, as economic conditions stabilize and the City gains certainty as to the viability of the tax rate increases to actually generate additional income, the City could increase the rates up to the maximum rates approved by the voters.

BACKGROUND / LEGISLATIVE HISTORY

On July 14, 2020, the City Council adopted Resolution No. 88227 C.M.S. repealing and replacing Chapter 5.04 the Oakland Municipal Code to create a progressive, modern, and equitable Business Tax structure. Including the adopted Resolution No. 88227 C.M.S. was the creation a limited duration 11-member Blue Ribbon Equitable Business Tax Task Force to, "after thorough analysis and extensive community and stakeholder engagement, deliver for Council adoption [by October 31, 2021] a comprehensive recommendation for a modernized progressive business tax structure that achieves the City's goals for revenue enhancement, reduction of race and equity disparities, tax code modernization, equitable economic development, and living wage job creation." The Task Force completed its work and issued a report titled, City of Oakland Blue Ribbon Equitable Business Tax Task Force Analyses and Recommendation ("Task Force Report"), on October 21, 2021.

Current Business Tax Structure and Economic Conditions

All revenue derived from the BLT accrues to the City's GPF. This revenue is unrestricted in use and is spent at the discretion of the City Council. Most City departments receive GPF support. As noted in the Task Force's report, Oakland's current BLT is based on gross receipts (i.e., total revenue) earned within the city of Oakland. The current BLT classifies businesses into 22

² Excluding interfund transfers and transfers from fund balance.

separate categories with firms paying a specified rate according to their assigned sector. A minimum annual tax payment of \$60 is assessed on businesses in most sectors. While the current tax structure applies varying rates across sectors, the same rate applies to all businesses within a given sector, regardless of size or income.

Although the City of Oakland has a diversified economy, a relatively small share of the businesses and economic sectors account for a large share of the City's economic activity and tax revenue. As shown in **Figure 1** below, just four business sectors – professional services, cannabis, and residential and commercial landlords – together account for over 70 percent of the total BLT revenue generated. Construction contractors, business and personal service firms, and retail businesses are the only other sectors that individually account for over 5 percent of revenue.

Figure 1: Gross Receipts and Taxes Charged by Sector, FY 2019-20

Code	Business	Tax per \$1,000	Gross Receipts (mil \$)	% of Total Gross Receipts	Tax Charged (mil \$)	% of Total Tax Charged
A	Retail Sales	\$1.20	\$3,603	14.3%	\$4.60	5.1%
C	Automobile Sales	\$1.20	\$705	2.8%	\$0.80	0.9%
D	Wholesale Sales	\$1.20	\$2,217	8.8%	\$2.70	2.9%
I	Manufacturing**	\$1.20	\$729	2.9%	\$0.90	1.0%
K	Admin Headquarters**	\$1.20	\$972	3.9%	\$1.20	1.3%
T	Media Firms	\$1.20	\$384	1.5%	\$0.50	0.5%
W	Miscellaneous**	\$1.20	\$21	0.1%	\$0.00	0.0%
B	Grocers	\$0.60	\$790	3.1%	\$0.50	0.6%
E	Business/Personal Svcs.	\$1.80	\$2,756	11.0%	\$5.20	5.7%
H	Contractors	\$1.80	\$4,022	16.0%	\$7.40	8.1%
P	Hotel/Motel	\$1.80	\$253	1.0%	\$0.50	0.5%
F	Professional Svcs	\$3.60	\$5,017	20.0%	\$18.40	20.3%
G	Recreation/Entertainment	\$4.50	\$283	1.1%	\$1.30	1.4%
M	Residential Rental Property	\$13.95	\$1,467	5.8%	\$20.80	22.9%
N	Commercial Rental Property	\$13.95	\$980	3.9%	\$13.60	15.0%
U	Utility Companies	\$1.00	\$781	3.1%	\$0.80	0.9%
X, L, Y	Taxi, Trucking, Amb / Lim**	N/A	N/A	N/A	\$0.10	0.1%
Z	Cannabis	\$1.20 - \$95.00	\$151	0.6%	\$11.60	12.7%

** Basis other than Gross Receipts: permits issued (for taxis, ambulances, and limousines), number of employees (trucking), payroll (admin headquarters, miscellaneous), or value added (manufacturing).

While the current tax system applies the same tax rate to all businesses within a given sector regardless of size and income, larger businesses account for a significant share of total revenues. In FY 2019-20³, more than 53,000 businesses paid taxes in Oakland. Of that total, 49,611 businesses (nearly 94 percent of all firms) reported less than \$1 million in gross receipts, generating roughly \$31 million (33.7 percent) of the total business tax revenue. Only 52 firms, (0.10 percent of the total number), reported more than \$50 million in gross receipts, but these businesses accounted for 12.5 percent of total revenues, as shown in **Figure 2** below.

Although business profits can have some relation to business gross receipts, the two are not synonymous. Some businesses (e.g., grocery stores) may have relatively low profit margins but can have a large amount of gross receipts. Other firms, such as professional services firms, may have relatively higher margins but relatively lower levels of gross receipts. In many jurisdictions, the gross receipts tax rates are designed in part to reflect the differing profit margins of the various economic sectors.

³ The analysis throughout this report is based on FY 2019-20 data as the gross receipts base is calendar year 2019

Figure 2: Number of Businesses and Gross Receipts by Business Size

	# of Businesses	% of Total	Gross Receipts (mil \$)	% of Total	Taxes Charged (mil \$)	% of Total
All Businesses*	53,133		\$25,169		\$91.1**	
By Business Size						
\$0 - \$250k	44,766	84.30%	\$2,062	8.20%	\$19.10	21.00%
\$250k - \$1 mil	4,845	9.10%	\$2,414	9.60%	\$11.60	12.70%
\$1 - \$2.5 mil	1,688	3.20%	\$2,639	10.50%	\$10.20	11.10%
\$2.5 - \$25 mil	1,389	2.60%	\$9,344	37.10%	\$31.30	34.30%
\$25 - \$50 mil	71	0.10%	\$2,510	10.00%	\$7.50	8.30%
Over \$50 mil	52	0.10%	\$6,200	24.60%	\$11.40	12.50%
Permit/payroll-based***	322	0.60%	N/A	N/A	\$0.10	0.10%
By Business Location						
Oakland (home-based)	30,838	58.00%	\$2,328	9.20%	\$23.10	25.30%
Oakland (not home-based)	15,132	28.50%	\$17,300	68.70%	\$57.00	62.50%
Outside Oakland	7,163	13.50%	\$5,542	22.00%	\$11.00	12.00%

*Includes all businesses that reported gross receipts or taxable permits or payroll for Tax Year 2020.

**Including fees and penalties, total amounts owed exceed \$90 million.

***Includes all Taxicab, Ambulance/Limousine, and Trucking/Transportation businesses, which pay business taxes based on permits issued or employees on payroll. Firms in these industries officially report \$0 of gross receipts.

ANALYSIS AND POLICY ALTERNATIVES

Current Economic Conditions in the City

The city's economy is still recovering from the impact of the COVID-19 pandemic. Unemployment in the Oakland-Hayward-Berkeley Metropolitan Division was 5.4 percent in September 2021, well below the level of 9.7 percent one year ago, but still higher than the roughly 3 percent unemployment rate the region experienced prior to the pandemic. Many of the City's revenue sources, such as property taxes and real estate transfer taxes, have rebounded from the lows experienced in 2020 (or were unaffected by the pandemic). Other sources of revenue, however, such as those related to travel and tourism, have yet to recover.

The health and future of the city's office sector remain uncertain as office tenants assess their space needs in the wake of the remote work changes brought about by the pandemic. Office vacancies remain elevated from their pre-pandemic levels with office asking rents falling as a result.⁴ Together with office vacancies and the relative lack of office workers in the city's downtown areas, many retail businesses and restaurants have closed or suffered economic losses as customers have stayed home in the face of continuing risks of COVID-19 and a desire to avoid commuting and returning to an office environment full-time. Other businesses have also seen a reduction in their space needs and the number of commuters coming to physical

⁴ Colliers, "2021 Q3 Oakland Office Market Research Report" <https://www.colliers.com/en/research/san-francisco-bay-area/2021-q3-oakland-office-market-research-report>

workplaces as many back-office functions remain remote. The extent and persistence of this transition to remote work across a broad range of industries and job functions remains a source of substantial uncertainty, both for Oakland and for cities across the country.

Fiscal and Economic Effects of Proposed Tax Changes

City staff and the Blue Sky Consulting Group conducted an economic analysis of the likely responsiveness of businesses to changes in tax rates. Estimation of the actual economic significance of tax increases has in recent years been the subject of much public policy discussion and academic research, as economists and other analysts have turned to both business surveys and quantitative analysis to assess the impact of taxes on state and local economic performance. Both approaches have limitations, but they are broadly consistent in their conclusion: while taxes are not the most important factor influencing business location decisions, they nevertheless play a key role when two possible locations are similar in other respects. That role may be greater now that the dynamics of remote vs in-person work have significantly changed in the past two years.

Factors Influencing Business Location Decisions

Business location and expansion decisions are influenced by many factors—both economic and intangible. Perhaps most commonly cited by experts is the cost of doing business in a particular location. These costs are influenced by many factors, including the cost of labor, occupancy costs (rent or mortgage), and taxes. Other factors include the cost of inputs, such as raw materials used in the production process, and access to consumers. Also important are less tangible factors, such as quality of life for workers, quality and extent of municipal services, and even preferences of the owners or chief executives about where to live and work.

Survey Data

Surveys of businesses generally rank taxes near the top of lists of possible factors influencing location or expansion decisions. For example, respondents to one survey ranked total business costs (a category that includes taxes) as the most important of six primary factors.⁵ Respondents across all industry types surveyed rated taxes as “very important” or “important.” A similar survey, published in 2013, found that across 39 surveyed metrics, state taxes and financial incentives were ranked seventh-most-important, property taxes twelfth, and other local taxes or financial incentives fourteenth.⁶

Quantitative Research

Beyond surveys, economists have conducted dozens of studies over the past several decades in an attempt to quantify the extent to which changes in state and local tax rates impact employment or business starts. Determining this impact is not, however, simply a matter of assessing whether economic growth tends to follow tax cuts and economic decline follows tax hikes because of the potential for confounding factors. For instance, over a given period, states that were more likely to raise tax rates may have shared in certain attributes that were also

⁵ Karakaya, Canel (1998)

(https://www.researchgate.net/publication/235303845_Underlying_Dimensions_of_Business_Location_Decisions). Factors were grouped into the following categories: costs (e.g., taxes), living (e.g., city services, recreation), accessibility (e.g., access to airport, shipping), resources (e.g., availability of unskilled labor), business environment (e.g., availability of suppliers, existence of competitors), and the availability of existing buildings.

⁶ Kimelberg, Williams (2013)

conducive to job growth; this very attractiveness may therefore have allowed these jurisdictions to raise taxes without suffering adverse economic effects. Second, the potential for “reverse causation” can complicate the analysis, as economic trends may sometimes themselves cause changes in tax rates. For example, perceptions of a rapidly growing retail economy may drive governments to increase sales tax rates.

To mitigate these challenges, researchers typically assess the relative economic performance of sets of county or city “pairs” – jurisdictions situated on opposite sides of a shared state border, for example – over the years following a change in tax rates that occurs on just one side of the border.⁷ To the extent these local governments are broadly similar in key respects – such as recent economic performance, shared labor pools, and access to the same major transportation infrastructure – researchers may more confidently attribute any changes in a jurisdiction’s economic performance to the tax rate change itself.

According to a comprehensive meta-analysis that assessed nearly 40 such studies, and that remains widely cited today, the median tax elasticity is roughly -0.2.⁸ In other words, increasing the total business tax burden in a given jurisdiction by 10 percent would be expected to reduce employment or economic activity in that jurisdiction by 2 percent. Most of the studies surveyed found elasticities between -0.1 and -0.6, though across all studies, there was a wide range of findings, with some finding elasticities below -1.0 (i.e., a 10 percent increase in taxes would reduce employment by *more* than 10%) and some finding that taxes had no discernible impact on business behavior or economic outcomes. More recent studies are similarly varied in their findings.⁹ Note that all of these studies were conducted pre-pandemic; current attitudes towards location may have increased elasticity, meaning more sensitivity (and thus possible departure due) to tax increases.

Importantly for the City’s purposes in designing a new BLT, studies that focus more narrowly on city or regional pairs find that responses to tax changes are even larger relative to studies that focus on economic changes between neighboring states.¹⁰ This empirical finding aligns with economic theory: firms that are just over one side of a municipal border will be able to more readily avoid a tax increase simply by moving across the border while still accessing the same customers, workers and suppliers. Moving to another state to avoid a tax increase, in contrast, requires a substantial investment and might cause a company to lose access to customers, workers or suppliers.

Factors to Consider when Changing Business Tax Rates

Balancing Competing Goals

When it created the BLT Task Force, the City Council identified several goals for a modernized business tax structure, including making the system progressive or tiered (i.e., larger

⁷ Rickman, Wang (2020). Except for a small handful of more recent studies, those conducted to date assess *state* pairs—not county or city pairs. Studies of state pairs are less relevant to the Task Force, given that the business tax rate is a city tax.

⁸ Wasylenko (1997).

⁹ Rohlin, Rosenthal, Ross (2012); Thompson, Rohlin (2017); Ljungqvist, Smolyansky (2014); Giroud, Rauh (2017)

¹⁰ As with the broader sample of all studies, even among those focusing on bordering cities come to widely divergent conclusions. Wasylenko (1997) finds that the median elasticity finding for such “intra-regional” pairs was below -1.0.

businesses would pay higher rates than otherwise comparable smaller businesses), enhancing revenue, and encouraging economic development and job creation.

Ultimately, any tax structure will involve tradeoffs among these competing goals. For example, increasing revenue through higher tax rates may cause some businesses to relocate outside of the City, thereby hampering the goals of enhancing economic development and creating jobs. Taxing larger businesses at a higher rate may increase perceived equity or fairness but may also cause some of the more mobile businesses in the City to consider relocating or expanding outside of the City to avoid the higher tax. The analysis presented in this report seeks to inform the City Council about the potential tradeoffs in achieving these goals.

Factors to Consider in Determining Local Tax Rates

Economic research, business leaders, and economic development professionals agree that, while there are numerous factors influencing business location and expansion decisions, local tax rates are one important factor. Taxes affect businesses differently, with some businesses being more sensitive to tax increases than others. In addition, local economic conditions, tax rates and costs of doing business in neighboring jurisdictions, moving and relocation expenses, availability of a suitable workforce, and local amenities such as transportation and affordable housing can all influence business location and expansion decisions.

Because at least some businesses are responsive to changes in tax rates, any tax increase is likely to reduce economic activity and the number of jobs in the city of Oakland. Raising additional revenue, on the other hand, can help to enhance City services, and, if the funds raised help to improve conditions for local businesses or increase consumer spending, additional revenues can to some extent help to offset the declines in business activity.

The following section presents several important factors to consider when redesigning a business tax system:

1. Some Businesses are More Mobile Than Others

While many factors influence business location and expansion decisions, some businesses are simply more responsive than others to local tax changes. In general, businesses that face lower relocation costs and that serve a regional or national rather than a local customer base are likely to be more mobile. These sectors include many professional services firms and companies' administrative headquarters. These firms often serve customers outside of the city of Oakland and need to only identify new office space rather than build capital-intensive or specialized facilities, seek environmental review or planning permission to build or rehabilitate a new facility, or otherwise incur substantial moving expenses. Of course, businesses already located in Oakland have, by definition, determined that the city's combination of office space, access to a skilled workforce, proximity to transportation, and other factors make Oakland a desirable place in which to do business. Nevertheless, if otherwise comparable office space can be found in a neighboring jurisdiction, and if the costs of moving are relatively low, these businesses are likely to be relatively more sensitive to changes in taxes that affect only their current jurisdiction. That likelihood may now be increased due to changing ideas about work location and remote work.

Sectors that serve a customer base outside of the city – such as most manufacturers – have a limited ability to pass on tax increases to customers. Therefore, even though these

businesses may face significant relocation costs, they are still potentially responsive to at least large increases in taxes. That is, because only Oakland-based manufacturers will face a tax increase while competitors located in other cities will not, local manufacturers will need to relocate or absorb the tax increase in the form of lower profits or lower wages paid to employees rather than pass on the increase in the form of higher prices. Meanwhile, other sectors may be somewhat less responsive to changes in tax rates. For example, locally-serving businesses, such as grocery stores, restaurants, dry cleaners, and many business and personal services firms need to be located close to customers. As long as these customers remain in Oakland, these businesses will also likely remain. Similarly, most construction contractors and utilities are likely to be relatively unresponsive to changes in taxes, since these firms serve local customers who cannot avoid a tax increase passed on in the form of higher prices simply by choosing a firm outside of the City.

Finally, larger firms may be more mobile than smaller firms to the extent that these firms may already have multiple locations or can more easily relocate an individual unit or function (e.g., back office accounting or technical support). For example, a large firm that already has locations in more than one city may be able to expand into a different location more easily or relocate a portion of its workforce in response to a local tax change, or simply allow that portion of its workforce to work remotely. Smaller firms might find that the cost of setting up a new office just to relocate a fraction of their workforce is prohibitive, though the new paradigm of remote work might change that calculus.

2. Smaller Tax Changes Are Likely to Stimulate a Smaller Reaction from Businesses

One important principal of local tax policy is that any individual business' reaction to a tax change is likely proportional to the size of the change. Therefore, a large change in taxes is likely to spur a larger change in business location or expansion decisions, while a smaller change will stimulate a smaller reaction. As a result, more gradual or modest changes in tax policy are likely to result in fewer changes in the City's economy relative to larger changes.

Similarly, very small reductions in tax rates are unlikely to stimulate a significant increase in business activity, while larger but more targeted economic development incentives may help to support important sectors in the city's economy. In general, a broader tax base with lower tax rates will have fewer negative economic effects relative to a proposal designed to raise an equivalent level of new revenue, but that imposes larger tax increases aimed at only a few sectors or businesses. In addition, under systems with broader bases, the City would be less reliant on any single firm or sector; conversely, if a city depends heavily on a small number of firms for its tax revenue, any business relocation decisions by these firms could have significant negative impacts on the City's tax base.

3. Tax Rates in Neighboring Jurisdictions Can Influence Business Relocation Decisions

Local economic conditions are especially important for local taxation decisions. Most businesses would prefer to remain in their current locations. These businesses have assessed (implicitly or explicitly) the costs of remaining in their current location as compared with the costs of relocating. Because they are currently in Oakland, they have implicitly decided – at least under current conditions – that the costs of moving exceed the costs of remaining. In other words, the system is in equilibrium. However, if a change – such as a

local tax increase and/or the ability to have some or all of their workforce work remotely – alters that equilibrium, local businesses may reassess their location decisions.

When a single jurisdiction chooses to increase taxes, this change alters the local equilibrium, potentially pushing businesses to neighboring jurisdictions that have access to the same local amenities (i.e., workforce, access to transportation infrastructure, etc.) but charge lower business taxes. Such a hyper-local move may have an outsized impact because both customers and workers need not change simply because the business location changes (e.g., by moving across a municipal boundary). Longer-range moves, such as to a different state, may require significant changes to workforce and customer bases and are therefore potentially more risky and costly to a local business. For this reason, local governments need to be cautious about unilaterally raising tax rates.

4. Business Sectors Are Connected and Can Impact Other City Revenue Sources

Many of the City's businesses are dependent on other businesses for their success. For example, many small restaurants and retailers depend on workers at larger businesses. Therefore, a policy that impacts large administrative headquarters or professional services firms, for example, may also impact local restaurants that depend on serving lunch or after-work meals to employees at these firms. Similarly, firms that provide cleaning, maintenance or other business and personal services to offices, depend on the success of these office-based firms for the success of their own businesses.

An important corollary is that economic changes that impact one revenue source may have an important impact on other City revenue sources. For example, a policy that raises business taxes on auto dealers could cause these firms to relocate, with a corresponding reduction in sales taxes generated within the city of Oakland. The same would apply to BLT from office building landlords and the property taxes generated by office properties; to the extent office vacancies persist or rents decline, both of these revenue sources would be impacted.

5. Ease of Implementation, Compliance, and Administration

Any tax system should be as simple to administer and as simple for taxpayers to comply with as possible (without unduly compromising other goals). This principle means that firms should be able to readily determine which business sector they belong to, and any distinctions between business sectors should be defined as clearly as possible to minimize the ability of firms to "game" the system by seeking to classify themselves into a lower rate sector. In general, fewer rate categories make it easier for firms to estimate their tax bill, reducing uncertainty and confusion on the part of taxpayers. In addition, a system with smaller differences in rates among sectors reduces the incentive for businesses to challenge their assigned business sector or seek to classify their business inappropriately and reduces the resources needed by the City to review and potentially challenge business sector categorizations and enforce compliance. In any event, any modification to the business tax rate structure is likely to increase implementation and compliance costs, and some portion of the revenue increase should be set aside to ensure compliance and to fund auditing and taxpayer assistance costs.

6. COVID 19 May Result in a Permanently More Mobile Workforce

The impact of COVID 19 is also an important consideration in changing local tax policies. The extent to which pandemic-induced economic changes will persist is still unknown. Many businesses have found that they can remain productive with a remote or partially remote workforce. This change has already resulted in increased office vacancies in Oakland and in other cities throughout the country, with more potentially on the horizon as office leases come up for renewal and businesses reassess their needs. To the extent businesses that chose the city of Oakland because of its access to transit, skilled workforce, or other amenities, decide that they can locate elsewhere while still retaining their (now remote) workforce, the City's economy and tax receipts may suffer. Increases in business taxes may accelerate this trend.

Tax Structures Proposed by the City Council and Task Force

City Council's Proposed Tax Rates

Prior to the creation of the Task Force, the City Council proposed a re-design of the Business License Tax (the "City Council Proposal") in 2020 (Resolution No. 88227 C.M.S.).¹¹ The City Council Proposal introduces a tiered or progressive rate structure for most business sectors, in which businesses with higher total gross receipts pay higher rates relative to businesses in the same sector earning lower gross receipts. As shown in **Figure 3**, the affected sectors—i.e., those from which the City Council proposes raising additional revenue—account for roughly half of business tax revenues generated under the current tax code, or about \$44.7 million in FY 2019-20.

¹¹ See Supplemental Report – Finance Department 7/10/20: <https://oakland.legistar.com/LegislationDetail.aspx?ID=4575259&GUID=04127B82-3604-47C3-AC82-B32205190AB5&Options=ID|Text|Attachments|&Search=20-0445>. This "Equitable Business Tax Update" supplemental report assesses the fiscal impacts of two separate City Council proposals. For purposes of this report, the City Council's proposal is the one referred to as "Proposal 2" in the Department of Finance report.

Figure 3: FY 2019-20 Revenues Raised, by Sector

Affected Sectors		Unaffected Sectors		
A	Retail Sales	\$4,558,922	L Trucking & Transportation*	\$82,430
C	Auto Sales	\$850,949	M Residential Rental	\$20,902,935
D	Wholesale Sales	\$2,678,348	N,O Commercial Rental	\$13,726,051
I,J	Manufacturing	\$898,972	X Taxicabs*	\$25,020
K	Admin Headquarters	\$1,173,484	Y Ambulances & Limousines*	\$4,223
T	Media Firms	\$462,635	Z Cannabis	\$11,593,521
W	Miscellaneous	\$25,813	NP Non-Profit	\$20,778
B	Grocers	\$516,842		
E	Business & Personal Services	\$5,142,362		
H	Contractors	\$7,415,619		
P	Hotel, Motel	\$459,185		
F	Professional & Semi-Pro Svcs.	\$18,419,956		
G	Recreation And Entertainment	\$1,291,082		
U	Utility Companies	\$786,275		
TOTAL		\$44,702,100	TOTAL	\$46,354,958

As noted in the Task Force’s report, the City Council Proposal largely generates additional revenue by shifting the business tax burden onto larger businesses (see **Figure 4**, below). Those earning over \$50 million in gross receipts annually in FY 2023-24 would account for \$21.4 million in additional revenue – nearly two-thirds of the total additional revenue raised. The proposal reduces taxes on the smallest businesses by over \$1.5 million, due to two new tax relief measures proposed for small businesses: (1) eliminating the current \$60 minimum payment, and (2) allowing businesses with less than \$250,000 in gross receipts to pay only \$100 rather than the amount due based on their gross receipts tax rate.

Figure 4: City Council proposal

Sector	Current Law, Tax per \$1,000	City Council Proposal – Tax Rates by Bracket (Gross Receipts, mil \$)				
		\$0 – \$1.0	\$1 – \$2.5	\$2.5 - \$25	\$25 - \$50	Over \$50
Retail Sales	\$1.20	\$0.75	\$1.00	\$1.25	\$1.50	\$2.00
Auto Sales	\$1.20	\$1.25	\$2.25	\$3.25	\$4.25	\$5.25
Wholesale Sales	\$1.20	\$0.75	\$1.00	\$1.25	\$1.50	\$2.00
Manufacturing	\$1.20	\$1.25	\$2.25	\$3.25	\$4.25	\$5.25
Admin Headquarters	\$1.20	\$3.50	\$4.50	\$5.50	\$6.50	\$7.00
Media Firms	\$1.20	\$1.80	\$2.80	\$3.80	\$4.80	\$5.00
Miscellaneous	\$1.20	\$3.50	\$4.50	\$5.50	\$6.50	\$7.00
Grocers	\$0.60	\$0.60	\$1.00	\$1.25	\$1.50	\$2.00
Business & Personal Services	\$1.80	\$2.00	\$3.00	\$4.00	\$5.50	\$6.00
Contractors	\$1.80	\$3.00	\$3.50	\$4.00	\$4.50	\$5.00
Hotel, Motel	\$1.80	\$1.80	\$2.80	\$3.80	\$4.80	\$5.00
Prof. & Semi-Prof. Servs	\$3.60	\$4.00	\$4.50	\$5.00	\$5.50	\$7.50
Recreation & Entertainment	\$4.50	\$4.50	\$4.60	\$4.70	\$4.80	\$5.00
Utility Companies	\$1.00	\$1.80	\$2.80	\$3.80	\$4.80	\$5.00

Task Force Proposed Tax Rates

The Task Force approved-rate proposal is similar in many respects to the City Council proposal, including tiered or progressive rates and a net tax reduction for many of the smallest firms in the City by lowering the rate for the first \$1 million in gross receipts for most sectors, as well as reducing the minimum tax amount to \$50 from the current \$60 minimum. In addition, the Task Force proposal creates a new administrative headquarters tax for large national firms with administrative functions in Oakland. This tax would apply in lieu of the regular payroll-based administrative headquarters tax for firms with more than 1,000 employees nationally and \$1 billion in revenue. The tax rate would be \$15 per \$1,000 of Oakland-based payroll. Compared to the City Council proposal, the Task Force proposal would tax auto sales and manufacturers at somewhat lower rates but would impose higher rates on large administrative headquarters firms, contractors, and utilities.

The specific tax rates are presented in **Figure 5** below.

Figure 5: Task Force Proposal

Sector	Current Law, Tax per \$1,000	Task Force Proposal – Tax Rates by Bracket (Gross Receipts, mil \$)						
		\$0 - \$1.0	\$1 - \$2.5	\$2.5 - \$10	\$10 - \$25	\$25 - \$50	\$50 - \$75	Over \$75
Retail Sales	\$1.20	\$0.90	\$1.08	\$1.25	\$1.50	\$1.75	\$2.00	\$2.50
Auto Sales	\$1.20	\$1.20	\$1.25	\$1.50	\$1.75	\$2.00	\$2.25	\$2.75
Wholesale Sales	\$1.20	\$1.08	\$1.14	\$1.25	\$1.50	\$1.75	\$2.00	\$2.50
Manufacturing	\$1.20	\$0.90	\$1.20	\$2.25	\$2.75	\$3.00	\$3.25	\$4.80
Admin Headquarters	\$1.20	\$3.50	\$4.50	\$5.00	\$5.50	\$6.00	\$6.50	\$7.00
Media Firms	\$1.20	\$1.80	\$2.80	\$3.20	\$3.80	\$4.80	\$5.00	\$5.50
Miscellaneous	\$1.20	\$3.50	\$4.50	\$5.00	\$5.50	\$6.00	\$6.50	\$7.00
Grocers	\$0.60	\$0.45	\$0.54	\$1.00	\$1.35	\$1.50	\$1.75	\$2.00
Business & Pers. Svcs	\$1.80	\$1.62	\$1.71	\$3.25	\$4.00	\$5.00	\$5.25	\$6.00
Contractors	\$1.80	\$1.80	\$2.75	\$4.00	\$4.50	\$5.00	\$5.50	\$6.00
Hotel, Motel	\$1.80	\$1.62	\$1.71	\$3.80	\$4.80	\$5.00	\$5.25	\$5.50
Prof. & Semi-Prof. Svcs	\$3.60	\$3.24	\$3.42	\$5.00	\$5.00	\$5.50	\$6.50	\$7.50
Recreational & Entertainment	\$4.50	\$4.50	\$4.70	\$4.70	\$4.70	\$4.80	\$5.00	\$5.50
Utility Companies	\$1.00	\$4.00	\$4.50	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00

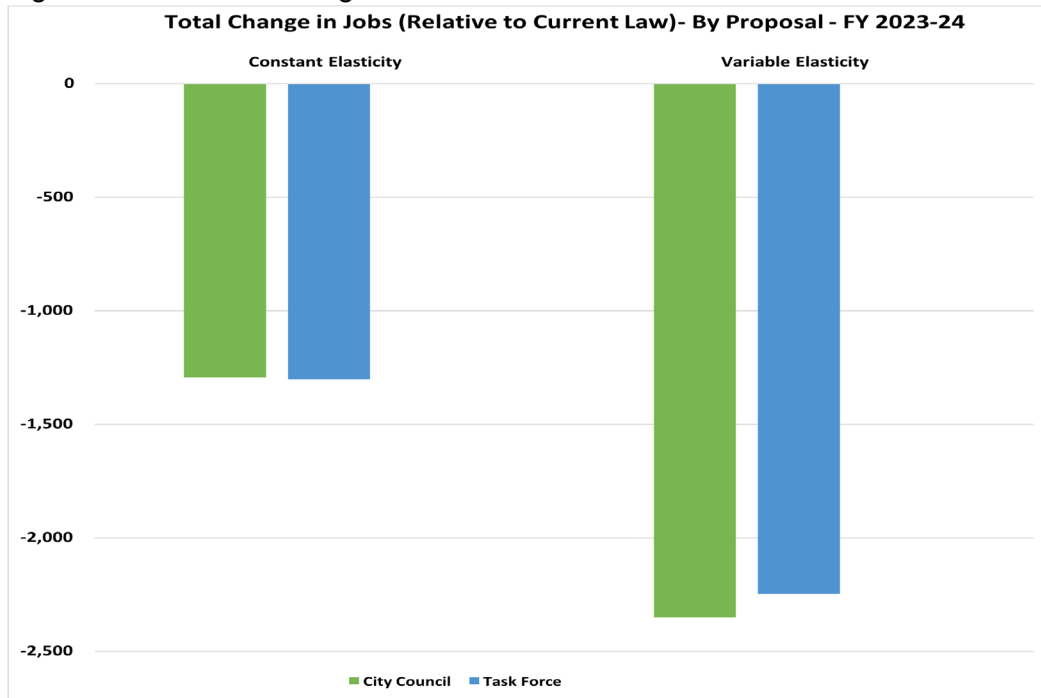
Impacts of the City Council and Task Force Proposals

Both the City Council and Task Force proposals would substantially increase the total taxes collected from affected Oakland businesses. The City Council proposal is estimated to generate approximately \$30.8 million annually after accounting for responses on the part of local businesses (i.e., under the dynamic scoring approach); the Task Force proposal would raise an estimated \$32.7 million annually. These proposals reflect an average increase in taxes of approximately 70 percent for businesses in affected sectors, though some businesses would pay substantially more while some businesses would see a small tax reduction. Each of these proposals is expected to result in a net decline of more than 2,000 jobs in the City of Oakland.

Figure 6 below shows the estimated change in jobs likely to result from each proposal. Under the Constant Elasticity Scenario, which assumes the same response across all businesses, the net reduction in jobs would be approximately 1,300 under both the City Council and the Task Force Proposals. Under the Variable Elasticity Scenario, which estimates a larger business reaction to larger tax increases, the City Council Proposal is estimated to result in a reduction of about 2,300 jobs compared with a reduction of about 2,250 jobs under the Task Force Proposal.¹²

¹²Note that the City’s private sector employment is approximately 200,000.

Figure 6: Estimated Change in Jobs



The Task Force’s payroll-based administrative headquarters tax for firms with more than 1,000 employees nationally and \$1 billion in revenue would increase the City’s fiscal dependency on a limited number of very large businesses that have the means and the resources to divert their existing or new workforce away from being housed in Oakland to avoid the burden of this new tax. This increase in fiscal dependency would make the City’s business tax structure less diverse and resilient.

More importantly, the City and County of San Francisco’s Controller’s Office issued a report entitled “*Improving San Francisco’s Business Tax: An Analysis of Two Alternatives (2010)*”¹³ and concluded the economic efficiency of the Payroll Tax as follows:

The inefficiencies in the payroll tax are easily and widely understood. The 1.5 percent tax on payroll raises the cost of employing a worker in San Francisco. Based on the simple economic principle that the markets want less of things that cost more, higher labor costs translate into less job creation. Furthermore, the *incidence*, or actual burden, of the tax falls on both the business and the worker. Reducing the income of both reduces spending in San Francisco, depressing the economy (p.7).

City Should Preserve Ability to Respond to Economic Conditions

Given the uncertainty surrounding the lingering effects of the pandemic on the city’s economy and the increased mobility of many businesses and workers in the city, staff recommends that the City consider seeking voter approval for a smaller tax increase that would be phased-in over a period of several years. As economic conditions warrant and support, the City could increase the rates up to the maximum rates approved by the voters. Similar such flexibility has been

¹³ <https://sfcontroller.org/sites/default/files/FileCenter/Documents/788-ImproveBusinessTax.pdf>

adopted by other jurisdictions, including in San Francisco and Richmond. In 2020, San Francisco voters approved a measure allowing the City to delay scheduled increases in the City's business tax in response to the economic changes; Richmond's business tax ordinance allows the City Council to adjust rates below the maximum approved by voters and then raise them (up to the maximum approved by voters) without a subsequent vote of the people.

Figure 7 shows the number and percent of firms under each scenario that would see no increase in taxes. Under the City Council Proposal, an estimated 17,659 firms would not experience an increase in taxes; under the Task Force Proposal, an estimated 23,483 firms would see no increase. Put another way, under the Task Force Proposal, just three percent of Oakland businesses would be subject to increased taxation to generate tens of millions of dollars of revenue.

Figure 7: Businesses with No Tax Increase

Businesses with No Tax Increase	City Council	Task Force
Affected Sectors	17,659	23,483
Percent in Affected Sectors	71%	94%
All Sectors	45,813	51,637
Percent in All Sectors	86%	97%

TRANSPORTATION OF PERSONS AND GOODS

The proposals from City Council and the Task Force called for making changes to all existing categories, except for the property-based and Transportation of Persons and Goods categories. Unlike other categories wherein the basis of the tax is on either gross receipts or gross rent, the Transportation of Persons and Goods category is a heavily regulated industry, both at the state and the federal level, and local jurisdictions, such as the City, may only impose the tax based on either expenses or employees employed within its jurisdiction.

Given the tax rate for this category was last updated in 1978 and became effective in 1979, the City Council could also include the proposal made by Councilmember Kalb as part of the overhaul of the tax rates. Councilmember Kalb's proposal would generate an additional revenue of approximately \$230,000 (See **Attachment B** for details).

FISCAL IMPACT

The City Council proposal is estimated to generate approximately \$30.8 million annually, while the Task Force proposal would raise an estimated \$32.7 million annually. These proposals reflect an average increase in taxes of approximately 70 percent for businesses in affected sectors, though some businesses would pay substantially more while other businesses would see a small tax reduction. Each of these proposals is expected to result in a net decline of more than 2,000 jobs in the city of Oakland¹⁴. It is important to keep in mind that Covid has had profound effect on the global and local economies, and that any revenue estimates may not materialize. It is possible that businesses could downsize their footprint in Oakland and

¹⁴ This data can be found on Page 17 of the Task Force Report

apportion gross receipts generated by telecommuting staff to the jurisdiction in which the employee resides. Thus, the forecasted tax revenue increase may not materialize.

PUBLIC OUTREACH / INTEREST

Given the community participation, complexity, and importance of the tax rate policy issue, enhanced outreach to the business community and commercial property owners may be warranted through the Finance and Management Committee and other forums. Through the Task Force process, additional information has been created that was not available to the City Council when Resolution No. 88227 C.M.S. was adopted. Some Task Force members had differing opinions on the proposed tax rate structure and the potential impacts and benefits to the Oakland business community. Before a ballot measure moves forward, clarification of the proposal from the Finance and Management Committee would allow for additional public participation and input.

COORDINATION

This report was prepared in coordination with Economic and Workforce Development Department and the Blue Sky Consulting Group.

SUSTAINABLE OPPORTUNITIES

Economic: For almost four decades since the majority of business license tax structure was last updated, the number of types of local businesses in Oakland has changed significantly. In particular, the number of home-based businesses has increased and there has been a shift from light manufacturing to global high-tech companies. The goal of the proposed ballot measure to update the current business tax structure should meet the following objectives:

- a. Protect small businesses by either exempting small businesses or keeping the tax rates low or unchanged.
- b. Increase the annual revenues from the tax in a manner that does not unduly influence business location decisions.
- c. Broaden the tax base to provide for more equitable taxation.
- d. Clarify various provisions to increase efficiency in the administration and the management of the tax.
- e. Encourage investment in the city either via employment of the City's workforce or by increasing revenue derived from complementary taxes, such as sales or utility user taxes.

Oakland's business community is predominantly made up of small businesses with a smaller mixture of medium and large businesses. Given the factors described above for changing tax rates, a balance needs to be maintained to retain and support the growth of existing businesses, and to attract new businesses. With both the City Council and Task Force focused on a progressive tax structure, there is a disincentive for medium and large companies to remain or locate to Oakland. As previously mentioned, the true magnitude COVID-19 impacts are still unknown in the business community as the workforce population has yet to fully return to work in Oakland's commercial corridors and business centers and many businesses continue to operate at limited physical capacity. The normalization of a return-to-work scenario is still unknown. The ability to respond to business and market cycles through a phased implementation of the proposed tax rates would better support economic sustainability.

Environmental: There are no environmental opportunities associated with this project.

Race and Equity: A racial equity impact analysis has not been conducted; the race and equity indications are as follows. In addition to the Task Force's proposed Use of Revenue, the funds raised by the proposed increases in tax rates should also be allocated toward support of minority-owned businesses to access capital and support pathways to entrepreneurship through training, technical assistance, and access to opportunities.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Receive An Informational Report On Analyses And Policy Recommendations Prepared And Adopted By The Blue Ribbon Equitable Business Tax Task Force Regarding The Proposed New Rates And The Economic Impacts Of The Recommended Business Tax Rates As Requested By The City Council Pursuant To Resolution 88478 C.M.S.

For questions regarding this report, please contact Margaret O'Brien, Revenue & Tax Administrator, (510) 238-7480.

Respectfully submitted,



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Attachments: (2)
A: All Proposals – Comparison of Tax Rates
B: Transportation Proposed Tax Rates

ATTACHMENT A: ALL PROPOSALS - COMPARISON OF TAX RATES ¹⁵

Sector	CITY COUNCIL PROPOSAL					TASK FORCE PROPOSAL						
	\$0 - \$1.0 mil	\$1.0 - \$2.5 mil	\$2.5 - \$25 mil	\$25 - \$50 mil	Over \$50 mil	\$0 - \$1.0 mil	\$1.0 - \$2.5 mil	\$2.5 - \$10 mil	\$10 - \$25 mil	\$25 - \$50 mil	\$50 - \$75 mil	Over \$75 mil
Retail Sales	\$0.75	\$1.00	\$1.25	\$1.50	\$2.00	\$0.90	\$1.08	\$1.25	\$1.50	\$1.75	\$2.00	\$2.50
Auto Sales	\$1.25	\$2.25	\$3.25	\$4.25	\$5.25	\$1.20	\$1.25	\$1.50	\$1.75	\$2.00	\$2.25	\$2.75
Wholesale Sales	\$0.75	\$1.00	\$1.25	\$1.50	\$2.00	\$1.08	\$1.14	\$1.25	\$1.50	\$1.75	\$2.00	\$2.50
Manufacturing	\$1.25	\$2.25	\$3.25	\$4.25	\$5.25	\$0.90	\$1.20	\$2.25	\$2.75	\$3.00	\$3.25	\$4.80
Adm. Headquarter	\$3.50	\$4.50	\$5.50	\$6.50	\$7.00	\$3.50	\$4.50	\$5.00	\$5.50	\$6.00	\$6.50	\$7.00
Alt. Large Admin	N/A	N/A	N/A	N/A	N/A	\$15.0	\$15.0	\$15.0	\$15.0	\$15.0	\$15.0	\$15.0
Media Firms	\$1.80	\$2.80	\$3.80	\$4.80	\$5.00	\$1.80	\$2.80	\$3.20	\$3.80	\$4.80	\$5.00	\$5.50
Miscellaneous	\$3.50	\$4.50	\$5.50	\$6.50	\$7.00	\$3.50	\$4.50	\$5.00	\$5.50	\$6.00	\$6.50	\$7.00
Grocers	\$0.60	\$1.00	\$1.25	\$1.50	\$2.00	\$0.45	\$0.54	\$1.00	\$1.35	\$1.50	\$1.75	\$2.00
Bus & Pers Svcs	\$2.00	\$3.00	\$4.00	\$5.50	\$6.00	\$1.62	\$1.71	\$3.25	\$4.00	\$5.00	\$5.25	\$6.00
Contractors	\$3.00	\$3.50	\$4.00	\$4.50	\$5.00	\$1.80	\$2.75	\$4.00	\$4.50	\$5.00	\$5.50	\$6.00
Hotel, Motel	\$1.80	\$2.80	\$3.80	\$4.80	\$5.00	\$1.62	\$1.71	\$3.80	\$4.80	\$5.00	\$5.25	\$5.50
Prof & Semi-Prof.	\$4.00	\$4.50	\$5.00	\$5.50	\$7.50	\$3.24	\$3.42	\$5.00	\$5.00	\$5.50	\$6.50	\$7.50
Recreation & Entertainment	\$4.50	\$4.60	\$4.70	\$4.80	\$5.00	\$4.50	\$4.70	\$4.70	\$4.70	\$4.80	\$5.00	\$5.50
Utility Companies	\$1.80	\$2.80	\$3.80	\$4.80	\$5.00	\$4.00	\$4.50	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00

¹⁵ This Figure does not display the differences in minimum tax payments across proposals. The City Council Proposal removes the minimum payment, while the Task Force Proposal lowers it to \$50. Additionally, the Figure does not include the City Council's "Small Business Alternative" payment, which allows businesses grossing under \$250,000 to pay only \$100 in BLT; this policy is not included in the Task Force Proposal.

ATTACHMENT B: TRANSPORTATION BUSINESS TAX RATES COMPARISON SELECTED CITIES

City	Basis	Rate	Notes
<i>Oakland</i>	<i>Per Employee</i>	<i>\$72 Base (1st Employee)/Yr.</i>	<i>Schedule below</i>
Los Angeles	Min + Per Day Fee	\$88.69 Min/Yr.	Per day rate is determined by unladen vehicle weight
Long Beach	Per Vehicle	163.07/Yr.	CPI indexed since 2000
Stockton	Per Vehicle	\$50.00/Yr. (Pro Rated)	Only on Out of Town
Richmond	Exempt	N/A	N/A
San Francisco	Exempt		
Taxis & Limos			
City	Basis	Rate	Notes
Oakland	Per Permit	\$180.00	
Long Beach	Per Taxi	\$558.87	
Stockton	Gross Receipts	\$0.90 per \$1,000	Annual \$28 registration fee
Richmond	Base + Per Emp	\$87.60	\$47.60 per employee
Emeryville	Flat	\$200.00	
San Leandro	Base + Per Emp	\$75.00	\$44.76 per employee
Ambulances			
City	Basis	Rate	Notes
<i>Oakland</i>	<i>Per Permit</i>	<i>\$149.00</i>	
Long Beach	Per Vehicle	\$147.04	
Stockton	Gross Receipts	\$0.90 per \$1,000	Annual \$28 registration fee
Richmond	Base + Per Emp	\$234.10	\$47.60 per employee
Emeryville	Flat	\$200.00	
San Leandro	Base + Per Emp	\$75.00	\$44.76 per employee

ATTACHMENT B (CONT.): TRANSPORTATION BUSINESS TAX OVERVIEW AND RATES

OAKLAND TRANSPORTATION INDUSTRY OVERVIEW			TAX RATES - CURRENT LAW vs PROPOSAL				
	# Firms	# Employees*	Current Law		Proposal		
Taxis	62	110	Taxis	\$180.00		\$180.00	
Limousines	16	16	Limousines	\$75.00		\$180.00	
Ambulances	8	37	Ambulances	\$75.00		\$149.00	
Trucking / Transportation	258	4,872	Trucking / Transportation	First Employee	\$72.00	First Employee	\$150.00
1 Employee	154	154		2nd - 20th	\$18.00	2nd - 10th	\$25.00
2 - 9 Employees	57	217		21st - 100th	\$9.00	11th - 100th	\$30.00
10 - 99 Employees	42	1,380		101st - 200th	\$7.50	All Additional	\$40.00
100+ Employees	5	3,121		All Additional	\$4.50		
TOTAL	344	5,035					

*For taxis, limos, and ambulances, refers to the number of permits

ATTACHMENT B (CONT.): TRANSPORTATION BUSINESS TAX REVENUE

	Current Law	Proposal	Net Additional Rev
Taxis	\$12,510	\$12,510	\$0
Limousines	\$1,275	\$4,335	\$3,060
Ambulances	\$2,948	\$8,805	\$5,857
Trucking / Transportation	\$90,090	\$311,362	\$221,272
Total	\$106,823	\$337,012	\$230,189