



CITY OF OAKLAND

## MEMORANDUM

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**DATE:** July 13, 2020  
**TO:** City Council and Members of the Public  
**FROM:** Councilmember Nikki Fortunato Bas  
Councilmember Sheng Thao  
President Pro Tempore Dan Kalb  
President Rebecca Kaplan  
**SUBJECT:** Amendments to the Equitable Business Tax Resolution, Poll Results

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Dear Colleagues on the City Council and Members of the Public,

We are sharing the following proposed six amendments to the Equitable Business Tax Legislation, as well as the results of the poll on Oakland Revenue Options conducted by David Binder Research on May 20 and 21, 2020. We respectfully request that the City Council, in order to raise revenue for the City's general purpose fund, increase City Services, and create more equity and fairness in the City's business tax structure: Adopt With The Following Amendments, A Resolution On The City Council's Own Motion Submitting To The Voters At The November 3, 2020 General Municipal Election, An Ordinance Repealing And Replacing Chapter 5.04 Of The Oakland Municipal Code To Create A Progressive, Modern, And Equitable Business Tax Structure; And Directing The City Clerk To Take All Actions Necessary To Prepare For And Conduct A November 3, 2020 General Municipal Election.

For questions regarding this memorandum, please contact Miya Saika Chen, Chief of Staff, Office of Councilmember Nikki Fortunato Bas, at [mchen@oaklandca.gov](mailto:mchen@oaklandca.gov).

Respectfully Submitted,

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Nikki Fortunato Bas  
Councilmember, District 2

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Dan Kalb  
Council President Pro Tempore, District 1

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Sheng Thao  
Councilmember, District 4

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Rebecca Kaplan  
Council President, At-Large

Attachment 1: Proposed Amendments  
Attachment 2: Poll Results

**Proposed Amendment No. 1**

This proposed amendment to Part 2 - Sunset of New Building Exemption, Section 5.04.430 - Rental of commercial/industrial property-Exemption-Gross Receipts, subsection C. Five-Year Exemption changes the date upon which the five-year exemption will no longer apply (*see* page 5 of the resolution).

6. Notwithstanding any other terms of this Section, the exemption created by this Section 5.04.430(C) shall not apply to any new buildings completed after December 31, ~~2020~~2023 or buildings on which major renovations are completed after December 31, ~~2020~~2023.

**Proposed Amendment No. 2**

This proposed amendment to Part 3. Business Tax Code Amendments, Section 5.04.130 Business Activity Classifications reclassifies automobile sales (*see* page 12 of the resolution).

**5.04.130 Business Activity Classifications**

For the purpose of imposing the business tax, business activities are classified as follows:

<b>Class A</b>	retail sales, wholesale sales, <del>automobile sales</del>
<b>Class B</b>	grocers
<b>Class C</b>	<del>automobile sales</del> , manufacturing
<b>Class D</b>	recreation and entertainment
<b>Class E</b>	hotel, motel, media firms, public utility
<b>Class F</b>	construction contractor
<b>Class G</b>	business and personal services
<b>Class H</b>	professional/semi-professional service
<b>Class I</b>	administrative headquarters
<b>Class J</b>	miscellaneous
<b>Class K</b>	residential rental, non-residential rental

<b>Class L</b>	cannabis business
<b>Class M</b>	firearms ammunition
<b>Class N</b>	taxi and limousine service
<b>Class O</b>	transportation, trucking

**Proposed Amendment No. 3**

This proposed amendment to Part 3. Business Tax Code Amendments, 5.04.210 Class K: Residential Rental, Non-Residential Rental, subsection C(6) changes the date upon which the exemption will no longer apply (*see* page 20 of the resolution).

6. Notwithstanding any other terms of this Section, the exemption described in this subpart applies only to persons engaged in the business of renting or letting a building, structure, or other property for commercial/industrial purposes, or a portion of such building, structure, or property within the city for a purpose other than dwelling, sleeping, or lodging to a tenant. Notwithstanding any other terms of this Section, the exemption created by this Section 5.04.210(C) shall not apply to any new buildings completed after December 31, ~~2020~~2023 or buildings on which major renovations are completed after December 31, ~~2020~~2023.

**Proposed Amendment No. 4**

The proposed amendment will correct a typo in Part 3. Business Tax Code Amendments, 5.04.260. Lost Certificate (*see* page 33 of the resolution).

5.04.~~260~~360. Lost Certificate.

**Proposed Amendment No. 5**

This proposed amendment will add the following language as **Part 4** to the Ordinance to be submitted to the voters.

**PART 4. Blue Ribbon Commission to Oakland Business Tax Ordinance**

**SECTION 1. ESTABLISHMENT**

Pursuant to Section 601 of the Charter of the City of Oakland, there is hereby created an Oakland Business Tax Blue Ribbon Advisory Commission (hereinafter referred to as the “Blue Ribbon Commission” or “Commission”).

## **SECTION 2. DUTIES AND FUNCTIONS**

It shall be the duty and function of the Blue Ribbon Commission to:

- a. Provide advice and recommendations to the City of Oakland on how the City Council should establish business tax rates within the ranges described in Section 5.04.205 Tax Rates for Class A Through Class J - Progressive Rates to ensure the economic vitality of the business ecosystem in Oakland and to advance the goals of this ballot measure, including supporting small businesses and increasing annual revenue. The items for consideration by the Commission may include identifying businesses that should be considered “regulated industries” in order to make recommendations and reviewing the rates of the smallest businesses across all classifications in order to make recommendations.
- b. Conduct meetings and use other public forums to collect and receive public input on the above subject matter.
- c. Review, draft and submit in writing for City Council consideration, recommended business tax rates relevant to the above subject matter, by June 30, 2021.
- d. Provide analyses to the City Council of the economic impacts of the recommended business tax rates relevant to the above subject matter, in consultation with the City’s Departments of Economic and Workforce Development and Finance, by June 30, 2021.
- e. Submit additional policy recommendations to the City Council regarding business taxes and economic development for the City of Oakland, within one year of the passage of the ballot measure.
- f. Provide recommendations to the City Council about budget allocations to support small businesses and contribute towards a thriving business community in the City of Oakland, within one year of the passage of the ballot measure.

### **SECTION 3. MEMBERSHIP AND QUORUM**

- a. The Commission shall consist of nine (9) members, at least six (6) of whom are Oakland residents. Members of the Commission shall be appointed by the Mayor and confirmed by Council in accordance with Section 601 of the Charter.
- b. The Mayor and each Councilperson shall nominate one Commission member to be appointed and confirmed in accordance with Section 601 of the City Charter.
- b. Five (5) members shall constitute a quorum.
- c. Each commission member shall serve as a volunteer without pay.
- d. All members shall be appointed to a one (1) year term beginning on December 1, 2020 and ending on November 30, 2021. Upon expiration of the one-year term, the Blue Ribbon Commission shall be deemed dissolved unless the one-year term is extended by appropriate Council action.
- f. All members of the Blue Ribbon Commission shall be persons who have an interest in the economic development and vitality of the City of Oakland as demonstrated by work experience, civic participation, and/or political advocacy. No member may be an elected official. Members of the Blue Ribbon Commission may represent the following criteria, with no more than two (2) members representing any one criteria and at least one from each criteria to the extent possible:
  1. members representing the very small business community (those businesses with gross receipts below \$2.5M);
  2. members representing the small to mid-sized business community (those businesses with gross receipts below \$10M)
  3. members representing large businesses (those businesses with gross receipts above \$25M);
  4. a member of an organization which focuses on economic development, entrepreneurship, or business development, with experience working in the City of Oakland;

5. an economic expert or tax professional who has experience analyzing economic trends and business tax structures; and
6. A member of a community organization or labor union who has experience with City budgets and/or City services.

#### **SECTION 4. VACANCY AND REMOVAL**

- a. A vacancy on the Blue Ribbon Commission will exist whenever a member dies, resigns, or is removed, or whenever an appointee fails to be confirmed by the Council within 30 days of appointment.
- b. Pursuant to Charter Section 601, a member may be removed for cause, after a hearing, by the affirmative vote of at least six (6) Council members.
- c. Vacancies shall be filled in accordance with Section 601 of the Charter.

#### **SECTION 5. COMMISSION GOVERNANCE**

##### **a. OFFICERS AND ELECTIONS**

At the first regular meeting, members of the Blue Ribbon Commission shall elect a chairperson and a vice chairperson

##### **b. MEETINGS AND VOTING**

The Blue Ribbon Commission shall meet at an established regular interval, day of the week, time and location suitable for its purpose. Such meetings shall be designated regular meetings. Other meetings scheduled for a time or place other than the regular day, time and location shall be designated special meetings. Written notice of special meetings shall be provided to the Blue Ribbon Commission members and all meetings of the Commission shall comport with the Ralph M. Brown Act and the City's "Sunshine Ordinance" (Chapter 2.20 of the Oakland Municipal Code).

No later than the third regular meeting of the Commission, the Commission shall, in consultation with the City Administrator, establish bylaws, rules and procedures for the conduct of its business by a majority vote of the members present. Voting shall be required for the adoption of any motion or resolution.

Any action by the Commission shall be approved by a majority of members present provided a quorum exists.

**c. STAFF AND BUDGET**

Staff assistance may be provided to the Blue Ribbon Commission as determined by the City Administrator pursuant to his or her authority under the Charter to administer all affairs of the City under his or her jurisdiction.

The City shall allocate up to one-hundred thousand dollars (\$100,000) towards an economic consultant to provide technical assistance to the Commission.

**Proposed Amendment No. 6**

This proposed amendment will amend and fix a typo in the ballot language (*see* page 44 of the resolution).

**FURTHER RESOLVED:** That each ballot used as the November 3, 2020 election shall have printed, in addition to any other matter required by law, the following:

**Oakland Business Tax**

Measure __. Shall a measure amending the City of Oakland’s business tax to create a progressive rate structure imposing the highest rates on the biggest businesses; exempt businesses making under \$250,000; close tax loopholes; and generate approximately <del>\$\$\$</del> <b>\$105,000,000</b> in annual revenue for municipal services including, <del>public safety, street repairs, and park maintenance</del> <b>emergency services, homeless services, and street repairs</b> by imposing business tax rates of <del>.075% .06%</del> to <del>1.34% .75%</del> of gross receipts, and other rates as stated, until repealed by voters, be adopted?  [FINAL BALLOT QUESTION SUBJECT TO CITY ATTORNEY APPROVAL]	<b>Yes</b>	
	<b>No</b>	

# Oakland Revenue Options Likely November 2020 Voter Survey

Conducted May 20<sup>th</sup> to 21<sup>st</sup>, 2020



David Binder Research



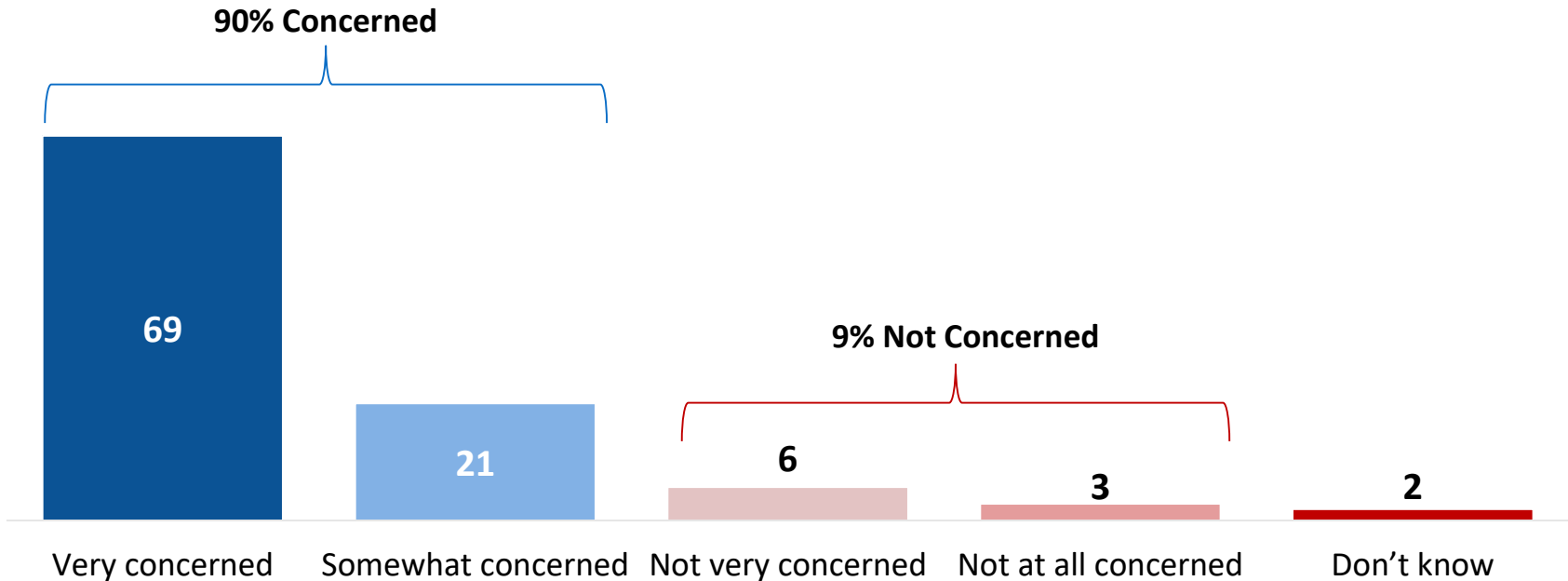
# Methodology

- David Binder Research conducted 400 interviews from May 20<sup>th</sup> to 21<sup>st</sup>, 2020.
- Qualified participants: Likely November 2020 registered voters in the City of Oakland.
  - Voted in 11/08 or any election since, registered to vote after 11/18.
- A hybrid methodology was utilized, with interviews conducted by telephone (cell phone and landline) and online using text-to-web and voter file emails.
- The total margin of sampling error is  $\pm 4.9\%$  at the 95% confidence level.

*Note: Results may not add to 100 due to rounding.*

# Nearly all voters are concerned Oakland will make cuts to services over the next year.

How concerned are you that the City of Oakland will need to make cuts over the next year to schools, health care clinics, and other essential government services?



## Measure Language: We tested two version of the same measure. Difference in text are red.

### Version A

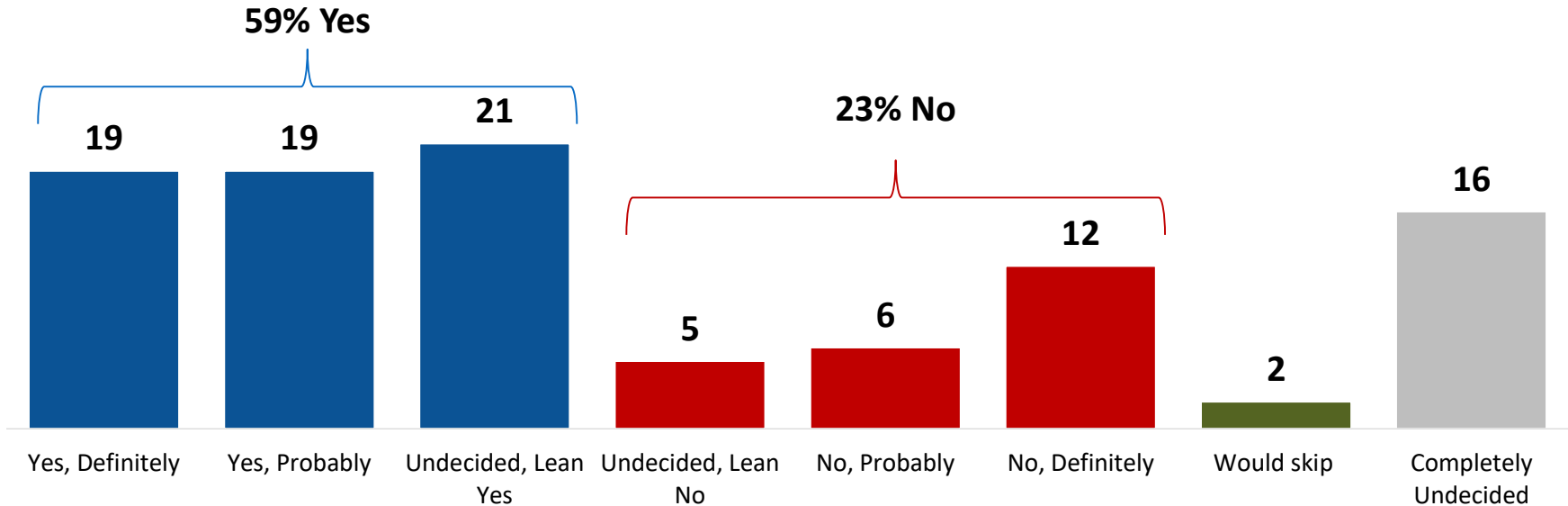
Shall a measure amending the City of Oakland's business tax to create a progressive rate structure imposing the highest rates on businesses with the most gross revenue; exempt **business with less than \$250,000 in gross revenue**; repeal the five-year business tax exemption for new buildings; and generate approximately **\$48,000,000 in annual revenue** in perpetuity for general municipal services, by imposing the business tax at rates ranging from **0.075% to 1.34%** of gross receipts, and other rates as stated, be adopted?

### Version B

Shall a measure amending the City of Oakland's business tax to create a progressive rate structure imposing the highest rates on businesses with the most gross revenue; exempt **business with less than \$500,000 in gross revenue**; repeal the five-year business tax exemption for new buildings; and generate approximately **\$28,000,000 in annual revenue** in perpetuity for general municipal services, by imposing the business tax at rates ranging from **0.075% to 0.65%** of gross receipts, and other rates as stated, be adopted?

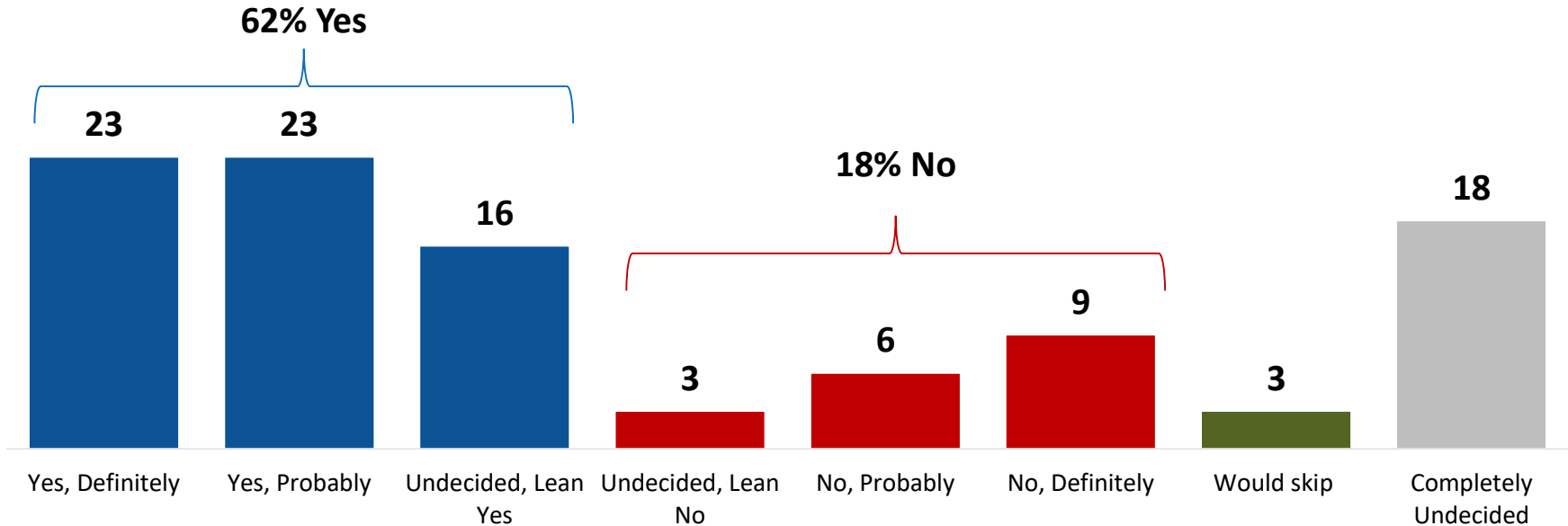
## Version A (\$48M): About 60% support the measure; 19% say 'definitely yes'.

Shall a measure amending the City of Oakland's business tax to create a progressive rate structure imposing the highest rates on businesses with the most gross revenue; exempt business with less than \$250,000 in gross revenue; repeal the five-year business tax exemption for new buildings; and generate approximately \$48,000,000 in annual revenue in perpetuity for general municipal services, by imposing the business tax at rates ranging from 0.075% to 1.34% of gross receipts, and other rates as stated, be adopted?



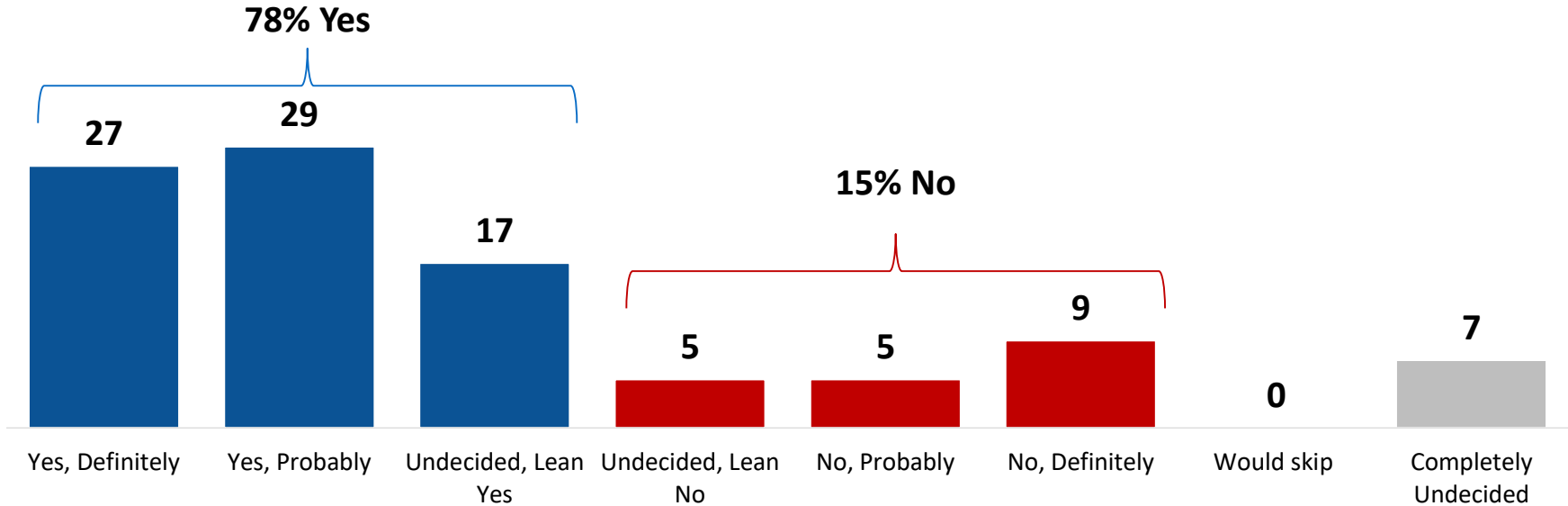
## Version B (\$28M): Just over 60% support the measure; 23% are 'definitely yes'.

Shall a measure amending the City of Oakland's business tax to create a progressive rate structure imposing the highest rates on businesses with the most gross revenue; exempt business with less than \$500,000 in gross revenue; repeal the five-year business tax exemption for new buildings; and generate approximately \$28,000,000 in annual revenue in perpetuity for general municipal services, by imposing the business tax at rates ranging from 0.075% to 0.65% of gross receipts, and other rates as stated, be adopted?



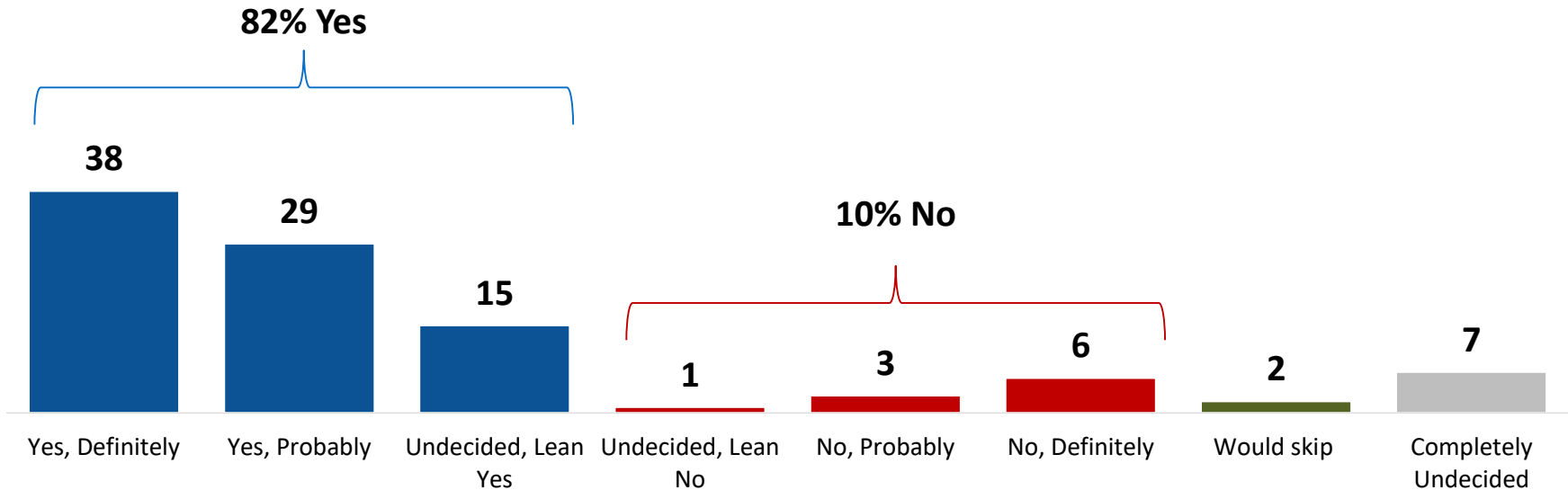
# Version A (\$48M): Over three-quarters support the higher revenue option after a simple explanation of the measure.

This measure would change the way businesses are taxed on the revenue they receive, known as a gross receipts tax. Currently, all businesses in Oakland are charged the same tax rate, no matter how much revenue they receive. This measure would revise the system to create a progressive tax structure, where the tax rate is higher for businesses receiving the most revenue, with the highest rate reserved for businesses making over \$50 million in revenue per year. Businesses with revenue below \$250,000 would pay no gross receipts taxes. The City of Oakland would receive \$48 million annually in new revenue to fund city services, such as public safety, street repair, and park maintenance.



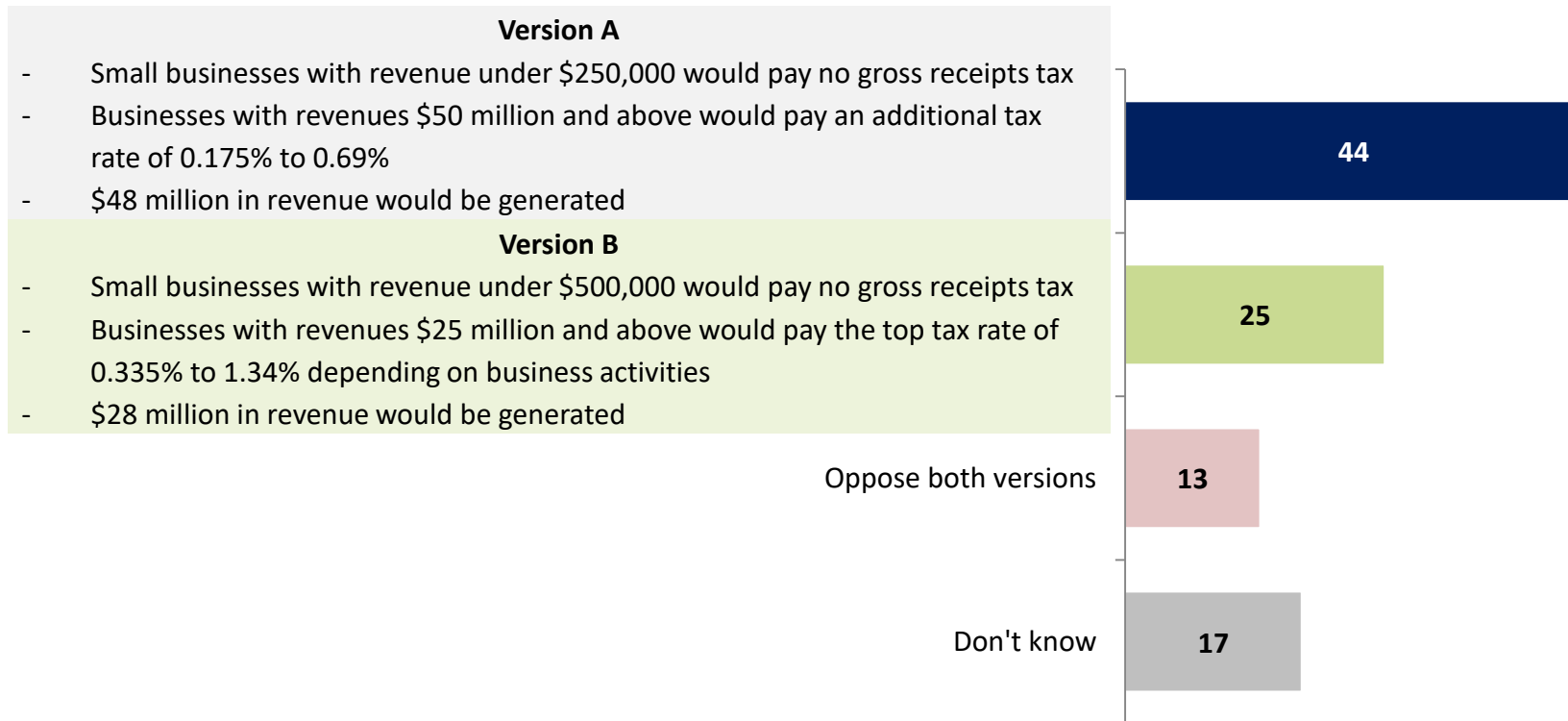
## Version B (\$28M): Over 80% support the second version after the short explanation.

This measure would change the way businesses are taxed on the revenue they receive, known as a gross receipts tax. Currently, all businesses in Oakland are charged the same tax rate, no matter how much revenue they receive. This measure would revise the system to create a progressive tax structure, where the tax rate is higher for businesses receiving the most revenue, with the highest rate reserved for businesses making over \$25 million in revenue per year. Businesses with revenue below \$500,000 would pay no gross receipts taxes. The City of Oakland would receive \$28 million annually in new revenue to fund city services, such as public safety, street repair, and park maintenance.



# At the very end of the survey, voters chose between the two versions. 44% chose Version A (\$48M), with 25% choosing Version B (\$25M).

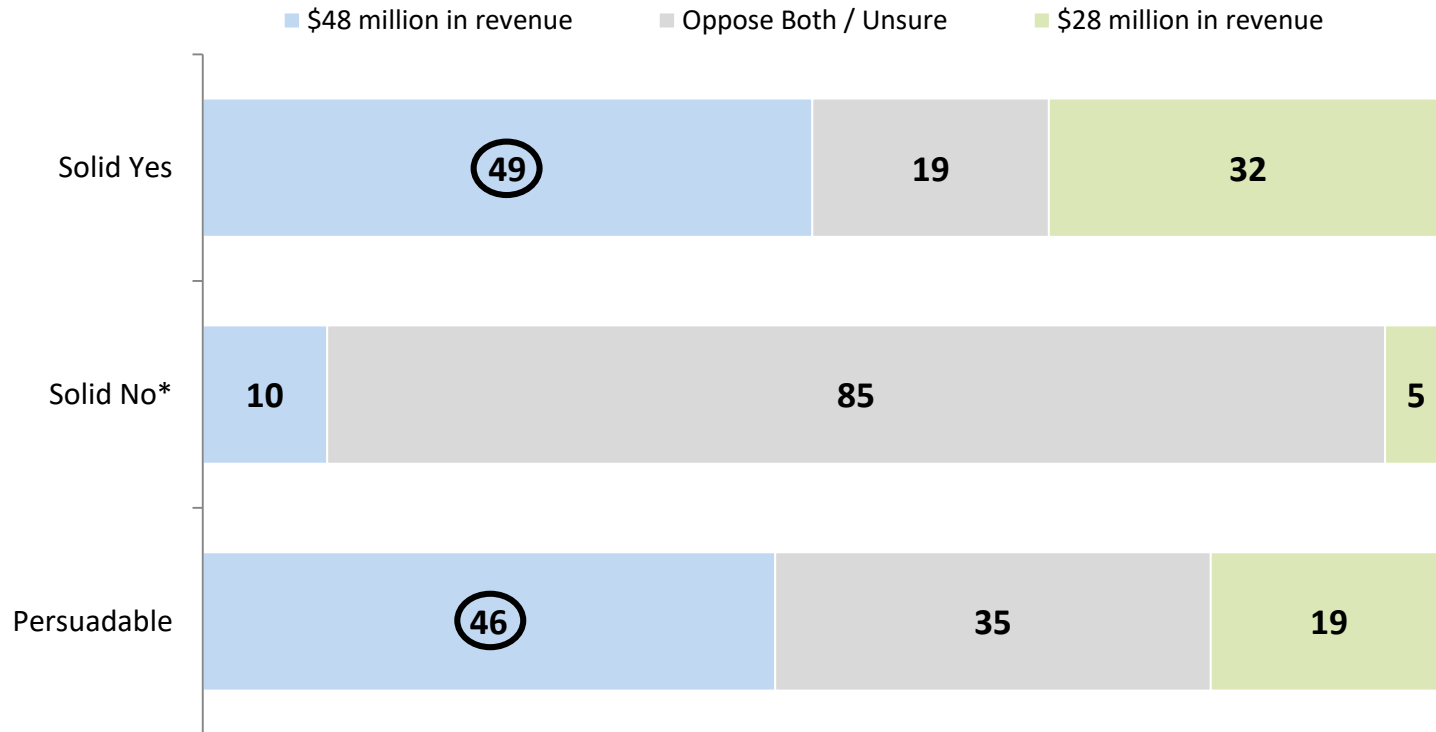
There are multiple potential versions of this ballot measure. Of the following two choices, which would you prefer?





# Persuadable voters are more likely to prefer the version that yields \$48 million in revenue.

Version Preference, by Voter Movement



**Both versions end – after details and a series of arguments – at similar level of support.**

**Voter Movement: Version A (\$48M)**

	Yes	No	Undecided/ Skip	Net Yes
Q8. VOTE 1: Initial Vote	59	23	18	+36
Q9. VOTE 2: After Info	74	19	7	+55
Q31. VOTE 3: After Details	73	17	10	+56
Q42. VOTE 4: After Messages	75	17	7	+58
<b>CHANGE, VOTE 1 to VOTE 4:</b>	<b>+16</b>	<b>-6</b>	<b>-11</b>	<b>+22</b>

**Voter Movement: Version B (\$28M)**

	Yes	No	Undecided/ Skip	Net Yes
Q8. VOTE 1: Initial Vote	62	18	20	+44
Q9. VOTE 2: After Info	82	10	8	+72
Q31. VOTE 3: After Details	75	12	13	+63
Q42. VOTE 4: After Messages	78	11	11	+67
<b>CHANGE, VOTE 1 to VOTE 4:</b>	<b>+16</b>	<b>-7</b>	<b>-9</b>	<b>+23</b>

# Word Clouds: Yes

In a few words, for what reason did you vote the way you did?

## Among Yes Voters



### Solid Yes

"I think this is a more equitable way of getting taxes than a flat rate. If businesses are here, it is because of local talent and general environment and business relationships they already have." White, Female, 31, Progressive Democrat, Dist 5 (Gallo), Solid Yes, Definitely

"Because it is the right thing to do. No business should be making excess profits while small businesses and our community suffers." White Female, 29, Progressive Democrat, Dist 1 (Kalb), Solid Yes, Definitely

### Yes Movers

"The city of Oakland needs to utilize their resources to fix the homeless and crime issue within it's bound. If taxing larger revenue generating companies and leaving smaller companies out of the tax is necessary, then I would lean towards this issue." API Male, 25, Moderate Democrat, Dist 1 (Kalb), No Probably to Yes Probably

"Even though Oakland is reckless and irresponsible with its tax revenue, I like the elimination of taxes for small businesses. Oakland needs to help small businesses since Oakland foot traffic is already lower than neighboring cities." Latino Male, 31, Liberal Democrat, Dist 1 (Kalb), No, Definitely to Lean Yes

"Rich need to pay their fair share." Black Female, 56, Moderate Democrat, Dist 5 (Gallo), Completely Undecided to Yes, Definitely