



Office of the Mayor

CONSENT CALENDAR  
May 1, 2018

To: Honorable Mayor and Members of the City Council

From: Mayor Jesse Arreguín  
Councilmember Linda Maio  
Councilmember Sophie Hahn

Subject: Support the Alameda County Child Care and Early Education Initiative

RECOMMENDATION

Adopt a Resolution supporting the Alameda County Child Care and Early Education Initiative (Measure A), a countywide ballot measure for the June 5, 2018 Primary that would raise the sales tax by 0.5% to provide funding for childcare and preschool for low and middle income families and services for homeless and at-risk children.

BACKGROUND

Only 44% of children in Alameda County entered kindergarten fully ready for school, according to a 2016 report by School Readiness in Alameda County. According to the California Child Care Portfolio, 69% of children with working parents do not have access to a space in licensed child care or early education. The average cost of full-time infant care is \$15,435 annually, more than tuition to UC Berkeley. Additionally, child care and early education providers do not receive enough income, with 75% worried about being able to pay their monthly bills according to the Center for the Study of Child Care Employment.

In February 2018, the Alameda County Board of Supervisors approved placing on the June 5, 2018 county ballot a tax measure that would raise sales tax by 0.5%, to be sunsetted in 30 years. The Alameda County Child Care and Early Education Initiative, or Measure A, would raise an estimated \$140,000,000 annually. A two-thirds vote is needed to pass.

The Measure has two main components. First, it would establish the Alameda County Child Care and Early Learning Scholarship program, creating thousands of scholarships to families for childcare and early education. It will do so in four parts:

1. Providing child care and early education and additional supports for homeless families and children, and those who need it most.
2. Reducing child care and early education waiting lists, especially for infants and toddlers.
3. Directing additional resources to address local needs based on qualified families.

4. Re-establish a centralized eligibility list for more equitable access to new and existing scholarships.

The second component is a general improvement in quality and increase in wages. Specifically, it will do the following:

1. Increase the quality of child care and early education by expanding programs that provide training and coaching for the early childhood workforce.
2. Raise early educator pay to at least \$15 per hour for participating providers, and address other work supports.
3. Assist in attracting and retaining quality child care and early education providers.
4. Improve mental health and parent, family, friend and neighbor support services.
5. Expand and maintain high quality early childhood environments and facilities.

The first component will be allocated 59% of the funds received, and the second component 38%. 3% will be spent on evaluation and reserves. A five year planning cycle with an independent citizen's oversight committee will ensure trenchancy.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

No environmental impacts.

CONTACT PERSON

Mayor Jesse Arreguín      510-981-7100

Attachments:

- 1: Resolution
- 2: Ordinance of Initiative

RESOLUTION NO. ##,###-N.S.

SUPPORT OF THE ALAMEDA COUNTY CHILD CARE AND EARLY EDUCATION  
INITIATIVE (MEASURE A)

WHEREAS, the children of Alameda County are our future and will provide the leadership, creativity, and productivity to strengthen and sustain the quality of life in our County; and

WHEREAS, research shows that a child's brain develops most dramatically during the first five years of life. And this critical period is a window of opportunity to lay the foundation for all the years that follow; and

WHEREAS, in 2016, only 44% of children in Alameda County entered kindergarten fully ready for school, according to a report by School Readiness in Alameda County; and

WHEREAS, 69% of children with working parents do not have access to a space in licensed child care or early education according to the California Child Care Portfolio; and

WHEREAS, the average cost of full-time infant care is \$15,435 annually, more than tuition to UC Berkeley; and

WHEREAS, according to the Center for the Study of Child Care Employment, 75% of child care and early education workers are worried about being able to pay their monthly bills in part due to low wages; and

WHEREAS, the Alameda County Child Care and Early Education Initiative, also known as Measure A, is a countywide ballot measure on the June 5, 2018 Primary Election; and

WHEREAS, Measure A will increase sales tax by 0.5% for 30 years, raising an estimated \$140,000,000 annually for services in child care and early education; and

WHEREAS, Measure A will provide additional support for high quality child care and early education services to low and middle-income children and families in Alameda County and to improve wages for participating child care providers and early educators so that they can earn at least \$15 per hour.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby supports the Alameda County Child Care and Early Education Initiative.

ORDINANCE NO. 2018-\_\_

**THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA**

AN ORDINANCE OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, ADDING ARTICLE VI TO CHAPTER 2.08 OF THE ALAMEDA COUNTY ORDINANCE CODE, IMPOSING A TRANSACTIONS AND USE TAX FOR THE PURPOSE OF PROVIDING ADDITIONAL SUPPORT FOR HIGH QUALITY CHILD CARE AND EARLY EDUCATION SERVICES FOR LOW- AND MIDDLE-INCOME CHILDREN AND FAMILIES IN ALAMEDA COUNTY AND TO IMPROVE WAGES FOR CHILD CARE PROVIDERS AND EARLY EDUCATORS WHO PROVIDE THESE SERVICES.

WHEREAS, the children of Alameda County are our future and will provide the leadership, creativity, and productivity to strengthen and sustain the quality of life in our County; and

WHEREAS, research shows that a child's brain develops most dramatically during the first five years of life, and this critical period is a window of opportunity to lay the foundation for all of the years that follow; and

WHEREAS, children need access to quality early educators and child care programs that will give them the very best start in life during this critical period of their development; and

WHEREAS, the County of Alameda ("County") desires to provide the children living in Alameda County with every possible opportunity to be successful in school and beyond; and

WHEREAS, each student in Alameda County deserves to be supported by qualified, caring adults in safe and nurturing environments; and

WHEREAS, in 2016, only 44% of Alameda County children entered kindergarten fully ready for school, according to the most recent School Readiness in Alameda County report; and

WHEREAS, only 31% of Alameda County children with working parents have access to a space in a licensed child care or early education setting, according to the most recent California Child Care Portfolio; and

WHEREAS, child care and early education is more expensive than college, with average, full-time infant care costing more per year than tuition at the University of California Berkeley and almost three times the annual cost of California State East Bay, according to Parents and the High Cost of Child Care 2017 report; and

WHEREAS, the growing homeless population in Alameda County includes hundreds of children and their families who are not able to access quality child care and early education services; and

WHEREAS, 75% of Alameda County child care providers and early educators worry about paying monthly bills, and 54% worry about putting food on the table, as early educators' pay has not kept up with the rising cost of living in the Bay Area, according to a 2016 report from Center for the Study of Child Care Employment; and

WHEREAS, low compensation and limited work supports disproportionately affect low-income women, as early educators are almost exclusively female, with large numbers of older women, women of color, recent immigrants, and first-generation college students and mothers; and

WHEREAS, low compensation of early educators drives turnover and hampers the ability to attract and retain skilled educators, which in turn undermines stable, continuous relationships essential to children; and

WHEREAS, in 2016-17, the state of California only reimbursed providers on average less than 70% of the true cost of providing high-quality preschool for 3- and 4-year-olds, per child per year, according to the 2016 San Francisco Office of Early Care and Education Comprehensive Fiscal Analysis; and

WHEREAS, a study by Nobel Laureate Economist James Heckman shows that investing in high quality early education yields a high return on investment up to 13%, or \$8.2 billion over 10 years for the new local investment proposed in this Ordinance; and

WHEREAS, the Board of Supervisors deems it necessary and essential to approve a 30-year transactions and use tax to provide additional support for high quality child care and early education services to low- and middle-income children and families in Alameda County and to improve wages for participating child care providers and early educators so that they can earn at least \$15 per hour;

NOW, THEREFORE, the Board of Supervisors of the County of Alameda ordains as follows:

SECTION I

Chapter 2.08, Article VI (Sections 2.08.300 through 2.08.319) of the Alameda County Ordinance Code is added as follows:

Article VI – Child Care and Early Education Tax

**2.08.300 Title.**

A. This article shall be known as the child care and early education tax ordinance. The tax described in this article shall be referred to as the child care and early education tax (the “tax”).

B. This article shall be applicable throughout the incorporated and unincorporated territory of Alameda County, California (the “county”).

C. The goals of expenditures from the proceeds of the tax shall be:

(1) That Alameda County’s children are prepared to succeed in kindergarten and later life and live in stable, safe and supported families and communities;

(2) That Alameda County is a family-friendly county and to support families as an important part of the county’s population and civic culture;

(3) To focus on the prevention of problems, including the reduction of child abuse and neglect, and on supporting and enhancing the strengths of children and their families;

(4) That providers who serve and educate our County’s children are able to be financially stable, supported in their work, and provide for their own families;

(5) That children and youth with the highest needs receive maximum benefit from the proceeds of the tax and that equity is a guiding principle of the funding process;

(6) That collaboration among public agencies and community-based organizations around shared outcomes among all service providers for children and their families will be strengthened; and

(7) That children are provided with developmentally appropriate, gender-responsive and culturally-competent services.

**2.08.301 Restricted uses of the tax.**

A. Proceeds from this tax shall be deposited into the county treasury in a special fund entitled “child care and early education tax fund” (the “fund”).

B. Monies deposited into the fund, together with any interest that accrues thereon, shall be used exclusively to provide high quality child care and early education services to benefit low- and middle-income children and families in Alameda County and to improve

wages for child care providers and early educators who provide these services, as described below in this section.

C. In each year during the term of this article, one-hundred percent (100%) of revenue from this tax shall be allocated by the board of supervisors based on the demonstrated unmet child care and early education needs and the county's commitment to a geographically dispersed network of child care and early education providers, for any of the following purposes:

1. To increase access to affordable, high quality child care and early education services for low and middle income children from birth through 12 years of age, especially for children who are homeless and have other high priority needs;
2. To improve and maintain the quality of new and existing child care and early education services throughout the county; or
3. To improve the wages and benefits of child care providers and early educators who provide these services.

D. Proceeds from this tax may not be used to replace the funding level for direct services established in the fiscal 2016-2017 County of Alameda budget to support child care and early education services, unless the state, federal or other non-county sources of such funding levels have been reduced by the same amount.

E. Proceeds from this tax may not be used for kindergarten through grade 12 (K-12) school day services except for the purpose of expanding transitional kindergarten eligibility to additional four-year old children.

F. This article is not intended to alter any family child care providers' existing independent business owner status, and shall not be construed to classify family child care providers or early educators as county employees.

#### **2.08.302 Citizen oversight committee.**

A. Upon enactment of this article, the board of supervisors shall establish and appoint a citizen oversight committee.

B. The citizen oversight committee shall annually review the expenditure of the child care and early education tax fund for the prior year and shall report to the board of supervisors on the conformity of such expenditures to the purposes set forth in Section 2.08.301.

#### **2.08.303 Planning and advisory council.**

The board of supervisors will designate an entity whose members have expertise in early child care and education, such as the Alameda County Early Care and Education Planning Council (California Education Code sections 8499.3 *et seq.*) or a similar entity, to act as the planning and advisory council for the fund.

**2.08.304 Child care and early education program implementation.**

The Alameda County Children and Families First Commission, known as “First 5 Alameda County,” was created as a legal public entity separate from the county in Chapter 2.130 of the Administrative Code. First 5 Alameda County or a similar entity will be identified by the board of supervisors as the entity to implement the program that will be established by the board of supervisors for the expenditure of the tax. The board of supervisors shall have the right and discretion to select a different entity or to identify additional entities to implement the program or portions of it.

**2.08.305 Operative date.**

“Operative date” means the first day of the first calendar quarter commencing more than one hundred and ten (110) days after adoption of this article.

**2.08.306 Enactment of retail transaction and use tax.**

A. This article is adopted to achieve the following general purposes:

1. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 and of Sections 7285.5 and 7292.2 of Part 1.7 of Division 2 of the California Revenue and Taxation Code that authorize the county to adopt this article, and such tax shall be operative if a two-thirds majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose;
2. To enact a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the state of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the California Revenue and Taxation Code;
3. To enact a retail transactions and use tax ordinance that imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization and State Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization and Department of Tax and Fee Administration in administering and collecting the California sales and use taxes; and
4. To enact a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon each person subject to taxation under the provisions of this article.

B. The provisions of this article shall be interpreted in order to accomplish the purposes that are set forth in this section.



**2.08.307 Contract with state.**

Prior to the operative date, the county shall contract with the California State Board of Equalization, the California Department of Tax and Fee Administration, or other appropriate state agency, to perform all functions incident to the administration and operation of this article; provided that, if the county shall not have contracted with the appropriate state agency prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

**2.08.308 Transactions tax rate.**

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated and unincorporated territory of Alameda County at the rate of one-half of one percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this article.

**2.08.309 Place of sale.**

A. For purposes of this article, all retail sales are consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer or his or her agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made.

B. In the event a retailer has no permanent place of business in the state of California or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization and State Department of Tax and Fee Administration.

**2.08.310 Use tax rate.**

An excise tax is hereby imposed on the storage, use or other consumption in the incorporated and unincorporated territory of Alameda County of tangible personal property purchased from any retailer on and after the operative date of this article for storage, use or other consumption in said territory at the rate of one-half of one percent of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

**2.08.311 Incorporation of provisions of state law.**

Except as otherwise provided in this article and except insofar as any provisions of this article may be inconsistent with Part 1.6 of Division 2 of the California Revenue and Taxation Code, all of the provisions of Part 1 (commencing at Section 6001) of Division

2 of the California Revenue and Taxation Code are hereby adopted and made a part of this article as though fully set forth herein.

**2.08.312 Limitations on adoption of state law and collection of use taxes.**

The following requirements shall be followed in applying the provisions of Part 1 of Division 2 of the California Revenue and Taxation Code to this article:

A. Wherever the state of California is named or referred to as the taxing agency, the name of this county shall be substituted therefor. However, said substitution shall not be made when:

1. The word "state" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Department of Tax and Fee Administration, State Treasury or the Constitution of the state of California;

2. The result of that substitution would require action to be taken by or against this county or any agency, officer or employee thereof, rather than by or against the State Board of Equalization or State Department of Tax and Fee Administration, in performing functions incident to the administration or operation of this article;

3. In those sections, including but not limited to sections referring to the exterior boundaries of the state of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property that would not otherwise be exempt from this tax, while such sales, storage, use or other consumption remain subject to tax by the state under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code; or

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property that would not be subject to tax by the state of California under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the California Revenue and Taxation Code.

B. The word "county" shall be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 and in the definition of that phrase in Section 6203 of the California Revenue and Taxation Code.

**2.08.313 Permit not required.**

If a seller's permit has been issued to a retailer under Section 6067 of the California Revenue and Taxation Code, an additional transactor's permit shall not be required by this article.

**2.08.314 Exemptions and exclusions.**

A. In addition to any other exemption or exclusion required by law, there shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the state of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from computation of the amount of transactions tax imposed by this article, gross receipts from:

1. The sale of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States or any foreign government;

2. The sale of property to be used outside the county which is shipped to a point outside the county pursuant to the contract of sale, by delivery to such point by the retailer or his or her agent or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this subsection, delivery to a point outside the county shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the California Vehicle Code, aircraft licensed in compliance with Section 21411 of the California Public Utilities Code and undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the California Vehicle Code; by a combination of registration to an out-of-county address and a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by a combination of registration to a place of business out of county and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property, if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this article;

4. The lease of tangible personal property that constitutes a continuing sale of such property for any period of time for which the lessor is obligated to lease the property for an amount that was fixed by a lease executed prior to the operative date of this article; and

5. For the purposes of subsections (B)(3) and (B)(4), the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional

right to terminate the contract or lease upon notice, regardless of whether such right is exercised.

C. There are exempted from computation of the amount of the use tax imposed by this article, gross receipts from the following storage, use or other consumption of tangible personal property:

1. Any sale that has been subject to a transactions tax under any state-administered transactions and use tax ordinance;

2. The sale of other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States or any foreign government. This exemption is in addition to the exemptions set forth in Sections 6366 and 6366.1 of the California Revenue and Taxation Code;

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract that was entered into prior to the operative date of this article;

4. If the possession of or the exercise of any right or power over the tangible personal property shall arise under a lease that constitutes a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease that was executed prior to the operative date of this article;

5. For the purposes of subsections (C)(3) and (C)(4), the storage, use, or other consumption or the possession of or exercise of any right or power over tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, regardless of whether such right is exercised;

6. Except as provided in subsection (C)(7), a retailer engaged in business in Alameda County shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into Alameda County or participates within Alameda County in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in Alameda County or through any representative, agent, canvasser, solicitor, subsidiary or person in Alameda County under the authority of the retailer; and

7. "A retailer engaged in business in Alameda County" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the California Vehicle Code, aircraft licensed in compliance with Section 21411 of the California Public Utilities Code and undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the California Vehicle Code. The retailer shall be required to collect

use tax from any purchaser who registers or licenses the vehicle or aircraft at an address in Alameda County.

D. Any person subject to use tax under this article may credit the amount of such tax against any transactions tax paid to a county or district imposing or a retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the California Revenue and Taxation Code with respect to the sale of property or the storage, use or other consumption of which is subject to the use tax.

**2.08.315 Amendment of state law.**

After the operative date of this article, all amendments to Part 1 of Division 2 of the California Revenue and Taxation Code relating to sales and use taxes that are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the California Revenue and Taxation Code and all amendments to Part 1.6 and Part 1.7 of Division 2 of the California Revenue and Taxation Code, shall automatically become a part of this article; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by this article.

**2.08.316 Enjoining of collection forbidden.**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the state or the county, or against any officer of the state or the county, to prevent or enjoin the collection under this article or Part 1.6 of Division 2 of the California Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

**2.08.317 Severability.**

If any provision of this article or the application thereof to any person or circumstance is held invalid, the remainder of the article and the application of such provision to other persons or circumstances shall not be affected thereby.

**2.08.318 Savings clause.**

This article shall not be interpreted in any manner that conflicts with the laws or constitutions of the United States or the state of California.

**2.08.319 Termination of transactions and use tax.**

This article shall remain in effect only until September 30, 2048 and as of that date it shall be repealed by operation of this section unless a later ordinance is adopted prior to September 30, 2048 that shall have the effect of deleting or extending the termination date set forth herein.

SECTION II

This Ordinance, and all the provisions thereof, shall become effective only upon affirmative passage by a two-thirds majority vote of the eligible voters of this county pursuant to California Constitution, Article XIII A, section 4 and Article XIII C, section 2; California Government Code section 53722; California Revenue & Taxation Code section 7285.5; and California Elections Code section 9140.

Before the expiration of 15 days after its adoption by the Board of Supervisors, this ordinance shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on February \_\_\_\_, 2018, by the following called vote:


AYES:  
NOES:  
EXCUSED:

\_\_\_\_\_  
President of the Board of Supervisors  
County of Alameda, State of California

ATTEST:  
Clerk of the Board of Supervisors

By: \_\_\_\_\_

Approved as to form:  
DONNA R. ZIEGLER, County Counsel

By:   
Name: Faraid Kan  
Title: Deputy County Counsel