



# REGISTRAR OF VOTERS

ALAMEDA COUNTY • CALIFORNIA

TIM DUPUIS  
REGISTRAR OF VOTERS

CYNTHIA CORNEJO  
DEPUTY REGISTRAR OF VOTERS

November 25, 2019

The Honorable Board of Supervisors  
County Administration Building  
1221 Oak Street  
Oakland, California 94612

**SUBJECT: CERTIFICATION OF COUNTY INITIATIVE – CHILDREN’S HEALTH  
AND CHILD CARE INITIATIVE FOR ALAMEDA COUNTY**

Dear Board Members:

**RECOMMENDATION:**

It is recommended that your Board take one of the following three actions which are specified in sections 9111 and 9118 of the California Elections Code regarding county initiatives:

1. Adopt the proposed “Children’s Health and Child Care Initiative” without change or,
2. Place the measure on the ballot for the March 3, 2020 Presidential Primary Election; or,
3. Order a report of the effects of the measure to be presented not later than thirty days from today. Your Board would then be required to take action as stated in paragraph 1 or 2 above within 10 days of receipt of report.

**SUMMARY**

Section 9118 of the California Elections Code allows your Board to either adopt the proposed Special Tax without change or place the measure on the ballot at the Presidential Primary Election on March 3, 2020. Under Section 9111 of the California Elections Code your Board may order a report to be prepared identifying the fiscal impact of the measure, effect on the internal consistency of the County’s general and specific plans or any other matters the Board of Supervisors requests to be in the report. Such a report prepared for the Board must be presented within thirty days.

Board of Supervisors  
Certification of County Initiative –Children’s Health and Child Care Initiative for Alameda  
County  
November 25, 2019  
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**DISCUSSION/FINDINGS:**

Proponents of the Children’s Health and Child Care Initiative filed a notice of intention to circulate an initiative petition with the Registrar of Voters on August 21, 2019. A copy of the proposed measure was forwarded to County Counsel on August 21, 2019, who prepared a Title and Summary for the proposal. That Title and Summary along with the full text of the measure was printed on the petitions circulated in Alameda County. To be deemed Sufficient, the petition had to be signed by at least 57,424 registered voters of the County, that number being 10% of the total cast for Governor in the last election. The proponents filed the signed petitions with the Registrar of Voters on October 29, 2019. Staff verified that the requisite number of voters in the County of Alameda signed the petition. A copy of the full text of the proposed measure is attached to this letter.

**FINANCING:**

The net county cost for placing the measure on the ballot for the March 3, 2020 Presidential Primary Election is not known at this time. The estimated cost for placing the measure on the ballot will be \$6,000,000, and will be determined, in part, upon any future jurisdictional consolidations. All jurisdictions that will consolidate with the Presidential Primary Election will be known by December 6, 2019.

Sincerely,



Tim Dupuis  
Registrar of Voters

Attachment

cc: Susan S. Muranishi, County Administrator  
Donna Ziegler, County Counsel  
Cynthia Cornejo, Deputy Registrar of Voters

## REGISTRAR OF VOTERS CERTIFICATE TO PETITION

I, **Tim Dupuis**, Registrar of Voters for the County of Alameda, State of California, hereby certify that:  
A County Initiative Entitled: Children's Health and Child Care Initiative for Alameda County, was filed to this office for verification on October 29, 2019 and;

The petition contained 86,513 unverified signatures; and

Pursuant to California Elections Code section 9118, in order to be sufficient, the petition must have been signed by 57,424 qualified registered voters of Alameda County, that number being equal to 10 percent of the entire votes cast in the County for all candidates for Governor at the last gubernatorial election.

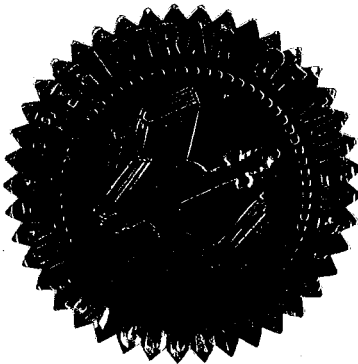
I have examined, or caused to be examined, signatures on the petition pursuant to California Elections Code sections 9211 and 9114; and

Have determined that the petition contained 57,424 valid signatures of qualified registered voters in Alameda County based on the line by line examination set forth in Section 9114 of the California Election Code and;

That this number represents the total number of signatures needed to qualify the initiative therefore;

**The petition is found to be sufficient to require the Board of Supervisors to take the appropriate action specified in the California Elections Code.**

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my official seal this 25<sup>th</sup> day of **November 2019**.



Tim Dupuis  
Registrar of Voters  
County of Alameda  
State of California

**Children's Health and Child Care Initiative for Alameda County**

RECEIVED  
Alameda County

AUG 21 2019

Reg. of Voters

The People of the County of Alameda ordain as follows:

**Section 1. Title.**

This Ordinance shall be known as the "Children's Health and Child Care Initiative for Alameda County" (the "Ordinance").

**Section 2. Findings.**

The People of the County of Alameda hereby find and declare the following:

1. 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;
2. We need to make sure our children are healthy and have the opportunity to succeed. Early education and health care are two of the most important components in attaining this goal. Children in Alameda County should receive high quality early education and high quality health care including when they are sick or injured and in the case of emergencies, so they grow into healthy and successful adults.
3. A child's health and educational advancement are essential and dependent on one another. Access to quality early education and health care are fundamental for a child's well-being. Any child lacking adequate health care is more likely to contract illnesses or have chronic medical conditions that prevent them from regularly participating in early education programs.
4. Accessibility to affordable, quality child care supports the ability of parents and guardians to earn and learn. Only 31% of Alameda County children with working parents have access to a space in a licensed child care, preschool, or early education setting, according to the most recent California Child Care Portfolio;
5. Child care, preschool, 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 University, East Bay, according to Parents and the High Cost of Child Care 2017 report;
6. 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;

7. The growing homeless population in Alameda County includes hundreds of children and their families who are not able to access quality child care, preschool, and early education services;
8. The citizens of Alameda County desire to provide the children living in Alameda County with every possible opportunity to be healthy and successful in school and beyond;
9. Each child in Alameda County deserves to be supported by qualified, caring adults in safe and nurturing environments; effective and high-quality adult-child interactions have life-long effects on a young child's potential to succeed. Research shows children engaged in warm and responsive adult-child interactions and in positive experiences demonstrate greater social competence, fewer behavior problems, and optimal development.
10. In 2017, only 44% of Alameda County children entered kindergarten fully ready for school, according to the most recent School Readiness in Alameda County report, and attendance in early care and education was found to be a leading factor preparing children for kindergarten, which in turn is associated with high school graduation, future earnings potential, global competitiveness, and general economic productivity in the United States;
11. Research from the Center for The Study of Social Policy shows that when parents are engaged as partners and leaders in the programs, services and policies that support young children's learning and healthy development, children thrive and systems improve;
12. The most effective guarantee of quality early care and education is workforce compensation. A 2014 UC Berkeley Study showed that educator wages are one of the most important predictors of the quality of education children receive;
13. The National Academy of Sciences asserts that working with children under five requires knowledge and skills as complex as those required for teaching older children;
14. 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, which disproportionately affects 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;
15. Seventy-five percent (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 the Center for the Study of Child Care Employment. One-third of full-time teaching staff in early care and education (ECE) programs use some form of public assistance to make ends meet;

16. 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. Research from the UC Berkeley Labor Center in 2019 found that as providers struggle to cover the basic costs of running an ECE business, licensed capacity has fallen, including a loss of 30% of family child care homes since 2008, and that public investment is necessary to reverse the decline in the supply of ECE providers;
17. Research from the UC Berkeley Labor Center in 2019 found that every dollar spent in ECE generates as much as \$1.88 in increased economic activity, plus an additional \$0.08 in state and local tax revenue;
18. High quality early education and access to high quality health care are important in ensuring our children have the opportunity to be successful. Children and young adults have unique physical, mental, behavioral, developmental and therapeutic needs, which warrant specialized pediatric health care services;
19. All children in need should receive high quality health care, regardless of their family income or insurance status. Fortunately, Alameda County is home to UCSF Benioff Children's Hospital, Oakland ("Children's Hospital Oakland"), which provides health care and emergency services to children in Alameda County, approximately 70 percent (70%) of whom are Medi-Cal or uninsured care patients;
20. Children's Hospital Oakland is a critical provider in the local pediatric care safety net. In 2018, Children's Hospital Oakland served a total of 79,113 patients through 9,159 inpatient admissions and 209,413 outpatient visits, including 44,723 visits to the emergency department;
21. There are only six American College of Surgeons' Level 1 pediatric trauma centers in the state, one of which is located in Alameda County;
22. Unintended injuries are the leading cause of death and hospitalization in California for children ages 16 and younger;
23. Alameda County's rates of unintended injury emergency department visits and deaths surpass national benchmarks and are increasing. Specifically, the rate of traumatic injury hospitalization among children and youth countywide is significantly higher than the benchmark;
24. Pursuant to California's Emergency Medical Services statute and regulations, a local Emergency Medical Services Agency may develop an Emergency Medical Services for Children program in its jurisdiction, contingent upon available funding;

25. The Alameda County Emergency Medical Services Agency has developed and implemented an Emergency Medical Services for Children program, engaging Children's Hospital Oakland as a key partner to ensure hospital quality improvement for hospital pediatric "day to day" readiness, injury prevention, and disaster/surge capacity; and
26. The unique needs of children and young adults must be addressed and provided for in regional disaster readiness, response and recovery planning, and maintaining appropriate facilities and staffing levels are integral to these efforts.

### **Section 3. Purpose and Intent.**

In enacting this Ordinance, it is the purpose and intent of the people of the County of Alameda to ensure that Alameda County children receive the high quality early education and health care they need to be successful adults, by:

1. Providing additional support for, and to expand access to, high quality child care, preschool, and early education services for low- and middle-income children and families in Alameda County;
2. Improving wages and compensation for participating child care providers and early educators who provide services under this Ordinance so that they can earn at least \$15 per hour;
3. Promoting wellness, kindergarten readiness, and school success;
4. Providing additional support to maintain and protect the local children's health care safety net, including the maintenance and expansion of specialized staff and facilities to treat complex illnesses and conditions, and other health issues for children and young adults without regard to insurance status or their ability to pay;
5. Providing additional support to keep open and fully staffed a local Level 1 pediatric trauma center and emergency department in Alameda County to ensure the availability of critical care to all children and young adults in the East Bay and surrounding areas; and
6. Imposing a 20-year transactions and use tax for the purpose of maintaining the local children's health care safety net, including a Level 1 pediatric trauma center, and providing child care, preschool, and early education services.

### **Section 4. Children's Health and Child Care for Alameda County Tax.**

Chapter 2.08, Article VI (Sections 2.08.300 through 2.08.322) of the Alameda County Ordinance Code is added as follows:

## Article VI – Children’s Health and Child Care for Alameda County Tax

### 2.08.300. Title.

There is growing evidence that there is an association between health and social factors, e.g., education, economic resources, neighborhood characteristics, discrimination, and residential segregation in health. By increasing funding for and coordination with child care providers, guardians, and health care practitioners we will improve health and education outcomes for all children in Alameda County.

- A. This article shall be known as the “Children’s Health and Child Care Initiative for Alameda County” (the “Ordinance”). The tax described in this article shall be referred to as the “Children’s Health and Child Care for Alameda County Tax” (the “Tax”).
- B. This article shall be applicable throughout the incorporated and unincorporated territory of Alameda County, California (the “County”).
- C. The goals for expenditures from the proceeds of the Tax shall be:
  - 1. To ensure that Alameda County’s children are healthy, live in stable, safe, and supported families and communities, and are prepared to succeed in kindergarten and later in life;
  - 2. To establish Alameda County as a family-friendly county that supports families as an important part of the county’s population and civic culture;
  - 3. To improve the economic well-being of the early education workforce and providers who educate our County’s children and the working parents of Alameda County;
  - 4. To adopt equity as a guiding principle in funding services under this Ordinance by prioritizing services to children and youth with the highest needs;
  - 5. To strengthen collaboration among public agencies and community-based organizations around shared outcomes among all service providers for children and their families;
  - 6. To improve program accessibility and administrative efficiency for parents and providers, including, where appropriate, through the use of technology;
  - 7. To improve parent engagement as the child’s first teacher and as partners and leaders in the programs, services, and policies that support young children’s learning and healthy development;



8. To provide children with developmentally appropriate, gender-inclusive, and culturally-competent services;
9. To ensure the availability of local Level 1 pediatric trauma care services and emergency care to all children and young adults in the East Bay and surrounding area; and
10. To maintain and protect the local children's health care safety net, including the maintenance and expansion of specialized staff and facilities that provide board certified pediatric and pediatric subspecialty care for the treatment of complex illnesses and conditions, and other health issues for children and young adults without regard to insurance status or their ability to pay.

**2.08.301. Restricted Uses of the Tax.**

- A. Proceeds from the Tax shall be used exclusively to keep open and fully staff a local Level 1 pediatric trauma center and emergency department in Alameda County, to maintain and protect the availability and accessibility of local health care services that are specific to the unique needs of pediatric patients, to increase access to high quality child care, preschool, and early education services to benefit low- and middle-income children and families in Alameda County, to improve wages and compensation for family child care providers and early educators who provide those services, and to support the efficient administration of Tax proceeds.
- B. Proceeds from the Tax shall be deposited into the County treasury in a special fund entitled the Children's Health and Child Care for Alameda County Fund (the "Fund"). The Fund shall be comprised of two subaccounts: the Pediatric Health Care Account, and the Child Care, Preschool, and Early Education Account. Monies deposited into the Fund, together with any interest that accrues thereon, shall be allocated among the two subaccounts as follows:
  1. Twenty percent (20%) to the Pediatric Health Care Account; and
  2. Eighty percent (80%) to the Child Care, Preschool, and Early Education Account.
- C. The uses and expenditures of monies allocated to the Pediatric Health Care subaccount shall be governed by and subject to the requirements set forth in Section 2.08.302.
- D. The uses and expenditures of monies allocated to the Child Care, Preschool, and Early Education subaccount shall be governed by and subject to the requirements set forth in Sections 2.08.303 through 2.08.307.
- E. **Audit requirement.** On an annual basis, the Board of Supervisors shall cause to have conducted an independent financial audit of the revenues and expenditures of the Fund.

The audit shall be conducted by an independent certified public accountant that is not an employee of the Alameda County, or a member of any designated administering, planning and/or advisory council formed under this Article, and shall be submitted to the Board of Supervisors and made available to the public.

**2.08.302. Pediatric Health Care Account.**

- A. In each year during the term of this article, the board of supervisors shall, in consultation with the local pediatric hospital and specialty provider representatives, expend monies from the Pediatric Health Care Account based on demonstrated need for any of the following purposes:
1. To maintain, upgrade, and expand, as needed, a Level 1 pediatric trauma center in Alameda County, and programs for training and recruiting the highly skilled personnel necessary for its effective operation;
  2. To assure the financial viability of the local children's health care safety net and its accessibility, including the maintenance and expansion of specialized staff and facilities that provide board certified pediatric and pediatric subspecialty care for the treatment of complex illnesses and conditions, and other health problems, including mental health, for children and young adults without regard to insurance status or their ability to pay; and
  3. To explore and implement innovative programs that enable pediatric and young adult patients and their families to better access pediatric health care services, and that enhance the effectiveness of such services.
- B. Monies from the Pediatric Health Care Account may be expended for the purposes set forth herein as direct grants, as contractual or program payments for services and activities, as the nonfederal share of Medicaid payments or other federal program payments through certified public expenditures or intergovernmental transfers, as reimbursement or other compensation for costs, as incentives, or through programs or other vehicles identified or developed in conjunction with the local pediatric hospital and specialty provider representatives.
- C. Monies from the Pediatric Health Care Account may not be used to replace or otherwise supplant the tax revenue funding and other county funding and payments currently provided or otherwise available in support of health care providers, including, but not limited to, County payments for indigent care services, the Essential Health Care Services Tax, the Emergency Medical Services District Special Tax, and the Maddy Emergency Medical Services Fund.
- D. The board of supervisors shall establish and appoint a citizen oversight committee upon enactment of this article. The citizen oversight committee shall annually review the

expenditures from the Pediatric Health Care Account for the prior year and shall report to the Board of Supervisors on the conformity of such expenditures to the purposes set forth in the applicable provisions of this article.

- E. Monies from the Pediatric Health Care Account shall be subject to the Union Neutrality provisions set forth in section 2.08.307.C.3., prohibiting the use of the funds to support or oppose unionization.

### **2.08.303. Child Care, Preschool, and Early Education Account.**

- A. In each year during the term of this article, one hundred percent (100%) of revenue generated by the Tax and allocated to the Child Care, Preschool, and Early Education account shall be appropriated by the Board of Supervisors for the following purposes and consistent with the Child Care, Preschool, and Early Childhood Program Plan and Budget (the "Plan"):
  - 1. To increase the number of low- and middle-income children from birth to age twelve with access to safe, nurturing, affordable, and high quality child care, preschool, and early education services across the county, with priority for children who (1) are five years of age and younger, (2) are homeless, (3) are from historically underserved communities, or (4) have other high priority needs as designated in the Plan.
  - 2. To improve the compensation and benefits of family child care providers and early educator employees who provide services under this Ordinance, by providing rate increases and enhancements to participating providers to support the wage requirements set forth in this Ordinance.
  - 3. For reasonable expenditures for the efficient administration of the Child Care, Preschool, and Early Education account, including the obligations imposed by this Ordinance, by the Administering Agency. The Administering Agency may reserve funds to address anticipated fluctuations in revenue.
- C. Proceeds from the Tax allocated to the Child Care, Preschool, and Early Education account 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.
- D. Proceeds from the Tax allocated to the Child Care, Preschool, and Early Education account may not be used to replace the funding level for direct services established in the Fiscal Year 2018-2019 Alameda County budget or the First 5 Alameda County budget to support child care, preschool, and early education services, unless state, federal or other non-county funding earmarked for these purposes have been reduced by the same amount.

**2.08.304. Community Advisory Council.**

- A. Within forty-five (45) days of the Effective Date of this Ordinance, the Board of Supervisors shall establish a Child Care, Preschool, and Early Education Community Advisory Council (the "Council").
- B. The Council shall be composed of eleven members, including:
1. Two members of the child care workforce, one of whom is a worker from an early care and education center who works in the classroom, and one of whom is a family child care provider. At least one of these two shall be a member of a union;
  2. Two parents and/or guardians, at least one of whom must have experience participating in a subsidized program or subsidy wait list;
  3. Two employees or representatives of Alternative Payment agencies;
  4. Two administrators and/or directors from an early care and education center participating in a subsidized child care program in the County, at least one of whom is an administrator or employee of a public agency; and
  5. Three discretionary members, who may include but are not limited to representatives of the Alameda County Office of Education, higher education, parents, public agencies, and labor unions.
- C. The child care workers, parent or guardians, and one representative from an Alternative Payment agency shall be appointed by the Board of Supervisors and the remaining six members shall be appointed by the Alameda Early Care and Education Planning Council (or its successor agency). Members shall be appointed to the Council no later than July 1, 2020.
- D. Council members shall serve a four-year term, with the exception of the first class of members, five of whom shall serve a two-year term as determined by lottery at the first meeting of the Council with the remainder serving a four-year term. No member may serve on the Council for more than twelve consecutive years.
- E. The Council shall develop policy and programmatic recommendations related to the Child Care, Preschool, and Early Education account and its implementation, including but not limited to:
1. Recommendations to the Administering Agency about the Plan and Annual Expenditure Plan;
  2. Initiatives to improve the quality and capacity-building of service providers;

3. Initiatives to evaluate and improve the administration of programs, particularly including through the use of technology to streamline and integrate services; and
  4. Strategies to enhance community engagement in the planning and implementation of services.
- F. The Council shall promote and facilitate transparency in the administration of the Child Care, Preschool, and Early Education account, including opportunities for public testimony and a community engagement process with parent, provider and early educator organizations and other stakeholders to receive input and support robust involvement on program development and implementation.
- G. The Council shall annually review the audit of the Child Care, Preschool, and Early Education account for the prior year.

**2.08.305. Administering Agency for Child Care, Preschool, and Early Education Account.**

- A. The Alameda County Children and Families First Commission, known as "First 5 Alameda County," which was created as a legal public entity separate from the county in Chapter 2.130 of the Administrative Code, shall serve as the "Administering Agency" to develop, administer, and implement all of the programs and services paid for by the Child Care, Preschool, and Early Education account. The Board of Supervisors may terminate First 5 Alameda County and select a different entity as the Administering Agency. If this occurs, then the authority exercised by First 5 Alameda County under this Ordinance shall be exercised by the successor Administering Agency.
- B. The Administering Agency shall be responsible for:
1. Developing the Plan and Annual Expenditure Plan as set forth in section 2.08.306;
  2. Allocating funds pursuant to the Annual Expenditure Plan;
  3. Developing, implementing, administering, and overseeing all programs and services paid for by the Child Care, Preschool, and Early Education account;
  4. Providing staff support for the Council;
  5. Developing the Program Plan Evaluation set forth in section 2.08.307(D);
  6. Operating with the intention to promote transparency and public accountability, and maintain good fiscal stewardship of public resources.
  7. Awarding funds pursuant to the contracting requirements applicable to First 5 Alameda County and the requirements of this Ordinance.

- C. The Administering Agency shall have authority, at any time, to reduce the level of service provided for in the Plan or in the Annual Expenditure Plan to respond to reduced revenues generated from the Tax.

**2.08.306. Child Care, Preschool, and Early Education Program Plan and Budget and Annual Expenditure Plan.**

- A. The Administering Agency, in collaboration with the Council, shall develop the Child Care, Preschool, and Early Education Program Plan and Budget ("Plan"), including an annual budget, on a five-year cycle to govern the use of funds allocated to the Child Care, Preschool, and Early Education account. The Plan shall be designed to meet the respective needs of regions throughout the County with respect to increasing, improving and maintaining access to quality early care and education for families and children and improving workforce compensation. The Plan shall be approved by First 5 Alameda County Commission, if First Five Alameda County is the Administering Agency, and the Board of Supervisors. The Board of Supervisors shall appropriate funds necessary to carry out the Plan budget on an annual basis.
- B. The Plan shall increase access to child care, preschool, and early care services by increasing the number of subsidized and enhanced spaces/slots to serve children.
- C. The Plan shall ensure that rates align with the costs of providing high quality child care services and provide for improved wages for child care providers and early educators. The Plan may include programs that address early care and education workforce wages, including, but not limited to:
  - 1. maintaining and enhancing the quality of participating early care and education settings;
  - 2. mitigating wage compression;
  - 3. moving toward the goal of parity with public K-12 educators with similar experience and responsibilities;
  - 4. developing a comprehensive training and professional development system, including support for educational advancement and degree attainment;
  - 5. improving compensation and quality supports for participating family, friend and neighbor providers; and
  - 6. providing other work supports and benefits.
- D. The Plan shall include provisions supporting professional development, and shall set forth best practices and improved outcomes for children and families. The Plan may include programs to improve the efficiency and accessibility of early care and education services in

the County, and to streamline the administration of the program for parents and providers, including, but not limited to:

1. technology and data systems to promote and monitor the effectiveness of the initiative, integrate information on subsidies, quality and the early care and education workforce, including the development of a centralized eligibility list;
2. retaining, improving and expanding early care and education facilities;
3. early education system enhancements and comprehensive systems building;
4. community education and rights; and
5. developing parent leadership and parent engagement and networking.

E. The Plan shall describe program requirements, including the specific projects and purposes for which the monies allocated to the Child Care, Preschool, and Early Education account may be expended. The Plan shall align with and respond to emerging developments in state and/or federal early care and education programs, policy, and research.

F. The Administering Agency shall, when developing the Plan, consider the findings of the Alameda County Early Care and Education Planning Council's Needs Assessment and Priorities for Funding Unmet Need as submitted to California Department of Education and similar reports as required by the California Department of Education. The planning process shall also consider the Alameda Quality and Improvement Regional Data Report and the California Department of Education Kindergarten enrollment data available by English Language Acquisition Status (ELAS) as well as homeless data, foster care data, and the First 5 Strategic Plan and other pertinent data reports.

G. On an annual basis, the Administering Agency shall prepare an Annual Expenditure Plan ("Annual Expenditure Plan") based on the recommendations of the Council and other community input. The Annual Expenditure Plan shall be shared with the Alameda County Early Care and Education Planning Council, or its successor, and shall be approved by the First 5 Alameda County Commission.

H. Every fourth year of the Plan, a new Plan shall be developed by the Administering Agency, with input from the Council and other community stakeholders.

#### **2.08.307. Implementation of Child Care, Preschool, and Early Education Account.**

A. **Program Provider Requirements.** All entities that receive funds under Sections 2.08.303 through 2.08.307 of this Ordinance must pay all early educator employees, including family child care assistants, at least fifteen dollars (\$15) per hour, to be adjusted annually on January 1, beginning in 2022, by the San Francisco-Oakland-Hayward Consumer Price Index (CPI) or the percentage increase in revenues raised during the previous calendar

year by the Tax, whichever is less ("Adjustment for Inflation"). This is the minimum wage irrespective of whether the entity offers benefits, and the entity may not reduce total compensation paid to any early educator employee prior to receipt of funds under this Ordinance. It is the intent of this Ordinance that the Administering Agency will set rates for participating providers sufficient for those providers to pay early educator employees, including family child care assistants, at least \$15 dollars per hour plus Adjustment for Inflation. It is the intent of this Ordinance that the Administering Agency will set rates for participating family child care providers sufficient for those family child care providers to earn compensation that is equivalent, as determined in the Plan, to an hourly wage of at least \$15 per hour plus Adjustment for Inflation. If, at the end of any fiscal year, the proceeds of the Tax decline, the requirements in this subdivision that the minimum wage be adjusted annually by CPI and that no reduction in total compensation occur shall not apply for the following calendar year, provided that any reduction in total compensation shall not exceed the decline in the proceeds of the Tax allocated to the Child Care, Preschool, and Early Education account.

**B. Orientation and Training of Early Educators.**

1. In order to ensure that participating child care and early education program staff understand the new programs, are informed about their rights, and best serve the interests of Alameda County families and children, the Administering Agency, or a third party contracted by the Administering Agency, shall convene regular, in-person, orientation sessions with program staff of providers of services under this Ordinance on at least a bi-annual basis. All entities that receive funding under the Ordinance will be required to have their program staff attend an informational orientation session, as established by the Plan. Program staff required to attend includes, but is not limited to, family child care providers, their assistants, family friend and neighbor providers, and center early education staff. For participating employers that are unable to document full participation of program staff, information may be shared in alternative formats on a case-by case basis. Effort will be made to ensure that this information will include program overview, quality and other guidelines, and information on other county-related resources and programs. Orientation and training are not intended to deter participation by providers in these Ordinance-funded activities.
2. The Orientation and training provided under this subsection shall also include presentations of not less than 30 minutes, by qualified professional early childhood education organizations and other stakeholders with goals, missions, or resources related to the Ordinance's goals, including training and professional development. Qualified professional organizations will be required to meet minimum criteria, including having non-profit status, connecting early educators to professional development and training opportunities, and improving the ability of early educators to advocate for improvement to the child care system. Qualified professional organizations shall receive not less than 10 days' notice in advance of the occurrence of the orientations and trainings. Attendance sheets for



orientation sessions and qualifying staff rosters will be made available twice per year upon request in order to allow qualified professional organizations to ensure participation.

C. **Worker Organization, Payroll Deduction, and Data Collection.**

1. To enhance child care providers and early educators' ability to advocate for improvement to the child care system and to connect educators to professional development, training opportunities, and peer mentorship and support, the entities with which the Administering Agency contracts or which pay providers under the Ordinance shall honor voluntary requests, including electronic requests, submitted by early education employees and family child care providers to contribute to a professional or labor organization of their choosing via payroll deduction from payment they receive, and shall transmit such deducted amounts to the relevant organization. The Administering Agency and entities with which it contracts or which pay providers under the Ordinance shall notify and inform early educators and family child care providers of the opportunity to request payroll deductions to professional or labor organizations as described in this section. Professional or labor organizations will be required to meet minimum criteria, including non-profit status, connecting early educators to professional development and training opportunities, and strengthening the ability of early educators to advocate for improvement to the child care system.
2. **Data Collection.** The Administering Agency, with input from the Council, shall develop data collection strategies in the Plan. These strategies shall be designed to support Plan transparency, program evaluation, design and decision-making, as well as the following goals:
  - a. increasing access to quality subsidies and slots;
  - b. increasing wages and compensation;
  - c. improving retention of early care and education staff; and
  - d. improving the professional development and advancement of early educators.

As part of the data collection strategy, employers participating in the Program will be expected to provide information to the Administering Agency as part of the initial application and evaluation process. This will include, but will not be limited to, data related to employees, wages, retention, training, and compliance with relevant laws. Specifically, participating employers will submit: the total number of employees, a list of employee job titles and associated pay rates, updated on at least an annual basis, and a self-certification to report any violations of applicable federal, state or local rules, regulations or laws, including laws governing employee

safety and health, labor relations and other employment requirements, and any citations, court findings or administrative findings for violations of such federal, state or local rules, regulations or laws. In the case where the employer has violated aforementioned laws or regulations, the employer shall disclose the date, enforcement agency, the rule, law or regulation involved, and any additional information the Administering Agency requires to be submitted. The intent of this data collection is not to discourage participation in the Program.

**3. Union Neutrality.**

- a. Monies from the Child Care, Preschool, and Early Education account shall not be used to support or oppose unionization, including, but not limited to:
  - i. preparation and distribution of materials which advocate for or against unionization;
  - ii. hiring or consulting legal counsel or other consultant to advise the contractor about how to assist, promote or deter union organizing or how to impede a union which represents the contractor's employees from fulfilling its representational responsibilities;
  - iii. holding meetings to influence employees about unionization; planning or conducting activities by supervisors to assist, promote, or deter union activities; or
  - iv. defending against unfair labor practice charges filed with federal or state enforcement agencies.
- b. Participating employers are prohibited from retaliating against early educators for participating in or contributing to a professional or labor organization. Violation of this provision shall constitute an immediate breach of contract.

**D. Program Plan Evaluation.** During the implementation period of each Plan and prior to the development of a new Plan, the Administering Agency shall conduct an evaluation to determine the effectiveness of investments and to inform the next Plan. The evaluation may be conducted by an external evaluator with input from the Community Advisory Committee. The evaluation shall be presented to the Early Care and Education Local Planning Council (or its successor agency) and the Board of Supervisors.

**E. Independent Contractor Status.** This article is not intended to alter any family child care providers' existing independent business owner status, and shall not be construed to

change the status of family child care providers, early educators or license-exempt providers to county employees or employees of the Administering Agency.

**2.08.308. Operative Date.**

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

**2.08.309. 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 to provide that such tax shall be operative if approved by the electors voting on the measure to approve the imposition of the tax, as required by state law, 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 therefore 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.

#### **2.08.310. 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.

#### **2.08.311. 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 (1%) 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.

#### **2.08.312. 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.

#### **2.08.313. 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.

#### **2.08.314. 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.

**2.08.315. 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:
  - 1. When 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. When 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.

### **2.08.316. 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.

### **2.08.317. 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.

#### **2.08.318. 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.

#### **2.08.319. 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.



**2.08.320. Severability.**

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

**2.08.321. 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.

**2.08.322. Termination of Transactions and Use Tax.**

This article shall remain in effect only until the end of Fiscal Year 2040-2041 and as of that date it shall be repealed by operation of this section unless a later ordinance is adopted prior to the end of Fiscal Year 2040-2041 that shall have the effect of deleting or extending the termination date set forth herein.

**Section 5. Amendment.**

This Act may not be amended by action of the Board of Supervisors without voter approval.

**Section 6. Enabling Legislation.**

The Board of Supervisors may enact enabling legislation addressing administrative and program issues that are not addressed in the Ordinance and that are not inconsistent or contrary to any provision of this Ordinance, including but not limited to, defining program priorities, establishing minimum criteria to ensure that providers applying for grants pursuant to this Ordinance are able to provide quality preschool or early education programs, and provisions incorporating subsequent amendments to applicable state laws.

**Section 7. Severability.**

The people of Alameda County hereby declare that they would have adopted each section, sentence, clause, phrase, word, or portion of this Ordinance, irrespective of the fact that any one or more sections, sentences, clauses, phrases, words, or portions of this Ordinance, or any application thereof to any person or circumstance, could be declared invalid or unenforceable and, to that end, the provisions of this Act are severable. If any section, sentence, clause, phrase, word, or portion of this Ordinance, or any application thereof to any person or in any circumstance, is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining sections, sentences, clauses, phrases, words, or portions of this Ordinance, and applications thereof, shall nonetheless remain in full force and effect.

**Section 8. Liberal Construction.**

This Ordinance shall be liberally construed to effectuate its purposes.

**Section 9. Effective Date.**

Except as otherwise provided in this Ordinance, this Ordinance shall take effect the day after the election at which it is adopted.

**Section 10. Appropriations Limit Increase.**

Pursuant to California Constitution Article XIII B and applicable laws, for four (4) years from the day of the election at which this Act is adopted, the appropriations limit for the County shall be increased by the aggregate sum collected by the levy of the transactions and use tax imposed by this Act.