

ORDINANCE NO. 3653

**ORDINANCE OF THE MARIN COUNTY BOARD OF SUPERVISORS
IMPOSING A ONE-QUARTER OF ONE PERCENT RETAIL TRANSACTIONS AND USE TAX
TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION FOR THE PURPOSE
OF PROVIDING QUALITY PRESCHOOL EDUCATION, CHILD CARE, HEALTHCARE AND
EXTENDED LEARNING/AFTERSCHOOL**

**THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN ORDAINS AS
FOLLOWS:**

SECTION 1. TITLE. This Ordinance shall be known as the Marin Strong Start For Kids Transactions and Use Tax Ordinance. The County of Marin hereinafter shall be called "County." This Ordinance shall be applicable in the incorporated and unincorporated territory of the county.

SECTION 2. EFFECTIVE DATE; OPERATIVE DATE.

A. This Ordinance shall become effective upon its approval by a two-thirds majority of the electors voting on the measure.

B. This Ordinance shall become operative on April 1, 2017 ("Operative Date"); provided, however, that the Strong Start Expenditure Plan ("Expenditure Plan"), attached hereto as Exhibit "A," shall become operative on the effective date of this Ordinance.

SECTION 3. PURPOSE. This Ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.5 of Part 1.7 of Division 2 which authorizes the county to adopt this tax Ordinance which shall be operative if two-thirds of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt 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 Revenue and Taxation Code.

C. To adopt 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 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 in administering and collecting the California State Sales and Use Taxes.

D. To adopt 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 persons subject to taxation under the provisions of this ordinance.

SECTION 4. EXPENDITURE PLAN; LIMITATION OF EXPENDITURES; FISCAL OVERSIGHT.

Pursuant to the requirements of Government Code §50075.1, (1) the Expenditure Plan constitutes the statement of the specific purposes for which the revenue generated by this Ordinance may be expended, (2) the expenditure of the revenue generated by this Ordinance shall be restricted to the purposes stated in Exhibit "A," (3) the revenue generated by this Ordinance shall be deposited into the " Special Tax Account," and (4) the County Department of Finance shall prepare and file with the Board of Supervisors reports meeting the requirements of Government Code §50075.3.

SECTION 5. CONTRACT WITH STATE.

Prior to the Operative Date, the County shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax Ordinance; provided, that if the County shall not have contracted with the State Board of Equalization 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.

SECTION 6. 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 the County at the rate of one quarter of one per cent (0.25%) 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 ordinance.

SECTION 7. PLACE OF SALE.

For the purposes of this ordinance, 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 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. In the event a retailer has no permanent place of business in the State 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.

SECTION 8. USE TAX RATE.

An excise tax is hereby imposed on the storage, use or other consumption in the County of tangible personal property purchased from any retailer on and after the operative date of this Ordinance for storage, use or other consumption in said territory at the rate of one quarter of one percent (0.25%) 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.

SECTION 9. ADOPTION OF PROVISIONS OF STATE LAW.

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

SECTION 10. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code: A. Wherever the State of California is named or referred to as the taxing agency, the name of this County shall be substituted therefore. However, the 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 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, in performing the functions incident to the administration or operation of this Ordinance. 3. In those sections, including, but not necessarily 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 which 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 which would not be subject to tax by the state 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 Revenue and Taxation Code. a. 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.

SECTION 11. PERMIT NOT REQUIRED. If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

SECTION 12. EXEMPTIONS AND EXCLUSIONS.

A. 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 the computation of the amount of transactions tax the gross receipts from:

1. Sales 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. Sales 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 agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, 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 Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-County address and by 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 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 Ordinance.
4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this Ordinance. 5. For the purposes of subparagraphs (3) and (4) of this section, 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, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this County of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
2. 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 provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.
3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is 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 prior to the operative date of this Ordinance.
5. For the purposes of subparagraphs 3. and 4. of this section, storage, use, or other consumption, or 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, whether or not such right is exercised.
6. Except as provided in subparagraph 7, a retailer engaged in business in the 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 the County or participates within the 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 the County or through any representative, agent, canvasser, solicitor, subsidiary, or person in the County under the authority of the retailer. Ordinance No. 3586 Page 4 of 10
7. "A retailer engaged in business in the 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 Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the county.

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

SECTION 13. USE OF PROCEEDS.

The proceeds of the taxes imposed by this ordinance shall be used solely for the projects and purpose set forth in the Expenditure Plan attached as "Exhibit A" and for the administration thereof.

SECTION 14. AMENDMENTS.

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

SECTION 15. ENJOINING 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 Ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

SECTION 16. SEVERABILITY.

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

SECTION 17. PUBLICATION.

Within fifteen (15) days of its passage, the clerk shall publish a summary of this ordinance with the names of those supervisors voting for and against the matter, and the clerk shall make available to the public, upon request, a certified copy of the full text of the ordinance along with the names of those supervisors voting for and against the ordinance.

SECTION 18. APPROPRIATIONS LIMIT.

Any proceeds distributed from the Special Tax Account are deemed taxes of the receiving taxing agency and where appropriate, subject to Article XIIB of the California Constitution (Gann limit).

SECTION 19. TERMINATION DATE.

The authority to levy the tax imposed by this Ordinance shall expire nine years from the operative date of this Ordinance.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin held on this 2nd day of August 2016 by the following vote:

AYES: SUPERVISORS Judy Arnold, Katie Rice, Damon Connolly, Kathrin Sears,
Steve Kinsey

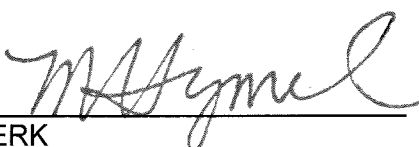
NOES: NONE

ABSENT: NONE



PRESIDENT, BOARD OF SUPERVISORS

ATTEST:



CLERK

ORDINANCE NO. 3653
EXHIBIT A
Marin Strong Start for Kids Expenditure Plan

A. Summary

It is proposed that Marin County voters have the opportunity on the November 2016 ballot to vote for expanded access for underserved children to quality preschool, affordable child care, comprehensive healthcare services and afterschool and summer learning programs. The proposed one-fourth-cent (1/4 cent) sales tax ("Measure") is estimated, at current collection levels, to generate approximately \$12,000,000 per year. This level of revenue may change during the life of the Measure due to the variability in annual receipts.

This Marin Strong Start for Kids Expenditure Plan ("Plan") below outlines four programs for spending the sales tax proceeds. In Part B of the Plan, each program is described with the funding allocation and types of projects and activities that the funding would support. Part C of the Plan contains administrative provisions, including a Citizen's Oversight Committee and the process for determining annual expenditures.

B. Program Description

Four programs (Quality Preschool, Child Care, Healthcare and Extended Learning/Afterschool) encompassed in the Plan are described below. These programs are deliberately linked and integrated to promote academic success and healthy lives. Research shows strong starts for children produce lifelong results. Access to quality preschool, healthcare, child care and extended learning/afterschool support leads to academic achievement, healthy lifestyles, successful careers and a better community overall.

1. Access to Quality Preschool Education (50% of funds)

The purpose of this Plan component is to expand access to a quality preschool education for three-and four year-old children in Marin. Using a targeted universal approach, the program will offer opportunities for children from very low to low-moderate income families first, expanding to all income levels if funds become available from other funding sources such as state or federal allocations for four year olds. The program is aimed at ensuring children enter kindergarten prepared for success in school. The proposed program is grounded on two considerations: (1) research that demonstrates the value of quality preschool education for improving academic success for all children, particularly economically disadvantaged children, and, (2) successful preschool expansion models implemented in jurisdictions such as San Francisco, San Diego and Los Angeles counties. Fifty percent (50%) of revenues generated annually by the Measure shall be made available for the following uses:

- a) ***Free preschool education for underserved three and four year old children.*** The purpose of this program is to expand access to quality preschool programs that prepare children for school, improve academic and developmental readiness and reduce public school costs associated with remediation. The program will target lower income children primarily, but can expand to serve others, if financially feasible.
- b) ***Quality improvement.*** The purpose of this element is to assure and support preschool programs to meet quality standards for curriculum, teacher qualifications, licensing and other standards set by California State Guidelines and the local Quality Improvement Program at the County Office of Education. This will include financial enhancements for programs with state or federally subsidized preschool slots to match allocations for new

preschool slots in order to support quality improvement, workforce development and worker wages increases.

- c) **Family engagement.** The purpose of this element is to support parent education that promotes educational participation by parents, prepares parents for transition to the K-12 systems as well as motivates school attendance.
- d) **Assessment and outcomes evaluation.** The purpose of this element is to support the Marin County Office of Education to collect and analyze data to assess progress toward quality objectives and school readiness outcomes for children. This will ensure that preschool programs meet or exceed quality standards.

2. Access to Comprehensive Healthcare (15% of funds)

The purpose of this component of the Plan is to assure that underserved children in Marin have access to prevention and intervention healthcare services that are critical to growing up healthy and being able to succeed in school. Many program services will be linked to early care and education programs to promote prevention and early detection of physical, emotional and developmental issues that can interfere with success in school and lifelong wellness.

Fifteen percent (15%) of revenues generated annually by the Measure shall be made available for the following purposes based on assessment of need, ability to leverage other support and durability of impact:

- a) **Provide universal early screening and referrals for interventions.** The purpose of this element is to promote early identification of developmental, social-emotional, vision, hearing and oral health problems check-ups in medical settings and early care and education settings.
- b) **Expand mental health and dental capacity and services for children** that build on current resources and providers and increase access for underserved children.
- c) **Implement healthy eating and physical activity programs** in early care settings. This could include gardens, training, policy changes and curricula. The purpose of this element is to improve and build healthy behaviors and increase access to healthy foods and activity that promote lifelong health.
- d) **Conduct enrollment assistance** in schools, early care and community settings, provide outreach to families and enroll children into health insurance, food programs and other support services for underserved children and their families.
- e) **Provide health insurance coverage, if needed,** to assure all children in Marin have access to insurance if not eligible for local, state or federal programs.

3. Access to Affordable Child Care (25% of funds)

The purpose of this program component is to assure participation of children from low-income working families in the part day preschool program by providing access to affordable child care for the remainder of the workday and during the summer. In addition, this program component expands access to quality, affordable care for children from low-income working families and reduces the number of eligible families on the wait list for affordable infant and toddler care.

Twenty five percent of revenues generated annually by the Measure shall be made available for the following uses:

- a) **Provide child care for children participating in the preschool program before and after school and in the summer.** Priority would be given to children in lower income working families on a sliding scale basis and based on need. The purpose of the element is to promote participation and the preschool program by addressing the needs of lower income working parents for full time care.
- b) **Expand child care support for lower-income families on a sliding scale** for infants and toddlers to reduce the cost burden for families, support the local workforce and remove qualified children from the existing wait list for child care services.
- c) **Support and assess quality improvement in Infant-Toddler programs.** The purpose of this element is to promote quality of care for the youngest children. Activities will be conducted by the Marin Child Care Council using standardized assessment tools and could include quality enhancements to support individual child care program improvements.

4. Afterschool Academic Support for Children Kindergarten through Second Grade (10% of funds)

The purpose of this component of the Plan is to promote lasting gains from preschool, provide for seamless transition to elementary schools for children and their families and provide equitable access to support for undeserved children that need additional help in reading and math to be proficient by third grade – a critical benchmark for academic success.

Ten percent of revenues generated annually by the Measure shall be made available for the following uses:

- a) **Evidence-based afterschool and/or summer programs** for children in kindergarten through second grade who need additional support to meet academic benchmarks in reading and math.
- b) **Coordinated transition plans** that support children to move from preschools to elementary schools linking teachers and administration from both settings.
- c) **Parent education and participation** in children's school and academic endeavors following enrollment of children in kindergarten.

C. Administrative Provisions

1. Citizen's Oversight Committee

- a) A Citizen's Oversight Committee shall be created by the Marin County Board of Supervisors within six months of the effective date of the ordinance levying the sales tax increase. Their role shall be to review the annual audit of expenditures for the previous year for compliance with the Measure and expenditure plan.

- b) Members of the Citizen's Oversight Committee shall be county residents who are neither elected officials of any government, nor employees from any agency or organization that either oversees or benefits from the proceeds of the sales tax. The committee shall consist of five members, one from each supervisorial district in the county.
- c) The Board shall approve bylaws related to the conduct of committee meetings and business.
- d) Meetings of the committee shall be open to the public and shall be held in compliance with the Ralph M. Brown Act, California's open meeting law.
- e) The committee shall dissolve after all revenue collected from this Measure is expended and a final report is submitted.

2. Implementation Requirements

Implementation of the Plan shall be guided by the following procedures to ensure that the revenue generated by the Measure is spent in the most efficient and effective manner possible, consistent with serving the public interest in Marin County, and the desires of the voters of Marin County.

- a) The County of Marin is charged with the fiduciary duty to administer sales tax proceeds in accordance with applicable laws.
- b) Sixty percent of revenues shall be disbursed to the Marin County Office of Education for implementing preschool and extended learning programs. Forty percent of revenues will be disbursed to the Marin County Health and Human Services for implementing child care and healthcare programs.
- c) The Marin County Health and Human Services Department shall present an annual expenditure plan in compliance with the Measure to the Board of Supervisors upon consultation with the Marin County Office of Education and the Marin Child Care Council as part of the County's annual budget development process.
- d) The County Health and Human Services Department shall coordinate with stakeholders such as the Marin County Office of Education, Child Care Council, First 5 Marin and Marin Community Foundation to support implementation and conduct evaluation to track and report progress and outcomes for children resulting from the programs.
- e) The County Health and Human Services Department shall conduct an annual public meeting to report progress and gain input on the implementation of programs prior to the County's annual budget development process.
- f) Actual revenues generated by the Measure may be higher or lower than estimates in this Plan due to variability in annual tax receipts. County shall annually estimate revenue from the Measure.
- g) A separate fund shall be established for the tax revenues. Unexpended funds will rollover from year to year. All interest income shall be used for the purposes identified in this Plan and shall accrue proportionately to the programs identified in this Plan. For up to five (5) years after the termination date of the sales tax increase, unused funds and accrued interest from the Strong Start Measure shall be available for any purpose consistent with this Plan, subject to approval by the Board of Supervisors.
- h) Sales tax proceeds are intended to augment any existing resources, local, federal or state, allocated for these purposes.
- i) Not more than five percent (5%) of annual tax revenues may be used by the County for administrative expenses related to collection, distribution, oversight and budget preparation.