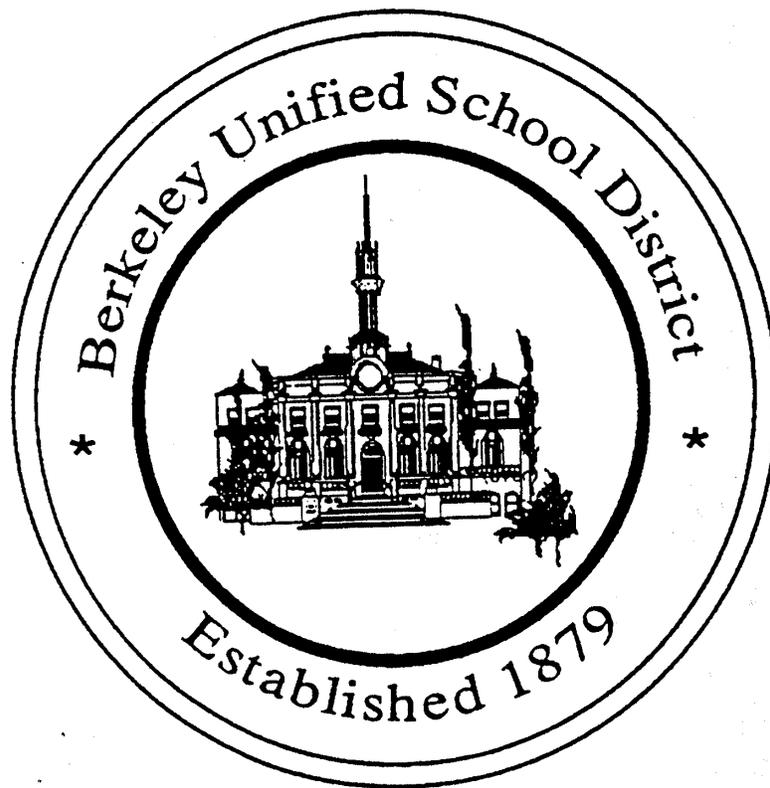


**Berkeley Unified School District
Office of the Superintendent**



Board of Education Meeting

April 26, 2006

**Berkeley Unified School District
Office of the Superintendent
2134 Martin Luther King Jr. Way
Berkeley, CA 94704-1180
Phone: (510) 644-6206 Fax: (510) 540-5358**

SPECIAL MEETING OF THE BOARD OF EDUCATION – AGENDA*

Wednesday, April 26, 2006

Call to Order The Presiding Officer will call the Special Board of Education Meeting to order at **6:30 p.m.**, recess to Closed Session at **6:35 p.m.** and adjourn the Special Board meeting by **7:30 p.m.** **The Board may adjourn to a second closed session following the Special Meeting.**

Roll Call

Members Present: President Terry S. Doran
 Vice President Joaquin Rivera
 Director Shirley Issel
 Director John Selawsky
 Director Nancy Riddle
 Student Director Teal Miller

Administration: Superintendent Michele Lawrence, Secretary

Prior to Closed Session, as necessary, staff/employee comments are taken per Government Code Section 54957

Recess to Closed Session (Government Code Sections 3549, 1(d), 54956.9(a) and 54957) and Education Code Section 49819(c)

- a) Conference with Legal Counsel – Existing Litigation/Anticipated
- b) Consideration of Student Expulsions
Student Case No. 0506-34-070991
Student Case No. 0506-35-021189
Student Case o. 0506-0506-32-091189
- c) Collective Bargaining
- d) Public Employee Discipline/Dismissal /Release/Evaluation
Suspension of certificated employee
- e) Public Employment /Appointment
- f) Liability Claims
- g) Property Acquisition

* Board agenda posted on District website: www.berkeley.k12.ca.us

** The Student Director does not attend Closed Session

The Berkeley Unified School District intends to provide reasonable accommodations in accordance with the Americans with Disabilities Act of 1990. If a special accommodation is desired, please call the Superintendent's Office 48 hours prior to the meeting at 510-644-6206

INFORMATION AND DISCUSSION ITEM

General Services

1.1-I

Presentation by the Superintendent on Aspects and Potential Renewal of a Parcel Tax

Staff Recommendation:

Receive for information and discussion the Superintendent's recommendation regarding the renewal of two parcel taxes

ACTION ITEMS

General Services

1.1-A

Conduct Public Hearing to Gain Input On a Parcel Tax Renewal

1.2-A

Close Public Hearing

EXTENDED PUBLIC TESTIMONY

The Board may elect to extend public testimony after discussion

ANNOUNCEMENTS

Schedule of Board of Education Meetings for 2006:

May 3	September 13 – Special Meeting
May 17	September 20
May 24 – Special Meeting	October 4
June 7	October 18
June 21	November 1
June 28	November 15
July 5 – tentative	December 6
August 23	December 13
September 6	

ADJOURNMENT

**Board of Education Meetings are broadcast live on KPFB/FM 89.3
Berkeley Government Access Channel 33**

Guidelines for Speakers

You are invited to participate in Meetings of the Board of Education and make your views known at these meetings.

WHEN YOU WANT TO TALK ABOUT AN AGENDA ITEM OR A NON-AGENDA ITEM:

Please fill in a **REQUEST TO ADDRESS THE BOARD OF EDUCATION CARD** (located on the side of the Speaker's stand) and give it to the Board Recorder. Speakers will be selected by lottery. Your card must be submitted before the Presiding Officer calls for **PUBLIC TESTIMONY**.

You will be called to speak by the Presiding Officer.

A Speaker has three minutes in which to make his/her remarks.

Any subject related to the District or its educational programs is welcome at the Board of Education Meetings. **However, we respectfully ask that matters pertaining to individual employees of the Berkeley Unified School District be discussed in private. There is an established procedure for making such complaints.** You may obtain information about this procedure from a school or from the Superintendent's Office.

BERKELEY UNIFIED SCHOOL DISTRICT

TO: Board of Education
FROM: Michele Lawrence, Superintendent
DATE: April 26, 2006
SUBJECT:

BACKGROUND INFORMATION

On February 9, I presented to the community and to the School Board a *Call to Action* outlining the steps the district needs to take in the coming years in order to accelerate achievement for all students and reduce the achievement gaps of specific groups of students who are falling behind. My recommendation for the elements to be funded by the renewal measure is based on how the new measure can best support the comprehensive educational plan of the District.

The *Call to Action* (a more detailed description follows) is the result of 18 months of research and discussions among teachers, educational and financial experts, policy makers, and community members. It was influenced by the deliberations and documents of the Educational Workgroup. I also took into account the work of other district committees, the suggestions of principals, administrators and unions, as well as input received at the various public meetings. I also considered information gleaned from the wider Berkeley community through the voter survey conducted in March.

As stated in the *Call to Action*, I kept these important guiding principles in mind as I considered the resource needs of the district:

Improve Teaching and Learning through enhanced curriculum design, teacher training, and better use of higher-quality data.

Give Life to Learning through more hands-on experiences, visual and performing arts, vibrant libraries and technology, field trips, gardening, and other activities.

Use Time More Effectively including extended day opportunities, early intervention, and teacher collaboration.

Establish a Universal Pre-School Option so that all children start school ready to learn.

Empower the Community by shifting responsibility, resources and flexibility to school sites.

Promote the Health and Well-being of Students through nutrition, counseling, and programs to reduce barriers to learning.

Embrace, Promote and Defend Diversity by ensuring that schools and programs are both socio-economically and ethnically integrated.

Provide Sufficient Resources by securing federal, state and local revenues, eliminating inefficiencies, and better integrating community resources.

Currently, many of the district's most enriching programs, like music, libraries and lower class sizes, have been almost exclusively supported by the existing *BSEP Measure* and the recent two year bridge *Measure B of 2004*. The dependency on these tax dollars to provide these programs cannot be overstated. The loss of a total of more than 19 million dollars in revenue from these measures would have a devastating effect on the operations and solvency of the district. There would simply be no way of replacing the funds.

In order to remain on track toward the critical goals in the *Call to Action*, I am recommending that the Board ask Berkeley voters to renew the parcel taxes that they have so generously supported in recent years.

The following proposal outlines the manner in which the measure can support specific portions of a comprehensive educational plan. While there has been some discussion of the possibility of increasing the levies, my assumptions and strong recommendation in developing the following suggested design of the new tax is to seek renewal of the tax at the same per-square-foot rate as currently assessed and with similar cost of living adjustments. The district's first priority should be to ensure continuation of a secure foundation of resources.

Design of the New Measure

Smaller Class Sizes, Expanded Course Offerings, and Counseling for Middle School Students.....67%

The intention is to achieve resultant class sizes at a district-wide average class size of 20 in grades K-3, 26 for grades 4-5 and 28 for the secondary schools. However, alternative methods to reduce class sizes in a particular year may be adopted by the school's Governance Council and implemented as approved by the School Board.

Funds would continue to support approximately six FTEs at the high school to expand course offerings, similar to present practice.

In order to better support middle school students, particularly as they prepare to matriculate to high school, funds would be allocated for counseling services. Monies for the counseling funds were calculated to provide four counselors (two at King and one each at Longfellow and Willard). This counseling allocation is flexible so that the funds might be distributed within the schools in a different manner while still connected to supporting the social, emotional or physical health of students at the middle level.

Programs to Enhance Student Learning24%

School Site Programs: It is important, particularly as schools are asked to increase their efforts to improve student achievement, to give sites more discretion over the allocation of their resources in order to meet their School Site Plan goals. Forty-two percent of the monies dedicated to Programs to Enhance Student Learning would be allocated annually to each preK-12 school on a per pupil basis. The allocation for 2007-08 is expected to be \$200 per child. Unfortunately, this is only a small increase from the previous Measures, but these dollars are not heavily restricted and can be spent on personnel, materials and services required to deliver such programs as arts and science instruction, tutoring, athletics and student activities, and before and after school programs. It should be understood that the allocation of these funds should be a part of each Site Governance Council’s deliberations as they develop the school or WASC plan.

School Libraries: Thirty percent of the Programs to Enhance Student Learning revenues would go to provide student access to quality school libraries in all the District’s K-12 schools. The funds in this account have been allocated to provide the same level of staffing as is presently allocated to libraries, but there was a slight decrease in the allocation for library books/materials in order to help fund other components within the measure. Principals have expressed the desire to have some flexibility in the hours or duties of the staff at their sites, but these issues should not alter the allocation of funds supporting libraries.

Music and Visual and Performing Arts Programs (VAPA): Twenty percent of the Programs to Enhance Student Learning revenues are dedicated to providing quality instructional programs in music and the visual and performing arts for elementary and middle school students. Although some have voiced a desire to expand the music and VAPA programs, the recommendation is only able to maintain the programs as currently found in district schools. However, site discretionary dollars have been used to enhance the arts, and I fully expect this will continue. In addition, the governor has proposed to incorporate a block grant for the arts into his budget for the coming year.

Parent Outreach Services: Eight percent of Programs to Enhance Student Learning revenues would be allocated annually to provide a variety of services to support families. The measure would fund three parent outreach specialists, money for parent training and workshops, and supporting materials that might increase the participation of those families presently underserved. I also intend to shift monies designated for parent training in Title I and School Improvement funds to the Parent Outreach Office in order to implement a more cohesive approach to parent support.

Flexibility: Knowing that conditions and programs will change and evolve during the ten year period of the proposed measure, I recommend that the measure allow the flexibility to shift some dollars within these last three categories. Thus, I propose that up to 10% may be taken from any of the district-wide programs (Libraries, Music and VAPA, Outreach) and redistributed to another of these three programs, provided no program (Libraries, Music and VAPA, Outreach) receives over 15% of its allocation in any given year. This flexibility would then allow, as an example, a significant purchase of musical instruments in a year in which the libraries have other sources of funds to upgrade the collection. I recommend that the School Site Program funds not be included in this flexibility option.

Professional Development and Educational Program Evaluation 9%

It is crucial to continue to improve the district's ability to use data to inform decisions about district programs and teacher training. Data systems allow administrators and teachers to access information easily, and the district has been working to expand its capacity to make use of such data to improve student achievement. Currently, there is neither sufficient staff nor the systems to meet this objective. The recommendation is to create an evaluation office with staff that has the research and technical skills to help classroom teachers and principals collect, analyze and use data efficiently. I believe this will require a classified or certificated administrator and clerical and technical support. Software and outside vendor support is also included. In addition, this category includes other components of the technology budget that are currently funded by BSEP, including computer technicians who support school sites and an allocation for school technology.

Teacher and administrator professional development remains a high priority if the quality of instruction is to be improved. Staff is completing a detailed implementation plan for professional development that will support the needs expressed by teachers and administrators. This plan will improve teachers' instructional strategies, content knowledge and

afford additional opportunities for collaboration. This category represents an increase in funding above what is currently in place.

Public Information and Translation: My recommendation includes using a small portion of the revenues (2%) before it is distributed to the other purposes to provide public information, translation services and support for the Planning and Oversight Committee.

More details about my recommendations and financial implications are included in the draft text of the measure, which follows.

Considerations and Deliberations

Since the recommendations for this new measure maintain the base revenues at the same level and my recommendations differ somewhat from BSEP and Measure B, then the logical question surfaces, “What’s missing?”

The most notable shift would be the elimination of dollars previously restricted to special facilities projects. In the BSEP Measure this was known as Fund 7 and accounts for somewhat more than \$800k. A case can certainly be made that the school grounds still need special funds carved out for projects like playground equipment, blacktopping and gardens. However, I believe the general fund, maintenance fund and occasional available state grants for gardens or equipment will have to accommodate this need. My attempt was to balance the overall revenues received from the tax with the needs of the district and increase support for the middle schools by approximately \$345,000 and professional development and program evaluation by approximately \$420,000. In my view, these expenditures will have a greater impact on the achievement of students.

There are other small changes if one compares on a dollar for dollar basis, but most of the other shifts relate to employee costs and slight changes in program configurations or allocation. For example, BSEP Educational Materials Fund has been reallocated directly to libraries, technology, and site programs.

This proposal represents my best thinking around the renewal of this measure and is presented for Board for consideration and public discussion after thoughtful consideration and consultation with key staff.

The draft of the proposed text of the measure is attached for review and comment because I believe it is best to be as open as possible in this process.

Although I see the need for increased revenues to fund so many other worthwhile programs for students, I nevertheless believe the recommendation before you to be a well-balanced proposal that keeps the tax assessment at its present level.

Additional Considerations

At the request of the Board to provide a list of programs that could be included in the new measure, staff has prepared a brief synopsis of other programmatic choices that could be funded with local tax dollars. These choices would require either reducing a program within the measure as recommended here, or increasing the tax rate.

Expanded Pre-School Program

(Extended day care, 8am-6pm, funded by State monies and parent fees, is currently provided to about 150 four year old children.)

Two possible models have been suggested:

1) Additional funding would permit the current 4-year-old pre-school students to receive three hours of instruction from a certificated teacher during the normal school year (180 days). Class size would be 20:1.

Model 1: \$350,000

2) An additional 320 4-year-old preschool students would receive instruction from a certificated teacher for three hours/day for 180 days. Class size would be 20:1. In addition, parents would have the opportunity to purchase childcare from 8a.m. to 6p.m.

Estimated Costs \$2,690,000

(Cost estimates are district costs for the instructional program and, in Model 2, the added facilities; parents to pay fees for the child care hours.)

Facilities

Improvements to school playgrounds, auditoriums, landscaping.

Estimated Costs: \$800,000

Healthy Nutrition Program

These funds would provide a program that emphasizes the relationships among food, diet, physical activity, health and the environment. Funding represents the cost of Teacher Leaders and Instructors who would support gardening and cooking, as well as an increased food budget for more nutritious meals.

Estimated Costs: \$500,000

High School Athletic Programs

Funds would help support athletic activities at Berkeley High School, and includes stipends for certificated and classified coaches, tournament fees, referees, transportation, and other associated costs.

Estimated Costs: \$300,000

School Nurses

Some possible models and estimated costs:

(1) 1.0 nurse for each Middle School and BHS and .5 FTE for BAHS (4.5 FTE) \$450,000;

(2) 1.0 FTE nurse for each elementary school zone (3.0 FTE) \$300,000;

(3) 1.0 FTE nurse for each elementary school (11.0 FTE) \$1,100,000.

Seventh Period for All Middle School Students

This would permit all middle school students to add an elective from courses available.

Estimated Costs: \$ 1,500,000

Student Support for Physical and Mental Health

A possible staffing model could include:

7.0 FTE Behavioral Specialists/Counselors (1 for every elementary school Zone and one for each Middle School and BAHS.)

3.0 FTE additional Outreach staff to coordinate with City agencies and provide case management for students needing services.

Estimated Costs: \$1,000,000

POLICY/CODE

By the California Constitution, Article XIII A, section 4 and Government Code section 50075 et seq., school districts are authorized, upon approval of 2/3rds of the electorate, to levy qualified special taxes on property in the District for the purposes of providing quality educational programs in the District and other lawful purposes of the District.

FISCAL IMPACT

If a tax is approved by the voters, additional revenue of \$19.6 million annually would be available to support the identified programs for ten years beginning in the 2007-08 fiscal year, with applicable COLA in the following years.

STAFF RECOMMENDATION

Discuss and consider the superintendent's recommendations for renewal of district special taxes, with the anticipation of taking action on final language and officially calling for a tax measure at the May 24 Board meeting.

Berkeley Unified Call to Action for Providing a Quality Education

- **Improve Teaching and Learning Throughout the District**
 - Overall, promote a strong District instructional management system
 - Coherent and sequenced curriculum
 - Distillation of critical standards in content areas
 - Development of robust and challenging curriculum
 - Strong and focused staff development
 - New teacher support
- **Use Multiple Data to Inform Program Decisions**
- **Expand Assessment Development: Diagnostic and Summative**
 - Relieve reliance on a single state test
 - Provide feedback to parents and teachers on quarterly progress
 - Use data and research to improve teaching and learning
- **Continue Experiential Learning**
 - Visual-performing arts
 - Small schools at BHS
 - School Libraries
 - Internships
 - Field trips
 - School gardening and cooking
 - Athletics and physical activity
 - Technology applications
- **Change Calendar and Structure of the Year and Day**
 - Earlier intervention and remediation
 - More instructional time for students
 - Extended day opportunities
 - Teacher collaboration and planning
- **Establish a Universal Pre-School**
- **Expand the School Planning Process**
 - Site responsibility for every student's success
 - Shift resources to sites
 - Flexibility in class size
 - Integration of community resources in schools
 - Parent participation
- **Promote the Health and Well-being of Students**
 - Nutrition: diabetes and obesity
 - SST process
 - Counseling services
 - Truancy prevention
 - Gang and violence diversion
- **Embrace, Promote and Defend Diversity in Schools and Programs**
 - Integrate schools and programs both on socio-economic and racial levels
- **Develop a Financial Model for Local Sustainability**
 - Maximize local resources

FULL BALLOT TEXT OF MEASURE _____

The following is the full ballot text of the proposition to be presented to the voters by the Berkeley Unified School District in the ballot pamphlet:

“Title to Be Determined -- Act of 2006”

To support quality public education, shall Berkeley Unified School District replace two annual special taxes expiring in 2007 with one annual special tax for 10 years at 22¢/sq.ft. for residential buildings, 34¢/sq.ft. for commercial and other buildings and \$50 for unimproved parcels with annual cost-of-living adjustments? Funds shall continue to be used for designated purposes, including class size reduction, school libraries, music programs, teacher training, and academic support. Independent citizens’ committees will oversee use of funds.

1. TITLE AND PURPOSE

“Title to Be Determined-- Act of 2006”

The revenues raised by this Measure are to be used to improve the educational achievement of Berkeley’s public school students by providing quality educational programs.

2. ALLOCATION OF FUNDS

Available Revenues raised by this Measure are to be allocated to the following purposes and shall be deposited in restricted accounts for these purposes:

- Smaller class sizes, expanded course offerings, and counseling.....67%
- Programs to Enhance Student Learning, including school site programs, school libraries, music, visual and performing arts, and parent outreach programs24%
- Professional development and educational program evaluation.....9%

3. DEFINITION OF PURPOSES

- A. Smaller class sizes, expanded course offerings, and academic counselors**
 - i. Sixty seven percent (67%) of the Available Revenues of this Measure shall be dedicated annually to Reducing Class Sizes at all K-12 schools, expanding course offerings at all secondary schools, and providing counseling services at each of the District’s middle schools, in ways that may not be achieved solely through support by the District’s General Fund.
 - ii. The goals for the class sizes to be achieved with these revenues are District-wide Average Class Sizes of 26:1 for the elementary schools and 28:1 for the secondary schools. Average Class Sizes in the K-3 grades shall

be reduced to 20:1 as long as state class size reduction funds are provided for that purpose at the same level as currently allocated. Additional teachers may be added to allow expanded course offerings at secondary schools in so far as the funds permit. Alternative methods to reduce class sizes in a particular year may be adopted by the School Governance Council and implemented as approved by the Board of Education.

iii. The reduced Average Class Sizes shall be maintained throughout the duration of the Measure except in the case of a “Severe Fiscal Emergency” as defined in Section 6 of this Measure.

iv. The revenues dedicated to these purposes may be spent for all costs attendant to them, including operational and professional development costs, and other costs associated with the opening or maintaining of classrooms to reduce class sizes.

B. Programs to Enhance Student Learning

Twenty four percent (24%) of the Available Revenues generated by this Measure shall be dedicated annually to providing programs designed to improve the academic proficiency of all students through effective instruction, a challenging and engaging curriculum, and addressing the needs of the whole child. Revenues from the Measure may support all costs attendant to providing these services, including operational costs. These revenues shall be allocated as follows:

i. **School Discretionary Funds**

Forty two percent (42%) of the revenues dedicated to School Discretionary Funds shall be allocated annually to each preK-12 school on a per pupil basis. The School Governance Council (as described in Section 5Bii below) shall develop recommendations to allocate these revenues for the personnel, services and materials required to deliver effective activities leading to improved student performance.

The School’s Site Plan, including the proposed expenditure of the school’s discretionary funds, shall be presented annually to the Board of Education and shall be implemented as adopted by the Board of Education.

Revenues may be used for, but are not restricted to, the personnel, materials and services required to deliver such programs as arts and sciences instruction, academic tutoring and counseling, athletics and student activities, and before and after school programs.

ii. **School Libraries, Music, Visual and Performing Arts, and Parent Outreach Programs.**

Revenues dedicated to Programs to Enhance Student Learning shall be allocated annually to the following District-wide programs:

(a) School Libraries: Thirty percent (30%) of revenues dedicated to the Programs to Enhance Student Learning shall be allocated annually to provide student access to quality school libraries which shall be maintained by providing library staff to operate the District's K-12 school and other specialized libraries, and by allocating revenues for books, materials and equipment for the school libraries.

(b) Music and Visual and Performing Arts Programs: Twenty percent (20%) of the revenues dedicated to the Programs to Enhance Student Learning shall be allocated annually to providing quality instructional programs in music and the visual and performing arts for elementary and middle school students. Revenues may be used for, but are not restricted to, providing qualified teachers and staff, musical instruments and instructional materials and equipment necessary to conduct these programs.

(c) Parent Outreach Services: Eight percent (8%) of the revenues dedicated to the Programs to Enhance Student Learning revenues shall be allocated annually to provide a variety of services to support the families of Berkeley's public school students to have greater access to and involvement in their children's education.

To maintain quality programs with the revenues available for these three purposes, up to ten percent (10%) of the allocations for these District-wide programs (School Libraries, Music and Visual and Performing Arts Programs, and Parent Outreach Services) may be redistributed by the District among these purposes provided no purpose receives more than 15% over its designated allocation in any given year.

C. Professional Development and Educational Program Evaluation

Nine percent (9%) of the Available Revenues of this Measure shall be dedicated to providing professional development for the District's teachers and staff, and to assessing the effectiveness of the District's educational programs for improving student achievement. All costs attendant to providing these services, including the technology support personnel, equipment and operational costs required to deliver these programs shall be authorized.

4. THE TAX LEVY

A. Tax Base

- i. The Special Tax shall be levied on the Square Footage of all Improvements, including all Buildings and Structures, on Parcels of taxable real property in the Berkeley Unified

School District, except where the Improvements are otherwise exempt from taxation.

The tax levied shall be at the rate of **22 cents/square foot** on all Improvements on Residential Parcels, **34 cents/square foot** on all Improvements on Commercial, Industrial, and Institutional Parcels and **\$50/parcel** on Unimproved Parcels.

- ii. The tax base shall be as described in the Berkeley Municipal Code Section 7.56.020 which defines and delimits the parameters of the square footage applications, and which is incorporated by reference herein. Definitions for Buildings, Improvements, Parcels, Square Footage, and Unimproved Parcels pursuant to the Berkeley Municipal Code are provided in Section 6 of this Measure. In the event of the expiration of this Municipal Code for any reason, the same definitions shall continue to apply as the basis for this Special Tax.
- iii. An exemption may be granted annually on any single family residential Parcel or multi-family dwelling unit owned and occupied by one or more very low-income senior citizens, upon annual application to the City of Berkeley for such exemption. To be eligible for such exemption, the senior citizen must be 65 years of age or older as of July 1 of any applicable tax year, and must meet the very low-income qualifications of Berkeley Municipal Code Section 7.56.035, which is incorporated by reference herein. In the event of expiration of Municipal Code Section 7.56.035 for any reason, the same qualification criteria shall continue to apply to this exemption.
- iv. With respect to all general property tax matters within its jurisdiction, the Alameda County Tax Assessor shall make all final determinations of tax exemption or relief for any reason, and that decision shall be final and binding. With respect to matters specific to the levy of the Special Tax, a District administrative review panel shall make all necessary final determinations, and that decision shall be final and binding.

B. Cost-of-Living Adjustment

Each year the rates imposed by this Special Tax may be increased by a cost-of-living adjustment equal to the annual percentage increase of the statutory inflation adjustment as defined in Education Code Section 42238.1(b) which is incorporated by reference herein.

Any increase in funds raised by this Measure due to the cost-of-living adjustments set forth in this Section shall be allocated proportionally among the Measure's purposes in accordance with Section 2 of this Measure.

C. Constitutional Spending Limit

Pursuant to Article XIII B of the California Constitution and applicable laws, the appropriations limit of the District shall be increased periodically by the amount collected by the levy of this Special Tax.

D. Savings Clause

The provisions of this Measure shall not apply to any person, association, or corporation or to any property as to whom or which it is beyond the power of the District to impose the tax herein provided. The Board of Education hereby declares, and the voters by approving this measure concur, that every sentence, clause, section, and part of this Measure has independent value and the Board of Education and the voters would have adopted each provision hereof regardless of every other provision hereof. If any sentence, clause, section, or part of this Measure or any tax against any individual or any of the several groups specified herein is found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, or part of this Measure and shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or other parts of this Measure. It is hereby declared to be the intention of the Board of Education and of the electorate that this Measure would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof, not been included.

E. Term

The term of this Measure shall be 10 years. The Measure shall be operative immediately upon passage. The tax shall be levied beginning in the 2007-2008 tax year and shall continue each year thereafter for ten years. Any proceeds from this Special Tax not spent during those fiscal years may be spent on all authorized purposes until exhausted.

5. ACCOUNTABILITY PROVISIONS

A. Separate Account

Proceeds of this Special Tax shall be deposited into an account which shall be kept separate and apart from other accounts in the District and shall be applied only to the respective purposes in the percentages specified in Section 2.

B. Citizen Participation in Planning and Oversight of Special Tax Funds

i. **District-wide Committee.** A District-wide Planning and Oversight Committee, composed of citizens representing all school sites, shall be established to be advisory to the District, and, in accordance with bylaws adopted by the Board of Education, shall:

- present recommendations to the Board of Education about the annual expenditure plans for the revenues generated by this Measure;
- provide communication among school sites to enhance their effective use of the revenues provided by this Measure; and,
- review District compliance with the terms of this Measure.

ii. **School Governance Council.**

A School Governance Council, consisting of the school's Principal, and representatives of its teachers, staff and parents, shall be established at each school site in accordance with California law and policies adopted by the Board of Education. Each School Governance Council shall develop a School Site Plan which shall be focused on improving student learning and shall direct the revenues from this Measure to implement the Board-approved School Site Plan.

The District shall make available regularly to the Principal and the School Governance Council revenue and expenditure reports to enable the School Governance Council to prepare its School Site Plan.

C. Citizens' Oversight

The District shall make available to the Planning and Oversight Committee and the general public, updated revenue and expenditure reports of the proceeds of this Special Tax at least four times annually: before adoption of the District's annual budget, concurrently with the State-required interim reports, and with the annual report on the Measure ("Annual Report").

The Annual Report shall display the revenues generated by this Measure and the expenditures of the revenues as of the year's financial "closing," and shall include a report on the status of projects funded by the revenues. This report shall be organized to display clearly how the expenditures relate to the purposes of this Measure.

The Annual Report shall be delivered to the Planning and Oversight Committee no later than November 1 following the closing of the fiscal year. The Planning and Oversight Committee shall review the Annual Report and report to the Board of Education on the District's compliance with the conditions of this Measure by February 1.

D. Independent Auditor's Report and Audit Committee.

Each year, an independent auditor retained by the District shall review District records to determine that funds generated by this Measure have been allocated and expended in compliance with the provisions of this Measure, including:

- that the funds raised by this Measure have been allocated to the respective purposes in the percentages specified in Section 2.
- that the funds raised by this Measure have been spent for purposes specified in Section 3, subdivisions A-E.
- that other provisions of this Measure have been satisfied.

The audit shall be conducted in accordance with generally accepted accounting principles, the Standards and Procedures for Audits of California K-12 Local Educational Agencies, and this Measure.

Subsequent to issuance of the Auditor's Report, the District's Audit Committee, as established by the Board of Education, shall review the Auditor's Report.

E. Civil Remedies Available at Law

The above provisions are in addition to civil remedies available at law for assuring compliance with the terms of this Measure.

6. Definitions

For purposes of this Measure, the following terms shall be defined as set forth below.

- A. “Available Revenues” shall mean the amount of money provided by this Measure after deduction of costs for collection of the tax and two percent (2%) of Special Tax revenues for public information, translation services for District families and support of the Planning and Oversight Committee.
- B. “Average Class Size” shall mean the District-wide average of the enrollment at each grade level in all k-12 classrooms..

The formula for determining a full time equivalent (1.0 FTE) teacher at grades 6-12 to meet Average Class Size objectives shall be: student enrollment x 6 class periods per day/per student, divided by 5 teaching periods, divided by Average Class Size objective.

- C. In accordance with Berkeley Municipal Code Section 7.56.020, subdivision A, which is incorporated by reference herein, “Building” shall mean any structure having a roof supported by columns or by walls and designed for the shelter or housing of any person, chattel or property of any kind. The word “building” includes the word “structure.”
- D. In accordance with Berkeley Municipal Code section 7.56.020, subdivision F, which is incorporated by reference herein, “Improvements” shall mean all buildings or structures erected or affixed to the land.
- E. Operational costs are all costs of operating relevant District programs to accomplish the Measure’s purposes and include but are not limited to personnel, materials, equipment, technology, facilities, maintenance and administrative costs. Administrative costs incurred in implementing this Measure shall be paid from the proceeds of this Measure at the District’s Indirect Cost Rate authorized by the California Department of Education.
- F. In accordance with Berkeley Municipal Code Section 7.56.020, subdivision I, which is incorporated by reference herein, “Parcel” shall mean a unit of real estate in one ownership as shown on the most current official assessment role of the Alameda County Assessor.
- G. “Reducing Class Sizes” shall mean that the revenues allocated under Section 3A of this Measure shall be spent to reduce class sizes below the staffing ratios supported by the District’s unrestricted general fund.
- H. “Severe Fiscal Emergency” shall mean an instance when the Alameda County Office of Education has “Disapproved” the District’s annual budget

or has “Certified” the District’s Interim Financial Report as “Qualified” or “Negative” or has concurred with the Board of Education’s own certification of the District’s Interim Financial Report as “Qualified” or “Negative” pursuant to AB 1200 and AB 2756.

- I.** In accordance with Berkeley Municipal Code Section 7.56.020, subdivision G, “Square Footage” shall mean the total gross horizontal areas of all floors, including usable basement and cellars, below the roof and within the outer surface of the main walls of buildings (or the center lines of party walls separating such buildings or portions thereof) or within lines drawn parallel to and two feet within the roof line of any building or portion thereof without walls (which includes, notwithstanding paragraph 3 below, the square footage of all porches), and including pedestrian access walkways or corridors, but excluding the following:
1. Areas used for off-street parking spaces or loading berths and driveways and maneuvering aisles relating thereto.
 2. Areas which are outdoor or semi-outdoor areas included as part of the building to provide a pleasant and healthful environment for the occupants thereof and the neighborhood in which the building is located. This exempted area is limited to stoops, balconies and to natural ground areas, terraces, pools and patios which are landscaped and developed for active or passive recreational use, and which are accessible for use by occupants of the building.
 3. Arcades, porticoes, and similar open areas which are located at or near street level, which are accessible to the general public, and which are not designated or used as sales, display, storage, service or production areas.
- J.** In accordance with Berkeley Municipal Code Section 7.56.020, subdivision H, which is incorporated by reference herein, “Structure” shall mean anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.
- K.** “Unimproved Parcel” shall mean a taxable Parcel that does not contain Buildings or other Improvements.