

Full 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:
“Berkeley Public Schools Educational Excellence Act of 2016”
<i>To support excellence in the Berkeley Public Schools and fund designated purposes including school libraries, class size reduction, teacher training, academic support for students, music programs, computers and learning technology, shall the Berkeley Unified School District replace its expiring special tax with an annual tax at 37 cents/sq.ft. for residential and commercial buildings, for eight years, with annual cost-of-living adjustments and a low-income senior exemption, with an independent oversight committee and auditors to monitor this fund?</i>
1. TITLE AND PURPOSE
“Berkeley Public Schools Educational Excellence Act of 2016”
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:
High Quality Instruction: Small Class Sizes, Professional Development, Classroom Support, Program Evaluation, and Expanded Course Offerings66%
Essentials for Excellence: School Libraries; Music, Visual and Performing Arts; School Site Programs; and Instructional Technology27%
Effective Student Support: Counseling and Behavioral Health; Family Engagement and Access; and Student Achievement Strategies7%
3. DEFINITION OF PURPOSES
A. High Quality Instruction: Small Class Sizes, Professional Development, Classroom Support, Program Evaluation, and Expanded Course Offerings
i. Sixty-six (66%) of the Available Revenues of this Measure shall be dedicated annually to reducing class sizes at all K-12 schools, as well as professional development, classroom support, program evaluation, and expanded course offerings, in ways that may not be achieved solely through support by the District’s General Fund.
ii. The District’s General Fund currently provides funding for class size averages of 34:1 in elementary grades and 36:1 in secondary grades. The revenues from this Measure shall be used to reduce class sizes to district-wide averages of not more than 26:1 for the elementary schools, 28:1 for the secondary schools, and 18:1 for continuation high school and other secondary opportunity programs.
Furthermore, as long as State class size reduction funds provide the current level of financial incentives to support K-3 class sizes of 24:1, class sizes in the elementary grades shall be gradually rebalanced to a K-5 school-wide average of 23:1. Class size adjustments shall phase in beginning in 2017-18. In the interim, any district school may recommend that the Board adopt alternative means to reduce class sizes at a particular school site in order to best meet the needs of students.
After resultant class sizes meet the goals stated above, additional teachers and other supports may be added to provide professional development, classroom support, program evaluation, and expanded course offerings, insofar as the funds permit. Allocations within these options shall be recommended by district staff to the Planning and Oversight Committee and approved by the Board.

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 costs, and other costs associated with the opening or maintaining of classrooms to reduce class sizes.
B. <i>Essentials for Excellence: School Libraries; Music, Visual and Performing Arts; School Site Programs; and Instructional Technology:</i>.....27%
Twenty-seven percent (27%) of the Available Revenues generated by this Measure shall be dedicated annually to providing programs designed to improve the academic proficiency and educational experience of all students by providing equitable access to an enriched, challenging and engaging curriculum. Revenues from this Measure may support all costs attendant to providing these services, including operational costs. These revenues shall be allocated to district-wide programs as follows:
(a) School Libraries
Seven and a quarter percent (7.25%) of the Available Revenues generated by this Measure 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, services and equipment for the school libraries.
(b) Music and Visual and Performing Arts Programs
Six and a quarter percent (6.25%) of the Available Revenues generated by this Measure 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, and professional development in the arts for elementary and secondary students. Musical instruments, instructional materials, equipment and necessary services may be provided for any K-12 school, as long as funds permit.
(c) School Site Programs
Ten and a quarter percent (10.25%) of the Available Revenues generated by this Measure shall be allocated annually for School Site Programs to each K-12 school on a per pupil basis. District preschools shall receive a similar allocation for each full time student. The School Site Council (as described in Section 5.B.ii.) shall develop recommendations to allocate these revenues for the personnel, services and materials required to deliver effective and equitable opportunities for student engagement, enrichment, and achievement. 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.
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.
(d) Instructional Technology
Three and a quarter percent (3.25%) of the Available Revenues generated by this Measure shall be allocated to providing instructional technology in schools , and access for students to computers and technology.
C. <i>Effective Student Support: Counseling and Behavioral Health; Family Engagement and Access; and Student Achievement Strategies</i>

<p>Seven percent (7%) of the Available Revenues generated by this Measure shall be dedicated annually to providing programs designed to provide effective supports that help students reach their highest academic potential while addressing the needs of the whole child. These revenues may be allocated to district-wide programs for Counseling and Behavioral Health; Family Engagement and Access; and Student Achievement Strategies to improve academic, behavioral and social-emotional outcomes for students. Revenues from this Measure may support all costs attendant to providing these services, including operational costs.</p>
<p>D. Flexibility of Funds</p>
<p>To maintain high quality programs with the revenues available for the specified purposes, up to ten percent (10%) of the allocations for certain district-wide programs (School Libraries; Music and Visual and Performing Arts Programs; Technology; and Effective Student Supports) may, upon review by the Planning and Oversight Committee and approval by the Board, be redistributed among these purposes in any given year.</p>
<p>Tax Base</p>
<p>4. THE TAX LEVY</p>
<p>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.</p>
<p>The tax levied shall be at the rate of 37 cents/square foot on all Improvements on Residential, Commercial, Industrial, and Institutional Parcels.</p>
<p>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. Current definitions of the terms “Buildings,” “Improvements,” “Parcels,” and “Square Footage,” 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. In the event of the modification of any Berkeley Municipal Code definition or term that applies to this Special Tax, the definition or term as modified shall apply to the basis for this Special Tax.</p>
<p>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.</p>
<p>iv. With respect to all general property tax matters within their respective jurisdictions, the Alameda County Tax Assessor or the City of Berkeley 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 or the City of Berkeley, as the designated agency, shall make all necessary final determinations, and that decision shall be final and binding.</p>
<p>Term</p>
<p>The term of this Measure shall be eight years. The Measure shall be operative immediately upon passage. The tax shall be levied beginning in the 2017-2018 tax year and shall continue each year thereafter for eight years. Any proceeds from this Special Tax not spent during those fiscal years may be spent on all authorized purposes until exhausted.</p>

Cost-of-Living Adjustment
Each year, commencing with the 2017-18 tax year, the first year of assessment, and thereafter, the rates imposed by this Special Tax may be increased by a cost-of-living adjustment equal to the annual average percentage change in the Consumer Price Index - All Urban Consumers, San Francisco-Oakland-San Jose area over the prior twelve months, as of December 1 of prior year. If, in any given year, that index is not available, then the rate will be adjusted based on the changes in the Consumer Price Index – All Urban Consumers (CPI-U).
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.
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.
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.
5. ACCOUNTABILITY PROVISIONS
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.
Participation in Planning and Oversight of Special Tax Funds
i. District-wide Committee
A district-wide Planning and Oversight Committee, composed of parents/guardians, staff members, students, residents, or community members 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 Site Council
A School Site Council, composed of the school’s Principal, teachers, staff members, parents/guardians, residents, or community members, shall be established at each pre-K-12 school site or designated program in accordance with California law, policies, and by-laws adopted by the Board of Education.

Each School Site Council shall develop a School Site Plan which shall be focused on improving student learning and shall direct the revenues from section 3.B.i. of this Measure to implement the board-approved School Site Plan.
At Berkeley High School, a committee composed of students, teachers, staff members and parents/guardians, residents or community members may make recommendations for expenditures allocated from this measure to the School Site Council.
The District shall make available regularly to the Principal and the School Site Council revenue and expenditure reports to enable the School Site Council to prepare its School Site Plan.
C. Financial 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 January 15 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 following the closing of the fiscal year.
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:
<ul style="list-style-type: none"> • that the funds raised by this Measure have been allocated to the respective purposes in the percentages specified in Section 2.
<ul style="list-style-type: none"> • that the funds raised by this Measure have been spent for purposes specified in Section 3, subdivisions A-C.
<ul style="list-style-type: none"> • 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.
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:

<p>A. "Available Revenues" shall mean the amount of money provided by this Measure after deduction of authorized collection charges by the county or city for collection of the tax and two percent (2%) of Special Tax revenues for public information and community engagement, communications and translation services for district families, and support of the Planning and Oversight Committee and School Site Councils.</p>
<p>"Average Class Size" shall mean the district-wide average of the enrollment at each grade level in all K-12 classrooms, excluding physical education. After elementary class-size balancing has been fully implemented, "average class size" shall mean school-wide averages for the elementary grades and district-wide averages for secondary grades, with the exception of physical education classes, which may be larger.</p>
<p>The formula for determining the number of full-time equivalent teachers (FTEs) in grades 6-12, to meet the 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, unless and until this formula is altered contractually by agreement between the District and the Berkeley Federation of Teachers (or the union representing BUSD teachers).</p>
<p>In accordance with Berkeley Municipal Code Section 7.56.020, subdivision A, which is incorporated by reference herein, "Building" means any structure having a roof supported by columns or by walls and designed for the shelter or housing of any person or property of any kind. The word "building" includes the word "structure."</p>
<p>In accordance with Berkeley Municipal Code Section 7.56.020, subdivision F, which is incorporated by reference herein, "Improvements" mean all buildings or structures erected or affixed to the land.</p>
<p>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, services, 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.</p>
<p>In accordance with Berkeley Municipal Code Section 7.56.020, subdivision I, which is incorporated by reference herein, "Parcel" means a unit of real estate in one ownership as shown on the most current official assessment role of the Alameda County Assessor.</p>
<p>"Reducing Class Sizes" shall mean that the revenues allocated under Section 3. A. of this Measure shall be spent to reduce class sizes, below the staffing ratios supported by the District's unrestricted general fund.</p>
<p>H. "Severe Fiscal Emergency"- For a severe fiscal emergency to be declared under section 3.A.iii., it can only be declared by the Board of Education with no less than a 4/5 vote, when:</p>
<p>(a) The Board of Education determines the District's Interim Financial Report to be "Negative" pursuant to AB 1200 and AB 2756, and the Alameda County Office of Education concurs with this determination; or</p>
<p>(b) The Alameda County Office of Education has "Disapproved" the District's annual budget, or has "Certified" the District's Interim Financial Report as "Negative."</p>

I. In accordance with Berkeley Municipal Code Section 7.56.020, subdivision G, "Square Footage" means 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:

Areas used for off-street parking spaces or loading berths and driveways and maneuvering aisles relating thereto.

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.

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.

In accordance with Berkeley Municipal Code Section 7.56.020, subdivision H, which is incorporated by reference herein, "Structure" means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.