[Business and Tax Regulations Code - Early Care and Education Commercial Rents Tax Baseline - FYs 2024-2025 through 2027-2028]

Ordinance modifying the baseline funding requirements for early care and education programs in Fiscal Years (FYs) 2024-2025 through 2027-2028, to enable the City to use the interest earned from the Early Care and Education Commercial Rents Tax for those baseline programs.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings.

In June 2018, the voters approved Proposition C, which imposed a new tax on the gross receipts from the lease of commercial space in properties in the City (the "Tax"). The ballot measure required the City to spend 85% of the revenues from the Tax to fund quality early care and education for young children. At the time, the City already provided significant funding (the "Base Amount") to early care and education programs ("Baseline Programs").

Proposition C added to that existing funding for Baseline Programs, and provided that in any given fiscal year, the City can spend Tax revenues only if it has also appropriated separate funds for Baseline Programs in an amount equal to at least the Base Amount (subject to some adjustments by the City Controller). The intent of Proposition C was to ensure dedicated revenues to increase funding for quality early care and education for San Francisco children under the age of six, without those revenues supplanting existing funding.

To allow flexibility, the voters authorized the Board of Supervisors to amend or repeal Proposition C by ordinance. Under Business and Tax Regulations Code Section 2113, the Board may do so without a supermajority vote or any specific findings.

The City uses funding from a variety of sources, including State and Federal grants, for early learning scholarships, compensation for early educators, parenting support, childcare facilities, and additional programs. Despite these investments, there is still a gap in meeting the needs of families of young children and expanding quality early care and education. This requires an ongoing strategy to increase wages and benefits for early care educators; recruit and retain the workforce; expand and improve access to childcare slots for families up to 200% of Area Median Income, particularly for infants and toddlers; and develop other programs that support the physical, emotional, and cognitive development of children under six. In approving this Ordinance, the Board recognizes that the voters did not intend revenues from the Tax to be used to fill other budgeting priorities, and acknowledges the goal of the measure was to a establish dedicated funding source to realize the goals of a universal early care and education system.

This Ordinance would allow the City to use interest earned in the Babies and Families First Fund to fund Baseline Programs previously funded from the General Fund. Doing so will further the purposes of Proposition C, as it will enable the City to redirect those General Fund monies that would have funded Baseline Programs toward other essential services for children and families, such as educational programs for children, family support services, and food access programs. To that end, this Ordinance temporarily modifies the baseline requirements in Business and Tax Regulations Code Section 2112(f) and (g) for Fiscal Years 2024-2025 through 2027-2028 to credit against the Base Amount interest earned in the Babies and Families First Fund.

In July 2023, the City enacted Ordinance No. 176-23, which temporarily modified the baseline requirements for Fiscal Years 2023-2024 and 2024-2025 to credit against the Base Amount interest earned in the Babies and Families First Fund. This Ordinance supersedes Ordinance No. 176-23 as to the requirements for Fiscal Year 2024-2025, and also extends the modification for three additional fiscal years.

Section 2. Modification of Baseline Provisions in Proposition C.

Pursuant to Business and Tax Regulations Code Section 2113, the Board of Supervisors temporarily modifies Article 21 of the Business and Tax Regulations Code to:

(a) Credit against the Base Amount, as that term is defined in Section 2103, interest earned in the Babies and Families First Fund in Fiscal Years 2024-2025 through 2027-2028 and prior Fiscal Years in the following amounts: for Fiscal Year 2024-2025, up to $16,600,000 or a higher amount determined in the March 1 financial update prepared by the Mayor, Budget Analyst, and Controller under Administrative Code Section 3.6(b) (the “March 1 Update”) in 2025; for Fiscal Year 2025-2026, up to $16,900,000 or a higher amount determined in the March 1 Update in 2026; and for Fiscal Years 2026-2027 and 2027-2028, up to the amount of interest estimated in the March 1 Update for 2027 and 2028, respectively. These credits shall not be applied against the Base Amount in any Fiscal Year where the cash balance in the Babies and Families First Fund as of July 1 of that Fiscal Year is less than $100 million; and

(b) In Fiscal Years 2025-2026 through 2027-2028, not increase the Base Amount, as that term is defined in Section 2103, as required in Section 2112(g) despite any increase in aggregate City discretionary revenues in those fiscal years, unless the City’s projected budget deficit for that year at the time of the Joint Report or Update to the Five Year Financial Plan in March of the year is less than the amount referenced in Section 2112(h) after annual adjustments.

Section 3. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/
JON GIVNER
Deputy City Attorney

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