

SENATE BILL REPORT

SB 5437

As Reported by Senate Committee On:
Early Learning & K-12 Education, February 12, 2019
Ways & Means, March 1, 2019

Title: An act relating to expanding eligibility to the early childhood education and assistance program.

Brief Description: Expanding eligibility to the early childhood education and assistance program.

Sponsors: Senators Wilson, C., Palumbo, Wellman, Hunt, Saldaña, Nguyen, Randall, Das, Billig, Mullet, Darneille, Dhingra, Hasegawa, Kuderer and Takko; by request of Office of the Governor.

Brief History:

Committee Activity: Early Learning & K-12 Education: 2/04/19, 2/12/19 [DPS-WM, w/oRec].

Ways & Means: 2/28/19, 3/01/19 [DP2S, w/oRec].

Brief Summary of Second Substitute Bill

- Allows inclusion of children whose family income is less than or equal to 200 percent of the federal poverty level in the Early Childhood Education and Assistance Program (ECEAP), as space is available.
- Requires development of a phased implementation of a birth-to-three ECEAP pilot project, with implementation beginning once adequate funds are secured.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: That Substitute Senate Bill No. 5437 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Wellman, Chair; Wilson, C., Vice Chair; Hunt, McCoy, Mullet, Pedersen, Salomon and Wagoner.

Minority Report: That it be referred without recommendation.

Signed by Senators Holy and Padden.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Ailey Kato (786-7434)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5437 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Brown, Assistant Ranking Member, Operating; Billig, Carlyle, Conway, Darneille, Hasegawa, Keiser, Liias, Palumbo, Pedersen, Rivers, Van De Wege, Wagoner, Warnick and Wilson, L..

Minority Report: That it be referred without recommendation.

Signed by Senators Braun, Ranking Member; Honeyford, Assistant Ranking Member, Capital; Becker and Schoesler.

Staff: Maria Hovde (786-7474)

Background: Early Childhood Education and Assistance Program. This voluntary preschool program serves eligible three and four year olds. The Department of Children, Youth, and Families (DCYF) administers ECEAP to assist eligible children with educational, social, health, nutritional, and cultural development to enhance their opportunity for success in the common school system.

Current law provides for this program to become an entitlement in the 2022-23 school year for eligible children. "Eligible children" means a child not eligible for kindergarten and:

- whose family income is at or below 110 percent of the federal poverty level;
- a child eligible for special education preschool due to disability; and
- may include children who are eligible under rules adopted by DCYF if the number of such children equals not more than 10 percent of the total enrollment.

State law requires DCYF to adopt rules allowing inclusion of children in ECEAP whose family income is above 110 percent of the federal poverty level if the number of such children equals not more than 25 percent of total statewide enrollment. ECEAP may allow enrollment for these children on a space available basis. Children who are over income must be homeless or impacted by specific developmental or environmental risk factors that are linked by research to school performance. Children who are over income are not to be considered eligible children for ECEAP and are not considered to be part of the state-funded entitlement.

Early Head Start Programs. These federally funded programs serve low-income pregnant women and infants and toddlers under the age of three. Early Head Start programs are designed to promote the development of the children and enable their parents to fulfill their roles as parents and to move toward self-sufficiency. Program options include home-based, center-based, and family child care services.

Early Achievers. This program is the state's quality rating and improvement system for early child care and education. The quality of care is assigned a rating on a scale of 1-5, with

Level 1 being the minimum requirements for licensing and Level 5 being the highest possible level of quality.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Second Substitute): ECEAP Eligibility. Eligible child means a three to five-year-old child who is not age-eligible for kindergarten, is not a participant in a federal or state program providing comprehensive services, and who:

- has a family income at or below 110 percent of the federal poverty level;
- is eligible for special education due to disability; or
- meets criteria under rules adopted by DCYF if the number of such children equals not more than 10 percent of the total enrollment.

DCYF shall adopt rules that allows the inclusion of children whose family income is above 110 percent, but less than or equal to 200 percent of the federal poverty level. Within this group, no more than 25 percent of total statewide enrollment may consist of children with family incomes above 130 percent of the federal poverty level. Children under these rules must be enrolled as space is available and according to a system of risk factors and priority points adopted in rule. The priority system must consider risk factors that have disproportionate effects on kindergarten readiness, including:

- homelessness;
- child welfare system involvement;
- developmental delay or disability that does not meet the eligibility criteria for special education;
- domestic violence;
- English as a second language;
- expulsion from an early learning setting;
- a parent who is or has been incarcerated;
- a parent with a substance use disorder or mental health treatment need; and
- being an Indian child.

Priority within this group must be given first to children with incomes up to 130 percent of the federal poverty level.

DCYF must consult, and obtain the advice and consent of, the governing bodies of the state's federally recognized tribal nations to develop an agreed upon definition of "Indian child" and, by July 1, 2020, must adopt the definition in rule.

Birth-to-Three Early Childhood Education and Assistance Program Pilot. Within resources available under the federal Preschool Development Grant Birth to Five award received in December 2018, DCYF must develop a plan for a phased implementation of a birth-to-three ECEAP to eligible children. An eligible child means a child's family income is at or below 130 percent of the federal poverty level and under thirty-six months old.

Planning for the pilot project must start by January 1, 2020 and phased service delivery may begin after DCYF has secured adequate funds to implement the pilot project in at least ten locations. Funds to implement the pilot project may include a combination of federal, state, or private sources.

DCYF must consider Early Head Start rules and regulations when developing requirements. Any deviations must be identified and explained in an annual report. DCYF may adopt rules to implement the pilot project.

Upon securing adequate funds to begin implementation, the pilot project programs must be delivered through child care centers and family home providers who meet minimum licensing standards and are enrolled in Early Achievers. DCYF must determine minimum Early Achievers ratings scores for programs participating in the pilot project.

Beginning November 1, 2020, DCYF must submit an annual report to the Governor and the Legislature that includes a status update describing the planning work completed, the status of funds secured, and any implementation activities of the pilot project, including a description of the participating programs and number of children and families served.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Second Substitute):

- Adds Legislative finding that the income eligibility limit in ECEAP hinders the state's ability to recruit and enroll qualified families, particularly in rural and tribal communities.
- Adds Legislative intent to allow for flexibility in ECEAP to serve children with family incomes up to 200 percent of the federal poverty level.
- Removes provisions creating a new definition of "allowable" child.
- Adds language requiring DCYF to adopt rules to allow the inclusion of children with family incomes above 110 percent but less than or equal to 200 percent of the federal poverty level and limits their enrollment to no more than 25 percent of total statewide enrollment.
- Adds being an Indian child as a risk factor for priority enrollment on a space available basis and clarifies that DCYF must obtain the advice and consent of the state's tribal nations to develop a definition of the term "Indian child".
- Adds language requiring that children with incomes up to 130 percent of the federal poverty level be given priority when enrolled on a space available basis.
- Removes the requirement that DCYF develop recommendations related to differential slot rates.
- Requires DCYF to develop a plan for phased implementation of an Early ECEAP pilot project within available federal resources and removes the requirement that, during the pilot, DCYF begin an evaluation to analyze quality and performance measures.

EFFECT OF CHANGES MADE BY EARLY LEARNING & K-12 EDUCATION COMMITTEE (First Substitute):

- Makes changes to the birth-to-three ECEAP pilot.
- Changes the definition of "eligible child" for the purposes of ECEAP by bifurcating into children entitled to enroll in ECEAP and children allowed to enroll in ECEAP.
- Expands the group entitled to enroll in ECEAP to include a family income at or below 130 percent of the federal poverty level instead of 110 percent.

- Limits children who are allowed to enroll in ECEAP to families with income greater than 130 percent of the federal poverty level but less than 200 percent and allows enrollment, as space is available, according to a system of risk factors and priority points.
- Directs DCYF to develop recommendations related to differential slot rates for ECEAP based on variable factors and to submit a report by September 1, 2020.
- Corrects statutory references.
- Removes the emergency clause.

Appropriation: The bill contains a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute (Early Learning & K-12 Education): *The committee recommended a different version of the bill than what was heard.* PRO: ECEAP helps children of color and low-income children access a critical early learning program to keep up with the more advantaged peers and help close the opportunity gap. Many parts of the state have limited access to high quality center-based care for infants and toddlers. Native children and children who are homeless are among the least ready for kindergarten. ECEAP helps children prepare for kindergarten. ECEAP eligibility should line up with federal Head Start and the free lunch program, which is 130 percent of the federal poverty level. Adequacy of compensation of ECEAP teachers is a concern.

Persons Testifying (Early Learning & K-12 Education): PRO: Senator Claire Wilson, Prime Sponsor; Dana Anderson, Association of Educational Service Districts; Melissa Johnson, Washington State Association of Head Start and ECEAP; Kevin Rutherford, citizen; Teela Lanchester, citizen; Deborah Sioux Lee, Nisqually Tribal Head Start; Katy Warren, Washington State Association of Head Start and ECEAP.

Persons Signed In To Testify But Not Testifying (Early Learning & K-12 Education): No one.

Staff Summary of Public Testimony on Second Substitute (Ways & Means): PRO: This policy moves us in the right direction of providing additional flexibility in the ECEAP program and is a good step forward in addressing equity gaps. However, in order for this to be effective it must come with a significant increase in the subsidy rates and without that this policy is not going to be able to materialize. High quality early learning programs prepare our children intellectually and socially. The state's ECEAP program is known throughout the country as a high quality program yet every year 22,000 low-income children come to kindergarten not ready. The benefits have been studied and they are long lasting. This bill would provide flexibility for ECEAP programs to reach out to those in their communities that need the ECEAP wraparound services. This version of the bill retains the policy of the early ECEAP program which is modeled after the successful Early Head Start program.

Persons Testifying (Ways & Means): PRO: Michelle Rylands, Washington State PTA; Melissa Johnson, Washington State Association of Head Start and ECEAP; Emily Murphy, Children's Alliance.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.