

# SENATE BILL REPORT

## SB 5452

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As of February 25, 2015

**Title:** An act relating to improving quality in the early care and education system.

**Brief Description:** Improving quality in the early care and education system.

**Sponsors:** Senators Litzow, Billig, Fain, Dammeier, Hargrove, Hill, Rivers, Brown, Mullet, Frockt, Jayapal, Angel, Cleveland, Kohl-Welles, Keiser, McAuliffe and Habib.

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 1/26/15, 2/17/15 [DPS-WM, DNP].

Ways & Means: 2/25/15.

### Brief Summary of Bill

- Makes comprehensive changes to Early Achievers (EA), Washington's quality rating and improvement system (QRIS) for early care and education programs; Early Childhood Education and Assistance Program (ECEAP), preschool for eligible three to four-year-old children; and Working Connections Child Care (WCCC), subsidized child care for families that meet certain requirements.
- Requires the Department of Early Learning (DEL) to make rules on specific topics and to create a single set of licensing standards for child care and ECEAP.
- Requires longitudinal, student-level data on children attending WCCC or ECEAP and reporting to the Legislature based on the data by the Office of Financial Management's Education Research and Data Center and the Washington State Institute for Public Policy (WSIPP); and additional reports by DEL on the implementation of the changes made by this legislation.
- Creates an Early Start account for state and other funding sources to be used to improve the quality of early care and education programming.
- Encourages local governments to collaborate with DEL when establishing early learning programs.

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

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*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.*

**Majority Report:** That Substitute Senate Bill No. 5452 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Litzow, Chair; Dammeier, Vice Chair; Billig, Fain, Hill, Mullet, Rivers and Rolfes.

**Minority Report:** Do not pass.

Signed by Senator McAuliffe, Ranking Member.

**Staff:** Ailey Kato (786-7434)

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## SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Breann Boggs (786-7433)

**Background:** Department of Early Learning. DEL was created in 2006. In 2007 the Legislature established the Early Learning Advisory Council to advise DEL on statewide early learning needs and to develop a statewide early learning plan. Twenty-three members are specified in statute.

DEL oversees many programs and services, including but not limited to, licensing and monitoring of family home childcare facilities and childcare centers, ECEAP, the Washington Kindergarten Inventory of Developing Skills, and Early Achievers – Washington’s QRIS.

Early Achievers. This free and voluntary program provides training, technical assistance, consultation, and coaching to licensed childcare facilities, tribal and military certified programs, and state and federally funded preschool programs such as ECEAP and Head Start. EA participants are evaluated and assigned a rating from 1 to 5. Quality improvement awards are currently funded by a federal grant and are available to all licensed EA participants rated at levels 3 to 5. In year (FY) 2015, a tiered reimbursement pilot provided incentive payments to subsidized childcare providers rated at levels 3 to 5. EA is funded through federal grants, one of which will end in December 2015.

Working Connections Child Care. This program offers subsidies to childcare providers serving families at or below 200 percent of the federal poverty level – \$47,700 for a family of four. The state pays part of the cost of child care when a parent is employed, self-employed, or meets the requirements for Temporary Assistance for Needy Families or WorkFirst programs. The family is responsible for making a copayment to the childcare provider. DEL sets childcare subsidy policy and provides WCCC oversight for childcare licensing and early learning services. The Department of Social Health Services (DSHS) helps families apply for WCCC, determines eligibility and consumer copayments, authorizes child care, and pays providers. Both childcare centers and family home providers are able to receive WCCC subsidy payments.

Early Childhood Education and Assistance Program. This program offers preschool to eligible three to four-year-old children. Children are eligible for ECEAP if they are from families with annual income at or below 110 percent of the federal poverty level – \$26,235 for a family of four, qualify for school district special education services, or have developmental or environmental risk factors that could affect school success. Since 1985

ECEAP has provided nutrition, health, education, and family support services. In 2013 the Legislature required ECEAP providers to enroll in EA and maintain a minimum score level by FY 2015. Currently, family home providers do not administer ECEAP.

Contracted Slots. The 2013-15 (FY 2014 supplemental) budget authorized DEL to serve a portion of WCCC households through slots contracted directly with specific childcare providers. DEL was also allowed to braid funding between WCCC and ECEAP for full-day preschool for eligible children.

Electronic Time and Attendance Records System. The 2011-13 (FY 2012 supplemental) budget authorized DEL to develop an electronic time and attendance system to replace the existing child care payment system and the manual method of tracking child care attendance.

**Summary of Bill (Proposed Second Substitute):** Early Achievers. The EA program is changed in a number of ways.

*EA Foundation.* DEL must collaborate with tribal governments when implementing a QRIS. Two objectives are added to EA:

- improve short-term and long-term educational outcomes for children as measured by assessments, and
- provide professional development and coaching opportunities to early child care and education providers.

*EA Rating Cycle and Rerating Fees.* DEL has the authority to determine the rating cycle for EA. Participants may request to be rated at any time after the completion of all level 2 activities. DEL must provide a participant an update on its progress toward completing level 2 activities after enrollment in EA for 15 months.

The first rating is free. Each subsequent rating within the established rating cycle is free. Participants may request to be rerated outside the established rating cycle. DEL must charge a fee for optional rerating requests made by participants that are outside the established rating cycle. Fees charged are based on, but may not exceed, the cost to DEL for activities associated with EA.

*EA Participation.* Certain childcare and education programs must participate in EA.

***Nonschool Age and State Subsidy Payments.*** Participation in EA is voluntary for licensed or certified childcare centers and homes not receiving state subsidy payments. However, licensed or certified childcare centers and homes serving nonschool age children and receiving state subsidy payments must participate in EA by required deadlines. Nonschool age child means a child birth through six years of age who has yet to enter kindergarten or school.

Existing childcare providers must complete the following requirements to be eligible for a state subsidy:

- enroll in EA;
- complete level 2 activities by August 1, 2016; and
- rate at a level 3 or higher by December 31, 2018.

If an existing childcare provider rates below a level 3 by December 31, 2018, the provider must complete remedial activities with DEL, and rate at a level 3 or higher no later than June 30, 2019.

New childcare providers must complete the following activities to be eligible for a state subsidy effective July 1, 2016:

- enroll in EA within 30 days;
- complete level 2 activities within 12 months of enrollment; and
- rate at a level 3 or higher within 30 months of enrollment.

If a new childcare provider rates below a level 3 within 30 months from enrollment into EA, the provider must complete remedial activities with DEL, and rate at a level 3 or higher within six months.

If a childcare provider does not rate at a level 3 or higher following the remedial period, the provider is no longer eligible to receive a state subsidy.

If a childcare provider has successfully completed all level 2 activities and is waiting to be rated, the provider may continue to receive a state subsidy pending the successful completion of the level 3 rating activity.

**ECEAP.** Preschool providers receiving state-funded support must participate in EA by required deadlines.

Existing ECEAP providers must complete the following requirements to be eligible to receive state-funded support:

- enroll in EA by August 1, 2015; and
- rate at a level 4 or 5 by January 1, 2016.

If an ECEAP provider rates below a level 4 by January 1, 2016, the provider must complete remedial activities with DEL, and rate at a level 4 or 5 within six months.

New ECEAP providers must complete the following requirements to be eligible to receive state-funded support:

- enroll in EA within 30 days; and
- rate at a level 4 or 5 within 12 months of enrollment.

If an ECEAP provider rates below a level 4 within 12 months of enrollment, the provider must complete remedial activities with DEL, and rate at a level 4 or 5 within six months.

If an ECEAP provider successfully completes all of the required EA activities and is waiting to be rated by the deadline, the provider may continue to participate in EA as an approved ECEAP provider and receive state subsidy pending the successful completion of a level 4 or 5 rating. To avoid disruption, DEL may allow for ECEAP providers who rated below a level 4 after completion of the six-month remedial period to continue to provide services until the current school year is finished.

***School Age Child Care.*** Providers are exempt from participating in EA. By July 1, 2017, DEL must design a plan to incorporate school age childcare providers into EA. School age child means a child not less than five years of age through 12 years of age and who is attending kindergarten or school. To test implementation of EA for school age childcare providers, DEL must implement a pilot program.

***EA Extension Protocol.*** In collaboration with tribal governments, community and statewide partners, and the EA Review Subcommittee, DEL must develop a protocol for granting EA participants an extension in meeting rating level requirement timelines outlined for WCCC and ECEAP. DEL may grant extensions only under exceptional circumstances. Extensions must not exceed six months, and participants are only eligible for one extension in meeting rating level requirement timelines. Extensions may only be granted to participants who demonstrate engagement in EA. A report outlining the EA extension protocol must be delivered to the Legislature by December 31, 2015.

***Accreditation.*** DEL must establish a process to accept national accreditation as a qualification for EA ratings. Each accreditation agency must be allowed to submit its most current standards of accreditation to establish potential credit earned in EA. DEL must grant credit to accreditation bodies that can demonstrate that their standards meet or exceed the current EA program standards.

***Interlocal Agreements.*** A child care or early learning program that is operated by a federally recognized tribe and receives state funds must participate in EA. The tribe may choose to participate through an interlocal agreement between the tribe and DEL. The interlocal agreement must reflect the government-to-government relationship between the state and the tribe, including recognition of tribal sovereignty. The interlocal agreement must provide that tribal child care facilities and early learning programs:

- are not required to be licensed by DEL;
- are not required to have their EA rating level published to DEL's website or through a link on the website; and
- must provide notification to parents or guardians who apply for or have been admitted into their program that EA rating level information is available upon request.

***EA Information for Parents and Caregivers.*** DEL must create a single source of information for parents and caregivers to access details on a provider's EA rating level, licensing history, and other indicators of quality and safety that will help parents and caregivers make informed choices. DEL must publish to its website, or offer through a link on its website, the following information:

- by August 1, 2015, EA rating levels 1 through 5 for all childcare programs that receive state subsidy, ECEAP programs, and federal head start programs in Washington; and
- new EA ratings within 30 days after a program becomes licensed or certified, or receives a rating.

The EA rating levels must be published in a manner that is easily accessible to parents and caregivers and takes into account the linguistic needs of parents and caregivers. DEL must publish EA rating levels for childcare programs that do not receive state subsidy but have voluntarily joined EA. Participants who have published rating levels online may include a

brief description of their program, contingent upon the review and approval by DEL, as determined by established marketing standards.

*EA Professional Development Pathway.* DEL must create a pathway for EA participants to obtain a high school diploma or equivalency, or higher education credential related to early care and education. The pathway must include scholarships and grants. DEL must address cultural and linguistic diversity when developing the pathway.

*EA Quality Improvement Awards and Tiered Reimbursement.* The quality improvement awards must be reserved for EA participants offering programs to an enrollment population consisting of at least 5 percent of children receiving a state subsidy. DEL must implement tiered reimbursement for EA participants in WCCC rating at level 3 to 5.

*EA Low-Income Providers and Programs.* Subject to the amounts appropriated for this specific purpose, DEL must, in collaboration with tribal governments and community and statewide partners, implement a protocol to maximize and encourage participation in EA for culturally diverse and low-income center and family home childcare providers. The protocol should address barriers to EA participation and include at a minimum the following:

- creation of a substitute pool;
- development of needs-based grants to assist with purchasing curriculum development, instructional materials, supplies, and equipment;
- development of materials and assessments in a timely manner, and to the extent feasible, in the provider and family home languages; and
- development of flexibility in technical assistance and coaching structures to providers based on individual need and cultural context.

Low-income childcare provider means a person who administers a childcare program that consists of at least 80 percent of children receiving WCCC subsidy.

Working Connections Child Care Program. DEL must establish and implement policies for WCCC that focus on supporting school readiness for young learners. WCCC standards intend to promote stability, quality, and continuity of early care and education programming.

*WCCC Reporting.* As recommended by federal law, authorizations for WCCC must be effective for 12 months beginning January 1, 2016. A WCCC applicant or recipient no longer must notify DSHS within ten days about any significant change related to the number of child care hours the applicant or recipient needs, cost sharing, or eligibility.

Early Childhood Education and Assistance Program. ECEAP is changed in a number of ways.

*ECEAP Full-Day Programming.* DEL must collect data to determine the demand for full-day programming for ECEAP providers. DEL must analyze this demand by geographic region and report the findings to the Legislature by January 1, 2016.

Full-day program means an ECEAP program that offers child care for at least six hours per day, a minimum of 1000 hours per year, and at least four days per week. Part-day program

means an ECEAP program that offers child care for at least two and one-half hours per class session, at least 320 hours per year, for a minimum of 30 weeks per year.

*ECEAP Pathway for Family Home Providers.* By December 1, 2015, DEL must develop a pathway for family home providers to administer ECEAP.

*ECEAP Implementation Priorities.* Beginning in the 2015-16 school year, ECEAP implementation must prioritize programs located in low-income neighborhoods within high-need geographical areas. Additionally, preference must be given to programs that:

- offer extended day early care and education programming;
- offer services to children diagnosed with a special need; or
- offer services to children involved in the child welfare system.

Extended day program means an ECEAP program that offers child care for at least ten hours per day, five days per week, year round. Low-income neighborhood means a district or community where more than 20 percent of households are below the federal poverty level.

Contracted Child Care Slots and Vouchers. DEL must employ a combination of vouchers and contracted slots for WCCC and ECEAP. Only childcare providers who participate in EA and rate at a level 3 to 5 are eligible to be awarded a contracted slot.

DEL must use data to calculate a set number of targeted contracted slots. In calculating the number, DEL must take into account a number of factors. The targeted contracted slots are reserved for programs meeting both of the following conditions:

- programs in low-income neighborhoods; and
- programs that consist of at least 50 percent of children receiving WCCC subsidy.

DEL must award the remaining contracted slots via a competitive process and prioritize childcare programs with at least one of the following characteristics:

- located in a high-need geographic area;
- partnering with elementary schools to offer transitional planning and support;
- serving children involved in the child welfare system; or
- serving children diagnosed with a special need.

DEL must pay a provider for each contracted slot, unless a contracted slot is not used for 30 days. DEL must account for a childcare copayment collected by the provider from the family for each contracted slot and establish the copayment fee by rule.

Rulemaking. DEL must adopt rules pertaining to three topics.

*Child Absence Rules.* DEL must adopt rules pertaining to ECEAP and WCCC that outline the following:

- allowable periods of child absences,
- required contact with parents or caregivers to discuss child absences and encourage regular attendance, and
- a de-enrollment procedure when allowable child absences are exceeded.

These rules must align with the implementation of the electronic time and attendance record system, and they must be adopted no later than July 31, 2016.

*Fingerprint Background Check Rules.* DEL must adopt rules requiring ECEAP employees who have access to children to submit to a fingerprint background check. Fingerprint background check procedures for ECEAP must be the same as DEL's established background check procedures.

*ECEAP Rules and EA.* The DEL Director must adopt rules for ECEAP that are consistent with EA standards.

Single Set of Licensing Standards. No later than July 1, 2016, DEL must implement a single set of licensing standards for child care and ECEAP that:

- provide minimum health and safety standards for childcare and preschool programs;
- rely on the standards established in EA to address quality issues;
- take into account the separate needs of family care providers and childcare centers; and
- promote the continued safety of childcare settings.

EA Review Subcommittee. The Early Learning Advisory Council must convene an EA Review Subcommittee to provide feedback and guidance. At a minimum, the review must address the following:

- adequacy of data collection procedures;
- coaching and technical assistance standards;
- progress in reducing barriers to participation for low-income providers and providers from diverse cultural backgrounds;
- strategies in response to data on the effectiveness of EA standards in relation to providers and children from diverse cultural backgrounds;
- status of the life circumstance exemption protocols; and
- analysis of EA data trends.

The subcommittee must include certain representatives and include representatives from diverse cultural and linguistic backgrounds.

Program Data Collection and Evaluation. Data must be collected to inform a number of reports.

*Education Research and Data Center.* The Office of Financial Management's center must collect longitudinal, student-level data on all children attending WCCC or ECEAP, including the following:

- daily program attendance;
- identification of classroom and teacher;
- EA quality level rating;
- program hours;
- program duration;
- developmental results from the Washington kindergarten inventory of developing skills; and



- to the extent available, the distinct ethnic categories within racial subgroups of children and providers.

DEL must provide childcare and early learning providers student-level data collected that are specific to the childcare provider's or the early learning provider's program.

*EA Review Subcommittee Report.* Every four years, DEL in collaboration with the EA Review Subcommittee must review the data collected on the achievement of EA standards and provide a report to the Legislature, which includes the following:

- recommendations for improving the EA standards;
- review of the services available to providers and children from diverse cultural backgrounds;
- recommendations for improving access to providers rated at a level 3 or higher in EA by children from diverse cultural backgrounds; and
- analysis of the distribution of EA rated facilities in relation to child and provider demographics, including race and ethnicity, home language, and geographical location.

*Cultural Competency Recommendations.* DEL must review the K–12 components for cultural competency developed by the Professional Educator Standards Board and identify components appropriate for early learning professional development. By July 31, 2016, DEL must provide recommendations to the Legislature and the Early Learning Advisory Council on research-based cultural competency standards for early learning professional training.

*WSIPP.* WSIPP must conduct a longitudinal analysis examining relationships between EA quality ratings levels and outcomes for children participating in subsidized early care and education programs. The institute must submit the first report to the Legislature and the Early Learning Advisory Council by December 31, 2018. It must submit subsequent reports annually by December 31, with the final report due December 31, 2021. The final report must include a cost-benefit analysis.

*DEL Annual Report.* DEL must complete an annual early learning program implementation report on ECEAP and WCCC and then post it on DEL's website and deliver the report to the Legislature. The first report is due by December 31, 2015, and the final report is due by December 31, 2019. It must address the following:

- progress on ECEAP implementation;
- examination of the regional distribution of new preschool programming by zip code;
- analysis of the impact of preschool expansion on low-income neighborhoods and communities;
- recommendations to address any identified barriers to access to quality preschool for children living in low-income neighborhoods;
- analysis of any impact from quality strengthening efforts on the availability and quality of infant and toddler care;
- analysis of any impact of extended day early care and education opportunities directives;
- examination of any identified barriers for providers to offer extended day early care and education opportunities; and
- analysis of the cultural diversity of ECEAP providers and participants.

*Contracted Slots Report.* By December 31, 2015, DEL must provide a report to the Legislature on the number of contracted slots that use both ECEAP funding and WCCC funding. The report must be provided annually, with the last report due December 31, 2018.

Early Start Account. An account is created in the state treasury. Revenues in the account must consist of appropriations by the Legislature and all other sources. Monies in the account may only be used after appropriation. Expenditures from the account may be used only to improve the quality of early care and education programming. DEL oversees the account.

Integration with Local Government Efforts. Local governments are encouraged to collaborate with DEL when establishing early learning programs. Local governments may contribute funds to DEL for the following purposes:

- initial investments to build capacity and quality in local early care and education programming; and
- reductions in copayments charged to parents or caregivers.

Funds contributed to DEL by local governments must be deposited in the Early Start Account.

Null and Void Clause. This act is null and void unless funded in the budget.

**EFFECT OF CHANGES MADE BY EARLY LEARNING & K-12 EDUCATION COMMITTEE (Recommended First Substitute):** Provider diversity is added as a guiding principle for early learning programs. A provision is added that requires DEL to establish a process to accept national accreditation as a qualification for EA ratings. Each accreditation agency must be allowed to submit its most current standards of accreditation to establish potential credit earned in EA. DEL must grant credit to accreditation bodies that can demonstrate that their standards meet or exceed the current EA standards.

A provision is added that requires child care or early learning programs that are operated by a federally recognized tribe and receiving state funds to participate in EA. The provision allows tribes to govern participation in EA through an interlocal agreement between the tribe and DEL. The interlocal agreement must provide that tribal child care facilities and early learning programs are not required to be licensed by DEL, are not required to have their EA rating level published on DEL's website; and must provide notification to parents or guardians who apply for or have been admitted into their program that EA rating level information is available and will be provided upon request.

Authorizations for the WCCC subsidy must be effective for 12 months beginning January 1, 2016. The provision that requires any provider administering an ECEAP program to maintain a full-day option effective July 1, 2018, is removed. The section that requires DEL to implement an electronic time and attendance records system by July 1, 2016, is removed.

**Appropriation:** None.

**Fiscal Note:** Available.

[OFM requested ten-year cost projection pursuant to I-960.]

**Committee/Commission/Task Force Created:** Yes.

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

**Staff Summary of Public Testimony on Original Bill (Early Learning & K-12 Education):** PRO: High-quality early education has a positive impact on all children from a wide variety of backgrounds. All students do not start at the same place with their education. The return on investment for high-quality early learning is well known, measurable, and documented. High-quality early education will help close the opportunity gap, increase graduation rates, improve problem solving, and prevent crime. This bill raises the quality of early learning in the state and will make sure the state will pay for quality early learning. All children deserve a strong start. Too many children are not getting high-quality learning, especially children of color. This bill helps support a diverse workforce, engages stakeholders, and improves data collection. Facilities that have enrolled in EA have improvement in interactions between teachers, parents, and children. There is an affirmative right to access education and this needs to include education across the continuum, early learning through higher education. Washington should be a leader by investing in early learning. Cultural competency is important for high-quality early learning programs. Early learning changes lives at a low cost. Parents should not have to wait for access to EA ratings because parents need to find quality care for their children now. The business community views early learning as an economic opportunity and believes high-quality early learning will help kids succeed in K–12 and beyond. The EA pilot program will address the needs of children in WCCC who are school age. Early education programs have not paid enough to allow a provider to earn higher education degree. This bill supports professional development for child care providers and educators. EA teaches providers to be organized, to use effective teaching methods, and promote deeper understanding. Providers in EA have seen impressive growth in children. Early learning years are critical for brain development and life-long learning. EA has helped providers purchase resources.

CON: Providers serving low-income children do not have the resources to excel in EA. These providers need funding and flexibility on the requirements. Mandating participation in EA can alienate providers and limit access, and many providers have valid reasons for not wanting to participate in EA. The EA ratings are subjective. Providers are already heavily regulated, and this bill is filled with bureaucratic mandates. Many parts of the bill give DEL too much power, and DEL gets to decide who stays in business. Parental choice should drive who stays in business. This bill takes individuality out of child care businesses. DEL requires providers to fit a mold in EA. Parents do not want a government program.

OTHER: Many ECEAP classrooms are in programs operated by the school district. The required full-day option of ECEAP will probably not work for many school districts because they do not have enough classroom space. Teacher/Principal Evaluation Pilot (TPEP) and EA clash when there is a certificated teacher teaching ECEAP. There are similarities to these evaluation programs, but there are also significant differences. This bill has to be funded to be successful. Representatives from the Office of Superintendent of Public Instruction (OSPI) and private schools should be part of developing the pilot program to offer school-age

children high-quality care. Many homeless children do not qualify for WCCC child care. This bill should expand eligibility for WCCC.

**Persons Testifying (Early Learning & K-12 Education):** PRO: Senator Litzow, prime sponsor; Laura Wells, Fight Crime: Invest in Kids; Andrew Hamilton, Chief of Police, city of Kelso; Steven McCulley, Chief of Police, city of Snoqualmie; Kevin Washington, Steve Leahy, Ready Nation; Bob Gilbertson, CEO, Great Seattle YMCA; Melissa Johnson, WA State Assn. of Headstart & ECEAP Programs; Jennifer Jennings-Shaffer, Children's Alliance; Tiffany Stutesman, Child Care Action Council; Frank Ordway, League of Education Voters; David Beard, Schools Out WA, Education Policy and Advocacy Director; Roberta Wright, The Wright Child Care and Preschool; Miho Wright, St. Mikes Tikes Early Learning Center; Margaret Loe, Cottesmore Child Development Center; Bob Gilbertson, Seattle YMCA, President-CEO; Marie Sullivan, Pasco School District; Marcia Jacobs, citizen.

CON: Alex Hur, Service Employees International Union 925; Tim Benn, April Ferguson, citizens.

OTHER: Melanie Smith, Wellspring Family Services; Bob Butts, OSPI.