S-1580.4

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE SENATE BILL 5437**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 66th Legislature 2019 Regular Session**

**By** Senate Early Learning & K-12 Education (originally sponsored by 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)

AN ACT Relating to expanding eligibility to the early childhood education and assistance program; amending RCW 43.216.505, 43.216.556, 43.216.555, 43.216.512, 43.216.514, 43.216.080, 43.216.540, and 43.216.550; reenacting and amending RCW 43.216.010; adding new sections to chapter 43.216 RCW; creating a new section; and providing expiration dates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 43.216.505 and 2017 3rd sp.s. c 6 s 210 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.216.500 through 43.216.559, 43.216.900, and 43.216.901.

(1) "Advisory committee" means the advisory committee under RCW 43.216.520.

(2) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department as meeting the minimum program rules adopted by the department to qualify under RCW 43.216.500 through 43.216.550, 43.216.900, and 43.216.901 and are designated as eligible for funding by the department under RCW 43.216.530 and 43.216.540.

(3) "Comprehensive" means an assistance program that focuses on the needs of the child and includes education, health, and family support services.

(4) "Eligible child" means a three to five year-old child who is not age-eligible for kindergarten ((~~whose~~)), is not a participant in a federal or state program providing comprehensive services, and who is:

(a) Entitled to enrollment in the early childhood education and assistance program according to RCW 43.216.556. An entitled child must meet one of the following criteria:

(i) Have a family income ((~~is~~)) at or below one hundred ((~~ten~~)) thirty percent of the federal poverty level, as published annually by the federal department of health and human services, and includes a child whose family is eligible for public assistance((~~, and who is not a participant in a federal or state program providing comprehensive services; a child~~));

(ii) Be eligible for special education due to disability under RCW 28A.155.020; ((~~and may include children who are eligible~~))

(iii) Meet criteria under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program. ((~~Priority~~)) Preference for enrollment in this group shall be given to children from families with the lowest income, children in foster care, or to eligible children from families with multiple needs; or

(b) Allowed for enrollment in the early childhood education and assistance program according to criteria established in this chapter. An allowed child must have a family income greater than one hundred thirty percent but less than or equal to two hundred percent of the federal poverty level.

(5) "Family support services" means providing opportunities for parents to:

(a) Actively participate in their child's early childhood program;

(b) Increase their knowledge of child development and parenting skills;

(c) Further their education and training;

(d) Increase their ability to use needed services in the community;

(e) Increase their self-reliance.

**Sec.**  RCW 43.216.556 and 2017 3rd sp.s. c 22 s 1 are each amended to read as follows:

(1) Funding for the program of early learning established under this chapter must be appropriated to the department. ((~~Allocations must be made on the basis of eligible children enrolled with eligible providers.~~)) The department shall distribute funding to approved early childhood education and assistance program contractors on the basis of eligible children enrolled.

(2) The program shall be implemented in phases, so that full implementation is achieved in the 2022-23 school year.

(3) ((~~For the initial phase of the early learning program in school years 2011-12 and 2012-13, the legislature shall appropriate funding to the department for implementation of the program in an amount not less than the 2009-2011 enacted budget for the early childhood education and assistance program. The appropriation shall be sufficient to fund an equivalent number of slots as funded in the 2009-2011 enacted budget.~~

~~(4) Beginning in the 2013-14 school year, additional funding for the program must be phased in beginning in school districts providing all-day kindergarten programs under RCW 28A.150.315.~~

~~(5)~~)) Funding shall continue to be phased in each year until full statewide implementation of the early learning program is achieved in the 2022-23 school year, at which time any ((~~eligible~~)) entitled child ((~~shall be~~)) is entitled to be enrolled in the program.

((~~(6)~~)) (4) School districts and approved community‑based early learning providers may contract with the department to provide services under the program. The department shall collaborate with school districts, community‑based providers, and educational service districts to promote an adequate supply of approved providers.

**Sec.**  RCW 43.216.555 and 2018 c 155 s 4 are each amended to read as follows:

(1) ((~~Beginning September 1, 2011,~~)) An early learning program to provide voluntary preschool opportunities for children three and four years of age shall be implemented according to the funding and implementation plan in RCW 43.216.556. The program must offer a comprehensive program of early childhood education and family support, including parental involvement and health information, screening, and referral services, based on family need. Participation in the program is voluntary. On a space available basis, the program may allow enrollment of children who are not otherwise eligible by assessing a fee.

(2) The program shall be implemented by utilizing the program standards and eligibility criteria in the early childhood education and assistance program in RCW 43.216.500 through 43.216.550.

(3)(a) ((~~Beginning in the 2015-16 school year,~~)) The program implementation in this section shall prioritize early childhood education and assistance programs located in low-income neighborhoods within high-need geographical areas.

(b) Following the priority in (a) of this subsection, preference shall be given to programs meeting at least one of the following characteristics:

(i) Programs offering an extended day program for early care and education;

(ii) Programs offering services to children diagnosed with a special need; or

(iii) Programs offering services to children involved in the child welfare system.

(4) The secretary shall adopt rules for the following program components, as appropriate and necessary during the phased implementation of the program, consistent with early achievers program standards established in RCW 43.216.085:

(a) Minimum program standards;

(b) Approval of program providers; and

(c) Accountability and adherence to performance standards.

(5) The department has administrative responsibility for:

(a) Approving and contracting with providers according to rules developed by the secretary under this section;

(b) In partnership with school districts, monitoring program quality and assuring the program is responsive to the needs of eligible children;

(c) Assuring that program providers work cooperatively with school districts to coordinate the transition from preschool to kindergarten so that children and their families are well-prepared and supported; and

(d) Providing technical assistance to contracted providers.

**Sec.**  RCW 43.216.512 and 2018 c 155 s 2 are each amended to read as follows:

(1) ((~~The department shall adopt rules that allow the inclusion of children in the early childhood education and assistance program whose family income is above one hundred ten percent of the federal poverty level if the number of such children equals not more than twenty-five percent of total statewide enrollment.~~

~~(2) Children included in~~)) An allowed child as described in RCW 43.216.505 who is eligible for the early childhood education and assistance program ((~~under this section~~)) must be ((~~homeless or impacted by specific developmental or environmental risk factors that are linked by research to school performance. "Homeless" means without a fixed, regular, and adequate nighttime residence as set forth in the federal McKinney-Vento homeless assistance act, P.L. 100–77, July 22, 1987, 101 Stat. 482, and runaway and homeless youth act, P.L. 93–415, Title III, September 7, 1974, 88 Stat. 1129.~~

~~(3)~~)) enrolled, as space is available, by the department 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:

(a) Child welfare system involvement;

(b) Developmental delay or disability that does not meet the eligibility criteria for special education described in RCW 28A.155.020;

(c) Domestic violence;

(d) English as a second language;

(e) Expulsion from an early learning setting;

(f) A parent who is or has been incarcerated;

(g) A parent with a substance use disorder or mental health treatment need; and

(h) Homelessness. "Homelessness" means without a fixed, regular, and adequate nighttime residence as set forth in the federal McKinney-Vento homeless assistance act, P.L. 100–77, July 22, 1987, 101 Stat. 482, and runaway and homeless youth act, P.L. 93–415, Title III, September 7, 1974, 88 Stat. 1129.

(2) Children included in the early childhood education and assistance program under this section are not ((~~to be~~)) considered ((~~eligible children as defined in RCW 43.216.505 and are not considered~~)) to be part of the state-funded entitlement required in RCW 43.216.556.

**Sec.**  RCW 43.216.514 and 2018 c 155 s 3 are each amended to read as follows:

(1) The department shall prioritize children for enrollment in the early childhood education and assistance program who are ((~~eligible~~)) entitled for enrollment in the early childhood education and assistance program pursuant to RCW ((~~43.216.505~~)) 43.216.556.

(2) As space is available, allowed children as described in RCW 43.216.505 may be included in the early childhood education and assistance program pursuant to RCW 43.216.512. ((~~Priority within this group must be given to children who are experiencing homelessness, child welfare system involvement, or a developmental delay or disability that does not meet the eligibility criteria for special education adopted under RCW 28A.155.020.~~))

NEW SECTION. **Sec.**  A new section is added to chapter 43.216 RCW to read as follows:

(1) The department shall develop recommendations related to differential slot rates for the early childhood education and assistance program based on variable factors that may contribute to costs for providers when working to achieve positive child outcomes. When developing the recommendations, the department must:

(a) Consider, at a minimum, variations by geographic region, contractor type, child risk factors, and teacher credentials;

(b) Evaluate advantages and disadvantages of linking early childhood education and assistance program rates and other child care subsidy rates; and

(c) Review the department-designated subsidy regions and adjust regional boundaries as necessary to reflect regional economic conditions.

(2) The department must submit the recommendations and a report on the results of the regional subsidy boundary review to the governor and the legislature by September 1, 2020.

(3) This section expires December 1, 2020.

NEW SECTION. **Sec.**  A new section is added to chapter 43.216 RCW to read as follows:

(1) Subject to amounts appropriated for this specific purpose, the department shall establish a pilot project to implement a state-funded birth to three early childhood education and assistance program to eligible children under thirty-six months old. The pilot project must start by January 1, 2020, and conclude June 30, 2023.

(2) The department may adopt rules to implement the pilot project and may waive or adapt pilot project requirements when necessary to allow for the operation of the birth to three early childhood education and assistance program. The department shall consider early head start rules and regulations when developing the provider and family eligibility requirements and program requirements. Any deviations from early head start standards, rules, or regulations must be identified and explained by the department in the annual report that it must submit to the governor and legislature under subsection (7) of this section.

(3)(a) 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.

(b) The department must determine minimum early achievers ratings scores for programs participating in the pilot project.

(4) The department shall select up to ten pilot project locations during the first year of the pilot project. Each pilot project location may have up to three classrooms per location. When selecting and approving pilot project locations, the department shall attempt to select a combination of rural, urban, and suburban locations. The department shall prioritize locations with programs currently operating early head start, head start, or the early childhood education and assistance program.

(5) To be eligible for the birth to three early childhood education and assistance program, a child's family income must be at or below one hundred thirty percent of the federal poverty level and the child must be under thirty-six months old.

(6) During the pilot project, the department shall begin an evaluation to analyze quality and performance measures. In the third year of the pilot project, the department shall analyze child and parent outcomes.

(7)(a) Beginning November 1, 2020, and each November 1st thereafter, the department shall submit an annual report to the governor and legislature that includes a status update that describes implementation of the pilot project, including a description of the participating programs and number of children and families that have been served.

(b) By November 1, 2024, the department shall submit a complete final report that describes:

(i) The department's findings from the evaluation under subsection (6) of this section;

(ii) Recommendations for modifying or expanding the birth to three early childhood education and assistance program over the next five years; and

(iii) Recommendations for eligibility requirements for families and providers.

(8) This section expires December 31, 2024.

**Sec.**  RCW 43.216.080 and 2017 c 178 s 2 are each amended to read as follows:

(1) The foundation of quality in the early care and education system in Washington is the quality rating and improvement system entitled the early achievers program. In an effort to build on the existing quality framework, enhance access to quality care for children, and strengthen the entire early care and education systems in the state, it is important to integrate the efforts of state and local governments, school districts, institutions of higher education as defined in RCW 28B.10.016, and nonprofit organizations.

(2) Local governments, school districts, institutions of higher education as defined in RCW 28B.10.016, and nonprofit organizations are encouraged to collaborate with the department when establishing and strengthening early learning programs for residents.

(3) Local governments, school districts, institutions of higher education as defined in RCW 28B.10.016, and nonprofit organizations may contribute funds to the department for the following purposes:

(a) Initial investments to build capacity and quality in local early care and education programming;

(b) Reductions in copayments charged to parents or caregivers;

(c) To expand access and eligibility in the early childhood education and assistance program.

(4) Funds contributed to the department by local governments, school districts, institutions of higher education as defined in RCW 28B.10.016, and nonprofit organizations must be deposited in the early start account established in RCW ((~~43.215.195~~)) 43.216.165.

(5) Children enrolled in the early childhood education and assistance program with funds contributed in accordance with subsection (3)(c) of this section are not considered to be eligible children as defined in RCW ((~~43.215.405~~)) 43.216.505 and are not considered to be part of the state-funded entitlement required in RCW ((~~43.215.456~~)) 43.216.556.

**Sec.**  RCW 43.216.010 and 2017 3rd sp.s. c 6 s 201 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" means any person, firm, partnership, association, corporation, or facility that provides child care and early learning services outside a child's own home and includes the following irrespective of whether there is compensation to the agency:

(a) "Child day care center" means an agency that regularly provides early childhood education and early learning services for a group of children for periods of less than twenty-four hours;

(b) "Early learning" includes but is not limited to programs and services for child care; state, federal, private, and nonprofit preschool; child care subsidies; child care resource and referral; parental education and support; and training and professional development for early learning professionals;

(c) "Family day care provider" means a child care provider who regularly provides early childhood education and early learning services for not more than twelve children in the provider's home in the family living quarters;

(d) "Nongovernmental private-public partnership" means an entity registered as a nonprofit corporation in Washington state with a primary focus on early learning, school readiness, and parental support, and an ability to raise a minimum of five million dollars in contributions;

(e) "Service provider" means the entity that operates a community facility.

(2) "Agency" does not include the following:

(a) Persons related to the child in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law; or

(iv) Spouses of any persons named in (a)(i), (ii), or (iii) of this subsection, even after the marriage is terminated;

(b) Persons who are legal guardians of the child;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care;

(d) Parents on a mutually cooperative basis exchange care of one another's children;

(e) Nursery schools that are engaged primarily in early childhood education with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(f) Schools, including boarding schools, that are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, and accept only school age children;

(g) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(h) Facilities providing child care for periods of less than twenty-four hours when a parent or legal guardian of the child remains on the premises of the facility for the purpose of participating in:

(i) Activities other than employment; or

(ii) Employment of up to two hours per day when the facility is operated by a nonprofit entity that also operates a licensed child care program at the same facility in another location or at another facility;

(i) Any entity that provides recreational or educational programming for school age children only and the entity meets all of the following requirements:

(i) The entity utilizes a drop-in model for programming, where children are able to attend during any or all program hours without a formal reservation;

(ii) The entity does not assume responsibility in lieu of the parent, unless for coordinated transportation;

(iii) The entity is a local affiliate of a national nonprofit; and

(iv) The entity is in compliance with all safety and quality standards set by the associated national agency;

(j) A program operated by any unit of local, state, or federal government;

(k) A program located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

(l) A program located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter;

(m) A program that offers early learning and support services, such as parent education, and does not provide child care services on a regular basis.

(3) "Applicant" means a person who requests or seeks employment in an agency.

(4) "Conviction information" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the applicant.

(5) "Department" means the department of children, youth, and families.

(6) "Early achievers" means a program that improves the quality of early learning programs and supports and rewards providers for their participation.

(7) "Early childhood education and assistance program contractor" means an organization that provides early childhood education and assistance program services under a signed contract with the department.

(8) "Early childhood education and assistance program provider" means an organization that provides site level, direct, and high quality early childhood education and assistance program services under the direction of an early childhood education and assistance program contractor.

(9) "Early start" means an integrated high quality continuum of early learning programs for children birth-to-five years of age. Components of early start include, but are not limited to, the following:

(a) Home visiting and parent education and support programs;

(b) The early achievers program described in RCW 43.216.085;

(c) Integrated full-day and part-day high quality early learning programs; and

(d) High quality preschool for children whose family income is at or below ((~~one~~)) two hundred ((~~ten~~)) percent of the federal poverty level.

(10) "Education data center" means the education data center established in RCW 43.41.400, commonly referred to as the education research and data center.

(11) "Employer" means a person or business that engages the services of one or more people, especially for wages or salary to work in an agency.

(12) "Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.216.325(1) or assessment of civil monetary penalties pursuant to RCW 43.216.325(3).

(13) "Extended day program" means an early childhood education and assistance program that offers early learning education for at least ten hours per day, a minimum of two thousand hours per year, at least four days per week, and operates year-round.

(14) "Full day program" means an early childhood education and assistance program that offers early learning education for a minimum of one thousand hours per year.

(15) "Low-income child care provider" means a person who administers a child care program that consists of at least eighty percent of children receiving working connections child care subsidy.

(16) "Low-income neighborhood" means a district or community where more than twenty percent of households are below the federal poverty level.

(17) "Negative action" means a court order, court judgment, or an adverse action taken by an agency, in any state, federal, tribal, or foreign jurisdiction, which results in a finding against the applicant reasonably related to the individual's character, suitability, and competence to care for or have unsupervised access to children in child care. This may include, but is not limited to:

(a) A decision issued by an administrative law judge;

(b) A final determination, decision, or finding made by an agency following an investigation;

(c) An adverse agency action, including termination, revocation, or denial of a license or certification, or if pending adverse agency action, the voluntary surrender of a license, certification, or contract in lieu of the adverse action;

(d) A revocation, denial, or restriction placed on any professional license; or

(e) A final decision of a disciplinary board.

(18) "Nonconviction information" means arrest, founded allegations of child abuse, or neglect pursuant to chapter 26.44 RCW, or other negative action adverse to the applicant.

(19) "Nonschool age child" means a child who is age six years or younger and who is not enrolled in a public or private school.

(20) "Part day program" means an early childhood education and assistance program that offers early learning education for at least two and one-half hours per class session, at least three hundred twenty hours per year, for a minimum of thirty weeks per year.

(21) "Private school" means a private school approved by the state under chapter 28A.195 RCW.

(22) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

(23) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

(24) "School age child" means a child who is five years of age through twelve years of age and is attending a public or private school or is receiving home-based instruction under chapter 28A.200 RCW.

(25) "Secretary" means the secretary of the department.

(26) "Washington state preschool program" means an education program for children three-to-five years of age who have not yet entered kindergarten, such as the early childhood education and assistance program.

**Sec.**  RCW 43.216.540 and 1994 c 166 s 10 are each amended to read as follows:

For the purposes of RCW ((~~28A.215.100~~)) 43.216.500 through ((~~28A.215.200 and 28A.215.900 through 28A.215.908~~)) 43.216.550, 43.216.900, and 43.216.901, the department may award state support under RCW ((~~28A.215.100~~)) 43.216.500 through ((~~28A.215.160~~)) 43.216.530 to increase the numbers of eligible children assisted by the federal or state-supported early childhood programs in this state. Priority shall be given to those geographical areas which include a high percentage of families qualifying under the ((~~"eligible child" criteria~~)) description of entitled child established in RCW 43.215.505. The overall program funding level shall be based on an average grant per child consistent with state appropriations made for program costs: PROVIDED, That programs addressing special needs of selected groups or communities shall be recognized in the department's rules.

**Sec.**  RCW 43.216.550 and 1994 c 166 s 11 are each amended to read as follows:

The department may solicit gifts, grants, conveyances, bequests and devises for the use or benefit of the early childhood state education and assistance program established by RCW ((~~28A.215.100~~)) 43.216.500 through ((~~28A.215.200 and 28A.215.900 through 28A.215.908~~)) 43.216.550, 43.216.900, and 43.216.901. The department shall actively solicit support from business and industry and from the federal government for the state early childhood education and assistance program and shall assist local programs in developing partnerships with the community for eligible children.

**--- END ---**