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**SUBSTITUTE HOUSE BILL 1351**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** House Human Services & Early Learning (originally sponsored by Representatives Goodman, Senn, Callan, Lovick, Frame, Ortiz-Self, Kilduff, Appleton, Dolan, Stanford, Valdez, Kloba, Doglio, Pollet, and Leavitt; by request of Office of the Governor)

READ FIRST TIME 02/08/19.

1 AN ACT Relating to expanding eligibility to the early childhood  
2 education and assistance program; amending RCW 43.216.505,  
3 43.216.556, 43.216.512, 43.216.514, 43.216.080, 43.216.540, and  
4 43.216.550; reenacting and amending RCW 43.216.010; adding new  
5 sections to chapter 43.216 RCW; and providing expiration dates.

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

7 **Sec. 1.** RCW 43.216.505 and 2017 3rd sp.s. c 6 s 210 are each  
8 amended to read as follows:

9 Unless the context clearly requires otherwise, the definitions in  
10 this section apply throughout RCW 43.216.500 through 43.216.559,  
11 43.216.900, and 43.216.901.

12 (1) "Advisory committee" means the advisory committee under RCW  
13 43.216.520.

14 (2) "Approved programs" means those state-supported education and  
15 special assistance programs which are recognized by the department as  
16 meeting the minimum program rules adopted by the department to  
17 qualify under RCW 43.216.500 through 43.216.550, 43.216.900, and  
18 43.216.901 and are designated as eligible for funding by the  
19 department under RCW 43.216.530 and 43.216.540.

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

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

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

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

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

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

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

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

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

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

36 (c) Further their education and training;

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

39 (e) Increase their self-reliance.

1       **Sec. 2.** RCW 43.216.556 and 2017 3rd sp.s. c 22 s 1 are each  
2 amended to read as follows:

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

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

11       (3) (~~For the initial phase of the early learning program in~~  
12 ~~school years 2011-12 and 2012-13, the legislature shall appropriate~~  
13 ~~funding to the department for implementation of the program in an~~  
14 ~~amount not less than the 2009-2011 enacted budget for the early~~  
15 ~~childhood education and assistance program. The appropriation shall~~  
16 ~~be sufficient to fund an equivalent number of slots as funded in the~~  
17 ~~2009-2011 enacted budget.~~

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

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

25       ((+6)) (4) School districts and approved community-based early  
26 learning providers may contract with the department to provide  
27 services under the program. The department shall collaborate with  
28 school districts, community-based providers, and educational service  
29 districts to promote an adequate supply of approved providers.

30       **Sec. 3.** RCW 43.216.512 and 2018 c 155 s 2 are each amended to  
31 read as follows:

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

37       (2) ~~Children included in)~~ An allowed child as described in RCW  
38 43.216.505 who is eligible for the early childhood education and  
39 assistance program ((under this section)) must be ((homeless or

1 ~~impacted by specific developmental or environmental risk factors that~~  
2 ~~are linked by research to school performance. "Homeless" means~~  
3 ~~without a fixed, regular, and adequate nighttime residence as set~~  
4 ~~forth in the federal McKinney-Vento homeless assistance act, P.L.~~  
5 ~~100-77, July 22, 1987, 101 Stat. 482, and runaway and homeless youth~~  
6 ~~act, P.L. 93-415, Title III, September 7, 1974, 88 Stat. 1129.~~

7 (3)) enrolled, as space is available, by the department  
8 according to a system of risk factors and priority points adopted in  
9 rule. The priority system must consider risk factors that have  
10 disproportionate effects on kindergarten readiness, including:

11 (a) Child welfare system involvement;

12 (b) Developmental delay or disability that does not meet the  
13 eligibility criteria for special education described in RCW  
14 28A.155.020;

15 (c) Domestic violence;

16 (d) English as a second language;

17 (e) Expulsion from an early learning setting;

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

19 (g) A parent with a substance use disorder or mental health  
20 treatment need.

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

26 **Sec. 4.** RCW 43.216.514 and 2018 c 155 s 3 are each amended to  
27 read as follows:

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

32 (2) As space is available, allowed children as described in RCW  
33 43.216.505 may be included in the early childhood education and  
34 assistance program pursuant to RCW 43.216.512. ((Priority within this  
35 group must be given to children who are experiencing homelessness,  
36 child welfare system involvement, or a developmental delay or  
37 disability that does not meet the eligibility criteria for special  
38 education adopted under RCW 28A.155.020.))

1        NEW SECTION.    **Sec. 5.**    A new section is added to chapter 43.216  
2 RCW to read as follows:

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

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

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

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

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

19        (3)    This section expires December 1, 2020.

20        NEW SECTION.    **Sec. 6.**    A new section is added to chapter 43.216  
21 RCW to read as follows:

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

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

37        (3) (a) The pilot project programs must be delivered through child  
38 care centers and family home providers who meet minimum licensing  
39 standards and are enrolled in early achievers.

1 (b) The department must establish early achievers standards for  
2 providers participating in the pilot.

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

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

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

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

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

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

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

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

34 (8) This section expires December 31, 2024.

35 **Sec. 7.** RCW 43.216.080 and 2017 c 178 s 2 are each amended to  
36 read as follows:

37 (1) The foundation of quality in the early care and education  
38 system in Washington is the quality rating and improvement system  
39 entitled the early achievers program. In an effort to build on the

1 existing quality framework, enhance access to quality care for  
2 children, and strengthen the entire early care and education systems  
3 in the state, it is important to integrate the efforts of state and  
4 local governments, school districts, institutions of higher education  
5 as defined in RCW 28B.10.016, and nonprofit organizations.

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

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

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

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

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

18 (4) Funds contributed to the department by local governments,  
19 school districts, institutions of higher education as defined in RCW  
20 28B.10.016, and nonprofit organizations must be deposited in the  
21 early start account established in RCW (~~(43.215.195)~~) 43.216.165.

22 (5) Children enrolled in the early childhood education and  
23 assistance program with funds contributed in accordance with  
24 subsection (3)(c) of this section are not considered to be eligible  
25 children as defined in RCW (~~(43.215.405)~~) 43.216.505 and are not  
26 considered to be part of the state-funded entitlement required in RCW  
27 (~~(43.215.456)~~) 43.216.556.

28 **Sec. 8.** RCW 43.216.010 and 2017 3rd sp.s. c 6 s 201 are each  
29 reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

11 (i) Activities other than employment; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (12) "Enforcement action" means denial, suspension, revocation,  
36 modification, or nonrenewal of a license pursuant to RCW  
37 43.216.325(1) or assessment of civil monetary penalties pursuant to  
38 RCW 43.216.325(3).

39 (13) "Extended day program" means an early childhood education  
40 and assistance program that offers early learning education for at

1 least ten hours per day, a minimum of two thousand hours per year, at  
2 least four days per week, and operates year-round.

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

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

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

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

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

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

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

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

27 (e) A final decision of a disciplinary board.

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

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

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

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

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

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

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

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

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

15 **Sec. 9.** RCW 43.216.540 and 1994 c 166 s 10 are each amended to  
16 read as follows:

17 For the purposes of RCW (~~28A.215.100~~) 43.216.500 through  
18 (~~28A.215.200 and 28A.215.900 through 28A.215.908~~) 43.216.550,  
19 43.216.900, and 43.216.901, the department may award state support  
20 under RCW (~~28A.215.100~~) 43.216.500 through (~~28A.215.160~~)  
21 43.216.530 to increase the numbers of eligible children assisted by  
22 the federal or state-supported early childhood programs in this  
23 state. Priority shall be given to those geographical areas which  
24 include a high percentage of families qualifying under the  
25 (~~"eligible child" criteria~~) description of entitled child  
26 established in RCW 43.215.505. The overall program funding level  
27 shall be based on an average grant per child consistent with state  
28 appropriations made for program costs: PROVIDED, That programs  
29 addressing special needs of selected groups or communities shall be  
30 recognized in the department's rules.

31 **Sec. 10.** RCW 43.216.550 and 1994 c 166 s 11 are each amended to  
32 read as follows:

33 The department may solicit gifts, grants, conveyances, bequests  
34 and devises for the use or benefit of the early childhood state  
35 education and assistance program established by RCW (~~28A.215.100~~)  
36 43.216.500 through (~~28A.215.200 and 28A.215.900 through~~  
37 ~~28A.215.908~~) 43.216.550, 43.216.900, and 43.216.901. The department  
38 shall actively solicit support from business and industry and from

1 the federal government for the state early childhood education and  
2 assistance program and shall assist local programs in developing  
3 partnerships with the community for eligible children.

--- **END** ---