
SECOND SUBSTITUTE SENATE BILL 5437

State of Washington

66th Legislature

2019 Regular Session

By Senate Ways & Means (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)

READ FIRST TIME 03/01/19.

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; adding a new section to chapter 43.216 RCW; creating new
5 sections; and providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that the family
8 income eligibility limit of one hundred ten percent of the federal
9 poverty level for the early childhood education and assistance
10 program hinders the state's ability to recruit and enroll qualified
11 families, particularly in rural areas of the state and in tribal
12 communities. This income barrier results in unused preschool slots
13 and growing waiting lists of children who are from low-income
14 families but who are over the established income limits. Therefore,
15 the legislature intends to keep the qualifying income for early
16 childhood education and assistance program entitlement at one hundred
17 ten percent of the federal poverty level and allow for the
18 flexibility to serve additional children with family incomes up to
19 two hundred percent of the federal poverty level.

1 **Sec. 2.** RCW 43.216.505 and 2017 3rd sp.s. c 6 s 210 are each
2 amended to read as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout RCW 43.216.500 through 43.216.559,
5 43.216.900, and 43.216.901.

6 (1) "Advisory committee" means the advisory committee under RCW
7 43.216.520.

8 (2) "Approved programs" means those state-supported education and
9 special assistance programs which are recognized by the department as
10 meeting the minimum program rules adopted by the department to
11 qualify under RCW 43.216.500 through 43.216.550, 43.216.900, and
12 43.216.901 and are designated as eligible for funding by the
13 department under RCW 43.216.530 and 43.216.540.

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

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

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

26 (b) Is eligible for special education due to disability under RCW
27 28A.155.020; ((and may include children who are eligible)) or

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

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

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

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

40 (c) Further their education and training;

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

3 (e) Increase their self-reliance.

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

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

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

13 (~~(3) (For the initial phase of the early learning program in~~
14 ~~school years 2011-12 and 2012-13, the legislature shall appropriate~~
15 ~~funding to the department for implementation of the program in an~~
16 ~~amount not less than the 2009-2011 enacted budget for the early~~
17 ~~childhood education and assistance program. The appropriation shall~~
18 ~~be sufficient to fund an equivalent number of slots as funded in the~~
19 ~~2009-2011 enacted budget.~~

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

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

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

32 **Sec. 4.** RCW 43.216.512 and 2018 c 155 s 2 are each amended to
33 read as follows:

34 (1) The department shall adopt rules that allow the inclusion of
35 children in the early childhood education and assistance program
36 whose family income is above one hundred ten percent but less than or
37 equal to two hundred percent of the federal poverty level (~~if the~~
38 ~~number of such children equals not~~). Within this group, no more than

1 twenty-five percent of total statewide enrollment may consist of
2 children with family incomes above one hundred thirty percent of the
3 federal poverty level.

4 (2) Children included in the early childhood education and
5 assistance program under this section must be (~~(homeless or impacted~~
6 ~~by specific developmental or environmental)) enrolled, as space is
7 available, by the department according to a system of risk factors
8 (~~(that are linked by research to school performance. "Homeless" means~~
9 ~~without a fixed, regular, and adequate nighttime residence as set~~
10 ~~forth in the federal McKinney-Vento homeless assistance act, P.L.~~
11 ~~100-77, July 22, 1987, 101 Stat. 482, and runaway and homeless youth~~
12 ~~act, P.L. 93-415, Title III, September 7, 1974, 88 Stat. 1129)) and
13 priority points adopted in rule. The priority system must consider
14 risk factors that have disproportionate effects on kindergarten
15 readiness, including:~~~~

16 (a) Homelessness;

17 (b) Child welfare system involvement;

18 (c) Developmental delay or disability that does not meet the
19 eligibility criteria for special education described in RCW
20 28A.155.020;

21 (d) Domestic violence;

22 (e) English as a second language;

23 (f) Expulsion from an early learning setting;

24 (g) A parent who is or has been incarcerated;

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

27 (i) Being an "Indian child" as defined in rule by the department
28 after consultation and agreement with tribes.

29 (3) Children included in the early childhood education and
30 assistance program under this section are not to be considered
31 eligible children as defined in RCW 43.216.505 and are not considered
32 to be part of the state-funded entitlement required in RCW
33 43.216.556.

34 NEW SECTION. Sec. 5. (1) The department of children, youth, and
35 families must consult, and obtain the advice and consent of, the
36 governing bodies of the state's federally recognized tribal nations
37 in developing an agreed upon definition of the term "Indian child"
38 for the purposes of RCW 43.216.512 and, by July 1, 2020, must adopt
39 the definition in rule.

1 (2) This section expires December 1, 2020.

2 **Sec. 6.** RCW 43.216.514 and 2018 c 155 s 3 are each amended to
3 read as follows:

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

7 (2) As space is available, children may be included in the early
8 childhood education and assistance program pursuant to RCW
9 43.216.512. Priority within this group must be given first to
10 children (~~(who are experiencing homelessness, child welfare system~~
11 ~~involvement, or a developmental delay or disability that does not~~
12 ~~meet the eligibility criteria for special education adopted under RCW~~
13 ~~28A.155.020)) with incomes up to one hundred thirty percent of the
14 federal poverty level.~~

15 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.216
16 RCW to read as follows:

17 (1) Within resources available under the federal preschool
18 development grant birth to five grant award received in December
19 2018, the department shall develop a plan for phased implementation
20 of a birth to three early childhood education and assistance program
21 pilot project for eligible children under thirty-six months old.
22 Planning for the pilot project must start by January 1, 2020, and
23 phased service delivery may begin after the department has secured
24 adequate funds to implement the pilot project in at least ten
25 locations. Funds to implement the pilot project may include a
26 combination of federal, state, or private sources.

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 its annual
35 report under subsection (6) of this section.

36 (3)(a) Upon securing adequate funds to begin implementation, the
37 pilot project programs must be delivered through child care centers

1 and family home providers who meet minimum licensing standards and
2 are enrolled in the early achievers program.

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

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

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

17 (6) Beginning November 1, 2020, and each November 1st thereafter
18 during pilot project activity, the department shall submit an annual
19 report to the governor and legislature that includes a status update
20 that describes the planning work completed, the status of funds
21 secured, and any implementation activities of the pilot project.
22 Implementation activity reports must include a description of the
23 participating programs and number of children and families served.

24 **Sec. 8.** RCW 43.216.080 and 2017 c 178 s 2 are each amended to
25 read as follows:

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

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

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

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

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

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

9 (4) Funds contributed to the department by local governments,
10 school districts, institutions of higher education as defined in RCW
11 28B.10.016, and nonprofit organizations must be deposited in the
12 early start account established in RCW (~~(43.215.195)~~) 43.216.165.

13 (5) Children enrolled in the early childhood education and
14 assistance program with funds contributed in accordance with
15 subsection (3)(c) of this section are not considered to be eligible
16 children as defined in RCW (~~(43.215.405)~~) 43.216.505 and are not
17 considered to be part of the state-funded entitlement required in RCW
18 (~~(43.215.456)~~) 43.216.556.

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

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

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

36 The department may solicit gifts, grants, conveyances, bequests
37 and devises for the use or benefit of the early childhood state
38 education and assistance program established by RCW (~~(28A.215.100)~~)

1 43.216.500 through ((~~28A.215.200~~)) 43.216.550 and ((~~28A.215.900~~
2 ~~through 28A.215.908~~)) 43.216.900 and 43.216.901. The department shall
3 actively solicit support from business and industry and from the
4 federal government for the state early childhood education and
5 assistance program and shall assist local programs in developing
6 partnerships with the community for eligible children.

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