

SENATE BILL REPORT

E2SSB 5237

As Passed Senate, March 6, 2021

Title: An act relating to expanding accessible, affordable child care and early childhood development programs.

Brief Description: Expanding accessible, affordable child care and early childhood development programs.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Wilson, C., Dhingra, Das, Billig, Conway, Darneille, Hasegawa, Hunt, Keiser, Kuderer, Lias, Lovelett, Nguyen, Nobles, Pedersen, Saldaña and Salomon).

Brief History:

Committee Activity: Early Learning & K-12 Education: 1/22/21, 2/03/21 [DPS-WM, DNP, w/oRec].

Ways & Means: 2/16/21, 2/18/21 [DP2S, DNP, w/oRec].

Floor Activity: Passed Senate: 3/6/21, 28-21.

Brief Summary of Engrossed Second Substitute Bill

- Establishes a new account for child care and early learning purposes and includes a non-exhaustive list of spending goals and strategies.
- Expands eligibility and decreases co-payments in the Working Connections Child Care Program and expands eligibility in the Early Childhood Education and Assistance Program.
- Provides increased rates, training, grants, supports, and services for child care and early learning providers.
- Increases prenatal-to-three supports for providers and families.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

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

Majority Report: That Substitute Senate Bill No. 5237 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Wellman, Chair; Nobles, Vice Chair, K-12; Wilson, C., Vice Chair, Early Learning; Hunt, Mullet and Pedersen.

Minority Report: Do not pass.

Signed by Senator McCune.

Minority Report: That it be referred without recommendation.

Signed by Senators Hawkins, Ranking Member; Dozier.

Staff: Ailey Kato (786-7434)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5237 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Carlyle, Conway, Darneille, Dhingra, Hasegawa, Hunt, Keiser, Lias, Pedersen, Van De Wege and Wellman.

Minority Report: Do not pass.

Signed by Senators Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Schoesler, Assistant Ranking Member, Capital; Braun, Gildon, Muzzall, Rivers, Wagoner and Warnick.

Minority Report: That it be referred without recommendation.

Signed by Senator Mullet.

Staff: Sarah Emmans (786-7478)

Background: Early Learning Advisory Council. The Early Learning Advisory Council (ELAC) advises the Department of Children, Youth, and Families (DCYF) on statewide early learning issues. ELAC includes representatives of state agencies, the Legislature, and certain stakeholders.

Working Connections Child Care. This federally and state-funded program provides child care subsidies to families. To not exceed the appropriated amount, DCYF must manage the program with certain priorities, so the average monthly caseload does not exceed 33,000 households.

Eligibility and Co-payments. Families may be eligible for child care subsidies if they have an income at or below 200 percent of the federal poverty level (FPL)—\$43,440 for a family of three—and have one or more children younger than 13 or younger than 19 with a verified special need or are under court supervision. The state pays part of the cost of child care

when a parent is employed, self-employed, or in approved work or education activities, except in certain circumstances.

The family is responsible for making a co-payment to the child care provider based on the family's countable income. Under DCYF rule, co-payments are calculated as follows:

If a consumer's income is:	Then the consumer's co-payment is:
(a) At or below 82 percent of FPL	\$15
(b) Above 82 percent of FPL up to 137.5 percent of FPL	\$65
(c) Above 137.5 percent of FPL through 200 percent of FPL	The dollar amount is equal to subtracting 137.5 percent of FPL from countable income, multiplying by 50 percent, then adding \$65

Student Parents. DCYF may not require an applicant or consumer to meet work requirements as a condition of receiving Working Connections Child Care (WCCC) benefits when the applicant or consumer is:

- a single parent;
- a full-time student of a community, technical, or tribal college; and
- pursuing vocational education that leads to a degree or certificate in a specific occupation, not to result in a bachelor's or advanced degree.

Child Care Subsidy Rates. The 2020 supplemental budget included appropriations to increase child care subsidy rates to 65th percentile of market at Level 2 in Early Achievers, the state's quality rating and improvement system, for fiscal year 2021. Subsidy rates are based on a market rate survey that is conducted every three years.

Child Care Collaborative Task Force. This task force was directed to develop a child care estimate model to determine the full costs providers would incur when providing high quality child care. The task force began developing the model but was unable to collect financial information from providers as originally planned due to COVID-19.

Early Childhood Education and Assistance Program. This voluntary preschool program administered by DCYF serves eligible three to five-year-old children who are not age-eligible for kindergarten. The program must offer a comprehensive program that includes education, health, and family support services.

Entitlement. Current law provides for Early Childhood Education and Assistance Program (ECEAP) to become an entitlement in the 2022-23 school year for eligible children. "Eligible child" means a child who:

- has a family income at or below 110 percent of FPL, which is \$24,156 for a family of three;
- is eligible for special education preschool due to disability; and

- may include children who are eligible under rules adopted by DCYF if the number of such children equals not more than 10 percent of the total enrollment.

Expanded Enrollment. DCYF rules allow children who do not meet the definition of eligible child to enroll in ECEAP, as space is available, if the family income is:

- above 110 percent of FPL but less than 130 percent of FPL; or
- above 130 percent of FPL but less than 200 percent of FPL if the child meets at least one of the specified risk factors.

Early Entry. DCYF rules allow children to enroll in ECEAP, as space is available, when the child is not eligible under RCW 43.216.505 and the child turns three at any time during the school year when the child has a family income at or below 200 percent of FPL or meets at least one risk factor and has received services from or participated in:

- the Early Support for Infants and Toddlers (ESIT) program;
- the Early Head Start or a successor federal program; or
- Birth-to-Three ECEAP.

Early Support for Infants and Toddlers. Part C of the federal with Individuals with Disabilities Education Act (IDEA) provides early intervention services for infants and toddlers, birth to age three, who have disabilities, which includes developmental delays and diagnosed physical or mental conditions. DCYF is the lead agency for the state's ESIT program.

Birth-to-Three Early Childhood Education and Assistance Program. In 2019, DCYF was directed to develop a plan for phased implementation of a Birth-to-Three ECEAP pilot project for eligible children under 36 months old. To be eligible, a child's family income must be at or below 130 percent of FPL. The pilot project must be delivered through child care providers.

Infant and Early Childhood Mental Health Consultation. In 2019, DCYF was directed to enter into a contractual agreement to hire one qualified mental health consultant for each of the six department-designated regions. The consultants must support Early Achievers coaches and child care providers by providing resources, information, and guidance regarding challenging behavior and expulsions.

Early Childhood Intervention and Prevention Services Program. DCYF administers the Early Childhood Intervention and Prevention Services (ECLIPSE) program, which is delivered by two community-based programs. The programs provide therapeutic child care and other specialized treatment services to families and children who have had exposure to complex trauma.

Education and Training Requirements. Under DCYF rules, new staffing qualifications for licensed child care providers went into effect in 2019. The rules require certain certificates or equivalents. By July 1, 2021, DCYF must implement a noncredit-bearing, community-

based training pathway for licensed child care providers to meet professional education requirements associated with child care licensure.

Negotiated Rule Making. Agencies are encouraged to develop and use new procedures for reaching agreement among interested parties, including negotiated rule making, before proposing rules. DCYF must engage in negotiated rulemaking with the exclusive representative of the family child care licensees and with other affected interests.

Income Measures. Federal poverty guidelines are used to determine financial eligibility for certain programs. For a family of three, the 2021 poverty guideline is \$21,960.

In the National School Lunch Program, students whose families have income at or below 130 percent of FPL are eligible for free meals. Students whose families have income between 130 percent and 185 percent of FPL are eligible for reduced-price meals.

The Washington State Department of Social and Health services publishes a state median income (SMI) chart. For a family a three, the 2021 SMI is \$86,340.

For a family of three, 36 percent of SMI converts to 142 percent of FPL, and 50 percent of SMI converts to 197 percent of FPL.

Legislative Balanced Budget Requirement. The Legislature must adopt a four-year balanced budget as follows:

- the Legislature must enact a balanced omnibus operating appropriations bill that leaves, in total, a positive ending fund balance in the general fund and related funds.
- the projected maintenance level of the omnibus appropriations bill enacted by the Legislature shall not exceed the available fiscal resources for the next ensuing fiscal biennium.

Related funds means the Washington Opportunity Pathways Account, the Workforce Education Investment Account, and the Education Legacy Trust Account.

Summary of Engrossed Second Substitute Bill: Fair Start for Kids Account, Spending Goals and Strategies, and Oversight. The Fair Start for Kids Account is created, and expenditures from the account may be used only for child care and early learning purposes. A non-exhaustive list of spending goals and strategies for the account is specified.

The account is added to the definition of related funds, which includes it in the legislative balanced budget requirement.

Early Learning Advisory Council. ELAC must:

- assist in policy development and implementation with the overall goal of promoting school readiness for all children;
- provide annual recommendations, beginning August 31, 2022, regarding the phased

implementation of strategies and priorities recognizing that system capacity must be developed and revenue expanded to achieve the stated goal;

- maintain a focus on racial equity and inclusion in order to dismantle systemic racism at its core and contribute to statewide efforts to break the cycle of intergenerational poverty;
- maintain a focus on inclusionary practices for children with disabilities;
- partner with nonprofit organizations to collect and analyze data and measure progress; and
- assist DCYF in monitoring and ensuring that the investments support certain policy objectives .

In collaboration with ELAC, DCYF must consult its advisory groups and stakeholders and submit a biennial report describing how the investments have impacted the policy objectives. The first report is due September 15, 2023.

ELAC must convene a temporary licensing subcommittee to provide feedback and recommendations on improvement to the statewide licensing process. The subcommittee must:

- examine strategies to increase the number of licensed child care providers;
- develop model policies for licensed child care providers to implement licensing standards;
- develop recommendations regarding incentives and financial supports to help prospective providers; and
- provide feedback and recommendations by December 1, 2022.

Certain representatives are added to ELAC, and appointment authority is modified. ELAC may convene advisory groups, such as a parent caucus, to evaluate specific issues, and ELAC must annually report its findings and recommendations.

Working Connections Child Care. Eligibility and Co-payment. Beginning July 1, 2021, a family is eligible for WCCC when the household's annual income is at or below 60 percent of SMI adjusted for family size and the household meets other eligibility requirements. Subject to appropriations, a family is eligible when the household's annual income is above 60 percent of SMI and is at or below 75 percent beginning July 1, 2027.

DCYF must calculate a monthly co-payment according to a phased-in schedule:

Beginning date:	If the household's income is:	Then the household's co-payment is:
Beginning July 1, 2021	at or below 20 percent of SMI	\$15 or waived to the extent allowable under federal law
Beginning July 1, 2021	above 20 percent and at or below 36 percent of SMI	\$65
Beginning July 1, 2021	above 36 percent and at or below 50 percent of SMI	\$115

Beginning July 1, 2021	above 50 percent and at or below 60 percent of SMI	\$165
Beginning July 1, 2027	above 60 percent and at or below 75 percent of SMI	\$215

Student Parents. Beginning July 1, 2021 and subject to appropriations, DCYF may not require an applicant or consumer to meet work requirements as a condition of receiving WCCC when any parent, not only single parents, is a full-time student of a community, technical, or tribal college, is in good standing, and is enrolled in:

- a vocational education program that leads to degree or certificate in a specific occupation;
- an associate degree program; or
- a registered apprenticeship program.

The requirement that a student must maintain passing grades is removed.

Subject to appropriations, DCYF may waive work requirements for full-time students who are enrolled in a bachelor's degree or applied baccalaureate degree program.

Child Care Subsidy Rates. Beginning July 1, 2021, child care subsidy base rates must achieve the 85th percentile of market for licensed or certified child care providers.

DCYF must build upon the work of the Child Care Collaborative Task Force to develop and implement a child care cost estimate model and use the completed model to recommend subsidy rates that are sufficient to compensate for the full costs of providing high quality child care. DCYF must:

- consider adjusting rates to reflect cost of living based on certain measures;
- consider incorporating the rate model for nonstandard child care; and
- evaluate options to support access to affordable health care insurance coverage for licensed or certified child care providers.

Nonstandard Hours Rate Model. By January 1, 2022 and subject to appropriations, DCYF must develop and submit a rate model for nonstandard child care hours.

Early Childhood Education and Assistance Program. *Entitlement.* The entitlement for ECEAP is delayed to the 2026-27 school year. Beginning July 1, 2026, the definition of "eligible child" for the purposes of the future entitlement is expanded to include a child who:

- has a family with financial need;
- is experiencing homelessness;
- has participated in Early Head Start or a successor federal program, ESIT or received class C developmental services, Birth-to-Three ECEAP, or Early Childhood Intervention and Prevention Services Program (ECLIPSE); or
- is Indian as defined in DCYF rule and is at or below 100 percent of SMI.

"Family with financial need" means families with incomes at or below 36 percent of SMI adjusted for family size until the 2030-31 school year. Beginning in the 2030-31 school year, it means families with incomes at or below 50 percent of SMI.

Expanded Enrollment. DCYF must adopt rules that allow children to enroll in ECEAP when the child is not eligible under RCW 43.216.505, as space is available, if:

- the family income level is above 36 percent of SMI but at or below 50 percent of SMI; and
- the child meets at least one of the specified risk factors.

Expanded enrollment ends August 1, 2030.

Early Entry. Early entry is expanded to allow for children who have a family income at or below 100 percent of SMI and for children who have participated in ECLIPSE.

Rates. For the 2021-22 school year, ECEAP rates must be set at a level at least 10 percent higher than the rates established in the 2019-21 operating budget. It is the intent of the Legislature that rate increases be informed by DCYF's 2020 ECEAP rate study.

Providers Supports. *Complex Needs Funds.* Subject to appropriations, DCYF must administer, in collaboration with OSPI, two complex needs funds to promote inclusive, least restrictive environments and to support contractors and providers serving children who have developmental delays, disabilities, behavioral needs, or other unique needs. One fund must support ECEAP and Birth-to-Three ECEAP, and one fund must support child care programs.

Trauma-Informed Care Supports. Beginning July 1, 2022, DCYF must provide supports to aid eligible providers in providing trauma-informed care. Supports may be used by eligible providers for certain purposes including, wage increases for specialty credentials, professional development and training, screening tools and assessment materials, supportive services, and other related expenses.

Dual Language Rate Enhancement. Beginning July 1, 2022, DCYF must establish a dual language designation and provide a subsidy rate enhancement for licensed or certified child care providers, and ECEAP or Birth-to-Three ECEAP contractors.

Equity Grants. Subject to appropriations, DCYF must distribute early childhood equity grants to eligible applicants who may receive a grant once every two years. DCYF must administer the grants to support inclusive and culturally and linguistically specific programs. DCYF must conduct an equitable process to prioritize grant applications.

Infant and Early Childhood Mental Health Consultation. Subject to appropriations, DCYF must administer or contract for these consultation services. Beginning July 1, 2021 and

subject to appropriations, DCYF must have or contract for one coordinator and must enter into a contract with an organization providing Early Achievers coaching services to hire at least 12 consultants with at least one for each of six designated regions and the consultants placed in regions based on the highest need.

Play and Learn Groups. Subject to appropriations, DCYF must provide or contract to provide resources and supports for inclusive and culturally and linguistically relevant play and learn groups.

Professional Development. Subject to appropriations, DCYF must provide professional development supports to aid eligible providers in reaching the professional education and training standards adopted by DCYF. Professional development supports may include trainings, Early Achievers scholarships, community-based training pathways, and other activities.

Negotiated Rulemaking with Child Care Centers. DCYF must engage in negotiated rule making with the largest organization representing child care center owners and directors; the largest organization representing supervisors, teachers, and aides; and other affected interests before adopting requirements that affect child care center licensees.

Prenatal-to-Three Supports. *Education and Support.* Subject to appropriations, DCYF must administer a prenatal-to-three family engagement strategy. Services and supports may include home visiting, play and learn groups, parent peer-support groups, and other programs and services.

Birth-to-Three Early Childhood Education and Assistance Program. The Birth-to-Three ECEAP pilot project is made permanent and subject to appropriations. To be eligible for the program, the family's income must be at or below 50 percent of SMI.

Infant Care Rate Enhancement. Beginning July 1, 2022, DCYF must provide an infant rate enhancement for licensed or certified child care providers and Birth-to-Three ECEAP contractors that are caring for a child between the ages of birth and 11 months.

Early Therapeutic and Preventative Services. Subject to appropriations, DCYF must administer early therapeutic and preventative services programs, such as ECLIPSE, and other related services for children who are:

- between the age of birth to five; and
- referred by certain people due to risk of child abuse or neglect, exposure to complex trauma, or significant developmental delays.

Subject to appropriations, DCYF must make all reasonable efforts to deliver ECLIPSE statewide. These services must focus first on children and families furthest from opportunity as defined by income and be delivered by programs that emphasize racial equity.

Inflationary Adjustments. Beginning July 1, 2023 and subject to appropriations, rates paid for ECEAP, dual language enhancement, Birth-to-Three ECEAP, and infant rate enhancement must be adjusted every two years according to an inflationary increase.

Collective Bargaining Agreements. Nothing in this act changes DCYF's responsibility to collectively bargain over mandatory subjects or limits the Legislature's authority to make programmatic modifications to licensed child care and early learning programs consistent with legislative reservation of rights. For child care subsidy rates, the parties should bargain over the implementation of the subsidy rates and apply those rates consistent with the act and the agreement reached between the parties.

Employer-Supported Child Care. Subject to appropriations, the Department of Commerce, in collaboration with DCYF, must provide or contract to provide remote or in-person technical assistance to employers interested in supporting their employees' access to high quality child care.

Conforming amendments are made. A statute that appears twice in the code is merged. A federal severability clause is included.

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

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: Yes.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Original Bill (Early Learning & K-12 Education): *The committee recommended a different version of the bill than what was heard.* PRO: Many families do not have access to child care because of the cost, and there are child care deserts throughout the state. Lack of access to child care hurts businesses and families, especially women. This bill will solve critical child care shortages and enable low and middle income families to access child care. COVID-19 has deepened inequities and compounded stress, trauma, and mental and behavioral health challenges. The majority of people who support young children do not have training in mental health, and this bill provides behavioral health supports. Child care has been crucial during the pandemic and have allowed essential workers to go to work. Child care is facing an existential crisis. Child care providers are underpaid, do not have access to health care, and have been overlooked. Child care providers are struggling with decreased enrollments and the extra costs of PPE. COVID-19 has highlighted that schools are the care setting for many children. Weaving together a system of support from birth through the K-12 system is critical for economic recovery and supporting families. WCCC is an essential support to

families and access should be expanded. The rate structure needs to support high quality programs. The cliff effect and smoothing of co-payments must be addressed, so families do not lose access to child care when they receive slight increases to their pay. ECEAP and high quality early learning programs close equity gaps for children of color, especially with kindergarten readiness and early math. This program includes multigenerational supports that take care of kids and their expanded familial unit. During COVID-19, critical supports include job training, goal setting, laptops, and food card distribution. Birth-to-Three ECEAP and Early Head Start provide needed support for young children, and there are not enough children being served. Voluntary home visiting programs and play and learn groups support early literacy and parent engagement with families who are learning English. Language access needs to be improved for child care providers who speak languages other than English. This bill builds out a family resource and referral linkage system, which helps families navigate systems and get access to resources. There is ample evidence that early learning investments reap huge benefits in K-12 and later in life. The early learning system needs to be fixed, and this bill provides an important framework to build out a much needed comprehensive early learning system. Early learning providers are the farmers of the future. They are growing our children and feeding our families, which allows them to be productive in society.

OTHER: The technical assistance to support employers help their employees' access child care is helpful. The bill should explore additional options to encourage and incentivize businesses to provide support to their employees. The business community cautions against expanded mandates, entitlements, and new taxes. The bill should remove the requirement that students maintain passing grades to access WCCC, and access should be expanded to four-year and graduate degrees.

Persons Testifying (Early Learning & K-12 Education): PRO: Senator Claire Wilson, Prime Sponsor; Carrie Glover, WithinReach; Valisa Smith, Start Early Washington; Pamela Williams, ParentChild+/Start Early Washington; Jamie Elzea, Washington Association of Infant Mental Health; Angela Haberman, ECEAP/Early ECEAP Director–Spokane County Head Start/ECEAP/EHS; Rekah Strong, Educational Opportunities for Children and Families; Stephan Blanford, Children's Alliance/Dr.; Jenee Myers-Twitchell, Washington STEM; Kathryn Sharpe; Kevin Chase, Educational Service District 105; Pauli Owen, SEIU 925; Gigi Provider; Connie Fung, Interpreter; Amy Anderson, Association of Washington Business; Reshonna Booker, MomsRising; Nicole Sohn, WCCA; Rixa Evershed, Provider; Kafía Abdilahi.

OTHER: Samantha Fakharzadeh, Washington Students; Hannah Sieben, Graduate and Professional Student Senate, UW; Zackary Turner, Washington Student Association.

Persons Signed In To Testify But Not Testifying (Early Learning & K-12 Education): PRO: Diana Stadden, The Arc of Washington State; Latisha Conley, ECEAP Teacher; Karma Hugo, Office of Superintendent of Public Instruction; Adrienne Stuart, Washington State Developmental Disabilities Council; David Beard, School's Out Washington.

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: This bill would greatly increase the state's investment in early learning, which is now only 1 percent of the state's resources. The need for more investment is stronger than ever due to increasing barriers to opportunity, equity, and access to quality child care and early learning programs. The bill represents a step in the right direction. It would provide a modest rate increase for ECEAP providers, which would allow them to attract high quality teachers. For student parents, paying for childcare, diapers, wipes, and other necessities is a huge burden. One-fifth of students are parents, and a lack of access to childcare perpetuates disparities that these students face. This bill is necessary to ensure there are more workers with degrees in Washington State, especially as the state moves toward economic recovery. This bill would provide teachers with affordable learning, supports, and other professional development opportunities. The current pandemic has proven that we cannot afford to lose more teachers in this industry. The child care system is critical to maintaining and repairing the state's economy.

Persons Testifying (Ways & Means): PRO: Stephan Blanford, Children's Alliance/Early Learning Action Alliance; Janice Deguchi, Neighborhood House; Amy Anderson, Association of Washington Business; Sam Locke, Associated Students of the University of Washington, Bothell; Kerra Bower, Washington Childcare Centers Association.

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