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**SENATE BILL 5277**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senator Short

1 AN ACT Relating to temporarily suspending the early achievers  
2 program; amending RCW 43.216.085 and 43.216.515; reenacting and  
3 amending RCW 43.216.135; creating a new section; and providing an  
4 expiration date.

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

6 NEW SECTION. **Sec. 1.** The legislature acknowledges that  
7 temporary suspension of the early achievers program, the state's  
8 quality rating and improvement system for early learning and child  
9 care providers, may lead to greater stability for providers and fewer  
10 child care deserts in Washington. Through proclamation, the governor  
11 explained that waiving and suspending the state's quality rating and  
12 improvement requirements will help make child care available to  
13 children of essential staff and children from low-income families who  
14 need child care services during the COVID-19 pandemic. The  
15 legislature intends to extend the temporary suspension of the early  
16 achievers program to July 1, 2022, to support providers during  
17 COVID-19 and to allow time for the legislature to devote more  
18 resources to the system.

19 **Sec. 2.** RCW 43.216.135 and 2020 c 355 s 2, 2020 c 321 s 2, and  
20 2020 c 279 s 1 are each reenacted and amended to read as follows:

1 (1) Existing child care providers serving nonschool-age children  
2 and receiving state subsidy payments must complete the following  
3 requirements to be eligible for a state subsidy under this section:

4 (a) Enroll in the early achievers program by August 1, 2016;

5 (b) Complete level 2 activities in the early achievers program by  
6 August 1, 2017; and

7 (c) Rate or request to be rated at a level 3 or higher in the  
8 early achievers program by December 31, 2019. If a child care  
9 provider does not rate at or request to be rated at a level 3 by  
10 December 31, 2019, the provider must complete remedial activities  
11 with the department, and must rate at or request to be rated at a  
12 level 3 or higher no later than December 30, 2020.

13 (2) A new child care provider serving nonschool-age children and  
14 receiving state subsidy payments must complete the following  
15 activities to be eligible to receive a state subsidy under this  
16 section:

17 (a) Enroll in the early achievers program within thirty days of  
18 receiving the initial state subsidy payment;

19 (b) Complete level 2 activities in the early achievers program  
20 within twelve months of enrollment; and

21 (c) Rate or request to be rated at a level 3 or higher in the  
22 early achievers program within thirty months of enrollment. If a  
23 child care provider does not rate or request to be rated at a level 3  
24 within thirty months from enrollment into the early achievers  
25 program, the provider must complete remedial activities with the  
26 department, and rate or request to be rated at a level 3 or higher  
27 within twelve months of beginning remedial activities.

28 (3) If a child care provider does not rate or request to be rated  
29 at a level 3 or higher following the remedial period, the provider is  
30 no longer eligible to receive state subsidy under this section. If a  
31 child care provider does not rate at a level 3 or higher when the  
32 rating is released following the remedial period, the provider is no  
33 longer eligible to receive state subsidy under this section.

34 (4) If a child care provider serving nonschool-age children and  
35 receiving state subsidy payments has successfully completed all level  
36 2 activities and is waiting to be rated by the deadline provided in  
37 this section, the provider may continue to receive a state subsidy  
38 pending the successful completion of the level 3 rating activity.

1 (5) The department shall implement tiered reimbursement for early  
2 achievers program participants in the working connections child care  
3 program rating at level 3, 4, or 5.

4 (6) The department shall account for a child care copayment  
5 collected by the provider from the family for each contracted slot  
6 and establish the copayment fee by rule.

7 (7) Subsections (2), (3), and (4) of this section do not apply  
8 until July 1, 2022.

9 **Sec. 3.** RCW 43.216.085 and 2019 c 369 s 2 are each amended to  
10 read as follows:

11 (1) The department, in collaboration with tribal governments and  
12 community and statewide partners, shall implement a quality rating  
13 and improvement system, called the early achievers program. The early  
14 achievers program provides a foundation of quality for the early care  
15 and education system. The early achievers program is applicable to  
16 licensed or certified child care centers and homes and early learning  
17 programs such as working connections child care and early childhood  
18 education and assistance programs.

19 (2) The objectives of the early achievers program are to:

20 (a) Improve short-term and long-term educational outcomes for  
21 children as measured by assessments including, but not limited to,  
22 the Washington kindergarten inventory of developing skills in RCW  
23 28A.655.080;

24 (b) Give parents clear and easily accessible information about  
25 the quality of child care and early education programs;

26 (c) Support improvement in early learning and child care programs  
27 throughout the state;

28 (d) Increase the readiness of children for school;

29 (e) Close the disparities in access to quality care;

30 (f) Provide professional development and coaching opportunities  
31 to early child care and education providers; and

32 (g) Establish a common set of expectations and standards that  
33 define, measure, and improve the quality of early learning and child  
34 care settings.

35 (3) (a) Licensed or certified child care centers and homes serving  
36 nonschool-age children and receiving state subsidy payments must  
37 participate in the early achievers program by the required deadlines  
38 established in RCW 43.216.135.

1 (b) Approved early childhood education and assistance program  
2 providers receiving state-funded support must participate in the  
3 early achievers program by the required deadlines established in RCW  
4 43.216.515.

5 (c) Participation in the early achievers program is voluntary  
6 for:

7 (i) Licensed or certified child care centers and homes not  
8 receiving state subsidy payments; and

9 (ii) Early learning programs not receiving state funds.

10 (d) School-age child care providers are exempt from participating  
11 in the early achievers program. By July 1, 2017, the department and  
12 the office of the superintendent of public instruction shall jointly  
13 design a plan to incorporate school-age child care providers into the  
14 early achievers program or other appropriate quality improvement  
15 system. To test implementation of the early achievers system for  
16 school-age child care providers the department and the office of the  
17 superintendent of public instruction shall implement a pilot program.

18 (4)(a) There are five primary levels in the early achievers  
19 program.

20 (b) In addition to the primary levels, the department must  
21 establish an intermediate level that is between level 3 and level 4  
22 and serves to assist participants in transitioning to level 4.

23 (c) Participants are expected to actively engage and continually  
24 advance within the program.

25 (5) The department has the authority to determine the rating  
26 cycle for the early achievers program. The department shall  
27 streamline and eliminate duplication between early achievers  
28 standards and state child care rules in order to reduce costs  
29 associated with the early achievers rating cycle and child care  
30 licensing.

31 (a) Early achievers program participants may request to be rated  
32 at any time after the completion of all level 2 activities.

33 (b) The department shall provide an early achievers program  
34 participant an update on the participant's progress toward completing  
35 level 2 activities after the participant has been enrolled in the  
36 early achievers program for fifteen months.

37 (c) The first rating is free for early achievers program  
38 participants.

39 (d) Each subsequent rating within the established rating cycle is  
40 free for early achievers program participants.

1 (6) (a) Early achievers program participants may request to be  
2 rerated outside the established rating cycle. A rerating shall reset  
3 the rating cycle timeline for participants.

4 (b) The department may charge a fee for optional rerating  
5 requests made by program participants that are outside the  
6 established rating cycle.

7 (c) Fees charged are based on, but may not exceed, the cost to  
8 the department for activities associated with the early achievers  
9 program.

10 (7) (a) The department must create a single source of information  
11 for parents and caregivers to access details on a provider's early  
12 achievers program rating level, licensing history, and other  
13 indicators of quality and safety that will help parents and  
14 caregivers make informed choices. The licensing history that the  
15 department must provide for parents and caregivers pursuant to this  
16 subsection shall only include license suspension, surrender,  
17 revocation, denial, stayed suspension, or reinstatement. No unfounded  
18 child abuse or neglect reports may be provided to parents and  
19 caregivers pursuant to this subsection.

20 (b) The department shall publish to the department's web site, or  
21 offer a link on its web site to, the following information:

22 (i) Early achievers program rating levels 1 through 5 for all  
23 child care programs that receive state subsidy, early childhood  
24 education and assistance programs, and federal head start programs in  
25 Washington; and

26 (ii) New early achievers program ratings within thirty days after  
27 a program becomes licensed or certified, or receives a rating.

28 (c) The early achievers program rating levels shall be published  
29 in a manner that is easily accessible to parents and caregivers and  
30 takes into account the linguistic needs of parents and caregivers.

31 (d) The department must publish early achievers program rating  
32 levels for child care programs that do not receive state subsidy but  
33 have voluntarily joined the early achievers program.

34 (e) Early achievers program participants who have published  
35 rating levels on the department's web site or on a link on the  
36 department's web site may include a brief description of their  
37 program, contingent upon the review and approval by the department,  
38 as determined by established marketing standards.

39 (8) (a) The department shall create a professional development  
40 pathway for early achievers program participants to obtain a high

1 school diploma or equivalency or higher education credential in early  
2 childhood education, early childhood studies, child development, or  
3 an academic field related to early care and education.

4 (b) The professional development pathway must include  
5 opportunities for scholarships and grants to assist early achievers  
6 program participants with the costs associated with obtaining an  
7 educational degree.

8 (c) The department shall address cultural and linguistic  
9 diversity when developing the professional development pathway.

10 (9) The early achievers quality improvement awards shall be  
11 reserved for participants offering programs to an enrollment  
12 population consisting of at least five percent of children receiving  
13 a state subsidy.

14 (10) In collaboration with tribal governments, community and  
15 statewide partners, and the early achievers review subcommittee  
16 created in RCW 43.216.075, the department shall develop a protocol  
17 for granting early achievers program participants an extension in  
18 meeting rating level requirement timelines outlined for the working  
19 connections child care program and the early childhood education and  
20 assistance program.

21 (a) The department may grant extensions only under exceptional  
22 circumstances, such as when early achievers program participants  
23 experience an unexpected life circumstance.

24 (b) Extensions shall not exceed six months, and early achievers  
25 program participants are only eligible for one extension in meeting  
26 rating level requirement timelines.

27 (c) Extensions may only be granted to early achievers program  
28 participants who have demonstrated engagement in the early achievers  
29 program.

30 (11)(a) The department shall accept national accreditation that  
31 meets the requirements of this subsection (11) as a qualification for  
32 the early achievers program ratings.

33 (b) Each national accreditation agency will be allowed to submit  
34 its most current standards of accreditation to establish potential  
35 credit earned in the early achievers program. The department shall  
36 grant credit to accreditation bodies that can demonstrate that their  
37 standards meet or exceed the current early achievers program  
38 standards. By December 1, 2019, and subject to the availability of  
39 amounts appropriated for this specific purpose, the department must  
40 submit a detailed plan to the governor and the legislature to

1 implement a robust cross-accreditation process with multiple pathways  
2 that allows a provider to earn equivalent early achievers credit  
3 resulting from accreditation by high quality national organizations.

4 (c) Licensed child care centers and child care home providers  
5 must meet national accreditation standards approved by the department  
6 for the early achievers program in order to be granted credit for the  
7 early achievers program standards. Eligibility for the early  
8 achievers program is not subject to bargaining, mediation, or  
9 interest arbitration under RCW 41.56.028, consistent with the  
10 legislative reservation of rights under RCW 41.56.028(4)(d).

11 (12) The department shall explore the use of alternative quality  
12 assessment tools that meet the culturally specific needs of the  
13 federally recognized tribes in the state of Washington.

14 (13) A child care or early learning program that is operated by a  
15 federally recognized tribe and receives state funds shall participate  
16 in the early achievers program. The tribe may choose to participate  
17 through an interlocal agreement between the tribe and the department.  
18 The interlocal agreement must reflect the government-to-government  
19 relationship between the state and the tribe, including recognition  
20 of tribal sovereignty. The interlocal agreement must provide that:

21 (a) Tribal child care facilities and early learning programs may  
22 volunteer, but are not required, to be licensed by the department;

23 (b) Tribal child care facilities and early learning programs are  
24 not required to have their early achievers program rating level  
25 published to the department's web site or through a link on the  
26 department's web site; and

27 (c) Tribal child care facilities and early learning programs must  
28 provide notification to parents or guardians who apply for or have  
29 been admitted into their program that early achievers program rating  
30 level information is available and provide the parents or guardians  
31 with the program's early achievers program rating level upon request.

32 (14) The department shall consult with the early achievers review  
33 subcommittee on all substantial policy changes to the early achievers  
34 program.

35 (15) Nothing in this section changes the department's  
36 responsibility to collectively bargain over mandatory subjects or  
37 limits the legislature's authority to make programmatic modifications  
38 to licensed child care and early learning programs under RCW  
39 41.56.028(4)(d).

1       (16) Subsection (3) of this section does not apply until July 1,  
2       2022.

3       **Sec. 4.** RCW 43.216.515 and 2020 c 321 s 1 are each amended to  
4 read as follows:

5       (1) Approved early childhood education and assistance programs  
6 shall receive state-funded support through the department. Public or  
7 private organizations including, but not limited to, school  
8 districts, educational service districts, community and technical  
9 colleges, local governments, or nonprofit organizations, are eligible  
10 to participate as providers of the state early childhood education  
11 and assistance program.

12       (2) Funds obtained by providers through voluntary grants or  
13 contributions from individuals, agencies, corporations, or  
14 organizations may be used to expand or enhance preschool programs so  
15 long as program standards established by the department are  
16 maintained.

17       (3) Persons applying to conduct the early childhood education and  
18 assistance program shall identify targeted groups and the number of  
19 children to be served, program components, the qualifications of  
20 instructional and special staff, the source and amount of grants or  
21 contributions from sources other than state funds, facilities and  
22 equipment support, and transportation and personal care arrangements.

23       (4) A new early childhood education and assistance program  
24 provider must complete the requirements in this subsection to be  
25 eligible to receive state-funded support under the early childhood  
26 education and assistance program:

27       (a) Enroll in the early achievers program within thirty days of  
28 the start date of the early childhood education and assistance  
29 program contract;

30       (b) (i) Except as provided in (b) (ii) of this subsection, rate at  
31 a level 4 or 5 in the early achievers program within twenty-four  
32 months of enrollment. If an early childhood education and assistance  
33 program provider rates below a level 4 within twenty-four months of  
34 enrollment, the provider must complete remedial activities with the  
35 department, and must rate at or request to be rated at a level 4 or 5  
36 within twelve months of beginning remedial activities.

37       (ii) Licensed or certified child care centers and homes that  
38 administer an early childhood education and assistance program shall  
39 rate at a level 4 or 5 in the early achievers program within twenty-



1 four months of the start date of the early childhood education and  
2 assistance program contract. If an early childhood education and  
3 assistance program provider rates below a level 4 within twenty-four  
4 months, the provider must complete remedial activities with the  
5 department, and must rate at or request to be rated at a level 4 or 5  
6 within twelve months of beginning remedial activities.

7 (5)(a) If an early childhood education and assistance program  
8 provider has successfully completed all of the required early  
9 achievers program activities and is waiting to be rated by the  
10 deadline provided in this section, the provider may continue to  
11 participate in the early achievers program as an approved early  
12 childhood education and assistance program provider and receive state  
13 subsidy pending the successful completion of a level 4 or 5 rating.

14 (b) To avoid disruption, the department may allow for early  
15 childhood education and assistance program providers who have rated  
16 below a level 4 after completion of the twelve-month remedial period  
17 to continue to provide services until the current school year is  
18 finished.

19 (c)(i) If the early childhood education and assistance program  
20 provider described under subsection (4)(b)(i) or (ii) of this section  
21 does not rate or request to be rated at a level 4 or 5 following the  
22 remedial period, the provider is not eligible to receive state-funded  
23 support under the early childhood education and assistance program  
24 under this section.

25 (ii) If the early childhood education and assistance program  
26 provider described under subsection (4)(b)(i) or (ii) of this section  
27 does not rate at a level 4 or 5 when the rating is released following  
28 the remedial period, the provider is not eligible to receive state-  
29 funded support under the early childhood education and assistance  
30 program under this section.

31 (6)(a) When an early childhood education and assistance program  
32 in good standing changes classroom locations to a comparable or  
33 improved space within the same facility, a rerating is not required  
34 outside of the regular rerating and renewal cycle.

35 (b) When an early childhood education and assistance program in  
36 good standing moves to a new facility, the provider must notify the  
37 department of the move within six months of changing locations in  
38 order to retain their existing rating. The early achievers program  
39 must conduct an observational visit to ensure the new classroom space  
40 is of comparable or improved environmental quality. If a provider

1 fails to notify the department within six months of a move, the early  
2 achievers rating must be changed from the posted rated level to  
3 "Participating, Not Yet Rated" and the provider will cease to receive  
4 tiered reimbursement incentives until a new rating is completed.

5 (7) The department shall collect data periodically to determine  
6 the demand for full-day programming for early childhood education and  
7 assistance program providers. The department shall analyze this  
8 demand by geographic region and shall include the findings in the  
9 annual report required under RCW 43.216.089.

10 (8) The department shall develop multiple pathways for licensed  
11 or certified child care centers and homes to administer an early  
12 childhood education and assistance program. The pathways shall  
13 include an accommodation for these providers to rate at a level 4 or  
14 5 in the early achievers program according to the timelines and  
15 standards established in subsection (4)(b)(ii) of this section. The  
16 department must consider using the intermediate level that is between  
17 level 3 and level 4 as described in RCW 43.216.085, incentives, and  
18 front-end funding in order to encourage providers to participate in  
19 the pathway.

20 (9) Subsections (4) and (5) of this section do not apply until  
21 July 1, 2022.

22 NEW SECTION. **Sec. 5.** Sections 2, 3, and 4 of this act expire  
23 July 1, 2022.

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