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SECOND SUBSTITUTE HOUSE BILL 2731

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State of Washington

61st Legislature

2010 Regular Session

**By** House Ways & Means (originally sponsored by Representatives Goodman, Haler, Maxwell, Priest, Kagi, Sullivan, Seaquist, Quall, O'Brien, Jacks, Haigh, Pedersen, Darneille, Kenney, Rolfes, Hunter, Williams, Orwall, Lias, Carlyle, Roberts, Simpson, Walsh, Nelson, Kelley, Dickerson, Appleton, Eddy, Sells, and Morrell)

READ FIRST TIME 02/09/10.

1 AN ACT Relating to implementing a program of early learning for  
2 educationally at-risk children; amending RCW 28A.150.200 and  
3 43.215.020; adding a new section to chapter 28A.320 RCW; adding a new  
4 section to chapter 43.215 RCW; adding a new chapter to Title 28A RCW;  
5 creating new sections; repealing RCW 43.215.410 and 43.215.415; and  
6 providing effective dates.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that a critical factor  
9 in the eventual successful outcome of a K-12 education is for students  
10 to begin school ready, both intellectually and socially, to learn. The  
11 legislature also finds that, due to a variety of factors, some young  
12 children need supplemental instruction in preschool to assure that they  
13 have the opportunity to participate meaningfully and reach the  
14 necessary levels of achievement in the regular program of basic  
15 education. The legislature further finds that children who participate  
16 in high quality preschool programs have improved educational and life  
17 outcomes and are more likely to graduate from high school and pursue  
18 higher education, experience successful employment opportunities, and  
19 have increased earnings. Therefore the legislature intends to

1 establish a program of early learning for educationally at-risk  
2 children and, beginning September 1, 2011, to include this program  
3 within the overall program of basic education under Article IX of the  
4 state Constitution.

5 The legislature also finds that the state early childhood education  
6 and assistance program was established to help children from low-income  
7 families be prepared for kindergarten, and that the program has been a  
8 successful model for achieving that goal. Therefore, the legislature  
9 intends that the first phase of implementing the basic education  
10 program of early learning for children who are educationally at risk  
11 shall be accomplished by utilizing the program standards and  
12 eligibility criteria in the early childhood education and assistance  
13 program.

14 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this  
15 section apply throughout this chapter unless the context clearly  
16 requires otherwise.

17 (1) "Community-based early learning providers" includes for-profit  
18 and nonprofit licensed providers of child care and preschool programs.

19 (2) "Department" means the department of early learning.

20 (3) "Director" means the director of the department.

21 (4) "Program" means the program of early learning established in  
22 section 3 of this act for children who are determined to be  
23 educationally at risk pursuant to section 4 of this act.

24 (5) "Superintendent" means the superintendent of public  
25 instruction.

26 NEW SECTION. **Sec. 3.** PROGRAM STANDARDS. (1) An early learning  
27 program is established, beginning September 1, 2011, within the state's  
28 overall program of basic education to provide voluntary preschool  
29 opportunities for children three and four years of age who are  
30 educationally at risk. The program must be a comprehensive program  
31 providing early childhood education and family support, options for  
32 parental involvement, and health information, screening, and referral  
33 services, as family need is determined. Participation in the program  
34 is voluntary. On a space available basis, the program may allow  
35 enrollment of children who are not otherwise eligible by assessing a  
36 fee.

1 (2) The first phase of the program shall be implemented by  
2 utilizing the program standards and eligibility criteria in the early  
3 childhood education and assistance program.

4 (3) Subsequent phases of the program including, but not limited to,  
5 program standards and eligibility processes, shall be defined by the  
6 legislature after receiving the recommendations from the superintendent  
7 and the director required in section 10 of this act.

8 (4) The superintendent and the director jointly shall adopt rules  
9 for the following program components, as appropriate and necessary  
10 during the phased implementation of the program:

11 (a) A process for conducting individual evaluations to determine  
12 program eligibility for children who do not qualify under section  
13 4(1)(c) (i) or (ii) of this act, but who may be at risk of being  
14 unprepared for kindergarten for other reasons;

15 (b) Minimum program standards, including lead teacher, assistant  
16 teacher, and staff qualifications;

17 (c) Approval of program providers;

18 (d) Accountability and adherence to performance standards; and

19 (e) A method for allowing, on a space available basis, enrollment  
20 of children who are not otherwise eligible by assessing fees.

21 (5) The department has administrative responsibility for:

22 (a) Approving and contracting with providers according to rules  
23 developed jointly by the superintendent and the director under this  
24 section;

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

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

32 (d) Providing technical assistance to contracted providers.

33 NEW SECTION. **Sec. 4.** ELIGIBILITY. (1)(a) The legislature intends  
34 that eligibility for enrollment in the program be based on risk factors  
35 which, in the absence of effective intervention, have been identified  
36 by research to correlate with an increased probability of poor  
37 educational outcomes. The legislature also intends that children who

1 do not qualify on the basis of risk factors, but who are determined to  
2 be at risk of being unprepared for kindergarten based on an individual  
3 evaluation, will be eligible for the program.

4 (b) During the initial phase of implementation, the standards in  
5 RCW 43.215.405(3) used for eligibility determinations in the early  
6 childhood education and assistance program shall be used to determine  
7 eligibility for the program.

8 (c) During subsequent phases of implementation, the following  
9 criteria shall be used for eligibility determinations:

10 (i) The child's household income is at or below one hundred ten  
11 percent of the federal poverty level, as published annually by the  
12 federal department of health and human services, and the child's  
13 circumstances include one or more risk factors to be determined by the  
14 legislature after receiving recommendations required in subsection  
15 (2)(a) of this section;

16 (ii) The child's circumstances include one or more risk factors to  
17 be determined by the legislature after receiving recommendations  
18 required in subsection (2)(a) of this section; or

19 (iii) The child has been determined to be at risk of being  
20 unprepared for kindergarten based on an individual evaluation conducted  
21 by a school district according to a process approved by the legislature  
22 after receiving recommendations required in subsection (2)(b) of this  
23 section.

24 (d) After the individual evaluation process is approved by the  
25 legislature and implemented:

26 (i) School districts, in collaboration with approved early learning  
27 providers, shall conduct the evaluations to determine a child's  
28 eligibility for participation in the program; and

29 (ii) A three year old child who is determined eligible on the basis  
30 of an individual evaluation may remain in the program for a second year  
31 as a four year old.

32 (2) The superintendent and the director jointly shall develop  
33 recommendations for legislative approval regarding:

34 (a) Risk factors demonstrated by research to correlate with an  
35 increased probability of poor educational outcomes which could be used  
36 to determine program eligibility following the initial phase of program  
37 implementation including, but not limited to:

38 (i) The child has limited English proficiency; and

1 (ii) The child's family is receiving child welfare services under  
2 chapter 13.34 RCW;

3 (b) An evaluation process for use in eligibility determinations for  
4 children who are not eligible under subsection (1)(c)(i) or (ii) of  
5 this section, but who may be at risk of being unprepared for  
6 kindergarten for other reasons. The evaluation process must be aligned  
7 with the state's early learning benchmarks and the kindergarten  
8 assessment described in section 616, chapter 564, Laws of 2009; and

9 (c) A schedule for implementing the individual evaluation process  
10 throughout the state, including training for school district personnel  
11 and approved early learning providers.

12 (3) The superintendent and the director shall report the  
13 recommendations required under subsection (2) of this section to the  
14 appropriate committees of the legislature not later than November 15,  
15 2010.

16 NEW SECTION. **Sec. 5.** FUNDING AND STATEWIDE IMPLEMENTATION. (1)  
17 Funding for the program of early learning established under this  
18 chapter must be appropriated to the superintendent. Allocations must  
19 be made on the basis of eligible children enrolled with eligible  
20 providers.

21 (2) The program shall be implemented in phases, with the intent  
22 that full implementation be achieved in the 2017-18 school year.

23 (3) For the initial phase of the early learning program in school  
24 years 2011-12 and 2012-13, funding shall consist of appropriation to  
25 the superintendent of amounts that would otherwise have been  
26 appropriated for the early childhood education and assistance program  
27 formerly implemented by the department. The legislature shall  
28 appropriate funding to the superintendent for implementation of the  
29 early learning program at a level not less than the 2009-2011 budget  
30 for the early childhood education and assistance program.

31 (4) Beginning in the 2013-14 school year, additional funding for  
32 the program must be phased in beginning in school districts having the  
33 highest poverty levels, defined as those school districts with the  
34 highest percentages of enrolled students qualifying for free and  
35 reduced price lunch support in the prior school year.

36 (5) Funding shall continue to be phased in incrementally each year

1 until full statewide implementation of the early learning program is  
2 achieved in the 2017-18 school year.

3 (6) School districts and approved community-based early learning  
4 providers may contract with the department to provide services under  
5 the program. The department shall collaborate with school districts,  
6 community-based providers, and educational service districts to promote  
7 an adequate supply of approved providers. A school district may not be  
8 required to contract for the provision of services under the program  
9 unless no approved community-based provider is available within the  
10 district to provide services.

11 NEW SECTION. **Sec. 6.** A new section is added to chapter 28A.320  
12 RCW to read as follows:

13 (1) For the program of early learning established in section 3 of  
14 this act, school districts:

15 (a) Shall work cooperatively with program providers to coordinate  
16 the transition from preschool to kindergarten so that children and  
17 their families are well-prepared and supported;

18 (b) Shall, in collaboration with providers approved by the  
19 department of early learning, conduct individual evaluations to  
20 determine program eligibility for children who do not qualify under  
21 section 4(1)(c) (i) or (ii) of this act but who may be at risk of being  
22 unprepared for kindergarten for other reasons; and

23 (c) May contract with the department of early learning to deliver  
24 services under the program.

25 (2) If, however, at the time the program of early learning  
26 established in section 3 of this act is phased into a school district,  
27 no approved provider is available within the school district to  
28 contract for delivery of services under the program, the school  
29 district is required to contract with the department of early learning  
30 to deliver the program to eligible children.

31 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.215 RCW  
32 to read as follows:

33 (1) The superintendent of public instruction and the director of  
34 the department jointly shall adopt rules for the following program  
35 components, as appropriate and necessary during the phased  
36 implementation of the program:

1 (a) Individual evaluations to determine program eligibility for  
2 children not eligible under section 4(1)(c) (i) or (ii) of this act;

3 (b) Minimum program standards, including instructor and staff  
4 qualifications;

5 (c) Approval of program providers; and

6 (d) Accountability and adherence to performance standards.

7 (2) The department shall have administrative responsibility for:

8 (a) Approving and contracting with providers according to rules  
9 developed jointly by the superintendent of public instruction and the  
10 director under this section;

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

14 (c) Providing technical assistance to contracted providers.

15 **Sec. 8.** RCW 28A.150.200 and 2009 c 548 s 101 are each amended to  
16 read as follows:

17 (1) The program of basic education established under this chapter  
18 is deemed by the legislature to comply with the requirements of Article  
19 IX, section 1 of the state Constitution, which states that "It is the  
20 paramount duty of the state to make ample provision for the education  
21 of all children residing within its borders, without distinction or  
22 preference on account of race, color, caste, or sex," and is adopted  
23 pursuant to Article IX, section 2 of the state Constitution, which  
24 states that "The legislature shall provide for a general and uniform  
25 system of public schools."

26 (2) The legislature defines the program of basic education under  
27 this chapter as that which is necessary to provide the opportunity to  
28 develop the knowledge and skills necessary to meet the state-  
29 established high school graduation requirements that are intended to  
30 allow students to have the opportunity to graduate with a meaningful  
31 diploma that prepares them for postsecondary education, gainful  
32 employment, and citizenship. Basic education by necessity is an  
33 evolving program of instruction intended to reflect the changing  
34 educational opportunities that are needed to equip students for their  
35 role as productive citizens and includes the following:

36 (a) The instructional program of basic education the minimum  
37 components of which are described in RCW 28A.150.220;

1 (b) The program of education provided by chapter 28A.190 RCW for  
2 students in residential schools as defined by RCW 28A.190.020 and for  
3 juveniles in detention facilities as identified by RCW 28A.190.010;

4 (c) The program of education provided by chapter 28A.193 RCW for  
5 individuals under the age of eighteen who are incarcerated in adult  
6 correctional facilities; (~~and~~)

7 (d) Transportation and transportation services to and from school  
8 for eligible students as provided under RCW 28A.160.150 through  
9 28A.160.180; and

10 (e) The program of early learning established in section 3 of this  
11 act.

12 **Sec. 9.** RCW 43.215.020 and 2007 c 394 s 5 are each amended to read  
13 as follows:

14 (1) The department of early learning is created as an executive  
15 branch agency. The department is vested with all powers and duties  
16 transferred to it under this chapter and such other powers and duties  
17 as may be authorized by law.

18 (2) The primary duties of the department are to implement state  
19 early learning policy and to coordinate, consolidate, and integrate  
20 child care and early learning programs in order to administer programs  
21 and funding as efficiently as possible. The department's duties  
22 include, but are not limited to, the following:

23 (a) To support both public and private sectors toward a  
24 comprehensive and collaborative system of early learning that serves  
25 parents, children, and providers and to encourage best practices in  
26 child care and early learning programs;

27 (b) To make early learning resources available to parents and  
28 caregivers;

29 (c) To carry out activities, including providing clear and easily  
30 accessible information about quality and improving the quality of early  
31 learning opportunities for young children, in cooperation with the  
32 nongovernmental private-public partnership;

33 (d) To administer child care and early learning programs;

34 (e) To standardize internal financial audits, oversight visits,  
35 performance benchmarks, and licensing criteria, so that programs can  
36 function in an integrated fashion;



1 (f) To support the implementation of the nongovernmental private-  
2 public partnership and cooperate with that partnership in pursuing its  
3 goals including providing data and support necessary for the successful  
4 work of the partnership;

5 (g) To work cooperatively and in coordination with the early  
6 learning council;

7 (h) To collaborate with the K-12 school system at the state and  
8 local levels to ensure appropriate connections and smooth transitions  
9 between early learning and K-12 programs; (~~and~~)

10 (i) To develop and adopt rules, jointly with the superintendent of  
11 public instruction, for administration of the program of early learning  
12 established in section 3 of this act; and

13 (j) Upon the development of an early learning information system,  
14 to make available to parents timely inspection and licensing action  
15 information through the internet and other means.

16 (3) The department's programs shall be designed in a way that  
17 respects and preserves the ability of parents and legal guardians to  
18 direct the education, development, and upbringing of their children.  
19 The department shall include parents and legal guardians in the  
20 development of policies and program decisions affecting their children.

21 NEW SECTION. **Sec. 10.** REPORT AND RECOMMENDATIONS. (1) The  
22 superintendent of public instruction and the director of the department  
23 of early learning shall develop recommendations, including proposed  
24 legislation as appropriate and necessary, to achieve statewide  
25 implementation of the basic education program of early learning for  
26 children three and four years of age who are educationally at risk.  
27 The superintendent and the director shall report to the appropriate  
28 committees of the legislature by January 1, 2011:

29 (a) Program standards for a developmentally appropriate curriculum  
30 to include:

31 (i) Physical well-being, health, and motor development;

32 (ii) Social and emotional development;

33 (iii) Cognition and general knowledge;

34 (iv) Language, literacy, numeracy, and communication.

35 (b) Service standards for family support and health-related  
36 services to include:

1 (i) Working with parents to access appropriate medical, dental, and  
2 other health screenings for children;

3 (ii) Providing opportunities for parental involvement, education,  
4 and leadership development; and

5 (iii) Family contact designed to assist the child's family in:

6 (A) Assessing family strengths and needs;

7 (B) Setting family goals and reviewing progress;

8 (C) Accessing community resources; and

9 (D) Coordinating transitions between the program, child care, home,  
10 and kindergarten.

11 (c) A plan for providing technical assistance necessary to support  
12 providers delivering services in early childhood education and  
13 assistance programs and head start programs in becoming approved  
14 providers of the program.

15 (d) A strategy to optimize phased implementation of the program on  
16 a schedule substantially similar to the implementation of full day  
17 kindergarten after a review of the locations where early childhood  
18 education and assistance programs are operating.

19 (e) The need for transportation services for the program based on  
20 an analysis of the transportation services and arrangements being  
21 utilized in early childhood education and assistance programs and the  
22 need to address future transportation services during subsequent phases  
23 of implementation.

24 (f) Options for developing socioeconomically diverse, mixed  
25 classrooms.

26 (2) The superintendent of public instruction, the director of the  
27 department of early learning, and the director of the office of  
28 financial management, or their respective designees, shall report to  
29 the appropriate committees of the legislature by November 15, 2010,  
30 with recommendations for a budgeting and funding allocation method for  
31 the program based on enrolled eligible students. Recommendations must  
32 include a proposed schedule of implementation consistent with section  
33 5 (2) and (3) of this act.

34 NEW SECTION. **Sec. 11.** Sections 2 through 5 and 13 of this act  
35 constitute a new chapter in Title 28A RCW.

1        NEW SECTION.    **Sec. 12.**    Section 8 of this act takes effect  
2    September 1, 2011.

3        NEW SECTION.    **Sec. 13.**    The following acts or parts of acts, as now  
4    existing or hereafter amended, are each repealed, effective September  
5    1, 2011:

6        (1)    RCW 43.215.410 (Early childhood education and assistance  
7    program--Admission and funding) and 2006 c 265 s 211, 1994 c 166 s 4,  
8    1988 c 174 s 3, & 1985 c 418 s 3; and

9        (2)    RCW 43.215.415 (Early childhood education and assistance  
10   program--Eligible providers--State-funded support--Requirements) and  
11   1994 c 166 s 5, 1988 c 174 s 4, & 1985 c 418 s 4.

12       NEW SECTION.    **Sec. 14.**    This act may be known as the ready for  
13   school act of 2010.

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