

**2SSB 5437** - H COMM AMD

By Committee on Human Services & Early Learning

**ADOPTED 04/11/2019**

1 Strike everything after the enacting clause and insert the  
2 following:

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

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

19 Unless the context clearly requires otherwise, the definitions in  
20 this section apply throughout RCW 43.216.500 through 43.216.559,  
21 43.216.900, and 43.216.901.

22 (1) "Advisory committee" means the advisory committee under RCW  
23 43.216.520.

24 (2) "Approved programs" means those state-supported education and  
25 special assistance programs which are recognized by the department as  
26 meeting the minimum program rules adopted by the department to  
27 qualify under RCW 43.216.500 through 43.216.550, 43.216.900, and  
28 43.216.901 and are designated as eligible for funding by the  
29 department under RCW 43.216.530 and 43.216.540.

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

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

4 (a) Has a family income ((is)) at or below one hundred ten  
5 percent of the federal poverty level, as published annually by the  
6 federal department of health and human services((, and includes a  
7 child whose family is eligible for public assistance, and who is not  
8 a participant in a federal or state program providing comprehensive  
9 services)); ((a child))

10 (b) Is eligible for special education due to disability under RCW  
11 28A.155.020; ((and may include children who are eligible)) or

12 (c) Meets criteria under rules adopted by the department if the  
13 number of such children equals not more than ten percent of the total  
14 enrollment in the early childhood program. ((Priority)) Preference  
15 for enrollment in this group shall be given to children from families  
16 with the lowest income, children in foster care, or to eligible  
17 children from families with multiple needs.

18 (5) "Family support services" means providing opportunities for  
19 parents to:

20 (a) Actively participate in their child's early childhood  
21 program;

22 (b) Increase their knowledge of child development and parenting  
23 skills;

24 (c) Further their education and training;

25 (d) Increase their ability to use needed services in the  
26 community;

27 (e) Increase their self-reliance.

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

30 (1) Funding for the program of early learning established under  
31 this chapter must be appropriated to the department. ((Allocations  
32 must be made)) The department shall distribute funding to approved  
33 early childhood education and assistance program contractors on the  
34 basis of eligible children enrolled ((with eligible providers)).

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

37 (3) ((For the initial phase of the early learning program in  
38 school years 2011-12 and 2012-13, the legislature shall appropriate  
39 funding to the department for implementation of the program in an

1 amount not less than the 2009-2011 enacted budget for the early  
2 childhood education and assistance program. The appropriation shall  
3 be sufficient to fund an equivalent number of slots as funded in the  
4 2009-2011 enacted budget.

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

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

12 ~~((6))~~ (4) School districts and approved community-based early  
13 learning providers may contract with the department to provide  
14 services under the program. The department shall collaborate with  
15 school districts, community-based providers, and educational service  
16 districts to promote an adequate supply of approved providers.

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

19 (1) The department shall adopt rules that allow the ~~((inclusion))~~  
20 enrollment of children in the early childhood education and  
21 assistance program, as space is available if the number of such  
22 children equals not more than twenty-five percent of total statewide  
23 enrollment, whose family income is:

24 (a) Above one hundred ten percent but less than or equal to one  
25 hundred thirty percent of the federal poverty level ~~((if the number~~  
26 ~~of such children equals not more than twenty-five))~~; or

27 (b) Above one hundred thirty percent but less than or equal to  
28 two hundred percent of ~~((total statewide enrollment))~~ the federal  
29 poverty level if the child meets at least one of the risk factor  
30 criterion described in subsection (2) of this section.

31 (2) Children ~~((included))~~ enrolled in the early childhood  
32 education and assistance program ~~((under))~~ pursuant to subsection  
33 (1)(b) of this section must be ~~((homeless or impacted by specific~~  
34 ~~developmental or environmental))~~ prioritized for available funded  
35 slots according to a prioritization system adopted in rule by the  
36 department that considers risk factors that ~~((are linked by research~~  
37 ~~to school performance. "Homeless" means without a fixed, regular, and~~  
38 ~~adequate nighttime residence as set forth in the federal McKinney-~~  
39 ~~Vento homeless assistance act, P.L. 100-77, July 22, 1987, 101 Stat.~~

1 ~~482, and runaway and homeless youth act, P.L. 93-415, Title III,~~  
2 ~~September 7, 1974, 88 Stat. 1129))~~ have a disproportionate effect on  
3 kindergarten readiness and school performance, including:

- 4 (a) Family income as a percent of the federal poverty level;
- 5 (b) Homelessness;
- 6 (c) Child welfare system involvement;
- 7 (d) Developmental delay or disability that does not meet the  
8 eligibility criteria for special education described in RCW  
9 28A.155.020;
- 10 (e) Domestic violence;
- 11 (f) English as a second language;
- 12 (g) Expulsion from an early learning setting;
- 13 (h) A parent who is incarcerated;
- 14 (i) A parent with a substance use disorder or mental health  
15 treatment need; and
- 16 (j) Other risk factors determined by the department to be linked  
17 by research to school performance.

18 (3) Children ~~((included))~~ enrolled in the early childhood  
19 education and assistance program under this section are not ~~((to be))~~  
20 considered eligible children as defined in RCW 43.216.505 and are not  
21 considered to be part of the state-funded entitlement required in RCW  
22 43.216.556.

23 **Sec. 5.** RCW 43.216.512 and 2018 c 155 s 2 are each amended to  
24 read as follows:

25 (1) The department shall adopt rules that allow the ~~((inclusion))~~  
26 enrollment of children in the early childhood education and  
27 assistance program, as space is available if the number of such  
28 children equals not more than twenty-five percent of total statewide  
29 enrollment, whose family income is:

30 (a) Above one hundred ten percent but less than or equal to one  
31 hundred thirty percent of the federal poverty level ~~((if the number~~  
32 ~~of such children equals not more than twenty-five))~~; or

33 (b) Above one hundred thirty percent but less than or equal to  
34 two hundred percent of ~~((total statewide enrollment))~~ the federal  
35 poverty level if the child meets at least one of the risk factor  
36 criterion described in subsection (2) of this section.

37 (2) Children ~~((included))~~ enrolled in the early childhood  
38 education and assistance program ~~((under))~~ pursuant to subsection  
39 (1)(b) of this section must be ~~((homeless or impacted by specific~~

1 ~~developmental or environmental))~~ prioritized for available funded  
2 slots according to a prioritization system adopted in rule by the  
3 department that considers risk factors that ((are linked by research  
4 to school performance. "Homeless" means without a fixed, regular, and  
5 adequate nighttime residence as set forth in the federal McKinney-  
6 Vento homeless assistance act, P.L. 100-77, July 22, 1987, 101 Stat.  
7 482, and runaway and homeless youth act, P.L. 93-415, Title III,  
8 September 7, 1974, 88 Stat. 1129)) have a disproportionate effect on  
9 kindergarten readiness and school performance, including:

- 10 (a) Family income as a percent of the federal poverty level;
- 11 (b) Homelessness;
- 12 (c) Child welfare system involvement;
- 13 (d) Developmental delay or disability that does not meet the  
14 eligibility criteria for special education described in RCW  
15 28A.155.020;
- 16 (e) Domestic violence;
- 17 (f) English as a second language;
- 18 (g) Expulsion from an early learning setting;
- 19 (h) A parent who is incarcerated;
- 20 (i) A parent with a substance use disorder or mental health  
21 treatment need; and
- 22 (j) Other risk factors determined by the department to be linked  
23 by research to school performance.

24 (3) The department shall adopt rules that allow a child to enroll  
25 in the early childhood education and assistance program, as space is  
26 available, when the child is not eligible under RCW 43.216.505 and  
27 the child turns three years old at any time during the school year  
28 when the child:

- 29 (a) Has a family income at or below two hundred percent of the  
30 federal poverty level or meets at least one risk factor criterion  
31 adopted by the department in rule; and
- 32 (b) Has received services from or participated in:
  - 33 (i) The early support for infants and toddlers program;
  - 34 (ii) The early head start or a successor federal program  
35 providing comprehensive services for children from birth through two  
36 years of age; or
  - 37 (iii) The birth to three early childhood education and assistance  
38 program, if such a program is established.

39 (4) Children ((included)) enrolled in the early childhood  
40 education and assistance program under this section are not ((to be))

1 considered eligible children as defined in RCW 43.216.505 and are not  
2 considered to be part of the state-funded entitlement required in RCW  
3 43.216.556.

4 NEW SECTION. **Sec. 6.** (1) The department of children, youth, and  
5 families must consult with the state's federally recognized tribes as  
6 described in chapter 43.376 RCW to explore creating a pathway or  
7 funding stream within the early childhood education and assistance  
8 program to address the unique characteristics of tribal nations in  
9 order to substantially close the opportunity gap for tribal children.

10 (2) By December 1, 2020, the department of children, youth, and  
11 families must report related recommendations to the legislature that  
12 may include the modification of early childhood education and  
13 assistance program eligibility criteria and performance standards.

14 (3) This section expires December 31, 2020.

15 **Sec. 7.** RCW 43.216.514 and 2018 c 155 s 3 are each amended to  
16 read as follows:

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

20 (2) As space is available, children may be included in the early  
21 childhood education and assistance program pursuant to RCW  
22 43.216.512. Priority within this group must be given first to  
23 children (~~who are experiencing homelessness, child welfare system~~  
24 ~~involvement, or a developmental delay or disability that does not~~  
25 ~~meet the eligibility criteria for special education adopted under RCW~~  
26 ~~28A.155.020)) with incomes up to one hundred thirty percent of the  
27 federal poverty level.~~

28 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.216  
29 RCW to read as follows:

30 (1) Within resources available under the federal preschool  
31 development grant birth to five grant award received in December  
32 2018, the department shall develop a plan for phased implementation  
33 of a birth to three early childhood education and assistance program  
34 pilot project for eligible children under thirty-six months old.  
35 Funds to implement the pilot project may include a combination of  
36 federal, state, or private sources.

1 (2) The department may adopt rules to implement the pilot project  
2 and may waive or adapt early childhood education and assistance  
3 program requirements when necessary to allow for the operation of the  
4 birth to three early childhood education and assistance program. The  
5 department shall consider early head start rules and regulations when  
6 developing the provider and family eligibility requirements and  
7 program requirements. Any deviations from early head start standards,  
8 rules, or regulations must be identified and explained by the  
9 department in its annual report under subsection (6) of this section.

10 (3) (a) Upon securing adequate funds to begin implementation, the  
11 pilot project programs must be delivered through child care centers  
12 and family home providers who meet minimum licensing standards and  
13 are enrolled in the early achievers program.

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

16 (4) When selecting pilot project locations for service delivery,  
17 the department may allow each pilot project location to have up to  
18 three classrooms per location. When selecting and approving pilot  
19 project locations, the department shall attempt to select a  
20 combination of rural, urban, and suburban locations. The department  
21 shall prioritize locations with programs currently operating early  
22 head start, head start, or the early childhood education and  
23 assistance program.

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

28 (6) Beginning November 1, 2020, and each November 1st thereafter  
29 during pilot project activity, the department shall submit an annual  
30 report to the governor and legislature that includes a status update  
31 that describes the planning work completed, the status of funds  
32 secured, and any implementation activities of the pilot project.  
33 Implementation activity reports must include a description of the  
34 participating programs and number of children and families served.

35 **Sec. 9.** RCW 43.216.555 and 2018 c 155 s 4 are each amended to  
36 read as follows:

37 (1) (~~Beginning September 1, 2011,~~) An early learning program to  
38 provide voluntary preschool opportunities for children ages three  
39 (~~and four~~) to five years (~~of~~) old who are not age-eligible for

1 kindergarten shall be implemented according to the funding and  
2 implementation plan in RCW 43.216.556. The program must offer a  
3 comprehensive program of early childhood education and family  
4 support, including parental involvement and health information,  
5 screening, and referral services, based on family need. Participation  
6 in the program is voluntary. On a space available basis, the program  
7 may allow enrollment of children who are not otherwise eligible by  
8 assessing a fee.

9 (2) The program shall be implemented by utilizing the program  
10 standards and eligibility criteria in the early childhood education  
11 and assistance program in RCW 43.216.500 through 43.216.550.

12 (3) (a) (~~Beginning in the 2015-16 school year,~~) The program  
13 implementation in this section shall prioritize early childhood  
14 education and assistance programs located in low-income neighborhoods  
15 within high-need geographical areas.

16 (b) Following the priority in (a) of this subsection, preference  
17 shall be given to programs meeting at least one of the following  
18 characteristics:

19 (i) Programs offering an extended day program for early care and  
20 education;

21 (ii) Programs offering services to children diagnosed with a  
22 special need; or

23 (iii) Programs offering services to children involved in the  
24 child welfare system.

25 (4) The secretary shall adopt rules for the following program  
26 components, as appropriate and necessary during the phased  
27 implementation of the program, consistent with early achievers  
28 program standards established in RCW 43.216.085:

29 (a) Minimum program standards;

30 (b) Approval of program providers; and

31 (c) Accountability and adherence to performance standards.

32 (5) The department has administrative responsibility for:

33 (a) Approving and contracting with providers according to rules  
34 developed by the secretary under this section;

35 (b) In partnership with school districts, monitoring program  
36 quality and assuring the program is responsive to the needs of  
37 eligible children;

38 (c) Assuring that program providers work cooperatively with  
39 school districts to coordinate the transition from preschool to



1 kindergarten so that children and their families are well-prepared  
2 and supported; and

3 (d) Providing technical assistance to contracted providers.

4 **Sec. 10.** RCW 43.216.080 and 2017 c 178 s 2 are each amended to  
5 read as follows:

6 (1) The foundation of quality in the early care and education  
7 system in Washington is the quality rating and improvement system  
8 entitled the early achievers program. In an effort to build on the  
9 existing quality framework, enhance access to quality care for  
10 children, and strengthen the entire early care and education systems  
11 in the state, it is important to integrate the efforts of state and  
12 local governments, school districts, institutions of higher education  
13 as defined in RCW 28B.10.016, and nonprofit organizations.

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

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

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

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

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

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

30 (5) Children enrolled in the early childhood education and  
31 assistance program with funds contributed in accordance with  
32 subsection (3)(c) of this section are not considered to be eligible  
33 children as defined in RCW (~~(43.215.405)~~) 43.216.505 and are not  
34 considered to be part of the state-funded entitlement required in RCW  
35 (~~(43.215.456)~~) 43.216.556.

36 **Sec. 11.** RCW 43.216.540 and 1994 c 166 s 10 are each amended to  
37 read as follows:

1 For the purposes of RCW ((28A.215.100)) 43.216.500 through  
2 ((28A.215.200)) 43.216.550 and ((28A.215.900 through 28A.215.908))  
3 43.216.900 and 43.216.901, the department may award state support  
4 under RCW ((28A.215.100)) 43.216.500 through ((28A.215.160))  
5 43.216.530 to increase the numbers of eligible children assisted by  
6 the federal or state-supported early childhood programs in this  
7 state. Priority shall be given to those geographical areas which  
8 include a high percentage of families qualifying under the "eligible  
9 child" criteria. The overall program funding level shall be based on  
10 an average grant per child consistent with state appropriations made  
11 for program costs: PROVIDED, That programs addressing special needs  
12 of selected groups or communities shall be recognized in the  
13 department's rules.

14 **Sec. 12.** RCW 43.216.550 and 1994 c 166 s 11 are each amended to  
15 read as follows:

16 The department may solicit gifts, grants, conveyances, bequests  
17 and devises for the use or benefit of the early childhood state  
18 education and assistance program established by RCW ((28A.215.100))  
19 43.216.500 through ((28A.215.200)) 43.216.550 and ((28A.215.900  
20 through 28A.215.908)) 43.216.900 and 43.216.901. The department shall  
21 actively solicit support from business and industry and from the  
22 federal government for the state early childhood education and  
23 assistance program and shall assist local programs in developing  
24 partnerships with the community for eligible children.

25 NEW SECTION. **Sec. 13.** (1) Section 5 of this act takes effect  
26 only if chapter . . . (Substitute Senate Bill No. 5089), Laws of 2019  
27 is enacted by the effective date of this section.

28 (2) Section 4 of this act takes effect only if section 5 of this  
29 act does not take effect by the effective date of this section."

30 Correct the title.

EFFECT: (1) Allows the enrollment of a non-entitled child in  
ECEAP if the child has a family income:

(a) Above 110% of the federal poverty level (FPL) but less than  
or equal to 130% of the FPL; or

(b) Above 130% of the FPL but less than or equal to 200% of the  
FPL, and the child meets at least one risk factor criterion as  
adopted in rule by the Department of Children, Youth, and Families  
(DCYF).

(2) Removes status as an Indian child as a risk factor and removes the associated requirement for the DCYF to consult with tribes to adopt a definition of "Indian child" in rule for this purpose.

(3) Requires the DCYF to consult with federally recognized tribes to explore creating a pathway or funding stream within ECEAP to close the opportunity gap for tribal children and report recommendations to the Legislature by December 1, 2020.

(4) Removes the January 1, 2020, deadline for DCYF to begin planning for the Birth to Three ECEAP pilot.

(5) Removes the requirement for DCYF to implement the Birth to Three ECEAP pilot in 10 locations.

(6) Revises findings and intent language.

(7) Makes technical changes for consistency in the event that SSB 5089, relating to increasing early learning access for children ages three and older, is enacted.

--- END ---