

SENATE BILL REPORT

E2SHB 1213

As of March 22, 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: House Committee on Appropriations (originally sponsored by Representatives Senn, Chopp, Ramos, Bateman, Sells, Shewmake, Lekanoff, Peterson, Stonier, Duerr, Fitzgibbon, Berry, Rule, Davis, Wicks, Fey, Callan, Dolan, Frame, Lovick, Chapman, Ryu, Santos, Thai, Ortiz-Self, Orwall, Simmons, Slatter, Gregerson, Bergquist, Hackney, Valdez, Ramel, Riccelli, Macri, Goodman and Harris-Talley).

Brief History: Passed House: 3/9/21, 58-38.

Committee Activity: Early Learning & K-12 Education: 3/22/21.

Brief Summary of Bill

- Establishes a new account for child care and early learning purposes and includes a non-exhaustive list of allowable uses.
- 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

Staff: Ailey Kato (786-7434)

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.

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. DCYF must manage the program with certain priorities, so the appropriated amount is not exceeded, and 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
at or below 82 percent of FPL	\$15
above 82 percent of FPL up to 137.5 percent of FPL	\$65
above 137.5 percent of FPL through 200 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 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 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 Program (ECLIPSE), which is delivered by two community-based programs. The programs provide therapeutic child care and other specialized treatment services to families and children exposed 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.

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.

Summary of Bill: Fair Start for Kids Account 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 including a non-exhaustive list of allowable uses. Subsidies funded by the account may be bargained by the appropriate entity.

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 identified in the account recognizing that system capacity must be developed and revenue expanded to achieve the stated goal;
- maintain a focus on racial equity and inclusion 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 monitoring and ensuring 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.

Certain representatives are added to ELAC. 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. By July 1, 2025, a family is eligible for WCCC when the household's annual income is at or below 75 percent of SMI adjusted for family size, and the child receiving care is age 13 or younger, or age 19 or younger and has a verified special need or is under court supervision, and the household meets other eligibility requirements.

Subject to appropriations, a family is eligible when the household's annual income is above 75 percent of SMI and is at or below 100 percent by July 1, 2025.

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

	If the household's income is	Then the household's co-payment is
by July 1, 2021	at or below 36 percent of SMI	waived to the extent allowable under federal law
By July 1, 2021	above 36 percent and at or below 50 percent of SMI	\$65
By July 1, 2023	above 50 percent and at or below 60 percent of SMI	\$165
By July 1, 2025	above 60 percent and at or below 75 percent of SMI	\$215

DCYF must adopt a copayment model based on available revenue for households with annual incomes above 75 percent of SMI and at or below 100 percent of SMI. The model must calculate a copayment for each household that is no greater than 7 percent of the household's countable income within this income range.

Student Parents. Beginning July 1, 2023, DCYF may not require an applicant or consumer to meet work requirements as a condition of receiving WCCC when any parent, not only a single parent, is a full-time student of a community, technical, or tribal college, 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. By July 1, 2021, child care subsidy base rates must achieve the 75th percentile of market for licensed or certified child care providers. By July 1, 2023, child care subsidy base rates must achieve the 85th percentile of market for providers.

These provisions do not interfere with, impede, or diminish the right of employees to bargain collectively with their employers through representatives of their choosing in order to establish wages or other conditions of work in excess of the applicable minimum.

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 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; 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, 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. Entitlement is voluntary enrollment. Effective July 1, 2026, the definition of eligible child for 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 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 50 percent of SMI and for children who have participated in ECLIPSE.

Rates. For the 2021-22 through 2022-23 school years, ECEAP rates must be set at least 7 percent higher than the rates established in the 2019-21 operating budget. For the 2023-24 school year, rates must be set 10 percent higher than 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.* Working in conjunction with OSPI, DCYF must administer 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. By July 1, 2022, DCYF must provide supports to aid eligible providers providing trauma-informed care. Supports may include additional compensation for staff who have specialty credentials, professional development and training, screening tools and assessment materials, supportive services, and other related expenses.

Dual Language Rate Enhancement. By July 1, 2022, DCYF must establish a dual language designation and provide a subsidy rate enhancement or site-specific grants 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. DCYF must administer or contract for these consultation services. By July 1, 2021, 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. DCYF must determine, in collaboration with the statewide child care resource and referral network, where the additional consultants should be sited based on factors such as the total provider numbers overlaid with indicators of 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.

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

To the extent practicable, parties should consider in collective bargaining agreements implementation of an infant care rate enhancement beginning in the 2021-23 biennium.

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.

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. The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

Fiscal Note: Available. New fiscal note requested on March 11, 2021.

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: PRO: Child care is a critical part of economic recovery in all sectors. This bill will help families access the child care they need, so they can get back to work and recover from this global pandemic. COVID-19 has immediate and long-term impacts on K-12 education and the economy given the lack of play and social-emotional learning. The current child care system is not working and COVID-19 has made that apparent. Child care spots are difficult to find, and the cost is astronomical. Some women have to decide whether to stay home because their salaries do not or barely cover the cost of child care. Decades of inadequate investment in early learning makes the investments in this bill critical and will begin to disrupt gender and racial inequities. The needs have been piling up over the years, and this session is the time to invest in this industry. New revenue is not needed. Women make up a large share of child care workers and are essential. There is a strong need for quality, culturally and linguistically relevant child care and early learning programs. ECEAP programs are beneficial for children and their families. They help families get involved with their children's education and help provide mental health, food, and other wrap-around services. These programs have positive incomes for children especially Native American children who have been disenfranchised from educational institutions since boarding schools. Child care providers are struggling with the additional costs during COVID-19, such as personal protective equipment and low enrollment. Providers who do not speak English need interpretation services to better understand the supports that are available. The subsidy rates are so low that it does not make financial sense for providers to serve children from families who have subsidies. Subsidy rates need to move closer to the private pay rate. Family home providers should be able to seek waivers to serve more than 12 children, which will increase access. Child care providers need to be part of the decision-making. The supports in this bill will help attract and retain quality educators. Child care is in crisis, but it is a strong industry that has been able to adapt during COVID-19 and worth investing in. The demand for infant and mental health consultation is immense. This consultation is an intervention-based program that can

help reduce expulsions from child care, address trauma, and provide supports to families. Early intervention is important for children with developmental disabilities and can prevent children needing special education in the K-12 system. Early learning and child care providers can promote inclusion.

CON: Focusing on dismantling racism and home visiting programs can undermine parental rights and the passing down of cultural values. Government should not be involved in private day care businesses or mandating racism and equity training. Preschool children do not need anti-bias and anti-racism training. Systemic racism is a political construct. All Americans have equal protection under the law. This bill assumes that all families want to put their children in day care and preschool programs, and it assumes that English learners, low-income families, and families of color have inferior parenting skills and need government programs. Families do not need home-visiting programs.

Persons Testifying: PRO: Representative Tana Senn, Prime Sponsor; Nikki Hoven; Patty Liu, MomsRising; Janice Deguchi, Neighborhood House; Bruce Spilde, Educational Service District 112; Nicole Sohn, Washington Childcare Centers Association; Amy Anderson, Association of Washington Business; Emily Murphy, Children's Alliance; Sheryl Fryberg, Tulalip Tribes, Betty J Taylor Early Learning Academy; Kevin Chase, Educational Service District 105; Erin Haick, SEIU 925; Kafia Abdillahi, OneAmerica; Kate Burke, Spokane City Council; Diana Stadden, The Arc of Washington State.

CON: Sharon Hanek; Margaret Lee; Dawn Land; Linnea McCord; Val Mullen.

Persons Signed In To Testify But Not Testifying: No one.