

# SENATE BILL REPORT

## SB 5237

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As of January 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:** Senators Wilson, C., Dhingra, Das, Billig, Conway, Darneille, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, Nguyen, Nobles, Pedersen, Saldaña and Salomon.

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 1/22/21.

**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 perinatal-to-three supports for providers and families.

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

**Staff:** Ailey Kato (786-7434)

**Background:** Early Learning Advisory Council. The Early Learning Advisory Council (ELAC) advises the Department of Children, Youth, and Families (DCYF) on statewide

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early learning issues. ELAC includes representatives of state agencies, the Legislature, and certain stakeholders.

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

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

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

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

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

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

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

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

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

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

- has a family income at or below 110 percent of FPL, which is \$28,820 for a family of four;
- 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.

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 this program, which is delivered by two community-based programs. The programs provide therapeutic child care and other specialized treatment services to families and children who have had exposure to complex trauma.

Education and Training Requirements. Under DCYF rules, new staffing qualifications for licensed child care providers went into effect in 2019. The rules require certain certificates or equivalents. By July 1, 2021, DCYF must implement a noncredit-bearing, community-based training pathway for licensed child care providers to meet professional education requirements associated with child care licensure.

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.

ELAC must:

- provide guidance and recommendations on phasing in child care and early learning priorities as system capacity is developed and revenue is expanded;
- keep racial equity inclusion, undoing intergenerational poverty, and addressing systemic racism at its core; and
- exercise fiscal accountability for the investments funded by the Fair Start for Kids Account and ensure the investments are producing specified results.

Certain representatives are added to ELAC. ELAC may convene advisory groups 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 85 percent of SMI adjusted for family size, and the child receiving care is (1) aged 13 or younger; or (2) aged 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 85 percent and at or below 100 percent of SMI.

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

Beginning date:	If the household's income is:	Then the household's co-payment is:
Beginning July 1, 2021	at or below 36 percent of SMI	\$0
Beginning July 1, 2021	above 36 percent and at or below 50 percent of SMI	\$15
Beginning July 1, 2023	above 50 percent and at or below 75 percent of SMI	\$115

Beginning July 1, 2025	above 75 percent and at or below 85 percent of SMI	\$165
Beginning July 1, 2025	above 85 percent and at or below 100 percent of SMI	Calculated according to a co-payment model adopted by DCYF. The co-payment can be no greater than 7 percent of the household's income.

*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 single parents, 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.

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.

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

*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. Beginning July 1, 2026, the definition of "eligible child" for the purposes of the future entitlement is expanded to include a child who:

- has a family with financial need;
- is experiencing homelessness;
- has participated in Early Head Start, the Early Support for Infants and Toddlers program, Birth-to-Three ECEAP, or Early Childhood Intervention and Prevention Services Program (ECLIPSE); or
- is Indian as defined in DCYF rule and is at or below 100 percent of SMI beginning in the 2030-31 school year.

"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, as space is available, if:

- the family income level is above those of a family with financial need but less than or equal to 100 percent of SMI, and
- the child meets at least one of the specified risk factors.

Subject to appropriations, families who are allowed to enroll in ECEAP must pay a monthly tuition co-payment according to a model adopted by DCYF. The model must calculate a co-payment that is no greater than 7 percent of the family's countable income.

*Rates.* For the 2021-22 and 2022-23 school years, ECEAP rates must be set at a level at least 5 percent higher than the rates established in the 2019-21 operating budget. For the 2023-24 school year, rates must be set at a level at 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.* 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 one fund must support child care programs.

*Trauma-Informed Care Supports.* By July 1, 2022, DCYF must provide supports to aid eligible providers in providing trauma-informed care. Supports include wage increases for 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 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 one coordinator and must enter into a contract with an organization providing Early Achievers coaching services to hire at least two consultants for each of six designated regions.

*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.* 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.

Perinatal-to-Three Supports. *Education and Support.* Subject to appropriations, DCYF must administer a perinatal-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, 2021, DCYF must provide an infant rate enhancement for licensed or certified child care providers and Birth-to-Three ECEAP contractors that are caring for a child between the ages of birth and 17 months.

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

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

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

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

Collective Bargaining Agreements. To the extent practicable, parties should consider in collective bargaining agreements implementation of trauma-informed care supports and dual language rate enhancements beginning in the 2023-25 biennium and infant care rate enhancement beginning in the 2021-23 biennium.

Employer-Supported Child Care. Subject to appropriations, the Department of Commerce,



in collaboration with DCYF, must provide or contract to provide remote or in-person technical assistance to employers interested in supporting their employees' access to high quality child care.

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

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

**Fiscal Note:** Requested on January 14, 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: Many families do not have access to child care because of the cost, and there are child care deserts throughout the state. Lack of access to child care hurts businesses and families, especially women. This bill will solve critical child care shortages and enable low and middle income families to access child care. COVID-19 has deepened inequities and compounded stress, trauma, and mental and behavioral health challenges. The majority of people who support young children do not have training in mental health, and this bill provides behavioral health supports. Child care has been crucial during the pandemic and have allowed essential workers to go to work. Child care is facing an existential crisis. Child care providers are underpaid, do not have access to health care, and have been overlooked. Child care providers are struggling with decreased enrollments and the extra costs of PPE. COVID-19 has highlighted that schools are the care setting for many children. Weaving together a system of support from birth through the K-12 system is critical for economic recovery and supporting families. WCCC is an essential support to families and access should be expanded. The rate structure needs to support high quality programs. The cliff effect and smoothing of co-payments must be addressed, so families do not lose access to child care when they receive slight increases to their pay. ECEAP and high quality early learning programs close equity gaps for children of color, especially with kindergarten readiness and early math. This program includes multigenerational supports that take care of kids and their expanded familial unit. During COVID-19, critical supports include job training, goal setting, laptops, and food card distribution. Birth-to-Three ECEAP and Early Head Start provide needed support for young children, and there are not enough children being served. Voluntary home visiting programs and play and learn groups support early literacy and parent engagement with families who are learning English. Language access needs to be improved for child care providers who speak languages other than English. This bill builds out a family resource and referral linkage system, which helps families navigate systems and get access to resources. There is ample evidence that early learning investments reap huge benefits in K-12 and later in life. The early learning system needs to be fixed, and this bill provides an



important framework to build out a much needed comprehensive early learning system. Early learning providers are the farmers of the future. They are growing our children and feeding our families, which allows them to be productive in society.

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

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

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

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