

FINAL BILL REPORT

E2SSB 5237

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Synopsis as Enacted

Brief Description: Expanding accessible, affordable child care and early childhood development programs.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Wilson, C., Dhingra, Das, Billig, Conway, Darneille, Hasegawa, Hunt, Keiser, Kuderer, Lias, Lovelett, Nguyen, Nobles, Pedersen, Saldaña and Salomon).

Senate Committee on Early Learning & K-12 Education
Senate Committee on Ways & Means
House Committee on Children, Youth & Families
House Committee on Appropriations

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. To not exceed the appropriated amount, DCYF must manage the Working Connections Child Care (WCCC) 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:

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.

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 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 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 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 Early Childhood Education and Assistance Program (ECEAP) must offer a comprehensive program that includes education, health, and family support services.

Entitlement. Current law provides for 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. Children who do not meet the definition of eligible child may 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. Children may enroll in ECEAP, as space is available, when the child does not meet the definition of eligible child 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 within resources available under the federal preschool development grant. 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 (ECLIPSE) 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.

Negotiated Rule Making. Agencies are encouraged to develop and use new procedures for reaching agreement among interested parties, including negotiated rule making, before proposing rules. DCYF must engage in negotiated rulemaking with the exclusive

representative of the family child care licensees and with other affected interests.

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.

Legislative Balanced Budget Requirement. The Legislature must adopt a four-year balanced budget as follows:

- the Legislature must enact a balanced omnibus operating appropriations bill that leaves, in total, a positive ending fund balance in the general fund and related funds; and
- the projected maintenance level of the omnibus appropriations bill enacted by the Legislature shall not exceed the available fiscal resources for the ensuing fiscal biennium.

Related funds means the Washington Opportunity Pathways Account, the Workforce Education Investment Account, and the Education Legacy Trust Account.

Summary: Accounts, Spending Goals and Strategies. The Fair Start for Kids Account is created, and expenditures from the account may be used only for child care and early learning purposes. A non-exhaustive list of spending goals and strategies for the account is specified.

The Fair Start for Kids Account is added to the definition of related funds, which includes it in the legislative balanced budget requirement.

The Education Legacy Trust Account is amended to include early learning and child care programs as an ongoing allowable expenditure.

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;
- 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 in monitoring and ensuring that 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.

ELAC must convene a temporary licensing subcommittee to provide feedback and recommendations on improvement to the statewide licensing process. The subcommittee must include two representatives of DCYF, two child care providers, and two parents of children in child care and must:

- examine strategies to increase the number of licensed child care providers;
- develop model policies for licensed child care providers to implement licensing standards;
- develop recommendations regarding incentives and financial supports to help prospective providers; and
- provide feedback and recommendations by December 1, 2022.

Certain representatives are added to ELAC, and appointment authority is modified. ELAC may convene advisory groups, such as a parent caucus, to evaluate specific issues.

Working Connections Child Care. Eligibility and Co-payment. Eligibility for WCCC is as follows:

- beginning October 1, 2021, a family is eligible when the household's annual income is at or below 60 percent of SMI adjusted for family size and the household meets other eligibility requirements;
- beginning July 1, 2025, a family is eligible when the household's annual income is above 60 percent of SMI and at or below 75 percent of SMI adjusted for family size and the household meets other eligibility requirements; and
- beginning July 1, 2027, a family is eligible when the household's annual income is above 75 percent of SMI and at or below 85 percent of SMI adjusted for family size and the household meets other eligibility requirements, subject to appropriations.

Beginning July 1, 2021 through June 30, 2023, DCYF must calculate a monthly co-payment according to the following schedule:

If the household's income is:	Then the household's maximum monthly co-payment is:
at or below 20 percent of SMI	waived to the extent allowable under federal law; otherwise, a maximum of \$15

above 20 percent and at or below 36 percent of SMI	\$65
above 36 percent and at or below 50 percent of SMI	\$115 until December 31, 2021, and \$90 beginning January 1, 2022
above 50 percent and at or below 60 percent of SMI	\$115

Beginning July 1, 2023, DCYF must calculate a monthly co-payment according to the following schedule:

If the household's income is:	Then the household's maximum monthly co-payment is:
at or below 20 percent of SMI	waived to the extent allowable under federal law; otherwise, a maximum of \$15
above 20 percent and at or below 36 percent of SMI	\$65
above 36 percent and at or below 50 percent of SMI	\$90
above 50 percent and at or below 60 percent of SMI	\$165

Beginning July 1, 2025, DCYF must calculate a maximum monthly co-payment of \$215 for households with incomes above 60 percent and at or below 75 percent of SMI.

Subject to appropriations, DCYF must adopt a co-payment model for households with annual incomes above 75 percent of SMI and at or below 85 percent of SMI. The model must calculate a co-payment for each household that is no greater than 7 percent of the household's countable income within this income range.

DCYF may adjust the co-payment schedule to comply with federal law. DCYF must adopt implementation rules, including an income phase-out eligibility period.

Student Parents. Beginning July 1, 2021 and subject to appropriations, 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.

The requirement that a student must maintain passing grades and be in good standing 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. Beginning July 1, 2021, child care subsidy base rates must achieve the 85th percentile of market for licensed or certified child care providers. The state and the exclusive representative for family child care providers must enter into bargaining over the implementation of the subsidy rate increases under this subsection.

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;
- consider incorporating the rate model for nonstandard child care; 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.

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 or a successor federal program, ESIT or received class C developmental services, 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.

"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, 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. The family income criteria is changed to 50 percent of SMI instead of 200 percent of FPL. Early ECEAP entry is expanded to allow children who have participated in ECLIPSE.

Rates. For the 2021-22 school year, ECEAP rates must be set at a level at least 10 percent higher than the rates established in 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.* Subject to appropriations, 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. DCYF must work collaboratively with OSPI to best serve children. One fund must support ECEAP and Birth-to-Three ECEAP, and one fund must support child care programs.

Trauma-Informed Care Supports. Beginning July 1, 2022, DCYF must provide supports to aid eligible providers in providing trauma-informed care. Supports may be used by eligible providers for certain purposes including additional compensation for individuals with specialty credentials, professional development and training, screening tools and assessment materials, supportive services, and other related expenses.

Dual Language Rate Enhancements or Site-Specific Grants. Beginning July 1, 2022, DCYF must establish a dual language designation and provide subsidy rate enhancements 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. Beginning 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, supporting a nonprofit organization that provides relationship-based professional development support and their work to help providers start their businesses, and other activities.

Negotiated Rulemaking with Child Care Centers. When DCYF elects to engage in negotiated rulemaking, it must include the largest organization representing child care center owners and directors; the largest organization representing supervisors, teachers, and aides; and other affected interests before adopting requirements that affect child care center licensees.

Capacity Flexibility for Family Home Providers. DCYF may waive the limit that restricts family home providers from serving not more than 12 children. DCYF must establish conditions for such waivers by rule and must assess, at a minimum, the providers' available square footage and staffing capabilities prior to issuing any waiver of the limit of 12 children.

Support for Child Care Deserts. Subject to appropriations, DCYF must establish a grant program to expand child care in child care deserts. Grants must be used for one-time costs associated with opening a child care site, including program costs, for providers who are newly licensed or are in the process of becoming licensed.

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. Beginning July 1, 2022, 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 11 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; 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.

Collective Bargaining Agreements. Nothing in this act changes DCYF's responsibility to collectively bargain over mandatory subjects, or limits the Legislature's authority to make programmatic modifications to licensed child care and early learning programs consistent with legislative reservation of rights. The spending goals and strategies section and child care subsidy rates section do not interfere with, impede, or in any way diminish the right of family child care providers to bargain collectively with the state through the exclusive bargaining representatives.

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.

Votes on Final Passage:

Senate	28	21	
House	62	36	(House amended)
			(Senate refused to concur/asked House for conference)

Conference Committee

House	65	32
Senate	27	22

Effective: July 25, 2021

May 7, 2021 (Sections 105 and 503)

July 1, 2021 (Sections 201, 202, 301, 309 and 504)

July 1, 2026 (Sections 204-206 and 403)

July 1, 2024 (Section 505)