

# HOUSE BILL REPORT

## HB 1550

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**As Reported by House Committee On:**  
Education

**Title:** An act relating to assisting eligible children in need of additional preparation to be successful in kindergarten by replacing transitional kindergarten with a legislatively established and authorized transition to kindergarten program.

**Brief Description:** Assisting eligible children in need of additional preparation to be successful in kindergarten by establishing the transition to kindergarten program.

**Sponsors:** Representatives Santos, Senn, Ortiz-Self, Berry, Goodman, Ramel, Simmons, Stonier, Bergquist, Pollet, Fosse and Doglio.

**Brief History:**

**Committee Activity:**

Education: 1/31/23, 2/14/23 [DPS].

**Brief Summary of Substitute Bill**

- Establishes the Transition to Kindergarten program.
- Prohibits, as of August 31, 2024, operation of programs referred to as Transitional Kindergarten.
- Provides that, beginning with the 2024-25 school year, early entry to kindergarten is limited to children who are likely to be successful in kindergarten.
- Requires the implementation of a data system across all state-funded early learning, elementary, and secondary education programs.

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### HOUSE COMMITTEE ON EDUCATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Santos, Chair; Shavers, Vice Chair; Rude,

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*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.*

Ranking Minority Member; Bergquist, Callan, Eslick, McClintock, Ortiz-Self, Pollet, Sandlin, Steele, Stonier and Timmons.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives McEntire, Assistant Ranking Minority Member; Harris.

**Staff:** Megan Wargacki (786-7194).

**Background:**

Kindergarten.

The state's statutory program of basic education must be provided to students who are age 5 and less than 21, which means that public schools must make available a kindergarten program. Except as otherwise provided by law, school districts may establish uniform entry qualifications for admission to kindergarten, for example by requiring a child to turn 5 years old as of August 31. The Office of the Superintendent of Public Instruction (OSPI) is permitted by statute to adopt rules to provide for exceptions based upon the ability, or the need, or both, of an individual student. The rules of the OSPI require a screening process or instrument be used to determine a student's ability or need.

To receive state basic education allocations for full-day kindergarten programs, school districts must meet specified conditions, for example: (1) provide at least 1,000 instructional hours over 180 school days; (2) provide a curriculum that assists students in developing academic, communication, motor, and social-emotional skills; (3) establish developmentally appropriate learning environments; and (4) communicate and collaborate with early learning providers.

Transitional Kindergarten.

Some school districts and charter schools have elected to offer programs referred to as Transitional Kindergarten (TK). The OSPI website states that TK is a kindergarten program for children not yet age 5 who do not have access to high-quality early learning experiences prior to kindergarten and have been deemed, through a screening process or other instrument, to need additional preparation to be successful in kindergarten the following year.

The OSPI first published guidance on TK in 2019. The Legislature has not adopted, referenced, or defined "transitional kindergarten" in statutes. There have been two operating budget provisos that referenced TK and both were vetoed: a study on TK was vetoed in the 2020 Supplemental Budget and a requirement for the OSPI to limit state allocations for TK enrollments was vetoed in the 2022 Supplemental Budget. Agency rules for TK programs have not been adopted, but in December 2022 the OSPI filed a preproposal statement of inquiry for possible rulemaking on TK.

According to the OSPI, TK is kindergarten, so TK programs must meet the requirements for

full-day kindergarten. The OSPI recommends that TK teachers be certificated by the state with early childhood or early childhood special education endorsements. In addition, the OSPI recommends that TK programs give attention to the developmental capabilities and needs specific to young children in school settings.

State statute requires that kindergarten include 1,000 annual instructional hours over 180 school days; however, the OSPI permits TK programs to prorate instructional hours from the start date of the program, which may begin between the beginning of the school year, and January 31. The OSPI directs school districts to report TK students as kindergarten students, although there is no corresponding statute or budget proviso that authorizes or requires this reporting. Because TK students are reported as kindergarten students, they generate state basic education allocations that include transportation funding, additional transitional bilingual instructional program funding for English-learner students, and other state and federal funding.

The OSPI encourages TK program administrators to work in collaboration with and not adversely impact enrollment in community-based preschool programs, including by participating in coordinated outreach, referral, and placement to assure best fit and appropriateness of services based on each child and family's need.

#### Early Childhood Education and Assistance Program.

The Early Childhood Education and Assistance Program (ECEAP) is a state preschool program that provides no-charge services and supports to eligible 3 to 5-year-old children who are not age-eligible for kindergarten. In general, eligibility criteria relate to family income and whether a child has qualifying disabilities. The ECEAP is slated to become an entitlement for eligible children in the 2026-27 school year. The Department of Children, Youth, and Families (DCYF) contracts with school districts, nonprofit organizations, and other entities for provision of ECEAP.

Providers of the ECEAP must follow performance standards developed by the DCYF on the following topics: child outcomes; family engagement and partnerships; staff professional development, training, and other requirements; classroom environment; interactions and curriculum; and program administration and oversight. There are different class time requirements depending on the type of ECEAP program: part day; school day; or working day.

Providers of the ECEAP must participate in Early Achievers, which is the state's quality rating, recognition, and improvement system for child care and early learning providers receiving state subsidies. An ECEAP provider must be rated at a level four or above within a specified timeline to continue as a provider.

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#### **Summary of Substitute Bill:**

### Transitional Kindergarten.

*Screening Report.* By October 1, 2023, school districts and charter schools that offered a program referred to as Transitional Kindergarten (TK) during the 2022-23 school year must submit a report to the Office of the Superintendent of Public Instruction (OSPI) describing the screening process or other instruments used to determine children's eligibility for the TK Program.

*Conversion of Existing Transitional Kindergarten Programs.* By August 31, 2024, school districts and charter schools must cease operation of programs referred to as TK and may no longer report TK students as kindergarten students for purposes of receiving basic education allocations.

The OSPI must develop and implement a conversion plan to assist school districts that offered a TK Program during the 2022-23 school year to be authorized to provide a Transition to Kindergarten (TTK) Program.

### Kindergarten Eligibility.

Beginning with the 2024-25 school year, the OSPI rules providing for exceptions to the uniform entry qualifications for kindergarten must limit early kindergarten admission to children deemed by the local Educational Service District, using multiple objective criteria, to be "likely to be successful in kindergarten."

### Transition to Kindergarten Program.

The TTK Program is established to assist eligible children in need of additional preparation to be successful kindergarten students in the following school year. The OSPI must administer the TTK Program. The TTK Program is not part of the state's instructional program of basic education.

*Authorizations and Approvals.* The OSPI may authorize school districts to offer a TTK Program, approve TTK Program sites at one or more of an authorized school district's schools, and cap eligible child enrollment for each authorized school district.

The OSPI must develop a process for school districts to apply to operate or expand a TTK Program. The application must specify the number of program sites the school district is applying for and the intended number of eligible children to be enrolled at each site. It must describe the screening process or other instruments that the school district will use to individually determine whether an eligible child has a developmental delay or otherwise needs additional preparation to be successful in kindergarten in the following school year. Eligible children who are on the waitlist for Early Childhood Education and Assistance Program (ECEAP) sites are not required to be screened. In addition, the application must outline the school district's plan for coordinated recruitment and enrollment with other early learning program providers, including its proposed memoranda of understanding.

In order to distribute high quality early learning programs across communities in an

equitable and effective manner, the OSPI must coordinate the following activities with the Department of Children, Youth, and Families (DCYF): authorization of school districts to offer a TTK Program; approval of TTK Program sites at one or more of an authorized school district's schools; and capping eligible child enrollment. In addition, the OSPI must limit the number of authorized school districts, approved program sites, and enrolled eligible children as required by the omnibus appropriations act.

*Child Eligibility.* Children are eligible for the TTK Program if they:

1. turn 5 years old between September 1 of the year of admission to the program and the following August 31;
2. do not have access to participate in a federal or state program providing high quality early learning services;
3. have not participated in a formal early learning program; and
4. are either: (a) on the waitlist for, but not scheduled for enrollment in, an ECEAP; or (b) individually determined through a screening process or other instruments to have a developmental delay or otherwise needs additional preparation to be successful in kindergarten in the following school year.

*Operation.* An authorized school district must engage in a planning year before operating a TTK Program site, during which it must prepare for compliance with applicable OSPI rules.

Authorized school districts may not charge tuition or other fees to state-funded eligible children for enrollment in a TTK Program.

Authorized school districts must work in collaboration with early learning partners to promote coordinated systems of comprehensive early childhood services. Authorized school districts must avoid adversely impacting enrollment in other high quality early learning programs by using a coordinated recruitment and enrollment plan to prioritize enrollment in the program in the following order:

1. eligible children on the waitlist for, but not scheduled for enrollment in, an ECEAP site; then
2. eligible children who have been individually determined through a screening process or other instruments to have a developmental delay or otherwise need additional preparation to be successful in kindergarten in the following school year, with priority to the eldest children and the children with the lowest household incomes.

Nothing prohibits authorized school districts from blending or co-locating early learning programs, such as the TTK Program, ECEAP, Head Start, or private pay programs.

Authorized school districts must: enroll in the Early Achievers program within 30 days of being authorized by the OSPI to offer a TTK Program; complete Level 2 Early Achiever activities within 12 months of enrollment; and be rated or request to be rated at a Level 3 or higher in the Early Achievers program within 30 months of enrollment. Additional requirements related to a remedial period, loss of eligibility, and continued receipt of

funding pending review are provided.

Authorized school districts must require that TTK Program sites use developmentally appropriate curricula and implement the following elements in alignment with ECEAP performance standards: classroom environment, pedagogical approach, and safety measures.

Each TTK Program classroom must be staffed with a teacher who holds a valid Washington teacher certificate and who either: holds an early childhood education endorsement or an early childhood special education endorsement; or holds an elementary education endorsement and, within five years of initial assignment to the program, completes at least 30 college credits related to the state early childhood education core competencies established by the DCYF.

*Funding.* By each December 1, the OSPI must report to the Legislature with the number of state-funded eligible children enrolled in TTK Programs operated by authorized school districts in the current school year and the estimated number of eligible children that authorized school districts intend to enroll in the following school year.

The OSPI must distribute to authorized school districts an amount per eligible child enrolled in a program that is the greater of the statewide per kindergarten student base allocation or an amount specified in the omnibus appropriations act. The OSPI must prorate the amount per eligible child to account for enrollment in a TTK Program that is less than a full school day or a full school year.

*Reapprovals and Reauthorizations.* The OSPI must establish processes to reapprove TTK Program sites and reauthorize school districts periodically and, at a minimum, as required in the omnibus appropriations act. If an authorized school district or approved TTK Program site will be discontinued or otherwise not provided with state funding, the OSPI must provide the authorized school district with at least one year of notice.

*Resources.* The OSPI must collaborate with the DCYF to develop, and make publicly available, a model memorandum of understanding between authorized school districts and other early learning program providers. The model language must include a process for resolving concerns between early learning program providers, including school districts.

*Duties of the Department of Children, Youth, and Families.* The DCYF must:

1. partner with the OSPI to coordinate distribution of high quality early learning programs across communities;
2. identify developmentally appropriate curricula for use in TTK Programs and publish the list on the DCYF website;
3. direct early learning providers to work in collaboration with school districts authorized to offer a TK Program to promote coordinated systems of comprehensive early childhood services; and

4. make administrative changes to better align ECEAP implementation with school district offered state-funded early learning programs serving 3 through 5-year-old children, and submit a report to the Legislature by July 1, 2024.

*Data.* Beginning September 1, 2024, the Education Research and Data Center must collect longitudinal, student-level data on all children enrolled in a TTK Program.

*Rules.* The SPI must adopt rules for the authorization of, the administration of, and allocation of state funding for the TTK Program. Where applicable, the OSPI must collaborate with the DCYF in the development of the rules. These rules may not be adopted until the SPI and the Secretary of the DCYF have developed and commenced implementation of the TK to TTK conversion plan.

Data System.

The DCYF must implement, in partnership with the OSPI, a data system that uses a single student identifier across all state-funded early learning, elementary, and secondary education programs. The state-funded early learning programs must be required to collect and submit to the data system race and ethnicity data that includes subracial and subethnic categories as specified.

**Substitute Bill Compared to Original Bill:**

As compared to the original bill, the substitute bill:

1. modifies the duties of the Secretary of the Department of Children, Youth, and Families (DCYF) and the DCYF, for example, by:
  - a. eliminating duties to co-administer the Transition to Kindergarten (TTK) Program, including requirements to adopt rules related to TTK quality and standards;
  - b. directing the DCYF to publish a list of developmentally appropriate curricula; and
  - c. directing the DCYF to align Early Childhood Education and Assistance Program (ECEAP) implementation with school district offered preschool programs and report the changes to the Legislature;
2. directs the DCYF and the Office of the Superintendent of Public Instruction (OSPI) to implement an early learning through secondary education data system that uses a single student identifier;
3. modifies early kindergarten entry provisions by including a role for the Educational Service Districts; and
4. makes changes to the TTK Program, for example, by:
  - a. requiring the OSPI to distribute pro-rated state funding per eligible child enrolled in a TTK Program that is the greater of: the statewide per kindergarten student base allocation, or an amount specified in the omnibus appropriations act (rather than per ECEAP student amounts);
  - b. modifying child eligibility and prioritization provisions;

- c. modifying the education requirements for classroom teachers;
- d. directing school district applications to include a proposed memorandum of understanding between the district and other early learning program providers that includes a process for resolving local concerns;
- e. modifying reapproval and reauthorization provisions;
- f. striking the childcare licensing requirement and adding ECEAP performance standard alignment requirements;
- g. limiting authorized school districts, approved program sites, and enrolled eligible children as required by the omnibus appropriations act.

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**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available. New fiscal note requested on February 15, 2023.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill will legislatively establish a program for 4-year-old children who would benefit from additional preparation but who are unable to access it. The state has committed to child-focused, developmentally appropriate, state-funded preschool through the Early Childhood Education and Assistance Program (ECEAP). It is intentional that ECEAP supports not only the whole child, but the whole family. This active partnership is essential to the success and wellbeing of every child. This age and developmentally appropriate approach should be implemented by all early learning providers.

The Transition to Kindergarten (TTK) Program acknowledges that many learners will not be ready because the state has not adequately funded universal early learning. It is fortunate that some school districts have stepped in to fill the void by operating Transitional Kindergarten (TK) Programs, but not all districts are offering a developmentally appropriate preschool program. This bill asserts the state's role is to legislatively enact a new program and correct a misinterpretation of the executive agency. This bill should be considered a first step to creating a solid, coordinated bridge between early learning and the elementary and secondary system.

The state has a mixed-delivery, early learning system that should meet kids where they are. This bill is a thoughtful approach to expanding preschool, which is needed. Both the TK Program and the TTK Program can be one part of a mixed-delivery system of early learning. The state should avoid impacting childcare providers who serve children ages 0 to 3 years old.



Preschool is a key developmental stage and so the curriculum in the program should be play-based. The children in TK Programs are developmentally in early learning and are identified for the program because they are not ready for kindergarten. Some TK classrooms look just like ECEAP, while other classrooms look like kindergarten with a teacher who has no early childhood experience. The TTK Program is required to use developmentally appropriate standards that will help ensure that children who are under age 5 are ready for kindergarten.

Licensed community childcare providers have had families withdraw their children to enroll them in a TK Program, not due to dissatisfaction with the childcare provider or because the children have a developmental delay, but because the TK Program is free and offers transportation. An issue with the TK Program is that it has a high ratio of children to adults, does not provide a nap time, and the young children are transported with high school students.

The TK Program is implemented unevenly across the state. Some families have been told that if they want their child to have an individualized education program, the child will have to be withdrawn from childcare. Early learning programs should increase teacher pay and have fewer administrative burdens.

The ECEAP, the TK Program, and the TTK Program have different child eligibility schemes. Some school districts do not have enough space to offer an ECEAP and a TK Program. Under this bill, the TTK Programs must have a child screening process, and coordinate with other early learning providers. Not all school districts are early learning experts, and this bill puts in place a framework for supporting school districts.

All the early learning providers need to work together on appropriate placement of children. When there is no coordination, families in poverty miss out on services by going to a TK Program instead of an ECEAP. The TK Program should not be terminated, it just needs to be right. This bill does what is right for kids and does what is right for the early learning community. This bill addresses the inconsistencies in the TK Program.

(Opposed) Improving early childhood education access is important. When all early learning programs are well staffed, children are placed where they are best served. In high-poverty, rural school districts, a third of students screened are determined not to be ready for kindergarten and do not have access to preschool programs. School districts should partner with other early learning programs to ensure that children are placed in a preschool program that best meets their needs: first in a Head Start program or ECEAP, then in a TK Program, then with private providers. The ECEAP and Head Start have had staffing issues due to low teacher salaries. Some elements in the bill are a step backwards. School districts are filling a critical need in the early learning system.

School districts understand the developmental needs of early learners. Many communities have a lack of reliable public transportation. The TTK Program would be more limited and

less likely to serve children, and would erect more barriers for families served. Eliminating the TK Program would do a disservice to the children.

Many school districts are concerned that the TK Program will be replaced with a TTK Program that is not automatically funded by the state and will not include transportation funding. A grant program to fund the TTK Program may not fit under the current cost structures of the system. The funding for the TTK Program should be equivalent to the funding for elementary and secondary education, including funding for materials, supplies, and operating costs, as well as increases for inflation. If the current funding structure is not maintained, then some school districts will not be able to offer a TTK Program.

It is imperative that educational options are provided to the earliest learners. Certificated teachers are used in the TK Program. Given the shortage of teachers with early childhood education, the bill should create a longer implementation on-ramp that authorizes teachers with elementary education endorsements to complete early childhood education within five years.

Children who move into kindergarten from a TK Program are ready for kindergarten and might even be able to skip kindergarten. The community must give children the best opportunity they can to be successful. The TK Program is successful and helps children. The TK Program is basic education right. An analysis of the TK Program is being conducted by the Washington Institute for Public Policy, with a report due in December 2023.

(Other) There needs to be collaboration to provide universal access to preschool students in need. Expanding access to high quality early learning needs to be done through multiple strategies, including: home care, partnerships with community-based preschools, state funded preschools, and federally funded preschools. Students who do not qualify for ECEAP and Head Start or community programs can be served in a TK Program. While it is good to increase the quality of the TK Programs, if the bill passes as is there will be a reduction in access to early learning services.

The TK Program has a place in a mixed-delivery system. The TK Program helps to fill the void and it may be the only option for some families. The TK Program needs to be operated in a thoughtful manner, rather than mirroring a kindergarten class. The Educational Service Districts can provide expertise in navigation of programs as the TK Program grows. The funding for the TK Program should remain within the prototypical school funding model.

School districts should be exempt from childcare licensing requirements. The TTK Program must be staffed with certificated teachers but should not be limited to teachers with a rare certification. It is not reasonable to use the Washington Kindergarten Inventory of Developing Skills (WA KIDS) as a screener for early entry to kindergarten because it takes several weeks to complete. Braided funding, inclusive practices, and high-quality teaching

staff will support appropriate preschool learning environments for all students.

Washington needs to allow families to choose the early learning programs that meet their child's needs. Funneling children into TTK Programs limits options for families and has unintended consequences. The state needs to take care to not destabilize community providers. The TTK program must collaborate with other early learning providers to ensure that students are not eligible for other programs. The TTK Program is play-based and serves children's needs. The TTK Program works because those who were in TK had better readiness in five out of six domains of WA KIDS.

The TK program is popular because it is at the local school, so the students can access teachers that understand elementary and early childhood education. The students in TK programs have access to transitional bilingual instruction, special education, and other supports in the schools. The TK Program should not replace or compete with ECEAP. Until the state can cover costs for all students to attend an ECEAP, the TTK Program should serve those who do not qualify for ECEAP or Head Start. The state should support programs that work and have a goal of expanding early learning programs.

**Persons Testifying:** (In support) Representative Sharon Tomiko Santos, prime sponsor; Katy Warren, Washington State Association of Head Start and The Early Childhood Education and Assistance Program; Angelia Hicks-Maxie; Kimberly Burrows, Upriver Discovery School; Mamie Barboza, Enterprise for Progress in the Community; and Representative Tana Senn.

(Opposed) Jim Kowalkowski, Rural Education Center; Krestin Bahr, Peninsula School District; Ingrid Colvard, Stevenson-Carson School District; Dana Rosenbach, North Mason School District; Nasue Nishida, Washington Education Association; Gerald Grubbs, Starbuck School District; and Wayne Barrett, Concrete School District.

(Other) Colleen Frerks, Quincy School District; Wade Smith, Walla Walla Public Schools; Melissa Gombosky, Association of Educational Service Districts; Karin Thompson, Spokane Schools; Peter Finch, West Valley School District #208; and Hilary Prentice, Pacific Northwest Montessori Association.

**Persons Signed In To Testify But Not Testifying:** Susan Brown; Karen Matson, Snohomish County Human Services Department; Margot Grant Gould, KinderCare; Lisa Reaugh and David Olson, Peninsula School District; Jayme Croff; Jan Westling; Kathy Emerick, Highline Public Schools; James Everett, Meridian School District; Christopher Granger, Blaine School District; Tabatha Mires, Waterville School District; Kyle Ehliis, North Mason School District; Tracey Beckendorf-Edou, Cascade School District; Anne Arnold, Everett Public Schools; Erin Prince, Central Kitsap School District; Margaret Evans, Rochester School District; Wyeth Jessee, Shelton School District; Kelly Coughlan, North Thurston Public Schools; Melissa Spencer, Federal Way Public Schools; April Shiosaki, Blossoming Hill Montessori; Kevin Knight; Sara Hausken and Nikolas Bergman, Quincy School District; Kevin Knight, Colville School District; Jerry Pugh, Colfax School

District; and Ian McMichael.