# A Study of RCW 28B.95.040 in Context of SHB 2309 (2024):

# 50-State Review and Implementation Considerations

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Know More. Do Better.

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## Executive Summary

During the 2024 Washington State legislative session, House Bill (HB) 2309 was introduced proposing the creation of the Washington 13 free guarantee program, which would provide up to 45 credits of tuition-free community or technical college to eligible students regardless of income, starting in the 2025-26 academic year. The most recent version of the bill, Substitute House Bill (SHB) 2309, proposed using a portion of the surplus of actuarial reserves from the Washington advanced college tuition savings program (GET) to fund a subset of Washington 13 free recipients. Although the bill did not pass, a budget proviso directed the Washington Student Achievement Council (WSAC) to produce a report exploring the establishment and implementation of a scholarship fund as described in RCW 28B.95.040.

This report, prepared by DHM Research, an independent research firm, in collaboration with WSAC staff, fulfills that obligation. As mandated by the budget proviso, this report includes:

1. Strategy options for disbursement
2. A summary of how tuition units would be allocated for scholarships
3. Coordination with existing college savings plans. Additionally, the report provides recommendations for establishing a scholarship fund and implementing the scholarship program.

This report consists of two substantive sections: a 50-state review of financial aid programs associated with state-sponsored 529 programs and a feasibility analysis of implementing the proposed WA 13 free guarantee program. The first section contextualizes the WA 13 free guarantee within the current landscape of financial aid programs for post-secondary education associated with state-sponsored 529 plans; the second section provides context for this report in relation to HB 2309 and RCW 28B.95.040, analysis of the feasibility (disbursement, tuition unit allocation, coordinating with existing programs) and limitations of aligning a scholarship program with GET's structure, and recommendations for next steps.

## Summary of Results

The goal of this report is to explore the topics set forth in the budget proviso, provide the context necessary for a more complete understanding of the program proposed in SHB 2309, and provide the required recommendations. Through this process, we found the following:

- The 50-state review identified 51 financial aid programs associated with state-sponsored 529 plans and 32 states with state-sponsored promise programs.
- None of these programs fully match the proposed WA 13 free guarantee program due to differences in size, scope, and funding sources.
- Pennsylvania's Keystone Scholars and Tennessee Promise programs offer useful insights for designing a sustainable funding model for a promise program in Washington. Keystone Scholars demonstrates the feasibility of using actuarial reserves from a prepaid 529 plan, while Tennessee Promise is an example of a successful self-sustaining funding structure for a state-sponsored promise program.
- While RCW 28B.95.040 indicates that a scholarship fund may be created using monies from the GET reserves if the scholarships are provided to students with financial need, such use could pose a legal risk to the State.
- If funds are withdrawn from the GET account for any scholarship program as described in RCW 28B.95.040, additional risk considerations, beyond those included in SHB 2309, are necessary to mitigate the GET fund's solvency risk.
- An independent actuary should be consulted to determine an acceptable amount for withdrawal from the GET reserves. Other states have recommended or taken action that left prepaid 529 actuarial reserves around 125 percent funded, which may or may not be appropriate for GET's program model and Washington's specific circumstances.
- WSAC's structure could support the implementation of a program like the Washington 13 free guarantee, but would require additional staffing and administrative resources for startup and ongoing operations.
- There are substantive financial impacts for community and technical colleges that should be considered when examining the implementation and

sustainability of a scholarship or financial aid program aimed at increasing enrollment.

# Introduction & Scope 1

## 1.1 Background

### Substitute House Bill 2309

During the 2024 Washington State legislative session, House Bill (HB) 2309[1] was introduced and referred to the Committee on Postsecondary Education and Workforce. The bill, if passed, would have created the Washington 13 free guarantee program—a college promise program that would provide up to 45 credits of tuition-free community or technical college to eligible students regardless of income.[2] Additionally, both the original version of HB 2309 and the most recent version, Substitute House Bill (SHB) 2309[3], proposed funding a portion of the Washington 13 free guarantee using funds from the Washington Advanced College Tuition Payment Program[4] (GET) fund established in Chapter 28B.95 RCW.[5]

SHB 2309 specifically proposed using $300 million from the GET fund as a funding source for the Washington 13 free guarantee for students with family incomes between 65 and 140 percent of the median household income in Washington. While SHB 2309 did not pass, a proviso in the 2024 supplemental operation budget[6] directed the Washington Student Achievement Council (WSAC) to conduct a study and prepare a report related to SHB 2309. WSAC contracted an independent policy research firm, DHM Research[7], to conduct the study and author this report. Additionally, WSAC contracted with special assistant attorney general, Stoel Rives, to support an engagement with the IRS to determine if SHB 2309, if passed, would

[1] State of Washington House Bill 2309 (HB 2309). (2024).
[2] Ross, Sandra. via Postsecondary Education and Workforce Committee (2024). House Bill Analysis: HB 2309. *Washington State House of Representatives, Office of Program Research.*
[3] Substitute House Bill (SHB) 2309. (2024).
[4] "How GET Works", WA 529 GET. https://529.wa.gov/get/howgetworks
[5] Revised Code of Washington (RCW) 28B.95. (2024).
[6] Engrossed Substitute Senate Bill (ESSB) 5950.SL. (2024). 833.
[7] DHM Research. (2025). https://www.dhmresearch.com

impact GET's status as a qualified tuition program under Section 529 of the Internal Revenue Code.

**Study Assignment Language**: *"$250,000 of the workforce education investment account—state appropriation is provided solely for a study on establishment and implementation of a scholarship fund as described in RCW 28B.95.040. The study shall include strategy options for disbursement, summary of how tuition units would be allocated for scholarships, and coordination with existing college savings plans. The office shall seek written advice from the internal revenue service on the impact of the provisions in Substitute House Bill No. 2309 on the status of Washington's qualified tuition plan under 529 of the internal revenue code, including potential scalability of the program and its impact on any determination. The report shall include recommendations for implementing the scholarship and be submitted to the appropriate committees of the legislature, pursuant to RCW 43.01.036, by June 30, 2025."*

## 1.2 Scope

### Proviso Study Elements

The assignment language directs WSAC to conduct a study and produce a report that includes the following elements:

- Analysis regarding the establishment and implementation of a scholarship fund as described in RCW 28B.95.040.
- Strategy options for disbursement, a summary of how tuition units would be allocated for scholarships, and coordination with existing college savings plans.
- Written advice from the Internal Revenue Service on the impact of the provisions in Substitute House Bill No. 2309 on the status of Washington's qualified tuition plan under 529 of the Internal Revenue Code, including potential scalability of the program and its impact on any determination.
- Recommendations for implementing the scholarship program described in SHB 2309.

The most unique element of the scholarship program as proposed in SHB 2309 is the use of GET actuarial reserves to fund a portion of the program. SHB 2309 states that,

*"The amount of $300,000,000 from the Washington advanced college tuition payment program account in Chapter 28B.95 RCW must be used for the following purposes under the Washington 13 free guarantee. Funding may only be allocated if the actuarial funded status remains at or above 120 percent. Funding must be used by the office solely for providing recipients with family incomes at or between 65 to 140 percent of the state median family income…"*

To more fully understand and contextualize the use of the GET actuarial reserves as a method to fund a scholarship program for higher education, this report also includes:

- A 50-state review of post-secondary education financial aid programs associated with state-sponsored 529 plans and their funding sources.
- Case studies of state-sponsored programs that are most comparable.
- A discussion of the use of prepaid 529 actuarial reserves.

## RCW 28B.95.040

Chapter 28B.95 RCW pertains to the Washington Advanced College Tuition Payment Program (GET) and Washington College Savings Program. RCW 28B.95.040[8] specifically governs rules surrounding the purchase of GET tuition units and the establishment of savings plans by organizations in connection with the establishment of scholarship funds. RCW 28B.95.040 contains the following three elements:

1. The governing body may allow an organization to purchase tuition units or establish a college savings plan for future use as a scholarship.
2. The governing body shall formulate and adopt such rules as are necessary to determine which organizations may qualify to purchase tuition units or establish Washington college savings program accounts for scholarships under this section.
3. The governing body may establish a scholarship fund with monies from the Washington Advanced College Tuition Payment Program account. WSAC must

[8] Revised Code of Washington (RCW) 28B 76.020. (2011).

administer any scholarship fund created using program monies, and it can only be available to students who demonstrate financial need.

These three elements are central to the analysis and discussion of the Washington 13 free guarantee as proposed in SHB 2309 because they are broad enough to warrant various interpretations. In the subsequent sections of this report, we explore Chapter 28B.95 RCW in more detail. However, due to the ambiguity of the language, we first examine the landscape of financial aid programs associated with state-sponsored 529 plans and their funding mechanisms in other states across the U.S.

# 50-State Review of Financial Aid Programs 2

## 2.1 Introduction

To identify possible scholarship models that could be established under RCW 28B.95.040 and assess the feasibility of the proposed WA 13 free guarantee program, we first needed to understand the current landscape of financial aid programs for post-secondary education associated with state-sponsored 529 plans. In this comprehensive review, we analyzed financial aid programs in all 50 states to identify those that share similarities in either funding source or program type with WA 13 free guarantee.

Core questions addressed in this section:

1. What are the prevalent models for scholarship or financial aid programs tied to 529 plans in the United States?
2. How do these models fit into Washington's policy and financial context?

## 2.2 Methodology

We systematically examined any scholarships, grants, or other financial aid programs linked to state-sponsored 529 plans across all 50 states. To be included in this analysis, a program had to be associated with a state-sponsored 529 plan and provide recipients with financial aid for post-secondary education.[9] This review was conducted through a comprehensive literature review of government reports, state college savings plan websites, academic literature, policy analysis, and legislation to identify the structure, scope, and funding sources of these programs.

In addition to the 50-state review, we conducted a literature review of statewide promise programs. Due to the extensive literature on promise programs, this review

[9] For this report, financial aid is defined as non-repayable funds provided to students to reduce the cost of higher education.

pulls from studies conducted between 2017 and 2022 that investigate the number of promise programs by type, funding sources, and efficacy in the United States. Although there are currently no promise programs associated with state-sponsored 529 plans, this analysis is included because the proposed structure of the WA 13 free guarantee most closely matches the structure of a promise program over any other financial aid programs discovered in the 50-state review.

Based on the findings from the 50-state review and the promise program literature review, this report includes two case studies:

- Pennsylvania's Keystone Scholars Program (CSA) due to its use of surplus funding from its prepaid tuition plan to fund the CSA program, and
- Tennessee Promise (promise program) due to its structural similarity to the proposed WA 13 free guarantee and the sustainable structure of its funding mechanism.

These case studies provide detailed comparisons of similarities and differences in program types and funding mechanisms, highlighting valuable lessons for developing a scholarship program under RCW 28B.95.040.

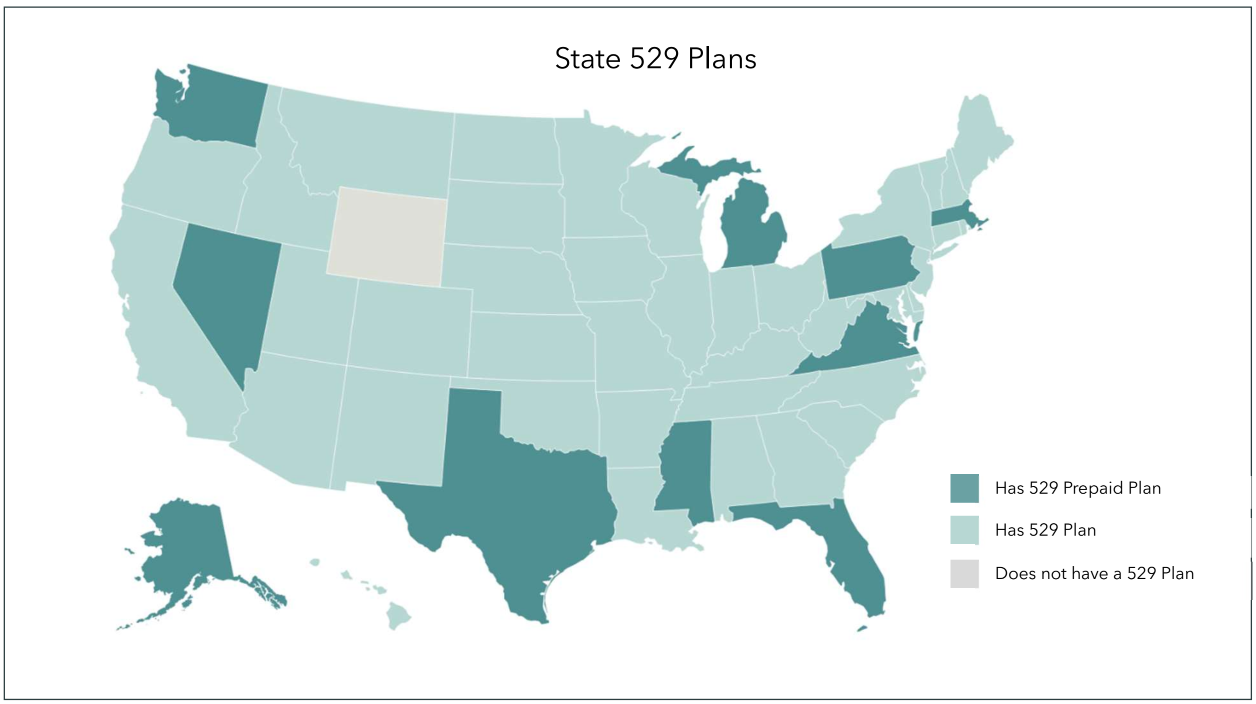
This review exclusively examines the structures and funding sources of the included financial aid programs, but it does not evaluate their efficacy.

The following sections present the findings from the 50-state review of financial aid programs associated with state-sponsored 529 programs, the promise program literature review, and case studies of the Pennsylvania Keystone Scholars program and Tennessee Promise program.

## 2.3 State-Sponsored 529 Plans

529 plans, named after Section 529 of the Internal Revenue Code, were established in 1996 to help families save for future post-secondary education expenses. These plans offer tax advantages and can be used to cover qualified expenses at eligible educational institutions. There are two main types of 529 plans: prepaid tuition plans and savings plans. Prepaid tuition plans allow families to purchase tuition units, credits, or certificates at current rates to be used in the future, while savings plans involve investing contributions in various financial instruments to grow over time.[10]

Almost all states have a state-sponsored 529 plan, and a consortium of private institutions offers a nationally distributed 529 prepaid tuition plan. Currently, 49 states have state-sponsored 529 savings plans, and 10 have open prepaid tuition plans[11]. Wyoming is the only state that does not have a state-sponsored 529 plan.[12]




*Data for this chart pulled from "Find a 529 plan in your state", Saving For College.* https://www.savingforcollege.com

[10] "529 Plans: Questions and Answers", Internal Revenue Service. (2024). https://www.irs.gov/newsroom/529-plans-questions-and-answers
[11] Excluded from this total is a private college 529 prepaid plan that is not associated with any particular state.
[12] "Find a 529 plan in your state", Saving For College. https://www.savingforcollege.com

*Washington 529 Plans*

Washington State offers two 529 plans: a prepaid tuition plan and a savings plan. GET is Washington's 529 prepaid tuition plan. Enrollment in GET requires either the student or the account owner to be a Washington resident. The account owner may be any individual, trust, corporation, partnership, or entity, regardless of relation to the student. WA529 Invest (formerly known as DreamAhead) is Washington's 529 savings plan. It was established in 2018 and is available to both residents and non-residents of Washington.

## 2.4 Financial Aid Programs

Based on the 50-state review, we identified 51 financial aid programs associated with a state-sponsored 529 plan that provide recipients with financial aid for post-secondary education.[13] These programs were categorized into three main types: grant programs, scholarship programs, and children's savings accounts (CSA). Both the grant and scholarship program categories include multiple subcategories, reflecting the diverse approaches states take to support higher education. However, the majority of the financial aid programs identified in this review are not comparable to the proposed WA 13 free guarantee program due to differences in size, scope, and funding sources. Notably, there are no programs similar to the WA 13 free guarantee program in both structure and funding source. However, conducting the review was essential to fully understand the national landscape of this type of financial aid program.

### Grant Programs

Grant programs are financial aid initiatives that provide monetary awards to incentivize parents to open 529 accounts or encourage current account holders to contribute further to their accounts. Grant programs can be defined as passive financial aid because they provide funds based on predefined criteria without requiring active participation or an application process. Recipients simply need to meet the eligibility requirements, such as age, income, or account status, to receive the financial aid. This analysis includes 26 grant programs associated with state-sponsored 529 plans that meet this definition.

[13] The 51 financial aid programs consist of 26 grant programs, 18 scholarship programs, and 7 CSA programs.

The general criteria that may be required to receive a grant include:

- Age Restrictions: Some grant programs have age restrictions, such as requiring the beneficiary to enroll before their first birthday or within one year of adoption.
- Income Restrictions: Eligibility for some grant programs may be based on the family's income level.
- Account Status: The grant may be awarded upon opening a 529 account or meeting minimum deposit thresholds or other program-related milestones.

The following table outlines the types, characteristics, and number of grant programs associated with state-sponsored 529 plans.

| **Grant Programs** | | | | |
|---|---|---|---|---|
| *Grant programs provide monetary awards, either on a matching or singularly awarded basis, to incentivize parents to open accounts or to encourage current account holders to further contribute to their accounts. Some states have multiple grant programs.* | | | | |
| **Program Type** | **Definition** | **Eligibility** | **Total States** | **State Names** |
| Matching | State-matched contributions, either dollar for dollar or in graduated increments, with maximum contribution limits ranging from $200 to $2,500. | Varies: age and/or income restrictions | 10 | California, Colorado, Connecticut, Indiana[14], Kansas, Louisiana, Maine(2), Nevada, North Dakota(3)[15], Tennessee |
| Seed | A state-sponsored contribution is deposited upon account opening; the amount typically ranges between $25 and $50. | Age: Must open a 529 account before the beneficiary's first birthday or within one year of adoption | 9 | Alaska, Colorado, Connecticut, Illinois, Indiana, Massachusetts, Oregon(2), Rhode Island, West Virginia |
| Flat | A one-time set amount granted upon meeting a minimum deposit threshold or other program-related milestones. | None[16] | 4 | Alaska, Maine, Maryland, Oklahoma |

*The information in this table is adapted from Appendix Table 1.1, which provides sources for all the grant programs included in this analysis.*

Based on our review of grant programs, we do not find them to be suitable for comparison with the WA 13 free guarantee due to fundamental differences in their goals and scope. While grant programs aim to incentivize parents to save for their child's higher education by providing monetary awards based on predefined criteria,

[14] Indiana's Promise Indiana program functions as a community-based grant program; cities or schools can opt-in to the state-sponsored program and customize it for their unique population. The program could either be a matching or seed type program depending on the community.
[15] Some states have multiple grant programs.
[16] Maryland is the exception; this program uses household income as its awarding criteria rather than program-related milestones.

the WA 13 free guarantee would provide a year of free tuition at community or technical colleges. Additionally, the scope of grant programs is much smaller, with significantly lower payouts compared to the comprehensive financial support envisioned by the WA 13 free guarantee.

### Scholarship Programs

Scholarship programs are financial aid initiatives designed to provide direct monetary awards to students to cover qualifying post-secondary education expenses. These programs vary widely in scope and eligibility, often requiring students to apply for awards that are sent directly to the school. Scholarships are considered active financial aid because they typically require students to participate in application processes, submit essays, or meet specific academic standards. This analysis includes 18 scholarship programs associated with state-sponsored 529 plans that meet this definition.

The general criteria that may be required to receive a scholarship include:

- Academic Achievement: Many scholarship programs require students to maintain a certain GPA or achieve specific standardized test scores.
- Financial Need: Some scholarships are awarded based on the student's financial need, requiring documentation of family income and financial circumstances.
- Extracurricular Involvement: Participation in extracurricular activities, community service, or leadership roles can be a criterion for certain scholarships.
- Specific Demographics: Scholarships may target specific demographics, such as students from underrepresented groups, first-generation college students, or those pursuing particular fields of study.

Scholarship programs can be categorized into various types, including merit-based scholarships, need-based scholarships, and field-specific scholarships. Merit-based scholarships are awarded based on academic or extracurricular achievements, while need-based scholarships focus on the student's financial circumstances.

The following chart outlines the types, characteristics, and number of scholarship programs associated with state-sponsored 529 plans.

| Scholarship Programs | | | | |
|---|---|---|---|---|
| *Scholarship programs are award-based programs designed to provide direct financial aid to students for qualifying post-secondary education expenses. These programs vary widely in scope and eligibility. Some states have multiple scholarship programs.* | | | | |
| **Program Type** | **Definition** | **Eligibility** | **Total States** | **State Names** |
| Scholarships | Eligible students apply, and the award is sent to the school to be used for tuition or other qualifying post-secondary institution expenses. | Rigorous: Often a combination of age, residency, financial need, academic standing, and/or 529 account ownership | 9 | Alabama, Colorado, Nebraska, Nevada, New Hampshire, New Jersey, Oregon, Texas, Virginia |
| Contest | Contests employ a set of "rules" and require an applicant to submit work or complete a task to be entered to win. | Moderate: generally only age and/or residency requirements | 4 | Arizona, Connecticut, North Dakota, Utah |
| Giveaway | Giveaways have very few eligibility or submission requirements, and awardees are chosen randomly. | Minimal: While some are only open to certain age groups, in most cases, there are no eligibility requirements for contests | 5 | Alaska, Iowa, Maryland, Oklahoma, Tennessee |

*The information in this table is adapted from Appendix Table 1.2, which provides sources for all the scholarship-type financial aid programs included in this analysis.*

Based on our review of scholarship programs, we do not find them to be suitable for comparison with the WA 13 free guarantee due to fundamental differences in their goals and scope. Similar to grant programs, scholarship programs aim to provide direct monetary awards to students to cover educational expenses, whereas the WA 13 free guarantee would provide a year of free tuition at community or technical colleges. Additionally, the scope of scholarship programs is much smaller, with significantly lower payouts compared to the comprehensive financial support envisioned by the WA 13 free guarantee.

### Children's Savings Accounts

Children's Savings Accounts (CSAs), also known as Child Development Accounts (CDAs), are long-term savings or investment accounts designed to help cover the cost of post-secondary education. These accounts are generally established at birth or when the child starts kindergarten. The accounts are created with an initial seed contribution ($25 to $100) to kick-start saving for college as early as possible. Some programs automatically enroll the child and create an account, while others require the family to opt into the program within a specified timeframe. Additionally, some CSAs offer additional financial awards, such as matching grants, to incentivize continued contributions. The geographical scope of CSA programs can range from a single school to statewide initiatives, providing flexibility in their implementation. CSAs can be associated with 529 plans, banks, or credit unions.[17] This review only consists of the seven statewide CSA programs associated with state-sponsored 529 plans.

| CSA Programs | |
|---|---|
| **CSA Program** | **State Names** |
| CalKIDS | California |
| First Steps | Illinois |
| My Alfond Grant | Maine |
| Meadowlark Savings Pledge | Nebraska |
| College Kickstart | Nevada |
| SEED OK | Oklahoma |
| Keystone Scholars | Pennsylvania |

*The information in this table is adapted from Appendix Table 1.3, which provides sources for all the CSA programs included in this analysis.*

Due to differing goals and scopes, most CSA programs linked to state-sponsored 529 plans are not comparable to the WA 13 free guarantee. However, Pennsylvania's Keystone Scholars program is funded by the state's prepaid tuition 529 program and warrants comparison. The case study of this program in Section 2.5 offers a detailed analysis.

[17] Children's Savings Accounts: A Primer. (2020). *Asset Funders Network.*

### Funding Sources: Grant Programs, Scholarship Programs, and CSAs

This section summarizes the key funding sources for scholarship programs, grant programs, and CSAs. In addition to differences in eligibility criteria and distribution methods, the sources of funding across the three categories of financial aid programs vary and are not distinct, often relying on a combination of funding sources.

| Funding Sources[18] | | | |
|---|---|---|---|
| **Source** | **Definition** | **# of Programs[19]** | **State Names** |
| Philanthropy | Funded wholly or partially by a 501(c)(3) charitable organization. | 9 | Alabama, Connecticut, Indiana, Maine, Massachusetts, Oklahoma, Oregon, Pennsylvania, Texas |
| General Assembly/ Legislature | Money is transferred from a state's general fund or through other legislative allocations. | 11 | California, Colorado, Illinois(2)[20], Kansas, Louisiana, Maryland, Nebraska, Nevada(2), Virginia |
| Third Party | Funded by a third-party corporation or entity, such as the bank in which the 529 accounts are held. | 4 | California, Indiana, Nevada, Rhode Island |
| College Savings Trust Fund | Funded by appropriating monies from the state's general college savings trust fund via surplus earnings or unclaimed property. | 15 | Alaska(3), Colorado(2), Nebraska(2), Nevada, New Hampshire, North Dakota(4), Pennsylvania, Utah |
| Administrative Fees | Uses surplus administrative fees from the direct-sold and advisor-sold savings programs. | 5 | Alabama, Maine (3), New Jersey |
| Other Programs | Monies are taken from other state-run programs. | 1 | Tennessee |

*The information in this table is adapted from Appendix Tables 1.1, 1.2 and 1.3, which provide the funding sources for all the financial aid programs included in this analysis.*

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[18] This table only includes programs where funding source is known. There are nine programs in which the funding source is not known: four grant programs (Connecticut, Oklahoma, Oregon, West Virginia) and five scholarships programs (Arizona, Iowa, Maryland, Oklahoma, Tennessee). In these cases, the program is too small (i.e. legislation was not needed to found program) or the program is no longer active, so information is scarce.
[19] Some programs use multiple funding sources.
[20] Some states have multiple programs that use the same funding source.

The limited size and scope of the programs included in this table indicate that these funding sources are unlikely to be sufficient to support a program the size of the WA 13 free guarantee. While twelve programs are partially funded through the state's 529 program, all these programs, except for Pennsylvania, rely solely on administrative fees associated with the state's 529 plan.

### Promise Programs

Promise programs are another category of post-secondary financial aid programs relevant to this study. Promise programs, often called free-college or free-tuition initiatives, are financial aid programs that offer tuition-free post-secondary education.[21, 22] These programs generally require students to meet residency criteria and hold a high school diploma, with some programs having additional eligibility requirements.[23] Given the proposed structure and objectives of the WA 13 free guarantee, it falls under the promise program umbrella.

Promise programs can be city-wide, institution-based, or statewide initiatives.[24] To identify programs similar to the WA 13 free guarantee, this section focuses on state-sponsored and statewide promise programs. As of 2022, the Campaign for Free College Tuition identified 32 statewide programs that meet the specified definition of a promise program.[25] [26] This includes the Washington College Grant, Washington state's state-sponsored promise program, which was created in April 2019.[27] This program is available to income-eligible residents pursuing post-secondary education

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[21] Smalley, Andrew. (2023). State College Promise Landscape. *National Conference of State Legislatures*.

[22] Promise programs often employ a variety of eligibility criteria and requirements. There are four basic models for awarding financial aid: Universal Model – No income limit is stipulated; Family Income Cap Model – Only students whose family of individual income is below a certain level are eligible to apply; Need Based Model – Awarded to students displaying the most financial need; Merit Based Model – Uses academic achievement rather than income to determine eligibility.

[23] "Promise Programs", Campaign for Free College Tuition. https://www.freecollegenow.org/promise_programs

[24] Smalley, Andrew. (2023). State College Promise Landscape. *National Conference of State Legislatures*.

[25] Making Public Colleges Tuition Free. (2022). Campaign for Free College Tuition.

[26] The Campaign for Free College is a bipartisan 501(c)(3) non-profit organization.

[27] "Media Release: Washington College Grant," Washington Student Achievement Council. https://wsac.wa.gov/media-2019-04-30-WCG

at an eligible Washington college or approved apprenticeship program. This grant is not restricted by age; however, applicants must possess a high school diploma or GED to qualify.[28]

| Promise Programs | |
|---|---|
| **Total States** | **State Names** |
| 32 | Arkansas, California, Colorado, Connecticut, Delaware, Hawai'i, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, Washington, West Virginia, Wyoming |

*Data for this chart is pulled from [Making Public Colleges Tuition Free. (2022). Campaign for Free College Tuition.]*

The above 32 statewide promise programs have varied eligibility requirements. The table below outlines the categories these requirements fall into and how the WA 13 free guarantee aligns with them.

[28] "Washington College Grant," Washington Student Achievement Council. https://wsac.wa.gov/wcg

| Promise Program Eligibility Criteria and Requirements | | |
|---|---|---|
| **Eligibility Criteria** | **Description** | **WA 13 Free Guarantee** |
| Income | Family or individual income must not exceed a specified threshold. Dependency status is also considered when setting income limits. | The WA 13 free guarantee program is for eligible students regardless of income. However, the proposed funding from the Washington advanced college tuition program surplus would only be for students with family incomes at or between 65 to 140 percent of the state's median family income. |
| FAFSA Completion | A requirement for most last-dollar programs to ensure the state does not pay what the federal government is prepared to subsidize. | Students must complete the Free Application fo Federal Student Aid or the Washington application for the academic year for which they seek eligibility for the guarantee. |
| High School Graduation | Students must complete High School or a GED. | Students must have graduated from a public high school in the state of Washington or earned a high school equivalency certificate. |
| High School GPA and SAT/ACT | Must meet minimum GPA and/or minimum score on the ACT/SAT. | N/A |
| Residency | Student must be a legal resident of the state when applying for the program. Achieving residency status varies by state. | Students must be a resident student as defined in RCW 28B.15.012(2) (a) through (e). |
| Merit- or Need-Based | Merit-based means students must meet minimum GPA, exam scores, and/or academic standing to be eligible. Need-based means students must demonstrate great financial need via overall household income or FAFSA's Student Aid Index results. It is not common for a program to employ both merit- and need-based criteria. | No merit-based requirements.<br><br>WA 13 free guarantee is intended for eligible students regardless of income. As a last-dollar award, the amount of money awarded to each student is the difference between the cost of tuition, services, and activities fees, and the value of any state-funded grant scholarship, gift aid, or waiver assistance the student receives. |
| Mentorship | Students must receive academic or financial coaching through local organizations or via college courses/programs. | There are no requirements for students to seek out mentorship; HB 2309 outlines requirements for school districts to engage students |

| | | |
|---|---|---|
| | | about career planning in grade 7 and specifically meet with grade 12 students who have family incomes at or below 70 percent of the median household income to inform them of their grant options for post-secondary education. |
| Volunteering | Students must complete the specified number of hours and/or duration of volunteer hours via tutoring, nonprofit work, or community/public service. | N/A |
| Age | Most programs do not have age limitations. Those that do require students to be a certain age or within a certain number of years since high school graduation at the time of application. Programs aimed at returning students often require applicants to be 21 years or older. | No age specification; students must enroll in a community or technical college in the same or immediately succeeding academic year that they earn their high school diploma. |
| College Attendance | Students must enroll full time or for the minimum number of allowable credits. In some cases, both full-time and part-time enrollment is allowed. | Must be enrolled at least part-time in a Washington public community or technical college in an eligible degree or certificate program. |
| Drug/Alcohol /Criminal | Students cannot have a criminal record that prevents the receipt of federal Title IV student financial aid. Programs may also require students to pledge to remain alcohol and/or drug-free or remain in good citizenship standing. | N/A |
| Post-College Residency | Recipients are required to reside in the state of the award for the specified time following graduation. | N/A |
| Term or Semester Limitations | Award is only applied for the specified number of years, terms, or attempted credits. | Will provide up to 45 credits of tuition-free community or technical college; must be earned within two academic years. |

*Data for this table is pulled from Making Public Colleges Tuition Free. (2022). Campaign for Free College Tuition. and SHB 2309.*

There are three main models for distributing promise scholarship funds: last-dollar, first-dollar, and middle-dollar. In the last-dollar model, which the WA 13 free guarantee is defined as, the promise scholarship funds are only applied once all federal and state financial aid has been factored in. Since promise programs typically only cover tuition and fees, students who receive enough need-based aid to cover these costs may not get any promise funding. Though this approach requires less initial investment, it often results in less financial support for low-income students.[29]

### Funding Sources

Promise programs are funded by a variety of sources, often including a combination of public and private sources. Public funding sources include state appropriations, sales and property taxes, lottery funds, tax-increment financing, federal COVID-19 pandemic relief funds, and other student financial aid.[30] Private funding sources include national, local, and postsecondary foundations, endowments, trusts, businesses/corporations, and individual donations.[31]

Financial sustainability is a concern for most state-sponsored promise programs, as they often rely on annual or biennial appropriations from the state legislature. This ongoing need for funding approval introduces uncertainty due to potential shifts in the state's political landscape or economic conditions. Furthermore, the federal COVID-19 relief funds, which have been used in recent years as a funding source to support many promise programs, are temporary. It is estimated that they will be depleted in the next couple of years, necessitating programs that utilize these funds to identify alternative funding sources to ensure continuity.[32]

The funding mechanism of the Tennessee Promise program differs from other state-run promise programs. This program does not depend on the approval of continued appropriations from the state legislature. It was designed to be self-sustaining and is financed through an endowment fund that receives annual revenue from public funding sources but does not receive appropriations from the state legislature. The

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[29] Billings, Meredith S. et al. (2023). Financing promise programs: Where the money comes from and where the money goes. In D.A. Smith, C.M. Cain, & J,N Friedal (eds.), *Free college: Budgets, mission, & the future. New Directions for Community Colleges, 203,* 9-23.
[30] Student financial aid does not directly fund promise programs, but costs per student are often reduced after applying federal and state aid like Pell Grants or state grants for last-dollar programs.
[31] *Ibid.*
[32] *Ibid.*

case study of the Tennessee Promise program in Section 2.5 offers a detailed analysis of its structure and its relevance to the WA 13 free guarantee.[33]

## 2.5 Case Studies

Our 50-state review of financial aid programs and literature review of promise programs found that no current program in the United States matches the structure of the proposed WA 13 free guarantee program. However, Pennsylvania's Keystone Scholars (CSA) and Tennessee Promise (promise program) both include aspects of the structure and funding mechanism proposed in SHB 2309, offering valuable context and insights for designing and implementing a scholarship program under RCW 28B.95.040. These programs highlight considerations for the funding structure and underscore the importance of establishing a consistent and sustainable funding mechanism.

### Pennsylvania Keystone Scholars Program

*Program Overview*

The Keystone Scholars program, established on January 1, 2019, aims to promote access to post-secondary educational opportunities for eligible children across the Commonwealth of Pennsylvania.[34] Children born on or after January 1, 2019 to Pennsylvania residents receive $100 in a Keystone Scholars Account that can be claimed within four to six months after a child is born for the purpose of paying for qualified higher education expenses associated with the attendance at an eligible educational institution in the child's future.[35] [36] The Keystone Scholars Program is referred to as a "grant program" in HB 1929, which establishes the program. However, the Pennsylvania State Treasury refers to it as a CSA program, and it meets the CSA definition outlined in this report. The program is set to run for ten years, expiring on December 31, 2029.

[33] Mumpower, Jason. (2024). Tennessee Promise Evaluation. *Tennessee Comptroller of the Treasury, Office of Research and Education Accountability*.
[34] The General Assembly of Pennsylvania House Bill (HB) 1929, Section 3. (0217-2018).
[35] "Keystone Scholars", PA529. https://www.pa529.com/keystone/
[36] Adoptees whose adopting parents were residents of the Commonwealth at the time the decree of adoption was entered and who are residents at the time the grant is applied for or received are also eligible.

The program is sponsored by the PA529 program, Pennsylvania's state-sponsored 529 plan. The Keystone Scholars program is funded entirely by surplus assets from the Tuition Account Guaranteed Savings Program Fund, meaning no funds are allocated by the state legislature. The Keystone Scholars Fund is a separate account within the Tuition Account Guaranteed Savings Program Fund. The program only receives funding if the Tuition Account Guaranteed Savings Program Fund exceeds 110 percent of the actuarially determined liabilities. Allocations to the Keystone account are made annually at the end of each fiscal year and cover the costs of the monetary awards and the program's administrative costs.[37]

Funds can be used for qualified higher education expenses at eligible educational institutions as defined by Section 529 of the Internal Revenue Code of 1986. The program's total annual expenditures are not to exceed $100 multiplied by the number of children born in the Commonwealth in the fiscal year.[38]

*Comparison to WA 13 Free Guarantee*

The Keystone Scholars program (CSA) and the WA 13 free guarantee (promise program) represent two different types of post-secondary financial aid programs. Beyond considering the potential award expenditures for each program, comparing the type of financial aid provided by Keystone Scholars will not offer useful context for evaluating the feasibility of the WA 13 free guarantee. However, the Keystone Scholars program is the only program this study identified that uses surplus actuarial reserves from its prepaid 529 plan to sponsor a statewide financial aid program for post-secondary education. There are both similarities and differences in the mechanisms Pennsylvania uses to achieve this and how SHB 2309 proposes it. Both programs use a separate account to which transfers are made from their respective prepaid tuition plan fund. However, the Keystone Scholars program is funded annually based on the funding status of the Tuition Account Guaranteed Savings Program Fund, which must be greater than 110 percent at the end of each fiscal year.[39] In contrast, WA 13 free guarantee proposes a one-time transfer of $300 million from the GET fund and does not specify additional annual revenue streams.[40]

[37] HB 1929, Section 3. (0217-2018).
[38] *Ibid.*
[39] *Ibid.*
[40] SHB 2309. (2024).

It is also important to note that neither state's funding mechanism specifies whether the funds from the prepaid tuition programs are from account owner tuition unit purchases or administrative fees. Section 3 further explores the implications of using funds from tuition unit purchases to fund a financial aid program.

*Key Takeaways*

The Keystone Scholars program is the only example of a state using actuarial reserves from a prepaid 529 plan to fund a statewide financial aid program. It demonstrates that another state has successfully created a separate fund using monies from its prepaid 529 actuarial surplus. However, the annual funding mechanism of the Keystone Scholars Program, based on the funding status of the Tuition Account Guaranteed Savings Program Fund, provides both a sustainable model for funding the program and ensures the solvency of the Tuition Account Guaranteed Savings Program Fund. The one-time lump sum transfer proposed for the WA 13 free guarantee may not provide the same safeguards.

### Tennessee Promise

*Program Overview*

The Tennessee Promise Program, established in 2014, is a scholarship initiative to improve college access for recent high school graduates in Tennessee by eliminating the financial barrier of tuition costs. This program, part of Tennessee's Drive to 55 initiative, was founded in 2014 to promote workforce development within the state. Similar to the WA 13 free guarantee, it provides a last-dollar award that covers the remaining tuition and fees at public technical and community colleges after other federal and state financial aid has been applied.[41]

To be eligible for the Tennessee Promise, a student must have Tennessee residency, have lived in Tennessee for at least 12 months prior to enrollment in a post-secondary institution, have graduated from a Tennessee public or private secondary school, and have enrolled in an eligible credential program in the fall semester immediately following high school graduation. Additionally, the program requires students to meet with mentors, complete community service or job shadowing, and maintain continuous full-time enrollment in the program for which they are using the

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[41] Meehan, Kasey et al. (2019). The Case of Tennessee Promise: A Uniquely Comprehensive Promise Program. *Research for Action.*

scholarship. The scholarship covers tuition and mandatory fees for on-campus courses at eligible institutions but does not cover fees for specific courses or labs, online courses, books, or supplies.[42]

The Tennessee Promise scholarship is awarded for up to five semesters or eight trimesters, or until the student earns a diploma, certificate, or associate degree, whichever comes first. As a last-dollar scholarship, it is applied after other sources of gift aid have been used.[43]

The Tennessee Promise is funded by an endowment fund established by Public Chapter 900 in 2014 with $361 million in principal, designated as nonspendable. The fund receives annual revenue from fees related to the lottery and the Tennessee Student Assistance Council. Funds from the endowment are invested annually by the State Treasurer, and any revenue above the $361 million principal is available for scholarships and administrative costs. The endowment was designed to be self-sustaining, meaning its annual investment earnings and allocations should cover the scholarship costs each year, thus avoiding reliance on annual state budget allocations. The specific funding sources for Tennessee Promise include excess lottery reserves (73.7%), interest accrued from the fund's investments (12.9%), Tennessee Student Assistance Corporation (TSAC) operating funds (12.3%), and Tennessee Sports Wagering Council (SWC) licensure fees (1%). These funds cover scholarships and administrative costs. [44]

*Comparison to WA 13 Free Guarantee*

The Tennessee Promise is very similar in structure as a financial aid program for higher education to the WA 13 free guarantee. However, there are several differences between the two programs. The Tennessee Promise covers two full years of community or technical college education, whereas WA 13 free guarantee would only cover up to 45 credits (which essentially represents one full year's worth of credits). Additionally, the Tennessee Promise requires students to meet with a mentor and complete community service or job shadowing, while the WA 13 free guarantee does

[42] Meehan, Kasey et al. (2019). The Case of Tennessee Promise: A Uniquely Comprehensive Promise Program. *Research for Action*.
[43] *Ibid*.
[44] Mumpower, Jason. (2024). Tennessee Promise Evaluation. *Tennessee Comptroller of the Treasury, Office of Research and Education Accountability*.

not have such requirements for students. Finally, the Tennessee Promise requires full-time enrollment, whereas the WA 13 free guarantee only requires part-time enrollment.

The size of the proposed initial funding mechanism for WA 13 free guarantee is similar to that of the Tennessee Promise by way of an initial lump sum amount in the ballpark of $300 million. Due to the similar population size and number of live births per year in both states, this indicates that the size of Washington's proposed initial funding source is adequate for a program with the size and scope of WA 13 free guarantee.[45] However, Tennessee Promise has consistent annual revenue from multiple streams that are not subject to approval from the state legislature. This ensures that the program has consistent funding from year to year, allowing it to be self-sustaining and not reliant on annual state budget allocations. In contrast, WA 13 free guarantee proposes a one-time transfer of $300 million from the GET fund, without identifying specific additional annual revenue streams. The implementation of the WA 13 free guarantee, as stipulated in SHB 2309, necessitates additional funding. This requirement arised because the $300 million allocated from the GET fund is designated exclusively for students with financial need, as specified in RCW 28B.95.040.

*Key Takeaways*

Although the Tennessee Promise program has different funding sources from the proposed use of GET actuarial reserves, the self-sustaining structure of the funding for this program could provide a helpful model for the WA 13 free guarantee.
To align the WA 13 free guarantee with the self-sustaining model of Tennessee Promise, it is necessary to supplement an initial lump sum allocation of the GET actuarial reserves with ongoing streams of annual revenue and allocate an initial portion of the funding as a principal to generate revenue. Tennessee treats the initial investment of $361 million as its principal within the endowment fund, meaning it cannot be spent. Instead, it generates significant revenue to support the self-sustaining nature of the fund. Conversely, as currently written, the WA 13 free guarantee would commence spending the initial transfer immediately without intending to generate long-term additional income.

[45] In 2024, Washington's population was 7.95 million and Tennessee's was 7.23 million. Washington's birthrate was 53.3 births per 1,000 women and Tennessee's was 59.3.

# Analysis of RCW 28B.95.040 and the WA 13 Free Guarantee 3

## 3.1 Methods

To study the feasibility of a scholarship fund as described in RCW 28B.95.040 as it relates to SHB 2309 and the WA 13 free guarantee, DHM analyzed primary sources, conducted interviews with subject matter experts, and reviewed other legislative documents such as RCW, fiscal notes, and bill reports. In this section, the following topics from the assignment are addressed:

- Scholarship fund establishment
- Use of GET actuarial reserves to fund the scholarship program
- Scholarship fund implementation
- Impacts of the provisions from SHB 2309 on the status of Washington's qualified tuition plan under Section 529 of the Internal Revenue Code

## 3.2 Scholarship Fund Establishment

First, this section explores the feasibility of a scholarship fund as described in RCW 28B.95.040 and uses the WA 13 free guarantee as a representative example to guide the analysis. One of the central questions necessary to analyze this, or any, program's feasibility as written in SHB 2309, is whether or not the proposed programs and funding structure fit within the scope of Chapter 28B.95 RCW, Sections 040 and 050.[46] This section explores that question and ultimately assumes that the answer is "yes", as it is a necessary condition for subsequent analysis. Next, a discussion of risk relating to the GET program fund is presented with an eye toward both the legal obligations of the GET program and the sustainability of both the GET fund and the proposed WA 13 free guarantee fund. Finally, analysis of operational budgets and impacts is presented within the scope of implementing the program as written. Additional analysis is also provided that is more generalizable for any proposed program. For

[46] Revised Code of Washington (RCW) 28B.95.050. (2024).

this section of analysis, we consider the impacts on WSAC, the Office of the State Actuary, the Caseload Forecast Council, and community and technical colleges.

### Chapter 28B.95 RCW and Feasibility

Both RCW 28B.95.040 and RCW 28B.95.050 are important to discuss in exploring the establishment and implementation of the WA 13 free guarantee. RCW 28B.95.040 sets the rules for the purchase of tuition units or the establishment of a savings fund to be used as a scholarship, while RCW 28B.95.050 states that contracts with the Washington Advanced College Tuition Payment Program are legally binding. Thus, the WA 13 free guarantee must meet the requirements of RCW 28B.95.040 while not jeopardizing the state's contracted obligations of the GET program.

*RCW 28B.95.040*

RCW 28B.95.040 outlines the rules regarding the purchase of tuition units to establish a scholarship fund. It includes language about using Washington's Advanced College Tuition Payment Program dollars to establish a scholarship fund for students who demonstrate financial need. It grants the governing body the power to:

- Allow outside organizations to create scholarships using GET as a funding vehicle,
- Formulate rules that are necessary to determine which organizations qualify, and
- Establish a scholarship fund with monies from the GET program account

Section 1 of SHB 2309[47] invokes RCW 28B.95.040 by stating,

> *"When the Washington advanced college tuition payment program was enacted, the legislature envisioned that establishing a scholarship for those in financial need would be a permissible use of the moneys from the payment program account."*

Multiple organizations have created scholarship programs that use GET as a vehicle.[48]

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[47] SHB 2309. (2024).

[48] J. Ferrado, Associate Director of Community Engagement, Washington Student Achievement Council (personal communication, March 20, 2025)

One example is GearUP Washington State[49], a partnership between the Washington Governor's Office, WSAC, and 10 strategic partners[50] that uses federal grants and other external funding to provide scholarships to Washington students. Gearup provides supplemental scholarships to some program participants in the form of GET units. Another example is the Mercy Scholars CSA program[51], which is a partnership between the Whatcom Community Foundation, Mercy Housing Northwest, and WSAC. This CSA program provides children and youth living at Mercy Housing's affordable housing communities with $1,000 seed deposits into GET accounts for each child whose family opts in. Other examples include scholarships provided by churches, housing authorities, and memorial foundations. They use GET to help facilitate their scholarship program, but are funded from external sources. There are dozens of other scholarship programs in Washington that function similarly. However, there are no examples of a scholarship fund established by the governing body using funds from the GET program account.

To establish a scholarship fund with money from the GET program account, WSAC must administer the scholarship, and it can only be provided to students who demonstrate financial need, a criterion that is not necessary for other organizations when using tuition units as scholarships.[52] Section 3 of SHB 2309 stipulates that WSAC shall administer the WA 13 free guarantee. While SHB 2309 would create the WA 13 free guarantee for all students, regardless of income, Section 6 indicates that $300,000,000 from the GET account be used,

> *"solely for providing recipients with family incomes at or between 65 to 140 percent of the state median family income [with grant awards]."* [53]

By including financial need as a criterion for grant awards funded by surplus funds from the GET account and requiring the program to be managed by WSAC, it seems that the program and funding mechanism may comply with RCW 28B.95.040

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[49] Gear Up Washington State. (2024). https://gearup.wa.gov/
[50] *Ibid.* Partners include: Centralia College, FOCUS Training, Grays Harbor College, Office of the Superintendent of Public Instruction, SEEDS Training, Treehouse, Vela Institute, Washington State Employees Credit Union, Washington State Public Colleges & Universities, and Wenatchee Valley College.
[51] Whatcom Community Foundation – Mercy Scholars Program.
[52] Revised Code of Washington (RCW) 28B.95.040. (2024).
[53] SHB 2309. (2024).

provided that funds from the GET account are exclusively used for students with financial need.

*RCW 28B.95.050*

Another question that arises from SHB 2309's proposed use of GET funds is how it could impact the solvency of the GET fund. RCW 28B.95.050[54] states that GET contracts with eligible participants are contractual obligations of the state. If the funds in the account are projected to be insufficient to cover the state's contracted expenses, then the legislature must appropriate enough funds to cover said expenses. Using money from the GET actuarial reserves could jeopardize the Program's ability to meet its commitments to participants without relying on state appropriation if there is no mechanism to ensure the fund maintains an adequate funding level.

SHB 2309 addresses this issue by stating that funding may only be allocated if the actuarially funded status of the GET account remains at or above 120 percent of its obligations. While the inclusion of this actuarial floor provides some protection for the funded status of the GET account, a more comprehensive discussion of the GET actuarial reserves and the financial risk associated with the use of the funds should be considered. Additionally, the one-time lump sum nature of the proposed transfer of funds only considers GET's funded status at the point in time when the initial transfer is made, not for any subsequent time period. In the following sections, additional considerations and recommendations regarding risk are presented.

**RECOMMENDATION #1**: If creating a statewide promise program, consider outlining rules and funding mechanisms for all students who will be eligible for the program.

### GET Reserves and Legal Risk

While RCW 28B.95.040 states that,

> *"The governing body may establish a scholarship fund with moneys from the Washington advanced college tuition payment program account,"*

[54] RCW 28B.95.050. (2024).

there does not appear to be any Washington law or administrative code that explicitly protects the state from any legal challenge associated with the use of GET account holder dollars to fund higher education programs. This report will not provide a recommendation regarding the legality of using GET funds[55], but will outline perspectives that allow the reader to consider this use of funds as one risk element for consideration if pursuing the use of funds as outlined in SHB 2309.

While DHM Research cannot provide a full legal analysis within the scope of this project[56], informal conversations with legal experts suggest that if funds were moved out of the GET fund and those funds were derived from account holder payments, the state could encounter legal challenges related to this use of funds. The situation would likely be more legally tenuous if the GET account were to fall below 100 percent funded status. If the State meets the financial obligation set forth in RCW 28B.95.050, the extent of the legal risk is unclear, but any legal challenge could complicate GET program operations or incur significant resource utilization. Legal risk should be a key consideration for any program funded using GET actuarial reserves derived from account holder contributions.

**RECOMMENDATION #2**: Hire a legal expert to conduct a full legal analysis to understand the extent of the legal risk to the State if GET funds are used to establish a scholarship fund or for any other uses.

**RECOMMENDATION #3**: If any substantive changes are made to the GET program, including changes in the use of account holder funds, WSAC should consider disclosing those changes to GET account holders via established communications channels.

One key reason why there is no definitive answer regarding the legality of using GET funds in this manner is that there is no precedent. In Washington, GET reserves have

[55] DHM Research does not have a lawyer on staff. A code review of relevant RCW and WAC were conducted, but a full legal analysis was not.
[56] Attorneys DHM Research spoke with asked to remain anonymous.

not been used to fund other financial aid programs.[57] In the absence of precedent in Washington, we look to other states for examples of similar funding structures.

*Virginia*

The Commonwealth of Virginia provides the best comparison for using state-level 529 surplus funds to fund other higher education programs.[58] In 2021, Virginia's Joint Legislative Audit and Review Commission (JLARC) was commissioned to examine the possibility of using surplus funds from the Legacy Prepaid529 program to support higher education access and affordability in Virginia. This was considered due to the program's funded status being projected to exceed what is required to meet the future obligations of Virginia529's two defined benefit programs—the Legacy Prepaid529 program and the new Tuition Track Portfolio. At the time of the actuarial report, the fund was funded at 194 percent ($1.6 billion of surplus funds). By December 2023, it declined to 183 percent, resulting in $1.1 billion in surplus funds.[59] Although Virginia experienced a decline, their actuarial reserves are still significantly greater than Washington's GET fund, which amounted to $672 million as of June 30th, 2024.

According to Virginia JLARC's 2022 Report to the Governor and the General Assembly of Virginia, if all actuarial surplus funds stay in the Defined Benefit 529 fund, the FY21 surplus of $1.6 billion will grow to over $3.7 billion by FY44 when Legacy Prepaid529 tuition obligations are settled. [60] [61] If actual experience is consistent with these projections, the report states this increase would result in an excessively high funded status and result in forgone opportunities to use these funds for other

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[57] Conversations with the Office of the State Actuary and WSAC indicate that the only fund that may be comparable to the GET fund in terms of structure is the Washington State pension fund.
[58] Virginia may be the *only* relevant comparison at this time due to the size of their actuarial reserves and the current exploration of their general assembly to use the actuarial reserves to support higher education. In 2020, Florida's state-sponsored 529 fund was funded at 137% at which point its board approved price reductions and refunds to contract holders. Until 2023, Maryland statute required its prepaid 529 board to consider price reductions or account holder refunds if its funded status rose above 130%, but in 2023 Maryland's prepaid 529 board was abolished and taken over by the State Treasurer. Pennsylvania does use prepaid 529 actuarial reserves to fund higher education, however the max payout for their program is $100 per student which is much smaller than the WA 13 free guarantee.
[59] *Virginia Oversight Report. (2024). Virginia JLARC.*
[60] *Defined Benefit 529 Surplus Funds.* (2022). Virginia JLARC. 21.
[61] The report was written by JLARC staff in collaboration with an independent actuary, independent investment consultant, and independent legal consultant.

beneficial higher education purposes.[62] This report concludes that a 125 percent funded status is reasonable for a defined benefit 529 fund.[63] The report's authors ultimately recommend that the Virginia General Assembly consider removing actuarial surplus funds, in annual increments, up to an amount that would maintain an annual funded status of at least 125 percent of their combined Virginia529 funds.[64]

While Virginia serves as a useful comparison, it is important to note that Virginia's fund differs from Washington's in that a significant portion—approximately 40 percent—of the excess funds are derived from fee revenue associated with Virginia 529's partnership with College America on its advisor-sold 529 plan.[65] The remaining surplus is derived from Virginia's Legacy Prepaid529 account holder payments. The GET reserves are almost exclusively derived from account holder payments and investment earnings from such payments.

This distinction is key because Virginia's JLARC provides separate recommendations depending on the origin of the excess funds. Their recommendation for withdrawal suggests returning 60 percent—an amount equivalent to the value of the excess funds derived from account holder monies—to account owners and using the remaining 40 percent derived from administrative fees to support access and affordability for higher education.[66] The reason behind the suggestion,

> *"While the General Assembly could conceivably choose to allocate surplus funds in different proportions, using funds from contract holders for higher education programs may raise questions of fairness and increase legal risk for the state. JLARC's legal consultant determined that to reduce the risk of potential litigation, the state may want to consider limiting surplus funds used for higher education access and affordability to those paid by third parties…rather than contract holders."*

In summary, in 2022, a team of state researchers, an independent actuary, an independent legal consultant, and an independent investment consultant

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[62] *Defined Benefit 529 Surplus Funds.* (2022). Virginia JLARC. 5.
[63] *Defined Benefit 529 Surplus Funds.* (2022). Virginia JLARC.10.
[64] *Ibid.*
[65] "Portfolios and Performance", Invest529. https://www.invest529.com/investment-options/portfolios-performance/
[66] *Defined Benefit 529 Surplus Funds.* (2022). Virginia JLARC. 21.

recommended to the Virginia General Assembly that it was appropriate to decrease their 529 actuarial reserves down to 125 percent funded status. However, the same team expressed trepidation about the legality of using monies derived from account holder payments to fund higher education access and affordability in the state. Washington and Virginia statutes differ, and the same legal situation may not apply in Washington, but this is the closest example to the proposed use of funds in SHB 2309 to date. As of this report's submission, Virginia has yet to withdraw funds from their prepaid actuarial reserves.

*IRS Standing*

A separate legal consideration outlined in the study language for this report was whether the use of GET funds for purposes of SHB 2309 would impact GET's legal status as a qualified tuition program under section 529 of the Internal Revenue Code. WSAC hired the legal firm Stoel Rives to explore this question and directly engage with the IRS. In response, the IRS provided WSAC with an information letter to assist in understanding the relevant points of tax law, but stopped short of providing a specific analysis of the situation. This correspondence with the IRS indicates that withdrawing reserves from the GET fund for purposes such as those included in SHB 2309 appears unlikely to impact its standing with the IRS. The full IRS information letter can be found in Appendix Letter 1.1.

### GET Reserves and Financial Risk

The principal concern in assessing the potential utilization of the GET fund actuarial reserves is the financial risk associated with withdrawing from a fund whose actuarial status relies on multiple factors, including market conditions and college tuition rates. Additionally, these financial obligations are legally binding, and failure to fulfill these obligations from the fund may be reconciled using taxpayer dollars. While the GET fund has been funded to at least 130 percent since 2014, it has been funded below 100 percent six times since 1999.[67] Such fluctuations should be considered when determining the appropriate level of risk. Although a comprehensive actuarial analysis is beyond the scope of this report, we present desk research and interview findings and recommend next steps.

[67] Five of these six years were those immediately following the 2008 financial crisis: '09, '10, '11, '12, and '13. "Annual Payout Value and Tuition Increases Over Time", WA529 GET. https://529.wa.gov/get/get-payout-over-time

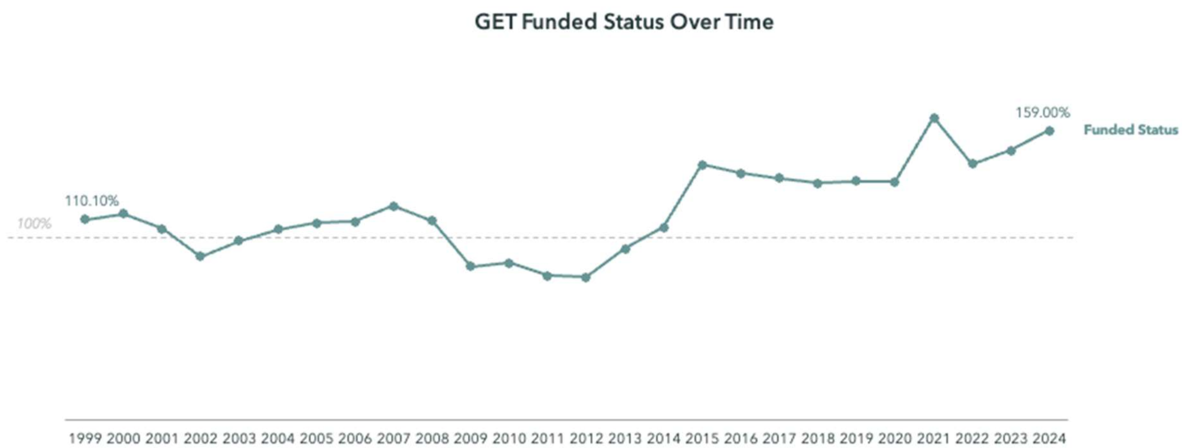


*Chart adapted from "Annual Payout Value and Tuition Increases Over Time", WA529 GET. https://529.wa.gov/get/get-payout-over-time*

While the GET fund's current asset mix, public tuition costs, and historic financial performance are all unique to Washington, looking at actions from other states when balancing financial risk associated with prepaid 529 reserves serves as one tool to assess the potential range of risk that is appropriate for Washington to take should it choose to pursue the use of GET funds as outlined in SHB 2309.

| | Virgina | Florida | Maryland | Pennsylvania |
|---|---|---|---|---|
| **Prepaid 529 actuarial reserve action or recommendation** | State JLARC recommends withdrawal down to 125% funded status. | Board approved price reductions and refunds to contract holders when actuarial reserves reached 137%. Resulting withdrawal resulted in 127% funded status. | Prior to 2023, state statute required its prepaid 529 board to consider price reductions or rebates for account holders when funded status was 130% or above. | In 2019, Pennsylvania instituted a CSA program funded by actuarial reserves from its prepaid 529 plan as long as the funded status does not fall below 110%. |

Virginia, Florida, Maryland, and Pennsylvania[68] either took action or received actuarial advice that suggests comfort with a prepaid 529 actuarial funded status between 110 percent and 130 percent.

Staff from the Washington Office of the State Actuary were interviewed for this research, but could not make any recommendations regarding the appropriate funded status of the GET fund. They suggested examining work done in other states and creating a more formal avenue for evaluating risk.

**RECOMMENDATION #4**: If considering a program or fund that would be established using monies from the GET account, hire an independent actuary to perform a financial risk analysis that includes multiple modeled scenarios and presents the likelihood of solvency under different market circumstances and withdrawal amounts.

**RECOMMENDATION #5**: In the absence of an analysis conducted by an independent actuary, consider consulting the Office of the State Actuary in an official capacity to provide the analysis described in recommendation #4.

### Fund Operation

If a new fund were established to support a portion of the WA 13 free guarantee, as outlined in SHB 2309, it would require structure and management to ensure long-term sustainability. It is assumed that once the fund is established, it will need to be invested, serviced, and managed in the same manner as the GET fund is currently. Interviews with both WSAC and Office of the State Actuary staff suggest that the Washington State Investment Board[69] should manage the fund as they do with the GET and the Washington Pension funds.

While who should manage the fund appears clear based on Washington's financial infrastructure and conversations with those familiar with the topic, the fund's relationship to the GET fund is less clear. Further, the relationship between the two

[68] Before 2023.
[69] Washington State Investment Board.

funds was not fully outlined in SHB 2309, and mitigating risk for the GET fund is essential.

The establishment of any fund using GET actuarial reserves should include the following features:

- Annual disbursements/transfers from the GET fund as opposed to a one-time lump sum disbursement/transfer.
- A two-way structure that allows funds to be sent back to the GET fund if the actuarial reserves fall below a mandated risk floor.
- Annual monitoring by a predetermined group or committee to assess the financial position of the GET fund and set the annual "appropriation" of funds from the GET account to other program accounts if deemed appropriate.

**RECOMMENDATION #6**: If a fund is created using GET fund monies as is proposed in SHB 2309, the Legislature should consider directing WSAC to manage the fund's assets with the remaining GET fund assets but account for them separately.

**RECOMMENDATION #7**: If a fund is created using GET fund monies as proposed in SHB 2309, the Legislature should consider an annual disbursement only for the monies necessary to execute the program—in this case, the Washington 13 free guarantee—and ensure that any excess funds remain in the GET fund.

## 3.3 Implementation

We were also asked to consider the implementation of a scholarship program as described in RCW 28B.85.040. We use the WA 13 free guarantee as described in SHB 2309 as a model and consider both the practical and non-disbursement financial components of what it would take to operate the program as described. While the WA 13 free guarantee serves as an illustrative example for this analysis, the details and impacts of any program created will likely be unique. That is, the implementation of any scholarship or financial aid program should be considered based on the details of the proposed program. This section presents and discusses the practical components of scholarship disbursement, and the costs associated with operating the program.

### Scholarship Dollars and Disbursement

Estimating the amount of direct scholarship dollars necessary to successfully implement the program is dependent on both the number of eligible students and the uptake within the eligible group. This will be the case for any scholarship program that fits within the parameters outlined in RCW 28B.95.040. The fiscal note provided by WSAC staff[70] for SHB 2309 indicates that "the WA 13 free guarantee would be a Caseload Forecast Council forecasted program." The same note goes on to explain that, "there were 14,434 first-time students who enrolled for the 2022-23 academic year who were within one year of completing high school. It is indeterminate how many of these students were in eligible programs, what their MFI ranges are, and what other gift aid they received." That is, while estimates from the 2022-23 academic year provide some guidance on how many students enroll in community and technical colleges in Washington, without a more precise estimate from the Caseload Forecast Council that incorporates information about eligibility for other financial aid and scholarship program and enrollment patterns in Washington community and technical colleges, it is unclear how many dollars are necessary to fund the tuition and cost of attendance components of the program.

[70] Partial Fiscal Note provided by WSAC during the 2024 Washington State Legislative Session in response to SHB 2309.

**RECOMMENDATION #8**: Before implementation of the Washington 13 free guarantee, or any similar scholarship or financial aid program, the Caseload Forecast Council should consider producing an estimate of the number of students who would be eligible for funding via GET reserves (household MFI between 65 and 140 percent).[71] Additionally, consider the full scope of the Washington 13 free guarantee when estimating the program's cost, not just the amount funded by the GET reserves.

The WA 13 free guarantee, as described in SHB 2309[72], would function in a similar manner to other existing financial aid programs in Washington. The simplest and most efficient option for disbursement is to utilize WSAC's current infrastructure in the same manner as other grant and scholarship programs do. The nature of the program and its alignment with existing WSAC programs will impact the ease of implementation and coordination with already established financial aid programs. For example, implementing a scholarship or grant program that utilizes a children's savings account or prepaid tuition program model, for which infrastructure already exists under WA529, would likely require fewer resources compared to a promise program. According to WSAC staff, the specific process for releasing and allocating scholarship or financial aid funds on behalf of students will likely depend on how the awarding criteria are established. That is, who oversees awarding the scholarships and how much control they have over what the scholarship goes toward can be established when the rules for the program are set.[73]

For any fund and subsequent program created as described in RCW 28B.95.040, the nature of the disbursement mechanism will depend on the program's structure. The selected structure will likely rely on the policy goals associated with the program's

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[71] This forecast will have large impacts on whether or not this program is sustainable. If one-quarter of 2025 graduating seniors in Washington State (~77,000 according to the National Center for Education Statistics) were eligible for the Washington 13 free guarantee, at a cost of $5,000 per student, the program would cost over $96 million per year. However, calculations submitted by the Office of Financial Management (OFM) during the fiscal note process estimated annual program costs at just under $7.5 million based on an assumed increase in an enrollment from a similar program in Tennessee and the number of first time students who enrolled in community or technical college in the 2022-2023 academic year and were within one year of high school graduation.
[72] This applies to any last-dollar grant or scholarship program.
[73] D. Hurley, Associate Director of GET Operations, Washington Student Achievement Council (personal communication, March 20, 2025).

creation. Without information on the intended policy goals, we are unable to recommend a program structure. However, given that the only current program identified in the 50-state review that uses prepaid 529 account funds to support a financial aid program[74] is not a promise program, we do recommend exploring additional scholarship models.

**RECOMMENDATION #9**: If a scholarship fund is created as outlined in RCW 28B.95.040, consider additional scholarship models for disbursement and implementation beyond a promise program. Consider options such as a CSA program like Pennsylvania's Keystone Scholars that have been successfully implemented using a similar funding model.

Additionally, for any fund and subsequent program created as described in RCW 28B.95.040, empirical information on the impacts of that program type should be examined and incorporated into determining the program structure. Information, and any research or data, available on programs already operating on a smaller scale in Washington should be given particular consideration. Both promise programs[75] and CSA[76] pilot programs are currently operating in Washington.

**RECOMMENDATION #10**: If implementing a scholarship fund and program as described in RCW 28B.95.040, consider incorporating information, research, and outcome data from any pilot financial aid programs operating in Washington with a similar structure to financial aid programs under consideration.

Tuition unit allocation is one element dependent on the overall structure of the program, and can vary based on scholarship criteria, who oversees awarding, and how the scholarship interacts with a student's full financial aid package. For a statewide promise program such as the WA 13 free guarantee, the most likely structure is for WSAC to oversee eligibility and awarding, similar to other financial aid programs in Washington.[77]

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[74] Pennsylvania's Keystone Scholars Program.

[75] Renton Promise.

[76] Tacoma Housing Authority CSA Program.

[77] Examples include the WA Grant and the College Bound Scholarship.

If a scholarship program as described in RCW 28B.95.040 was created and had a smaller scope[78] and more strict eligibility requirements than the WA 13 free guarantee, it is plausible that WSAC could leverage its GET Scholarship Portal to oversee scholarship awarding. In this scenario, WSAC's GET Scholarship Portal could likely be utilized as a tool to facilitate disbursement using WSAC's already existing infrastructure. This would be most applicable if the scholarship program created functioned as a traditional scholarship or CSA model. Similarly, if a newly-created program utilized an already-existing financial aid administrative system, scholarship disbursements could happen in accordance with that system.[79]

**RECOMMENDATION #11**: For any scholarship program created as outlined in RCW 28B.95.040, including the WA 13 free guarantee or any similar proposed program, consider requesting up-to-date cost estimates based on current market conditions, tuition prices, and labor costs.

### Non-Disbursement Costs

In addition to the funds needed to pay for student scholarships, additional costs would be incurred to implement the WA 13 free guarantee and to support its ongoing function. During the 2024 legislative session, when SHB 2309 was proposed, various agencies submitted fiscal notes to estimate the program's cost to their agency, and in some cases to the state. The following agencies submitted fiscal notes[80] for SHB 2309:

- Caseload Forecast Council
- Student Achievement Council
- Community and Technical Colleges
- Office of the State Actuary

[78] Stricter eligibility requirements, lower dollar amount, or different awarding criteria.
[79] Such as those already offered by WSAC.
[80] SHB 2309 Washington 13 Free guarantee Multiple Agency Fiscal Note. (2024).

The following is a summary of costs[81] provided across all agencies by biennium.

| Agency | 2023-2025 Total | 2025-2027 Total | 2027-2029 Total |
|---|---|---|---|
| Caseload Forecast Council | $202,000 | $404,000 | $404,000 |
| Student Achievement Council | $1,007,000 | $1,164,000 | $1,164,000 |
| Student Achievement Council | In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note. | | |
| Community and Technical College System | $0 | $61,309,000 | $61,284,000 |
| Actuarial Fiscal Note – State Actuary | Non-zero but indeterminate costs and/or savings. Please see discussion. | | |
| **Total** | **$1,209,000** | **$62,877,000** | **$62,852,000** |

*Caseload Forecast Council (CFC)*

The estimates for additional costs to the Caseload Forecast Council to establish and implement the WA 13 free guarantee are straightforward. During the fiscal note process, the CFC indicated that they would require 1.0 new FTE to perform approximately 0.5 FTE of new work. The work would include forecasting for the new program, expanding the higher education forecast technical workgroup, and creating and maintaining the appropriate technology and systems necessary to fulfill their duties to the program.

*Washington Student Achievement Council (WSAC)*

In the case of the WA 13 free guarantee, it is assumed that WSAC staff would oversee implementation, execution, and management of the program. While WSAC has the infrastructure and expertise necessary to build and implement a new financial aid program, it would require significant new resources and time for them to design modifications and new functionality in the current financial aid system for a new program, build the systems and staff necessary to execute the program as described, and to continue its operation moving forward. During the 2024 Legislative session

[81] The dollar amounts presented in this report were provided via the fiscal note process during the 2024 Washington State Legislative session and are not adjusted to reflect changes in market conditions, tuition prices, labor costs, or any other financial changes that have occurred between the time they were produced and this report was written.

fiscal note process, WSAC indicated it would require 5.0 new FTE in the fiscal year when the program was implemented, ramping down to 2.9 FTE for ongoing operations.[82] These costs can be summarized by job position:

| Job Classification | Salary | FY 2025 | 2023-25 | 2025-27 | 2027-29 |
|---|---|---|---|---|---|
| Assistant Director | 95,000 | 0.5 | 0.3 | 0.5 | 0.5 |
| Associate Director | 110,000 | 2.1 | 1.1 | 1.5 | 1.5 |
| Budget Manager | 110,000 | 0.2 | 0.1 | 0.2 | 0.2 |
| Director | 141,000 | 0.2 | 0.1 | 0.2 | 0.2 |
| IT Developer | 106,000 | 2.0 | 1.0 | 0.5 | 0.5 |
| **Total FTEs** | | **5.0** | **2.5** | **2.9** | **2.9** |

*Community and Technical College System*

The largest cost increase estimate provided during the fiscal note process for the WA 13 free guarantee came from the State Board for Community and Technical Colleges. These costs are largely driven by the increased operational expenses associated with the program's enrollment growth. These increases include faculty and staff hires necessary to support the increased enrollment volume, as well as expenditures for hiring a full-time staff member at each of Washington's 34 community and technical colleges to provide student support and coordination as directed in SHB 2309. These cost estimates are summarized by expenditure type:

| | BI 2025-27 | BI 2027-29 |
|---|---|---|
| FTE Staff Years | | |
| A-Salaries and Wages | $39,802,000 | $39,802,000 |
| B-Employee Benefits | $14,084,000 | $14,084,000 |
| C-Professional Service Contracts | $75,000 | $50,000 |
| E- Goods and Other Services | $7,348,000 | $7,348,000 |
| **Total** | **$61,309,000** | **$61,284,000** |

82 SHB 2309 Washington 13 Free guarantee Multiple Agency Fiscal Note. (2024).

It is important to note that some of the increased expenditures incurred by the community and technical colleges may be partially covered by the WA 13 free guarantee scholarships themselves. While community and technical colleges will need to hire more staff, some of that will likely be offset by the increased tuition revenue from higher enrollment.[83]

**RECOMMENDATION #12**: For any scholarship program created as outlined in RCW 28B.95.040, including the WA 13 free guarantee or any similar proposed program, consider requesting up-to-date cost estimates based on current market conditions, tuition prices, and labor costs.

### Implementation Summary

For any scholarship or financial aid program created as outlined in RCW 28B.95.040, the specific process for releasing and allocating scholarship or financial aid funds on behalf of students will likely depend on how the awarding criteria are established. That is, there is not necessarily a uniform approach that will apply to every program. Regardless of the program established, there will be some additional costs, beyond the cost of the scholarships, necessary to build the program, understand how many students will be impacted, implement the program, and facilitate its ongoing operation. Those costs will also vary based on the specific type of program and whether an existing financial aid program already exists to facilitate the newly established program.

[83] Some students who receive one year of tution through the WA 13 free guarantee would not be income elligbile for the WA Grant in later years. It is likely that some of those students would stay enrolled and pay those addition tution amounts out of pocket or through other sources.

# Summary of Recommendations 4

- **RECOMMENDATION #1**: If creating a statewide promise program, consider outlining rules and funding mechanisms for all students who will be eligible for the program.
- **RECOMMENDATION #2**: Hire a legal expert to conduct a full legal analysis to understand the extent of the legal risk to the State if GET funds are used to establish a scholarship fund or for any other uses.
- **RECOMMENDATION #3**: If any substantive changes are made to the GET program, including changes in the use of account holder funds, WSAC should consider disclosing those changes to GET account holders via established communications channels.
- **RECOMMENDATION #4**: If considering a program or fund that would be established using monies from the GET account, hire an independent actuary to perform a financial risk analysis that includes multiple modeled scenarios and presents the likelihood of solvency under different market circumstances and withdrawal amounts.
- **RECOMMENDATION #5**: In the absence of an analysis conducted by an independent actuary, consider consulting the Office of the State Actuary in an official capacity to provide the analysis described in recommendation #4.
- **RECOMMENDATION #6**: If a fund is created using GET fund monies as is proposed in SHB 2309, the Legislature should consider directing WSAC to manage the fund's assets with the remaining GET fund assets but account for them separately.
- **RECOMMENDATION #7**: If a fund is created using GET fund monies as proposed in SHB 2309, the Legislature should consider an annual disbursement only for the monies necessary to execute the program—in this case, the Washington 13 free guarantee—and ensure that any excess funds remain in the GET fund.
- **RECOMMENDATION #8**: Before implementation of the Washington 13 free guarantee, or any similar scholarship or financial aid program, the Caseload

Forecast Council should consider producing an estimate of the number of students who would be eligible for funding via GET reserves (household MFI between 65 and 140 percent).[84] Additionally, consider the full scope of the Washington 13 free guarantee when estimating the program's cost, not just the amount funded by the GET reserves.

- **RECOMMENDATION #9**: If a scholarship fund is created as outlined in RCW 28B.95.040, consider additional scholarship models for disbursement and implementation beyond a promise program. Consider options such as a CSA program like Pennsylvania's Keystone Scholars that have been successfully implemented using a similar funding model.
- **RECOMMENDATION #10**: If implementing a scholarship fund and program as described in RCW 28B.95.040, consider incorporating information, research, and outcome data from any pilot financial aid programs operating in Washington with a similar structure to financial aid programs under consideration.
- **RECOMMENDATION #11**: For any scholarship program created as outlined in RCW 28B.95.040, including the WA 13 free guarantee or any similar proposed program, consider requesting up-to-date cost estimates based on current market conditions, tuition prices, and labor costs.
- **RECOMMENDATION #12**: For any scholarship program created as outlined in RCW 28B.95.040, including the WA 13 free guarantee or any similar proposed program, consider requesting up-to-date cost estimates based on current market conditions, tuition prices, and labor costs.

[84] This forecast will have large impacts on whether or not this program is sustainable. If one-quarter of 2025 graduating seniors in Washington State (~77,000 according to the National Center for Education Statistics) were eligible for the Washington 13 free guarantee, at a cost of $5,000 per student, the program would cost over $96 million per year. However, calculations submitted by the Office of Financial Management (OFM) during the fiscal note process estimated annual program costs at just under $7.5 million based on an assumed increase in an enrollment from a similar program in Tennessee and the number of first time students who enrolled in community or technical college in the 2022-2023 academic year and were within one year of high school graduation.

# Appendix 5

**Table 1.1 – Grant programs associated with state-sponsored 529 plans in the United States**

| Grants | | | | |
|---|---|---|---|---|
| State | 529 Plan | Program Name | Type | Funding Source |
| Alaska | Alaska 529 | Dash to Save | Seed | College Savings Trust Fund |
| Alaska | Alaska 529 | Dash to Save More | Flat | College Savings Trust Fund |
| California | ScholarShare529 | ScholarShare 529 Matching Grant | Match | Third Party |
| Colorado | CollegeInvest Direct Portfolio College Savings Plan | First Step Program | Seed | College Savings Trust Fund |
| Colorado | CollegeInvest Direct Portfolio College Savings Plan | CollegeInvest Matching Grant | Match | College Savings Trust Fund |
| Connecticut | Connecticut Higher Education Trust (CHET) | CHET Baby Scholars | Seed | Unknown |
| Connecticut | Connecticut Higher Education Trust (CHET) | CHET Baby Scholars Bonus | Match | Unknown |
| Illinois | Bright Start Direct-Sold College Savings Program | Illinois First Steps Program | Seed | General Assembly/Legislature |
| Indiana | Indiana529 Direct Savings Plan | Promise Indiana | Seed or match[85] | Philanthropy + Third Party |
| Kansas | Learning Quest 529 Education Savings Program | K.I.D.S Matching Grant Program | Match | General Assembly/Legislature |
| Louisiana | START Saving Program | Earnings Enhancements | Match | General Assembly/Legislature |
| Maine | NextGen 529 - Client Direct Series | Initial Matching Grant | Match | Administrative Fees |
| Maine | NextGen 529 - Client Direct Series | NextStep Matching Grant | Flat | Administrative Fees |
| Maine | NextGen 529 - Client Direct Series | Automated Funding Grant | Match | Administrative Fees |
| Maryland | Maryland College Investment Plan | Save4College State Contribution | Flat | General Assembly/Legislature |
| Massachusetts | U. Fund College Investment Plan | BabySteps Savings Plan | Seed | Philanthropy |
| Nevada | USAA 529 Education Savings Plan | Silver State Matching Grant | Match | Third Party |
| North Dakota | College SAVE (Direct) | BND Match Program | Match | College Savings Trust Fund |
| North Dakota | College SAVE (Direct) | Kindergarten Kickoff Match | Match | College Savings Trust Fund |
| North Dakota | College SAVE (Direct) | New Baby Match | Match | College Savings Trust Fund |
| Oklahoma | Oklahoma 529 | Smart Steps | Flat | Unknown |

[85] Though it is offered statewide, communities must opt into the Promise Indiana program and partner with local organizations to determine scope and funding. Some communities administer Promise Indiana as a match-style program while others offer a seed type program.

| | | | | |
|---|---|---|---|---|
| Oregon | Oregon College Savings Plan | Oregon Baby Grad | Seed | Unknown |
| Oregon | Oregon College Savings Plan | Kinder Grad | Seed | Unknown |
| Rhode Island | CollegeBound Saver | CollegeBound Starter | Seed | Third Party |
| Tennessee | TNStars College Savings 529 Program | Tennessee Investments Preparing Scholars (TIPS) | Match | Other Programs |
| West Virginia | SMART529 WV Direct College Savings Plan | Bright Babies | Seed | Unknown |

**Table 1.2 - Scholarship programs associated with state-sponsored 529 plans in the United States**

| Scholarships | | | | |
|---|---|---|---|---|
| State | 529 Plan | Program Name | Type | Funding Source |
| Alabama | CollegeCounts 529 Fund | CollegeCounts 529 Scholarship Program | Scholarship | Administrative Fees + Philanthropy |
| Alaska | Alaska 529 | Alaska 529 PFD Scholarship Account Giveaway | Giveaway | College Savings Trust Fund |
| Arizona | AZ529 | AZ 529 Future Career Art Contests | Contest | Unknown |
| Colorado | CollegeInvest Direct Portfolio College Savings Plan | CollegeInvest 529 Scholarship Program | Scholarship | General Assembly/Legislature |
| Connecticut | Connecticut Higher Education Trust (CHET) | CHET Dream Big! Competition | Contest | Philanthropy |
| Iowa | ISave 529 | Isave 529 Contest | Giveaway | Unknown |
| Maryland | Maryland College Investment Plan | VaxU Scholarship | Giveaway | Unknown |
| Nebraska | Nebraska Education Savings Trust - Direct College Savings Plan | College Savings Plan Low-Income Scholarhsip Program | Scholarship | College Savings Trust Fund |
| Nevada | USAA 529 Education Savings Plan | Governer Guinn Millenium Scholarship Program | Scholarship | General Assembly/Legislature |
| New Hampshire | UNIQUE College Investing Plan | UNIQUE Allocation Program | Scholarship | College Savings Trust Fund |
| New Jersey | NJBEST 529 College Savings Plan | NJBEST Scholarship | Scholarship | Administrative Fee |
| North Dakota | College SAVE (Direct) | College SAVE Summer Reading Champions | Contest | College Savings Trust Fund |
| Oklahoma | Oklahoma 529 | Oklahoma 529 Monthly Scholarship Giveaways | Giveaway | Unknown |
| Oregon | Oregon College Savings Plan | Diversity in Leadership Scholars | Scholarship | Philanthropy |
| Tennessee | TNStars College Savings 529 Program | TNStars $5,000 Scholarship Giveaway | Giveaway | Unknown |
| Texas | Texas Tuition Promise Fund | Match the Promise | Scholarship | Philanthropy |
| Utah | my529 | Summer Contests | Contest | College Savings Trust Fund |
| Virginia | Invest529 | SOAR Virginia | Scholarship | General Assembly/Legislature |

**Table 1.3 - CSA programs associated with state-sponsored 529 plans in the United States**

| CSAs | | | |
|---|---|---|---|
| State | 529 Plan | Program Name | Funding Source |
| California | ScholarShare529 | CalKIDS | General Assembly/Legislature |
| Illinois | Bright Start Direct-Sold College Savings Program | First Steps | General Assembly/Legislature |
| Maine | NextGen 529 - Client Direct Series | My Alfond Grant | Philanthropy |
| Nebraska | Nebraska Education Savings Trust - Direct College Savings Plan | Meadowlark Savings Pledge | General Assembly/Legislature + College Savings Trust Fund |
| Nevada | USAA 529 Education Savings Plan | College Kickstart | General Assembly/Legislature + College Savings Trust Fund |
| Oklahoma | Oklahoma 529 | SEED OK | Philanthropy |
| Pennsylvania | Pennsylvania 529 Investment Plan | Keystone Scholars | Philanthropy + College Savings Trust Fund |

**Letter 1.1 – IRS Response to Feasibility Inquiry**

**DEPARTMENT OF THE TREASURY**
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

CC:EEE:EOET:EO2
GENIN-100571-25

March 12, 2025

UIL: 529.00-00

Dear

This letter responds to your authorized representatives' request dated February 3, 2025, for an information letter addressing the funding requirements applicable to qualified tuition programs ("QTP"), described in section 529(b) of the Internal Revenue Code,[1] and the permissible uses of that funding.

A letter ruling is a written determination issued to a taxpayer by the IRS Office of Associate Chief Counsel in response to a taxpayer's written inquiry, filed prior to the filing of returns or reports that are required by the tax laws, about its status for tax purposes or the tax effects of its acts or transactions. *See* Rev. Proc. 2025-1 § 2.01, 2025-1 I.R.B. 1. A letter ruling interprets the tax laws and applies them to the taxpayer's specific set of facts. A letter ruling is issued when appropriate in the interest of sound tax administration. As your authorized representatives' request acknowledges, the IRS will not ordinarily issue letter rulings on a matter involving the Federal tax consequences of proposed state legislation. *See* Rev. Proc. 2025-3 § 4.02(8), 2025-1 I.R.B. 142. Furthermore, the IRS will not issue a letter ruling on whether a state-run tuition program qualifies under section 529. *See* Rev. Proc. 2025-3 § 3.01(83).

The IRS may, however, provide an information letter—a statement that calls attention to a well-established interpretation or principle of tax law without applying it to a specific set of facts—if a taxpayer's request does not meet the requirements of Revenue Procedure 2025-1 and the IRS concludes that general information will help the taxpayer. *See* Rev. Proc. 2025-1 § 2.04. We hope this general information letter is responsive to your inquiry.

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[1] Unless otherwise noted, all section references are to the Internal Revenue Code of 1986, as amended.

By way of background, a QTP is a program established and maintained by a state, or an agency or instrumentality of a state, or one or more eligible educational institutions, that is exempt from Federal taxation as provided in section 529. QTPs allow a person to prepay a designated beneficiary's qualified higher education expenses ("QHEE") at an eligible educational institution or, in the case of a state, or an agency or instrumentality of a state, to contribute to an account for paying those expenses. QHEEs generally include expenses required for the enrollment or attendance of the designated beneficiary at any college, university, vocational school, or other postsecondary educational institution described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088) as in effect on the date of enactment of section 529(e)(5), and which is eligible to participate in a program under title IV of such Act. In addition, QHEEs include qualified education loan repayments in limited amounts and tuition expenses in connection with a designated beneficiary's enrollment or attendance at an elementary or secondary public, private, or religious school. QHEEs also include fees, books, supplies, and equipment required for the participation of the designated beneficiary in an apprenticeship program registered and certified with the Secretary of Labor under section 1 of the National Apprenticeship Act (29 U.S.C. 50).

Section 529(b)(1)(A)(i) provides that one way a state (or agency or instrumentality thereof) may establish a QTP is by creating a program allowing a person to purchase credits or certificates on behalf of a designated beneficiary to be used to waive or otherwise pay the beneficiary's QHEEs. A QTP also must meet the other requirements of section 529. Section 529 does not establish requirements as to the level of funding a state, or an agency or instrumentality of a state, must maintain to support a QTP described in section 529(b)(1)(A)(i) and to ensure the full payment of those QHEEs. Nor does section 529 address how a state, or an agency or instrumentality of a state, is to administer the funds it receives through QTP credit or certificate purchases. Accordingly, section 529 does not explicitly restrict a state, or an agency or instrumentality of a state, from transferring such receipts to various other state programs.

This letter has called your attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a letter ruling. If you have any additional questions, please contact Peter A. Holiat at (202) 317-3822.

Sincerely,

_/s/_____________
Michael J. Gruccio
Senior Counsel, Exempt Organizations
(Employee Benefits, Exempt Organizations and Employment Taxes)