

**2017 Supplemental Budget  
Decision Package**

**Agency: 340 Student Achievement Council**

**Decision Package Code/Title: AG – Attorney General Legal Services**

**Budget Period: 2016-17**

**Budget Level: ML1 - Maintenance Level**

**Program: 010 - Policy Coordination and Administration**

**Agency Recommendation Summary Text:**

Washington Student Achievement Council (WSAC) requires additional funding for legal services provided by the Attorney General’s Office (AGO). The agency’s need for legal services has been consistently greater than AGO’s allocation of time and estimated payment for legal services since the agency was created in 2012. This request will align WSAC funding for legal services with its actual need and expected usage and AGO authority to bill the agency accordingly. As a result, WSAC will have access to needed legal services and the AGO will be able to provide those services and bill WSAC for its appropriate share of costs.

**Fiscal Detail:**

		<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
<b>Operating Expenditures</b>					
001-1 General Fund - State		\$	\$72,000	\$72,000	\$72,000
	<b>Total Cost</b>	<b>\$</b>	<b>\$72,000</b>	<b>\$72,000</b>	<b>\$72,000</b>
<b>Staffing</b>					
NONE					
	<b>Total FTEs</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>Revenue Detail</b>					
NONE					
	<b>Total Revenues</b>	<b>\$</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Object of Expenditure</b>					
A - Salaries					
B - Benefits					
C - Personal Service Contracts					
E - Goods and Services			\$72,000	\$72,000	\$72,000
G - Travel					
J - Equipment (over \$5,000 per item)					
M - Transfers to Trust Funds					
N - Grants					
		<b>\$</b>	<b>\$72,000</b>	<b>\$72,000</b>	<b>\$72,000</b>

**Description:**

The Washington Student Achievement Council (WSAC) was created in 2012. From a legal perspective, WSAC operates a variety of programs with high complexity and significant risk compared to other agencies its size. The agency manages program grants or contracts with four separate federal agencies (Departments of Education, Health and Human Services, Justice, and Veterans Affairs). WSAC manages more than \$350,000,000 each year in state financial aid, in addition to managing significant sums in the Guaranteed Education Tuition (GET) program and initiating a College Saving Plan.

According to the Attorney General’s Office (AGO), WSAC used 170 percent of the legal services allotted to the agency for the 2013-15 biennium. In Fiscal Year 2016, WSAC spent over 300 percent of its biennial legal services allotment. Legal services in the current biennium may reflect an extreme spike due to some administrative and process cleanup in program management and extra activity related to the GET and College Saving Plan programs. Some reduction in WSAC legal services may be realized in FY 2017, but the sustained experience over the entire 2013-15 biennium and the actual and expected level of service needed for 2015-17 means this is not an anomaly.

Ongoing WSAC legal services include Assistant Attorney General (AAG) services relating to eliminating and mitigating risks associated with the agency’s broad portfolio of business, including but not limited to implementing the newly authorized College Savings Plan, continued stability of the GET program, State Need Grant, College Bound Scholarship, resident tuition determinations (which involve keeping current on federal immigration policy), collections actions related to state financial aid defaults, data-sharing agreements, procurement, rulemaking, and public-private partnerships.

For more information, please contact Don Bennett, Deputy Director, at (360) 753-7831 or donb@wsac.wa.gov.

**Base Budget:**

2013-15 Biennium:

\$30,312 WSAC Legal Services Allotment (Reference: Central Service Model)  
\$52,897 AGO Legal Services billed (Averaged 0.08 AAG in FY14; 0.17 AAG in FY 2015)  
\$-22,585 (170% overspent)

2015-17 Biennium:

FY16	FY17	
\$15,716	\$15,716	WSAC Legal Services Allotment
\$103,485	\$87,634	AGO Legal Services billed (Averaged 0.25 AAG)
\$-87,769	\$-71,918	Shortfall (Actual FY16, Projected FY17)

**Decision Package expenditure, FTE and revenue assumptions, calculations and details:**

Based on AGO FY 17 projected expenditures of \$87,634 and actual allotments of \$15,716 for that same period, the agency would expect to experience a shortfall of \$71,918 without additional

appropriation. The Attorney General’s Office estimates that at least 0.25 AAG time is required to provide WSAC legal services.

FY17 allotment = \$15,716

FY 17 projected = \$87,634

FY 17 supplemental request = \$72,000

**Decision Package Justification and Impacts:**

**What specific performance outcomes does the agency expect?**

Timely and quality legal advice and counsel reduces risk of litigation, as well as financial or reputational risks. To practice effective Enterprise Risk Management, agency staff will regularly seek legal advice before making decisions or taking other actions in identified areas of risk.

**Performance Measure Detail:**

N/A

**Fully describe and quantify expected impacts on state residents and specific populations served:**

Washington residents—especially students who receive state financial aid and others who save for future college expenses through programs administered by WSAC—will be assured that programs and services are provided in full compliance with applicable laws and regulations. Washington residents and taxpayers will have reduced risk that the agency will incur financial liability for actions, so that limited resources are available for other public services.

**What are other important connections or impacts related to this proposal?**

Impact(s) To:	Select Y/N	Identify / Explanation
Regional/County impacts?	No	
Other local gov’t impacts?	No	
Tribal gov’t impacts?	No	
Other state agency impacts?	Yes	Attorney General’s Office needs to accurately allocate legal services to the agency paying for those services.
Responds to specific task force, report, mandate or exec order?	No	
Does request contain a compensation change?	No	

Does request require a change to a collective bargaining agreement?	No	
Facility/workplace needs or impacts?	No	
Capital Budget Impacts?	No	
Is change required to existing statutes, rules or contracts?	No	
Is the request related to or a result of litigation?	No	
Is the request related to Puget Sound recovery?	No	
Identify other important connections	No	

**What alternatives were explored by the agency and why was this option chosen?**

Excess legal services billings were covered in FY16 from vacancy savings that are not available in FY17 and beyond. The Attorney General’s Office (Education Division) internally reports changes in legal services allocated to client agencies and requested WSAC seek an increase in resources for legal services to reflect recent and expected costs.

**What are the consequences of not funding this request?**

Limiting consultation with the Attorney General’s Office to reduce costs increases risk that agency actions are not in concert with existing law, which could expose the agency to liability for damages or other monetary penalties. Other budgeted activities would need to be curtailed to pay for legal services, which would reduce service levels to students and would not be consistent with legislative intent for use of existing agency appropriations.

**How has or can the agency address the issue or need in its current appropriation level?**

Legal services bills have been paid from current appropriations, but FY16 expenditures were over 300 percent of the entire biennial allotment for legal services. Vacancy savings due to one employee being on military leave in FY16 will not be available for FY17 and beyond.

**Other supporting materials:**

N/A

**Information technology:**

No 

Yes. Continue to IT Addendum below and follow the directions on the bottom of the addendum to meet requirements for OCIO review.)

**2017 Supplemental Budget  
Decision Package**

**Agency:** 340 Student Achievement Council

**Decision Package Code/Title:** 9J – Nonappropriated Fund Adjustment

**Budget Period:** 2016-17  
**Budget Level:** ML2 - Maintenance Level  
**Program:** 020 - Guaranteed Education Tuition

**Agency Recommendation Summary Text:**

The Legislature directed the agency to review options for establishing a college savings program and to open a program to run alongside the state’s prepaid tuition plan. Additional one-time expenditure authority is required through the end of fiscal year 2017 to continue the process of identifying and selecting the best options to implement a savings program while restarting the state’s prepaid tuition plan.

**Fiscal Detail:**

	FY 2016	FY 2017	FY 2018	FY 2019
<b>Operating Expenditures</b>				
788-6 – Advanced College Tuition Payment Program Account – Non-Appropriated		\$322,993		
<b>Total Cost</b>		<b>\$322,993</b>	<b>\$0</b>	<b>\$0</b>
<b>Staffing</b>				
788-6 – Advanced College Tuition Payment Program Account – Non-Appropriated				
<b>Total FTEs</b>		0.0	0.0	0.0
<b>Revenue Detail</b>				
		<b><u>Fund Source</u></b>		
Advanced College Tuition Payment Program Account – Non-Appropriated		None None		
<b>Total Revenues</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Object of Expenditure</b>				
A - Salaries		\$116,710		
B - Benefits		\$36,477		
C - Personal Service Contracts				
E - Goods and Services		\$165,347		
G - Travel		\$4,459		
J - Equipment (over \$5,000 per item)				
M - Transfers to Trust Funds				
N - Grants				
		<b>\$322,993</b>	<b>\$0</b>	<b>\$0</b>

## **Description:**

The Guaranteed Education Tuition program (GET) is Washington's 529 prepaid college tuition plan that offers Washington families a safe, easy, and flexible way to save for college. GET is administered by the Washington Student Achievement Council (WSAC) with oversight from the GET Committee (Committee), a five-member panel that meets quarterly to review policies, pricing, and investments. Since the program's inception in 1998, GET has disbursed nearly \$900 million in tuition payments or reimbursements for some 42,000 students. As of June 30, 2016, GET has over 107,000 active accounts with assets totaling \$2.17 billion in value.

In June 2015, the Legislature directed the GET Committee to review the feasibility and different options of establishing a college savings program (to run alongside GET), and to report its findings to the legislative fiscal and higher education committees by December 2016. This section of the legislation (SB 5954; 2015 3<sup>rd</sup> sp.s. c 36 §11) expires on January 1, 2017. The legislation also lowered resident undergraduate tuition in each of the two subsequent academic years. In response to lower tuition, the Committee suspended the GET program to any new tuition unit purchases on July 1, 2015.

The Legislature provided further guidance in April 2016, by creating the Washington College Savings Program (WCSP) that would offer individual and age-based investment options through a traditional 529 college savings plan. The legislation (SB 6601; 2016 c 69) directed the Committee to develop and administer the WCSP. In addition, the legislation calls for the GET program to be reopened by July 1, 2017.

The agency continues to assess the viability and options of establishing WCSP in pursuit of opening such program in July 2017. To meet the legislatively directed mandates, work is continuing into the second half of fiscal year 2017. This work includes evaluating responses to the Request for Proposals (RFP) that have a late November 2016 submittal deadline, conducting oral interviews and selecting finalists in early 2017, and beginning contract negotiations with the apparent successful bidder. The costs associated with this work require a one-time increase in expenditure authority from the administrative fee balance of the GET program account in order to see the process through and ensure the state identifies and selects the best options to implement a savings program while restarting GET.

GET contact person is: Michael Bennion, Associate Director for GET Fiscal Planning, at 360.753.7627, or michaelbe@wsac.wa.gov.

## **Base Budget:**

To implement SB 5954, GET staff identified numerous tasks and work required to reach the milestones necessary to assess the viability of establishing a state 529 college savings program. Based on the individuals' level of time and effort toward this pursuit, existing GET staff time was divided between the two programs. Work either completed or to be completed during this time includes soliciting interest from program managers looking to provide program management services, developing and issuing a RFP, conducting a pre-proposal conference, and beginning to review responses to the RFP.

The salaries and benefits costs identified in Fiscal Detail are estimated to be incurred during the second half of fiscal year 2017, with some staff effort contingent on the successful procurement of a program manager. This includes an estimated 1.4 existing FTE GET staff for work that includes:

- Reviewing and evaluating all RFP responses.
- Determining finalists and selecting an apparent successful bidder from the RFP.
- Conducting weekly implementation team calls with the chosen program manager.
- Reviewing and approving final investment line-ups to ensure statutory compliance and necessary fees to cover ongoing administrative costs.
- Planning and designing GET operations to integrate with the new program.
- Developing marketing materials and beginning the community outreach process.

### **Decision Package expenditure, FTE and revenue assumptions, calculations and details:**

No additional FTE is requested in this decision package, however the costs associated with existing staff work is identified in the section above. Included in Goods and Services are costs that assume the successful procurement of a WCSP program manager. The costs unique to the WCSP are separated and attributed to it specifically (e.g. trademark, training), while costs for work to be shared between the GET program and the WCSP are split as a percentage of staff time dedicated to that program (including indirect costs). During the second half of FY 2017 and included in Goods and Services are the anticipated shared costs of printing and reproducing documents to include the new program in materials, information mailers to existing GET customers, web and graphic design, and a limited marketing budget to get the program off the ground. Additionally, this request covers the shared costs related to travel and conducting community outreach for the dual options the agency would be offering.

### **Decision Package Justification and Impacts:**

#### **What specific performance outcomes does the agency expect?**

GET will reopen on July 1, 2017. Pending a successful outcome from the RFP process and contract negotiation, a college savings program will open at approximately the same time to offer Washington State residents dual platforms for making college education more affordable.

#### **Performance Measure Detail:**

The primary performance measures for the GET program are the number of new enrollments/accounts and the number of units sold each year. While the program is currently suspended to new unit purchases, this one-time increase in expenditure authority will ensure that resources remain dedicated to the successful reopening of GET in July 2017.

#### **Fully describe and quantify expected impacts on state residents and specific populations served:**

Beginning approximately July 1, 2017—assuming the successful procurement of an investment/program manager—Washington State residents will have two 529 plans to choose from: a prepaid tuition plan and a traditional college savings plan (also available to out-of-state residents). Once reopened, GET has a goal of reaching 500,000 unit purchases per year. Depending on market forces, the competitive nature of the industry, and the number of rollovers from GET, the growth of WCSP is difficult to estimate, but similar programs in other states have seen assets of several hundred million within the first five years.

**What are other important connections or impacts related to this proposal?**

Impact(s) To:	Select Y/N	Identify / Explanation
Regional/County impacts?	No	
Other local gov't impacts?	No	
Tribal gov't impacts?	No	
Other state agency impacts?	No	
Responds to specific task force, report, mandate or exec order?	Yes	<u>2015 3rd sp.s. c 36 § 11</u> specifies the content of the report to the legislative fiscal and higher education committees.
Does request contain a compensation change?	No	
Does request require a change to a collective bargaining agreement?	No	
Facility/workplace needs or impacts?	No	
Capital Budget Impacts?	No	
Is change required to existing statutes, rules or contracts?	No	
Is the request related to or a result of litigation?	No	
Is the request related to Puget Sound recovery?	No	
Identify other important connections	Yes	GET account holders will have access to market-based investment options to save for their beneficiaries'/students' college education.

**What alternatives were explored by the agency and why was this option chosen?**

The only alternative available to the agency would have been to not seek an increase in expenditure authority and cover the cost of meeting the legislative mandate and possible creation of a WCSP within existing allotments for GET program administration. The use of the program's existing balance in administrative fee revenue is the only source of funding available to support the program. As stated in its authorizing statute (28B.95.060 RCW), funds received to administer the program are nonappropriated and must be used for, but not limited to, the costs of conducting the business of the program. Without a one-time increase in expenditure authority and the direction from the Legislature that comes with it, this is not a favorable alternative.

**What are the consequences of not funding this request?**

Without funding to support the costs of assessing the viability of establishing a WCSP and the costs of preparing a public launch in July 2017, the GET program would have to reassess the remaining funds available from its program administration allotment for the second half of fiscal year 2017. There is no guarantee that the RFP process for a WCSP will yield a successful investment/program manager, and the availability of any other statutorily authorized resources that would otherwise be applied toward the first full year of a public launch would need to be reimbursed to the GET

account. A worst-case scenario would be having to consider possibly suspending the legislatively mandated directive before the RFP process has been completed.

**How has or can the agency address the issue or need in its current appropriation level?**

Fund 788 is a nonappropriated account.

**Other supporting materials:**

None.

**Information technology:**

- No 
- Yes. Continue to IT Addendum below and follow the directions on the bottom of the addendum to meet requirements for OCIO review.)