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**SEPTEMBER 20, 2018**

**AGENDA ITEM 3  
ACTION ITEM**

**SCHOLARSHARE INVESTMENT BOARD**

*Resolution to Approve Changes to the Maximum Account Balance Limit for ScholarShare 529*

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***Recommendation***

ScholarShare Investment Board (SIB or Board) staff recommends the Board adopt Resolution No. 2018-03 approving an increase to the maximum account balance limit for ScholarShare 529 (Plan) from \$475,000 to \$529,000 per beneficiary.

***Background***

Internal Revenue Code section 529 (Code) requires all qualified tuition plans to set adequate safeguards to prevent contributions in excess of those necessary to meet a beneficiary's expected qualified higher education expenses. Several private letter rulings have been issued by the U.S. Treasury Department and have allowed qualified tuition programs to establish best practices for complying with the Code. Specifically, there have been public letter rulings that determine maximum account balance limits based on seven years of expenses for undergraduate studies or four years of undergraduate and three years of graduate studies at the most expensive educational institution.

The current maximum account balance limit for the Plan is \$475,000 and was approved by the Board in December 2015. AKF Consulting Group (AKF), the Board's 529 industry consultant, provided a memo (Exhibit A) that reviewed the costs associated with attending various institutions of higher education and outlined a range of maximum account balance limit amounts ranging from \$428,826 to \$528,871 for the Board's consideration of an increase to the Plan's current limit. AKF's analysis took into consideration a diverse mix of public, private, in-state, and out-of-state institutions and the base maximum account balance limits currently in place at other 529 plans.

Based on the information and analysis provided by AKF and the guidance offered in the U.S. Treasury Department's private letter rulings, SIB staff recommends that the maximum account balance limit for the Plan be increased from \$475,000 to \$529,000 per beneficiary. This amount would reflect the cost of attending California's most expensive undergraduate institution of higher education multiplied by seven years.

***Presenters***

Julio Martinez, Executive Director, ScholarShare Investment Board  
Andrea Feirstein, Managing Director, AKF Consulting Group

**RESOLUTION NO. 2018-03**

**RESOLUTION OF THE SCHOLARSHARE INVESTMENT BOARD  
RELATING TO THE APPROVAL OF INCREASE IN THE  
MAXIMUM ACCOUNT BALANCE LIMIT FOR THE  
GOLDEN STATE SCHOLARSHARE COLLEGE SAVINGS TRUST**

**WHEREAS**, the ScholarShare Investment Board (the “SIB” or “Board”) was created under Education Code section 69980 et seq. (the “Golden State ScholarShare Trust Act” or “Act”);

**WHEREAS**, Internal Revenue Code section 529 requires all qualified tuition plans to set adequate safeguards to prevent contributions in excess of those necessary to meet a beneficiary’s expected qualified higher education expenses;

**WHEREAS**, Section 69982(i) of the Act provides that the Board shall have the powers and authority to set minimum and maximum investment levels;

**WHEREAS**, the current maximum account balance limit (the “Limit”) for the Golden State ScholarShare College Savings Trust (“ScholarShare”) was set at \$475,000 by the Board in December 2015; and

**WHEREAS**, SIB staff recommends an increase to the Limit from \$475,000 to \$529,000 per beneficiary, based on the analysis of the 529 industry provided by the Board’s 529 industry consultant and guidance obtained from private letter rulings issued by the U.S. Treasury Department that have determined maximum account balance limits based on seven years of expenses for undergraduate studies or four years of undergraduate and three years of graduate studies at the most expensive educational institution;

**NOW, THEREFORE, BE IT RESOLVED**, that the Board hereby approves the change in the Limit from \$475,000 to \$529,000 per beneficiary.

**BE IT FURTHER RESOLVED**, that this Resolution becomes effective upon its adoption by the Board.

Attest: \_\_\_\_\_  
Vincent Brown, Chairperson

Date of Adoption: \_\_\_\_\_



## MEMORANDUM

**TO:** SCHOLARSHARE INVESTMENT BOARD  
**FROM:** AKF CONSULTING GROUP  
**DATE:** AUGUST 14, 2018  
**RE:** MAXIMUM ACCOUNT CONTRIBUTION LIMITS

### I INTRODUCTION

The ScholarShare Investment Board (the “Board”) last approved an increase in the maximum account balance limit for the ScholarShare 529 College Savings Plan (“ScholarShare” or the “Plan”) in December 2015. At the time, the 28% increase from \$371,000 to \$475,000 reflected the cost of attendance at the most expensive private college in California. In accordance with the Board’s periodic review of this limit, the Board’s staff has asked AKF Consulting Group to review the Plan’s current limit and assess whether an increase is warranted. This memorandum provides a foundation for the maximum account balance limit based upon applicable California cost data and summarizes maximum account balance limits nationwide in order for the Board to determine an appropriate increase in the Plan’s limit.

### II REGULATORY BASIS FOR MAXIMUM CONTRIBUTION LIMIT

***Federal Regulatory Basis.*** Section 529(b)(6) of the Internal Revenue Code of 1986, as amended (“Section 529” and the “Code”) states: “A program shall not be treated as a qualified tuition program unless it provides adequate safeguards to prevent contributions on behalf of a designated beneficiary in excess of those necessary to provide for the qualified higher education expenses of the beneficiary.” We note that the Code appears to limit total “contributions” to an account but that disclosure documents for qualified tuition programs often refer to “maximum account balances,” which has been interpreted to mean that the aggregate balance of all accounts for a single beneficiary could exceed the maximum contribution amount but that no further contributions could be made at that time.

The proposed Section 529 Treasury Regulations issued in August 1998 (the “Proposed Regulations”) also require a program to provide adequate safeguards to prevent contributions in excess of those necessary to provide for the beneficiary’s qualified higher education expenses. However, Section 1.529-2(i) (2) of the Proposed Regulations establishes a safe harbor if a program “will bar any additional contributions to an account as soon as the account reaches a specified account balance limit applicable to all accounts of designated beneficiaries with the same expected year of enrollment.” The safe harbor then looks to total contributions (not including earnings) not exceeding an amount determined by actuarial estimates necessary to cover tuition, required fees, and room and board expenses for five years of undergraduate enrollment at the “highest cost institution allowed by the program.”

Since the Proposed Regulations were issued, the U.S. Treasury Department has released several private letter rulings (“PLRs”) that have generally established a seven-year standard by which to calculate allowable maximum contribution limits. These several PLRs issued to individual 529 programs provide a variety of standards by which to calculate allowable limits. Please note that a private letter ruling is written for the benefit of the individual program submitting the request so other qualified tuition plans technically cannot rely upon the Treasury’s position in a given ruling. That being said, the 529 industry



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has looked to private letter rulings generally on key tax points to establish industry best practices for complying with the Section 529. The calculation of maximum account balances falls into this category. Our review of the PLRs shows that several programs calculate the maximum limits based upon seven years of qualified higher education expenses associated with the most expensive higher education institution in a given state. Specifically, the PLR language refers to contributions not being allowed if:

*“[t]he aggregate balance of all accounts for that designated beneficiary exceeds the lesser of: (1) The product (rounded down to the nearest multiple of (\$1,000)) of 7 and the average one year's undergraduate tuition, fees, room and board at independent four year educational institutions as measured and last published by the College Board's Independent College 500 Index; or (2) The cost in current dollars of qualified higher education expenses the account owner reasonably anticipates the designated beneficiary will incur.”<sup>1</sup>*

Other PLRs determine the account contribution limits based upon the most expensive institution in a particular state provided that contributions will not be accepted if:

*“[t]he aggregate balance in all program accounts established for the benefit of the same designated beneficiary to exceed the sum of four times the cost of one year of undergraduate tuition, fees, books, supplies and room and board at the most expensive educational institution eligible for the program and three times the cost of one year of graduate school tuition, fees, books, supplies, and room and board at the most expensive graduate school eligible for the program, defined in the program rules as the "maximum account balance.”<sup>2</sup>*

With these PLRs and industry best practices as guidance, the next section of this memo presents and evaluates the data necessary to consider a limit adjustment for ScholarShare.

### III DATA AND CALCULATIONS

To determine a maximum account balance limit for ScholarShare, we must first establish the universe of higher education institutions from which to draw the allowable qualified higher education expenses, including tuition, required fees, certain room and board, and required books and supplies, all as established by Section 529. In light of the breadth of higher education institutions in the State of California, as well as the diversity of population across the State, we believe the California maximum account balance calculation should consider the following higher education institutions:

- **Most Expensive California Private Colleges:**
  - Claremont McKenna College
  - Harvey Mudd College
  - Occidental College
  - Stanford University
  - University of Southern California
- **Most Expensive California Public Colleges:**
  - University of California, Berkeley
  - University of California, Riverside
- **Most Expensive National Private Colleges:**
  - Sarah Lawrence College

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<sup>1</sup> PLR 200030030, Qualified State Tuition Programs (April 28, 2000) (“2000 PLR”)

<sup>2</sup> PLR 200134032, Qualified State Tuition Programs (August 24, 2001) (“2001 PLR”)



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- Trinity College
- University of Chicago
- **Most Expensive Ivy League College**
  - Columbia University

The following chart shows the undergraduate “Costs of Attendance” provided by these eleven institutions:<sup>3</sup>

	Institution	Tuition	Required Fees	Room and Board	Books, Supplies and Equipment	Total
<b>In-State Public and Private</b>	<b>Claremont McKenna College</b>	\$54,405	Included in Tuition	\$16,705	\$1,200	<b>\$72,310</b>
	<b>Harvey Mudd College</b>	\$56,331	\$295	\$18,127	\$800	<b>\$75,553</b>
	<b>Occidental College</b>	\$54,090	\$596	\$15,496	\$1,220	<b>\$71,402</b>
	<b>Stanford University</b>	\$50,703	\$651	\$15,763	\$1,455	<b>\$68,572</b>
	<b>University of Southern California</b>	\$55,320	\$905	\$15,395 <sup>4</sup>	\$1,200	<b>\$72,820</b>
	<b>University of California, Berkeley</b>	\$14,184	Included in Tuition	\$16,160 <sup>5</sup>	\$850	<b>\$31,194</b>
	<b>University of California, Riverside</b>	\$15,675	Included in Tuition	\$17,000	\$1,300	<b>\$33,975</b>
<b>Out-of-State Private</b>	<b>Columbia University<sup>6</sup></b>	\$56,608	\$2,822	\$14,958 <sup>7</sup>	\$1,250	<b>\$75,638</b>
	<b>Sarah Lawrence College</b>	\$54,440	\$1,460	\$15,802 <sup>8</sup>	\$900 <sup>9</sup>	<b>\$72,602</b>
	<b>Trinity College</b>	\$54,340	\$2,570	\$14,750 <sup>10</sup>	\$1,000	<b>\$72,660</b>
	<b>University of Chicago</b>	\$55,425 <sup>11</sup>	\$1,209	\$17,100	\$1,785	<b>\$75,519</b>

Source: University and College websites, “Cost of Attendance 2018-2019”

<sup>3</sup> While computers are a Qualified Higher Education Expense, institutions are generally silent on their inclusion in the Cost of Attendance

<sup>4</sup> Cost for freshman housing

<sup>5</sup> Excludes an additional \$4,092 per year cost for the Bowles Hall housing option

<sup>6</sup> Costs indicated are for Columbia College

<sup>7</sup> Reflects the most expensive meal option for upper class students; the cost for freshmen is \$14,016

<sup>8</sup> Reflects the most expensive meal option. The cost for all other meal options ranges from \$11,460 to \$15,370

<sup>9</sup> Half of the “books and personal expenses” cost

<sup>10</sup> Excludes an additional \$2,800 per year for the Townhouse housing option

<sup>11</sup> Cost for the College



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Based upon the seven-year average undergraduate cost standard set forth in the 2000 PLR, we have calculated the following estimated seven-year totals as a proxy for the maximum account contribution limit:

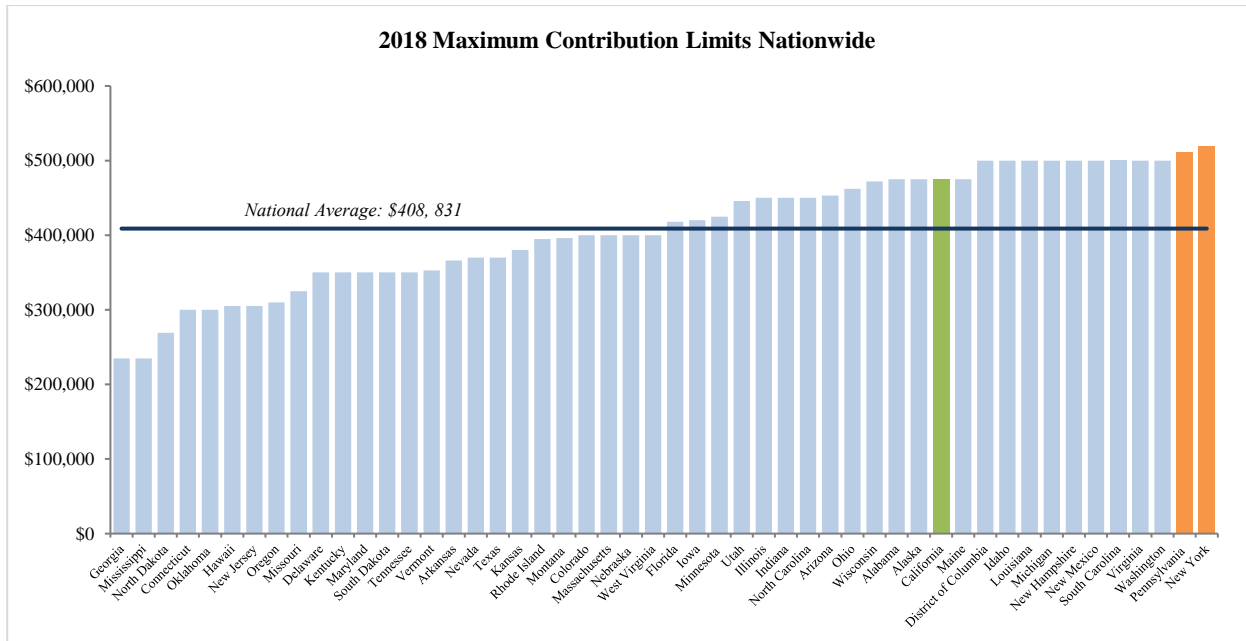
Cost Basis	Average Annual Cost	Estimated Seven-Year Cost
All Institutions Above	\$65,635	\$459,444
Only Private Institutions	\$72,979	\$510,855
Only California Institutions	\$60,832	\$425,826
Highest Cost California Institution <sup>12</sup>	\$75,553	\$528,871
Excludes Highest and Lowest Cost Institutions <sup>13</sup>	\$68,360	\$478,517

As shown in the chart above, ScholarShare’s current maximum contribution limit of \$475,000 exceeds the seven-year estimates for All Institutions and the California Institutions. That said, the cost of attendance at the Private Institutions or the Highest Cost California Institution would support an increase in the \$475,000 limit. Importantly, such an increase would be consistent with the approach taken in 2015, when the increase was based upon the Highest Cost California Institution. To put this account limit in perspective, the following section of this memo provides information on allowable contribution limits across the 529 industry.

**IV MAXIMUM LIMITS NATIONWIDE**

We have surveyed the maximum contribution limits for 529 Plans nationwide as of July 24, 2018. As shown in chart on the top of the following page, the limits range from \$235,000 to \$520,000, resulting in a national average of \$408,831. As an aside, we note that while the current Plan limit of \$475,000 exceeds the national average, it is below the limits of the top 20% of all Plans.

<sup>12</sup> Harvey Mudd College. We note that Harvey Mudd, Columbia and the University of Chicago all have comparable costs of attendance  
<sup>13</sup> Eliminates Columbia University and University of California, Berkeley



Source: Program Disclosure Documents as of July 24, 2018; see also Appendix for State-by-State comparisons

In considering an increase for ScholarShare, we note that the college saving industry continually adjusts maximum contribution limits to keep pace with the rising costs of higher education. In fact, since we last reviewed this issue for the Board in 2015, 28 States (including California) increased maximum contribution limits, with nine States<sup>14</sup> increasing the limits two or more times in this same time period.

We are mindful of the magnitude of the 2015 increase for ScholarShare and note that other States also increased their maximum contribution limits by more than \$100,000 since 2015, including:

- Tennessee (\$235,000 to \$350,000 in June 2016)
- Virginia (\$350,000 to \$500,000 in July 2016)
- Indiana (\$298,770 to \$450,000 in February 2017)
- New York (\$375,000 to \$520,000 in September 2017)
- New Hampshire (\$375,000 to \$500,000 in January 2018)
- Idaho (\$350,000 to \$500,000 in July 2018)
- West Virginia (\$265,620 to \$400,000 in August 2018)

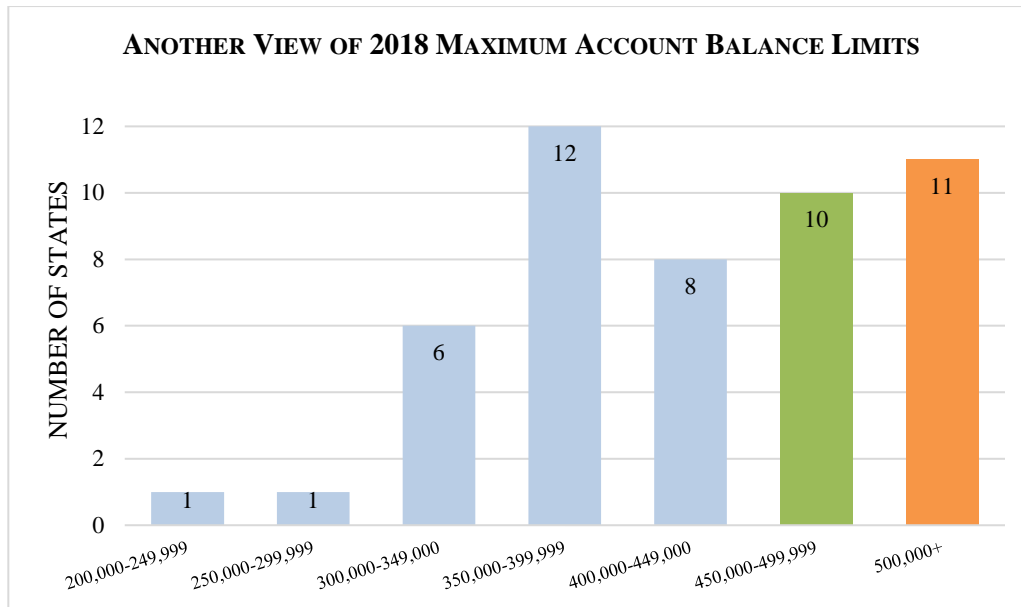
Like ScholarShare in 2015, we believe these large increases recognized the increased cost of higher education and the industry’s overall movement in limits to match that. In reviewing the state of the industry again, we also note the following increases effective June 2018:

- South Carolina (\$426,000 to \$500,000)
- Alabama (\$400,000 to \$475,000)
- Idaho (\$350,000 to \$500,000)
- West Virginia (\$265,620 to \$400,000)
- Illinois (\$400,000 to \$450,000)

<sup>14</sup> Alabama, Arizona, Illinois, Kansas, Maine, Ohio, South Carolina, Utah, Wisconsin



As a result of these changes, and as shown in the following chart, approximately 20% of all States (eleven) currently have maximum contribution limits of at least \$500,000:



Source: Program Disclosure Documents as of July 24, 2018. Please see the **Appendix** for all maximum contribution limits.  
**Green** represents current California maximum contribution limit.  
**Orange** represents the range our recommended maximum contribution limit would fall under

## V CONCLUSION

Since the Board last adjusted the Plan’s contribution limits in 2015, we believe the current review is timely. And, in reflection, the 2015 increase of 28% positioned ScholarShare well through 2018. However, given the overall industry trends that reflect the rising cost of higher education, we believe an adjustment is in order, although not on the magnitude of the 2015 increase. For that reason and based on the information in this memo, the Board could consider an increase to cover the estimated seven-year cost of the Highest Cost California Institution. While this would put ScholarShare at the highest end of the industry’s maximum contribution limits, we believe the increase is reasonable considering the 2018-2019 costs of attendance presented in this memo and the periodic review schedule that the Board has followed.

We hope this memorandum provides sufficient information for the Board’s consideration. We welcome the opportunity to discuss this further or to provide any additional information for the Board’s consideration.

Thank you.





**APPENDIX  
NATIONAL MAXIMUM CONTRIBUTION LIMITS (AS OF JULY 24, 2018)**

<b>ALPHABETICAL ORDER</b>		
	<b>State</b>	<b>Maximum Limit</b>
1	Alabama	\$475,000
2	Alaska	\$475,000
3	Arizona	\$453,000
4	Arkansas	\$366,000
5	California	\$475,000
6	Colorado	\$400,000
7	Connecticut	\$300,000
8	Delaware	\$350,000
9	District of Columbia	\$500,000
10	Florida	\$418,000
11	Georgia	\$235,000
12	Hawaii	\$305,000
13	Idaho	\$500,000
14	Illinois	\$450,000
15	Indiana	\$450,000
16	Iowa	\$420,000
17	Kansas	\$380,000
18	Kentucky	\$350,000
19	Louisiana	\$500,000
20	Maine	\$475,000
21	Maryland	\$350,000
22	Massachusetts	\$400,000
23	Michigan	\$500,000
24	Minnesota	\$425,000
25	Mississippi	\$235,000
26	Missouri	\$325,000
27	Montana	\$396,000
28	Nebraska	\$400,000
29	Nevada	\$370,000
30	New Hampshire	\$500,000
31	New Jersey	\$305,000
32	New Mexico	\$500,000
33	New York	\$520,000
34	North Carolina	\$450,000
35	North Dakota	\$269,000
36	Ohio	\$462,000
37	Oklahoma	\$300,000
38	Oregon	\$310,000
39	Pennsylvania	\$511,758
40	Rhode Island	\$395,000
41	South Carolina	\$500,000
42	South Dakota	\$350,000
43	Tennessee	\$350,000
44	Texas	\$370,000
45	Utah	\$446,000
46	Vermont	\$352,800
47	Virginia	\$500,000
48	Washington	\$500,000
49	West Virginia	\$400,000
50	Wisconsin	\$472,000
<b>National Average</b>		<b>\$408,831</b>

<b>DESCENDING ORDER</b>		
	<b>State</b>	<b>Maximum Limit</b>
1	New York	\$520,000
2	Pennsylvania	\$511,758
3	District of Columbia	\$500,000
4	Idaho	\$500,000
5	Louisiana	\$500,000
6	Michigan	\$500,000
7	New Hampshire	\$500,000
8	New Mexico	\$500,000
9	South Carolina	\$500,000
10	Virginia	\$500,000
11	Washington	\$500,000
12	Alabama	\$475,000
13	Alaska	\$475,000
14	California	\$475,000
15	Maine	\$475,000
16	Wisconsin	\$472,000
17	Ohio	\$462,000
18	Arizona	\$453,000
19	Illinois	\$450,000
20	Indiana	\$450,000
21	North Carolina	\$450,000
22	Utah	\$446,000
23	Minnesota	\$425,000
24	Iowa	\$420,000
25	Florida	\$418,000
26	Colorado	\$400,000
27	Massachusetts	\$400,000
28	Nebraska	\$400,000
29	West Virginia	\$400,000
30	Montana	\$396,000
31	Rhode Island	\$395,000
32	Kansas	\$380,000
33	Nevada	\$370,000
34	Texas	\$370,000
35	Arkansas	\$366,000
36	Vermont	\$352,800
37	Delaware	\$350,000
38	Kentucky	\$350,000
39	Maryland	\$350,000
40	South Dakota	\$350,000
41	Tennessee	\$350,000
42	Missouri	\$325,000
43	Oregon	\$310,000
44	Hawaii	\$305,000
45	New Jersey	\$305,000
46	Connecticut	\$300,000
47	Oklahoma	\$300,000
48	North Dakota	\$269,000
49	Georgia	\$235,000
50	Mississippi	\$235,000
<b>National Median</b>		<b>\$409,000</b>