ATTESTATION REPORT
OF THE
NEBRASKA COORDINATING COMMISSION
FOR POSTSECONDARY EDUCATION

JULY 1, 2013 THROUGH JUNE 30, 2014

Issued on September 30, 2014

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TABLE OF CONTENTS

BACKGROUND

The Coordinating Commission for Postsecondary Education (Commission), in its current form, was created in 1991, following adoption of a constitutional amendment by the voters in 1990. The Commission is composed of 11 citizen members appointed by the Governor with the approval of a majority of the Legislature. Its purpose, powers, and duties were established and are defined by Article VII, Section 14, of the Constitution of Nebraska and the Coordinating Commission for Postsecondary Education Act.

The purpose of the Commission is to coordinate higher education within the State's public institutions by: 1) developing a comprehensive statewide plan for the operation of an educationally and economically sound, vigorous, progressive, and coordinated system of postsecondary education; 2) identifying and enacting policies to meet the educational, research and public service needs of the State; and 3) effecting the best use of available resources through the elimination of unnecessary duplication of programs and facilities among Nebraska's public institutions.

The Commission is also vested with the authority to administer the State financial aid programs, two Federal financial aid programs – the Federal Improving Teacher Quality Program, the Federal College Access Challenge Grant (CACG), and two higher education data systems – the Integrated Postsecondary Education Data System (IPEDS) and the Nebraska Educational Data System (NEEDS).

The Commission's responsibilities and goals are to: 1) develop a comprehensive statewide plan and statewide facilities plan to coordinate higher education within the State's public institutions; 2) review new and existing instructional programs to prevent unnecessary duplication; 3) review capital construction and operating budget requests submitted by institutions to ascertain compliance with the comprehensive statewide plan; 4) conduct studies and surveys it finds appropriate for the purposes of the Coordinating Commission for Postsecondary Education Act; 5) review public institution participation in education centers and off-campus instruction; 6) facilitate access to quality postsecondary education without unnecessary duplication; 7) review requests of out-of-state institutions to offer classes and programs of study within the State; 8) administer certain Federal and State student financial aid programs; 9) maintain information systems to provide the Commission and others with information pertinent to the exercise of their duties and; 10) recommend to the Governor and Legislature legislation it deems necessary or appropriate to change role and mission provisions.

The following programs are used by the Commission:

PROGRAM 297 - EDUCATION GRANTS PROGRAM

The Commission administers the Federal Improving Teacher Quality (ITQ) Program under which it conducts a competition, convenes a review panel, and then awards grants to partnerships comprised of teacher education and arts and sciences divisions at postsecondary institutions and high-need local educational agencies. Grants awarded are intended to support sustained and intensive high-quality professional development programs to improve skills of in-service teachers, administrators, and other staff in any core academic subject area.

BACKGROUND
(Continued)

PROGRAM 640 - ADMINISTRATION

All operations associated with administration of the Coordinating Commission for Postsecondary Education Act and other duties and responsibilities of the Commission are accounted for in this budget program.

PROGRAM 650 - COLLEGE ACCESS CHALLENGE GRANT PROGRAM

The Commission has been designated by the Governor as the primary grant recipient for Nebraska under the U.S. Department of Education College Access Challenge Grant (CACG) Program. The purpose of the program is to increase the number of underrepresented students who enter and remain in postsecondary education. The CACG funds are allocated among the states by formula, and states can award subgrants to eligible entities. The grants are designed to foster partnerships among Federal, State, and local governments, as well as philanthropic organizations, to meet the needs of underrepresented students and families. All public and non-profit private institutions of higher education, K-12 public and private schools or districts, and non-profit organizations based in Nebraska are eligible to apply for subgrants. This program includes both State general funds and Federal grant funds. Funding for the Federal program is currently scheduled to end August 13, 2015.

PROGRAM 690 - NEBRASKA OPPORTUNITY GRANT PROGRAM

The Nebraska Scholarship program replaced three previous State grant programs effective with the fiscal year ended June 30, 2004. Effective for the fiscal year ended June 30, 2011, the program was renamed the Nebraska Opportunity Grant Program. Under the program, scholarship awards are provided to Nebraska residents who attend approved Nebraska postsecondary institutions and whose Expected Family Contribution (EFC) is equal to or less than the yearly maximum as defined in Nebraska Statute. The EFC is determined when students complete and submit the Free Application for Federal Student Aid (FAFSA) to the U.S. Department of Education. The program is administered by the Commission in cooperation with financial aid officers at participating institutions. In accordance with relevant statutes and the rules and regulations of the Commission, identification of target fund levels to be allocated by participating institutions is based on prior year Pell grant activity. Institutions must submit the names of potential award recipients to the Commission for approval prior to award of the funds. This program is funded with both State General Fund appropriations and transfers from the Nebraska Lottery. Per Neb. Rev. Stat. § 9-812(3)(d) (Reissue 2012), the funding from the Nebraska Lottery is scheduled to end June 30, 2016.

PROGRAM 691 - ACCESS COLLEGE EARLY SCHOLARSHIP PROGRAM

This program is statutorily established under the Access College Early Scholarship Program Act, which sets out specific criteria for student eligibility to receive financial aid under the program. Eligible students applying to take one or more courses from an accredited Nebraska postsecondary education institution may apply for a scholarship under the program.

BACKGROUND
(Concluded)

Scholarships awarded under the program are to equal the lesser of tuition and mandatory fees accrued by the student after any applicable discounts or the tuition and mandatory fees that would have been accrued by the student for the same number of credit hours if the student were taking the course as a full-time, resident, undergraduate student from the University of Nebraska – Lincoln. Scholarship amounts are forwarded directly to the relevant postsecondary education institution as payment of the eligible student's tuition and mandatory fees.

Program 691 Federal fund expenditures represent amounts awarded to Nebraska and administered by the Commission under the CACG Program. Funding for the Federal share of this program is currently scheduled to end August 13, 2015.

EXIT CONFERENCE

An exit conference was held August 27, 2014, with the Commission to discuss the results of our examination. Those in attendance for the Commission were:

NAME	TITLE
Carna Pfeil	Interim Executive Director
Gary Timm	Chief Finance & Administrative Officer
Kadi Lukesh	Budget Coordinator
Carol Zink	Commission Vice Chairperson

SUMMARY OF COMMENTS

During our examination of the Nebraska Coordinating Commission for Postsecondary Education (Commission), we noted certain deficiencies and other operational matters that are presented here.

These comments and recommendations are intended to improve the internal control over financial reporting or result in operational efficiencies in the following areas:

1. ***Time Worked Not Adequately Documented:*** Employees exempt from the Fair Labor Standards Act (FLSA) were not required to complete timesheets or certify they rendered no fewer than 40 hours of labor each week.

2. ***Federal Payroll:*** The Commission's personnel activity reports for the FLSA-exempt employees did not account for the total activity for which each employee was compensated.

3. ***Nebraska Opportunity Grant (NOG):*** One individual was responsible for calculating the distribution of Nebraska Opportunity Grant State aid to educational institutions without any supervisory review to verify the accuracy of the calculation. No specific procedures were in place to verify the data upon which the aid distribution was based.

4. ***Bonus Payments:*** Bonus payments totaling $7,000 were made to three Commission employees in fiscal year 2013-14.

More detailed information on the above items is provided hereafter. It should be noted that this report is critical in nature, containing only our comments and recommendations on the areas noted for improvement and does not include our observations on any accounting strengths of the Commission.

Draft copies of this report were furnished to the Commission to provide its management with an opportunity to review and to respond to the comments and recommendations contained herein. All formal responses received have been incorporated into this report. Responses that indicate corrective action has been taken were not verified at this time, but they will be verified in the next examination.

COMMENTS AND RECOMMENDATIONS

1. Time Worked Not Adequately Documented

Neb. Rev. Stat. § 84-1001(1) (Reissue 2008) states:

> *All state officers and heads of departments and their deputies, assistants, and employees, except permanent part-time employees, temporary employees, and members of any board or commission not required to render full-time service, shall render not less than forty hours of labor each week except any week in which a paid holiday may occur.*

Good business practices and a sound internal control plan require employee hours actually worked to be adequately documented – by, for example, timesheets, time logs, or certifications, etc. – and such documentation to be kept on file to provide evidence of compliance with § 84-1001(1). That same documentation should also serve as support for the accuracy of earned employee vacation and sick leave accruals.

During testing, we noted the one employee tested did not have timesheets to trace to hours paid per EnterpriseOne (E1), the State of Nebraska's accounting system. We also noted employees exempt from the Fair Labor Standards Act (FLSA) were not required to complete timesheets or certify they rendered no fewer than 40 hours of labor each week. The Nebraska Coordinating Commission for Postsecondary Education's (Commission) employees not exempt from the FLSA were required to keep timesheets; however, exempt employees had to submit only leave request approval forms, not timesheets or certifications. For payroll purposes, employee leave for FLSA-exempt employees was entered into E1, and sufficient additional regular hours entered to result in a total of 173.33 hours worked by the employee for the month. This was a comment in a prior report.

There is an increased risk of noncompliance with § 84-1001(1) and unearned benefits being accrued when employee timesheets or certifications are not completed for each pay period.

> We recommend the Commission ensure compliance with § 84-1001(1) by developing policies and procedures that require the retention of adequate supporting documentation for employee time worked. This could be accomplished by having FLSA-exempt employees complete an approved timesheet or sign a monthly certification that states, "I certify that I have rendered no fewer than 40 hours of labor each week this month except any week in which a paid holiday may have occurred or paid leave was taken."

Commission Response: Exempt employees are required to only document their leave taken on leave slips that are then reviewed and signed by the supervisor. If there are no leave exceptions, the payroll system pays them the standard hours. The Commission is an agency of 13 employees located in a single, small office. The Executive Director, Chief Finance and Administrative Officer, and Office Manager are well aware when employees are not working and the reason for them not being in the office.

COMMENTS AND RECOMMENDATIONS
(Continued)

1. **<u>Time Worked Not Adequately Documented</u>** (Concluded)

According to the Fair Labor Standards Act, employees must receive the full salary for any week in which the employee performs any work without regard to the number of days or hours worked, unless certain exceptions are met. These allowable exceptions include certain deductions of one or more full days, but only if there is a bona fide plan, policy or practice of providing compensation for a loss of salary.

As noted in the Auditor's recommendation, certification by the employee of 40 hours worked as opposed to daily timesheets, would be considered adequate documentation of forty hours of labor each week. After discussions with the Auditor, their opinion is this certification must occur for each pay period although there does not appear to be any statutory language that the Auditor's methods of compliance with the statute are the only methods available to the Commission. The Commission has included in its policy and procedure manual a definition of a Full-Time Employee that states "An employee scheduled to work a minimum of forty hours per week on a continuous basis." This manual has been provided to all employees as evidenced by a signed acknowledgement.

The Commission believes there are numerous avenues to support compliance with the statute and believe it is management's responsibility to implement a method that meets both the requirements of the statute and the needs of the Commission. The Commission believes its current policy meets its responsibilities for compliance.

APA's Response: This comment relates specifically to documentation of compliance with State Statute. The documented acknowledgement of a statutory compliance requirement by an employee is not the same as documentation of compliance with the requirement. The Commission's employees acknowledge they are aware of the requirement to work a minimum of 40 hours a week, but this does not document that they did work 40 hours each week. Good internal control requires documentation to support a minimum of 40 hours of work rendered by each employee each week. As noted in the comment a certification signed by each employee and their supervisor that they, in fact, rendered 40 hours of service each week would be considered adequate documentation. When employees expect payment of unused vacation and/or sick leave upon termination or retirement, there must be adequate records to support the leave balances paid to employees have been earned.

2. **<u>Federal Payroll</u>**

A good internal control plan includes procedures that ensure adequate timesheets are completed to document time worked.

Additionally, Office of Management and Budget (OMB) Circular A-87, Attachment B, § 8(h)(5), states:

> *Personnel activity reports or equivalent documentation must meet the following standards: (a) They must reflect an after the fact distributions of the actual activity of each employee, (b) They must account for the*

COMMENTS AND RECOMMENDATIONS
(Continued)

2. **Federal Payroll** (Concluded)

total activity for which each employee is compensated, (c) They must be prepared at least monthly and must coincide with one or more pay periods, and (d) They must be signed by the employee, (e) Budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to Federal awards but may be used for interim accounting purposes, provided that: (i) The governmental unit's system for establishing the estimates produces reasonable approximations of the activity actually performed; (ii) At least quarterly, comparisons of actual costs to budgeted distributions based on the monthly activity reports are made. Costs charged to Federal awards to reflect adjustments made as a result of the activity actually performed may be recorded annually if the quarterly comparisons show the differences between budgeted and actual costs are less than ten percent; and (iii) The budget estimates or other distribution percentages are revised at least quarterly, if necessary, to reflect changed circumstances.

During review of the Commission's personnel activity reports, it was noted that Commission time sheets (personnel activity reports) did not account for the total activity for which each employee was compensated. This applied to FLSA-exempt employees. One employee only recorded time not spent on College Access Challenge Grant (CACG) activity. Additionally, two employees' timesheets for the Improving Teacher Quality (ITQ) Grant recorded only time worked on the ITQ activity and did not account for all the time for which the employees were compensated.

The Commission was not in compliance with OMB Circular A-87 Federal requirements.

> We recommend the Commission implement procedures for completing personnel activity reports, which should include documentation of all time for which compensation is paid.

Commission Response: The Commission will implement procedures for employees that spend time on federal grants that will document 100% of the time spent on federal and non-federal duties. The Commission would note that federal grants were charged only for time individuals spent on federal grants.

3. **Nebraska Opportunity Grant (NOG)**

The NOG program is funded by State general funds and funds generated from Nebraska Lottery sales, as authorized under the NOG Act. The purpose of the NOG program is to provide financial assistance to enable undergraduate students to receive educational services from an eligible postsecondary educational institution in Nebraska. For fiscal year ended June 30, 2014, the Commission received and distributed $6,668,156 in State general funds and $9,779,888 in Nebraska Lottery funds for a total of $16,448,044 to 41 institutions in Nebraska.

A good internal control plan includes procedures to ensure aid distributions are accurate and based on accurate data.

COMMENTS AND RECOMMENDATIONS
(Continued)

3. Nebraska Opportunity Grant (NOG) (Concluded)

In our review of the program, we noted that one individual was responsible for calculating the distribution of NOG State aid to each institution, using a spreadsheet application, without any secondary supervisory review to verify the calculation was accurate. We noted also that no specific procedures were in place to verify the data upon which the aid distribution was based.

The aid distribution is based on the number of credit hours for eligible students and the amount of tuition and fees for a full-time student, certified to the Commission by each institution. In general terms, the calculation of aid to each institution consists of multiplying the number of eligible full-time equivalent students by the amount of tuition and fees for a full-time student to get total numbers for all institutions. These numbers then become the basis to allocate a prorated share of the aid to each institution. Thus, if an institution reports inaccurate data to the Commission, it would affect the amount of distribution to each institution. The Commission indicated that it reviewed the data provided for the distribution for the 2011-12 school year; however, documentation of this review could not be located.

Without a documented review of the NOG distribution there is an increased risk of errors in the distribution going undetected. Additionally; without procedures in place to verify the data the NOG distribution is based on, there is an increased risk of errors in the distribution.

> We recommend the Commission complete a documented secondary supervisory review of the NOG aid distribution calculation and develop procedures to verify the accuracy of the data submitted by institutions that is used to calculate this aid distribution.

Commission Response: The Commission agrees with this recommendation and will implement procedures for a supervisory review.

4. Bonus Payments

During fiscal year 2013-2014, the Nebraska Coordinating Commission for Postsecondary Education (Commission) paid employee bonuses to three of its employees. According to the Commission, the bonuses, which ranged from $500 to $5000, were compensation for increased employee workloads to administer Federal aid.

The Commission granted the following employee bonuses:

Employee	Employee Title	Bonus Amount
Staff	Administrative Assistant	$500
Staff	Financial Aid Officer	$1,500
Staff	Database Manager	$5,000
Total Amount of Employee Bonuses Paid: $7,000		

COMMENTS AND RECOMMENDATIONS
(Continued)

4. <u>Bonus Payments</u> (Continued)

In a May 29, 2013, memo regarding one of the bonuses, the previous Executive Director of the Commission explained, "This [bonus to the Database Manager] is not an increase in annual salary, but a one-time bonus."

In that same memo, the previous Executive Director explained further, "This bonus will be paid with CACG [College Access Challenge Grant] funds and will be included in the July payroll." A subsequent July 19, 2013, memo by the previous Executive Director reiterated, "Funding for the bonuses will be drawn from the federal College Access Challenge Grant award year of 2012-2013 (#48650600)."

Additionally, the Commission's own "Policy for the Compensation of Commission Staff" (Policy) authorizes the Executive Director to grant additional compensation to a Commission employee. The Policy states, as is relevant:

> *The Executive Director, upon consultation with the Executive Committee has the authority to approve one-time additional compensation up to $1,500 or <u>up to 40 hours of additional leave time</u> for officers or staff to reflect temporary changes in duties, exceptional performance, <u>or other factors</u>. These adjustments do not affect the continuing base salary <u>or leave accrual status</u> of the employee and adjustments will reflect common practices of other agencies. These also will be reported to all Commissioners.*

Discussing this Policy, as well as one of the larger payments made under it, the former Interim Executive Director of the Commission explained in a July 8, 2014, email message:

> *We have a policy that allows the executive director, at his or her discretion, to award bonuses up to $1,500 per person per year. Any award over $1,500 must be approved by the Executive Committee. The bonus can be based on any number of things such as extra effort, extra hours, or the executive director can determined that the employee was providing additional support or assistance in any number of ways. Bonuses up to $1,500 are at the discretion of the executive director.*
>
> *In the case of the $5,000 bonus for the database manager, he completed a project that was supposed to be completed by the CIO's office, but they didn't get the project completed on time so he finished some of the necessary elements. In this particular case, the database manager did keep track of his hours and we based his bonus on those additional hours.*

The Commission maintains that the purpose of the bonuses in question was to compensate employees for additional work actually performed. Nevertheless, the payment of such bonuses appears constitutionally suspect.

Article III, Section 19, of the Nebraska State Constitution provides, in relevant part:

> *The Legislature shall never grant any extra compensation to any public officer, agent, or servant after the services have been rendered nor to any contractor after the contract has been entered into, except that retirement benefits of retired public officers and employees may be adjusted to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement.*

COMMENTS AND RECOMMENDATIONS
(Continued)

4. Bonus Payments (Continued)

The Nebraska Attorney General has explained the meaning of the prohibition in Article III, Section 19, as follows:

> *The purpose of state constitutional provisions prohibiting extra compensation to public employees after services are rendered is to prevent payments in the nature of gratuities for past services.*

Op. Att'y Gen. No. 94064 (Aug. 10, 1994). As the Nebraska Attorney General has summarized in another opinion, Article III, Section 19, serves "to prohibit the payment of gratuities by the State." Op. Att'y Gen. No. 95063 (Aug. 09, 1995).

According to the Nebraska Supreme Court, a violation of Article III, Section 19, occurs when the decision to grant the additional compensation is made after the services have been performed:

> *We have said that when the "services" for which compensation is granted are rendered prior to the date on which the terms of compensation are determined, the "benefits awarded are not compensation but are a gratuity." See Wilson v. Marsh, 162 Neb. 237, 252, 75 N.W.2d 723, 732 (1956). It follows that when the "services" for which compensation is paid are rendered after the date on which the terms of compensation are established, the benefits awarded are not a gratuity.*

City of Omaha v. City of Elkhorn, 276 Neb. 70, 83, 752 N.W.2d 137, 147 (2008). The Nebraska Supreme Court has observed also that, in order to comply with Article III, Section 19, the payment of additional compensation must arise out of a legal obligation on the part of the individual or entity making the payment:

> *A payment of compensation to a public servant constitutes extra compensation whenever there is no legal obligation to pay such compensation.*

Myers v. Nebraska Equal Opportunity Com'n, 255 Neb. 156, 164, 582 N.W.2d 362, 367 (1998) (quoting *Matter of Mullane v. McKenzie*, 269 N.Y. 369, 377, 199 N.E. 624, 627 (1936)). In light of the Commission's own descriptions of its employee bonus payments, that additional remuneration appears questionable under Article III, section 19.

To start, both the decision to grant the employee bonuses and the determination as to the amounts to be paid were made after completion of the extra Federal aid work. This is supported by the Interim Executive Director's statement, "In this particular case . . . [the database manager] did keep track of his hours and we based his bonus on those additional hours."

Additionally, it appears that the Commission had no legal obligation to pay the employee bonuses. As the Interim Executive Director explained, "We have a policy that allows the executive director, at his or her discretion, to award bonuses . . . ." Likewise, the previous Executive Director pointed out, "This [bonus] is not an increase in annual salary, but a one-time bonus." A discretionary bonus not tied to any contractual salary amount cannot be said to constitute a legal obligation on the part of the Commission.

COMMENTS AND RECOMMENDATIONS
(Continued)

4. Bonus Payments (Continued)

The information presented above indicates that the Commission's employee bonus payments may conflict with Article III, Section 19. According to the Commission, however, the bonus payments at issue were made with Federal grant money. This is important because the courts in some jurisdictions have ruled that constitutional prohibitions against gratuitous payments to public employees – such as that found in Article III, Section 19 – apply only to the expenditure of State funds.

For instance, in language almost identical to that found in its Nebraska counterpart, Article IV, Part 2, Section 17, of the Arizona State Constitution provides, in relevant part:

> *The legislature shall never grant any extra compensation to any public officer, agent, servant or contractor, after the services shall have been rendered or the contract entered into . . . .*

Analyzing this constitutional prohibition, the Court of Appeals of Arizona explained:

> *The language of Arizona's extra compensation clause does not expressly define the funds to which it applies . . . . Reason and the purpose of the clause, however, indicate that it applies only to legislative expenditure of state funds . . . . We believe . . . the conclusion that best accords with the purpose and language of the Arizona Constitution, is that a constitutional prohibition against extra compensation is intended to limit only payments of public funds from a state's treasury. We hold, therefore, that the extra compensation clause does not apply to any expenditures . . . unless they involve public state funds paid from the state treasury in monies owned by the state.*

McClead v. Pima County, 174 Ariz. 348, 355-357, 849 P.2d 1378, 1385-1387 (1992). No matter how seemingly reasonable or informative, a holding by a court in another jurisdiction is not controlling here. As the Nebraska Supreme Court has declared, "Decisions of other states are merely advisory and are not binding in Nebraska . . ." *State v. Johns*, 185 Neb. 590, 598, 177 N.W.2d 580, 585 (1970). At the same time, though, the Nebraska Supreme Court has acknowledged that, in cases of first impression, this State's courts will look to other jurisdictions for guidance. *Bondi v. Bondi*, 255 Neb. 319, 321, 586 N.W.2d 145, 147 (1998).

To the best of the APA's knowledge, no legal precedent has been established in Nebraska regarding the source of the funds to which Article III, Section 19, is applicable. Thus, it is uncertain whether paying the employee bonuses out of Federal grant money, rather than from State or public funds, would have any ameliorative impact whatsoever upon a potential determination of unconstitutionality.

The most effortless, cost-effective, and timely way to put to rest any question regarding the constitutionality of the Commission's employee bonus payments would be to seek a formal legal opinion on that issue from the Nebraska Attorney General.

> Because of the possibility that its informal method of granting employee bonus payments may run afoul of Article III, Section 19, we recommend that the Commission seek guidance from the Nebraska Attorney General by requesting a formal legal opinion on the matter.

COMMENTS AND RECOMMENDATIONS
(Concluded)

4. Bonus Payments (Concluded)

Commission Response: While the Commission appreciates the time and effort the Auditor has expended in documenting this comment, the Commission does not believe that these additional payments meet the definition of gratuities which is necessary to be considered a bonus payment. The underlying test for a gratuity is whether the employee had an expectation of the payment. If there was an expectation, then the payment is not considered a gratuity. The audit finding states the auditor's do not question that the employees performed the additional duties so it would appear that the Auditor agrees additional work was done by these employees. What is being questioned by the Auditor is management's decision on how best to pay these individuals for the additional work. While the Commission has referred to the payments as bonus payments, they could also have been called lump-sum temporary in-grade salary adjustments. In other words, the Commission had options on how to make payments to these individuals for the work performed. The Commission chose to use, in its opinion, the most expeditious method of payment. The Commission could have increased the pay for these individuals a small amount each month to total the lump-sum payment that was actually made, then decreased the rate after the grant period. If this would have been done, the finding would not have been included in the audit report. While this would have provided documentation as to the employee expectation, the Commission contends that the employees had this expectation as a result of past experience as well as documentation in the federal budget submitted to the oversight agency of the intent by the Commission to pay these amounts. The Commission believes that the method of payment to these three employees, whether a small monthly increase or a one-time lump sum payment, is a management decision and not one of constitutionality. As such, the Commission does not believe a difference of opinion over supporting documentation would give rise to a level of importance where an Attorney General's opinion should be requested.

In addition, the State has provided two methods to make bonus payments as found in Title 273 NAC, Chapter 8, 007 Bonus Payments and Chapter 18 – Employee Recognition Programs. Title 273, more commonly known as Personnel Rules and Regulations, apply to non-Constitutional agencies and non-union employees. These two policies, which are still included in the Title 273, were reviewed and approved by the Attorney General and the Governor on October 25, 2006. While the Commission does not fall under the Personnel Rules and Regulations, it is important to point out that the state does have a bonus payment policy, much like the Commission's policy. It would not be equitable to disallow the Commission to have a bonus policy when state agencies that fall under Title 273 have a bonus policy.

APA's Response: The APA reiterates its recommendation that a formal opinion from the Attorney General be sought regarding the legality of the Commission's employee bonus payments.

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NEBRASKA COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION

INDEPENDENT ACCOUNTANT'S REPORT

Nebraska Coordinating Commission for Postsecondary Education
Lincoln, Nebraska

We have examined the accompanying Schedule of Revenues, Expenditures, and Changes in Fund Balances of the Nebraska Coordinating Commission for Postsecondary Education (Commission) for the fiscal year ended June 30, 2014. The Commission's management is responsible for the Schedule of Revenues, Expenditures, and Changes in Fund Balances. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants, and the standards applicable to attestation engagements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States and, accordingly, included examining, on a test basis, evidence supporting the Schedule of Revenues, Expenditures, and Changes in Fund Balances and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, the schedule referred to above presents, in all material respects, revenues, expenditures, and changes in fund balances of the Nebraska Coordinating Commission for Postsecondary Education for the fiscal year ended June 30, 2014, based on the accounting system and procedures prescribed by the State of Nebraska's Director of Administrative Services, as described in Note 1.

In accordance with *Government Auditing Standards*, we are required to report findings of deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to the Schedule of Revenues, Expenditures, and Changes in Fund Balances and any fraud and illegal acts that are more than inconsequential that come to our attention during our examination. We are also required to obtain the views of management on those matters. We performed our examination to express an opinion on whether the Schedule of Revenues, Expenditures, and Changes in Fund Balances is presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal control over the Schedule of Revenues, Expenditures, and Changes in Fund Balances or on compliance and other matters; accordingly, we express no such opinions. Our examination disclosed no findings that are required to be reported under *Government Auditing Standards.*

This report is intended solely for the information and use of management, the Commission, others within the Commission, and the appropriate Federal and regulatory agencies, and it is not intended to be, and should not be, used by anyone other than these specified parties. However, this report is a matter of public record, and its distribution is not limited.

September 16, 2014

Mike Foley
Auditor of Public Accounts

NEBRASKA COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION

SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES

For the Year Ended June 30, 2014

	General Fund 10000	NCCPSE Admin Cash Fund 24810	Nebraska Opportunity Grant Fund 24820	Federal Fund 40000	Title I 44810	NCCPSE Trust Fund 64810	Sun-Mart Scholarship Fund 64820	**Totals (Memorandum Only)**
REVENUES:								
Appropriations	$ 8,991,940	$ -	$ -	$ -	$ -	$ -	$ -	$ 8,991,940
Intergovernmental	-	-	-	1,819,302	-	24,738	-	1,844,040
Sales & Charges	-	5,800	-	-	-	-	-	5,800
Miscellaneous	-	860	217,205	-	206	178	76	218,525
TOTAL REVENUES	8,991,940	6,660	217,205	1,819,302	206	24,916	76	11,060,305
EXPENDITURES:								
Personal Services	994,660	(129)	-	92,549	-	-	-	1,087,080
Operating	193,100	2,766	-	40,591	-	19,204	651	256,312
Travel	19,432	4,359	-	3,029	-	-	-	26,820
Capital Outlay	2,484	-	-	-	-	-	-	2,484
Government Aid	7,782,875	-	10,399,462	1,683,133	-	-	-	19,865,470
TOTAL EXPENDITURES	8,992,551	6,996	10,399,462	1,819,302	-	19,204	651	21,238,166
Excess (Deficiency) of Revenues Over (Under) Expenditures	(611)	(336)	(10,182,257)	-	206	5,712	(575)	(10,177,861)
OTHER FINANCING SOURCES (USES):								
Sales of Assets	611	-	-	-	-	-	-	611
Operating Transfers In	-	3,705	9,281,273	-	-	-	-	9,284,978
TOTAL OTHER FINANCING SOURCES (USES)	611	3,705	9,281,273	-	-	-	-	9,285,589
Net Change in Fund Balances	-	3,369	(900,984)	-	206	5,712	(575)	(892,272)
FUND BALANCES, July 1, 2013	-	44,515	12,460,394	-	10,601	7,546	4,139	12,527,195
FUND BALANCES, June 30, 2014	$ -	$ 47,884	$ 11,559,410	$ -	$ 10,807	$ 13,258	$ 3,564	$ 11,634,923
FUND BALANCES CONSIST OF:								
General Cash	$ -	$ 47,884	$ 11,559,410	$ -	$ 10,807	$ 13,258	$ 3,564	$ 11,634,923
TOTAL FUND BALANCES	$ -	$ 47,884	$ 11,559,410	$ -	$ 10,807	$ 13,258	$ 3,564	$ 11,634,923

The accompanying notes are an integral part of the schedule.

NOTES TO THE SCHEDULE

For the Fiscal Year Ended June 30, 2014

1. Criteria

The accounting policies of the Nebraska Commission for Postsecondary Education (Commission) are on the basis of accounting, as prescribed by the State of Nebraska Director of Administrative Services. Per Neb. Rev. Stat. § 81-1107(2) (Reissue 2008), the duties of the State of Nebraska's Director of the Department of Administrative Services (DAS) include:

> *The keeping of general accounts and the adoption and promulgation of appropriate rules, regulations, and administrative orders designed to assure a uniform and effective system of accounts and accounting, the approval of all vouchers, and the preparation and issuance of warrants for all purposes[.]*

In accordance with Neb. Rev. Stat. § 81-1111(1) (Reissue 2008), the State Accounting Administrator has prescribed the system of accounts and accounting to be maintained by the State and its departments and agencies and has developed necessary accounting policies and procedures. The prescribed accounting system currently utilizes EnterpriseOne, an accounting resource software, to maintain the general ledger and all detailed accounting records. Policies and procedures are detailed in the Nebraska State Accounting Manual published by DAS State Accounting Division (State Accounting) and are available to the public. The financial information used to prepare the Schedule of Revenues, Expenditures, and Changes in Fund Balances was obtained directly from the general ledger and fund balance information maintained on EnterpriseOne. EnterpriseOne is not an accrual accounting system; instead, accounts are maintained on a modified cash basis. As revenue transactions occur, the agencies record the accounts receivable and related revenues in the general ledger. As such, certain revenues are recorded when earned regardless of the timing of related cash flows. State Accounting does not require the Commission to record all accounts receivable and related revenues in EnterpriseOne; as such, the Commission's schedule does not include all accounts receivable and related revenues. In a like manner, expenditures and related accounts payable are recorded in the general ledger as transactions occur. As such, the schedule includes those expenditures and related accounts payables posted in the general ledger as of June 30, 2014, and not yet paid as of that date. The amount recorded as expenditures on the schedule, as of June 30, 2014, **does not** include amounts for goods and services received before June 30, 2014, which had not been posted to the general ledger as of June 30, 2014.

The Commission had no accounts receivable at June 30, 2014. Liabilities for accrued payroll and compensated absences are not recorded in the general ledger.

The fund types established by the State that are used by the Commission are:

10000 – General Fund – accounts for activities funded by general tax dollars and related expenditures and transfers.

20000 – Cash Funds – account for revenues generated by specific activities from sources outside of State government and the expenditures directly related to the generation of the revenues. Cash funds are established by State statutes and must be used in accordance with those statutes.

NOTES TO THE SCHEDULE
(Continued)

1. Criteria (Continued)

40000 – Federal Funds – account for the financial activities related to the receipt and disbursement of funds generated from the Federal government as a result of grants and contracts. Expenditures must be made in accordance with applicable Federal requirements.

60000 – Trust Funds – account for assets held by the State in a trustee capacity. Expenditures are made in accordance with the terms of the trust.

The major revenue account classifications established by State Accounting and used by the Commission are:

Appropriations – Appropriations are granted by the Legislature to make expenditures and to incur obligations. The amount of appropriations reported as revenue is the amount of expenditures.

Intergovernmental – Revenue from other governments in the form of grants, entitlements, shared revenues, payments in lieu of taxes, or reimbursements.

Sales & Charges – Income derived from sales of merchandise and commodities, compensation for services rendered, and charges for various licenses, permits, and fees.

Miscellaneous – Revenue from sources not covered by other major categories, such as investment income.

The major expenditure account classifications established by State Accounting and used by the Commission are:

Personal Services – Salaries, wages, and related employee benefits provided for all persons employed by the Commission.

Operating – Expenditures directly related to a program's primary service activities.

Travel – All travel expenses for any state officer, employee, or member of any commission, council, committee, or board of the State.

Capital Outlay – Expenditures that result in the acquisition of or an addition to capital assets. Capital assets are resources of a long-term character, owned or held by the government.

Government Aid – Payment of Federal and/or State money to governmental subdivisions, State agencies, local health and welfare offices, individuals, etc., in furtherance of local activities and accomplishment of State programs.

NOTES TO THE SCHEDULE
(Continued)

1. Criteria (Concluded)

Other significant accounting classifications and procedures established by State Accounting and used by the Commission include:

> **Assets –** Resources owned or held by a government that have monetary value. Assets include cash accounts. Accounts receivable are recorded as an increase to revenues resulting in an increase to fund balance on the schedule. Cash accounts are also included in fund balance and are reported as recorded in the general ledger.
>
> **Liabilities –** Legal obligations arising out of transactions in the past that must be liquidated, renewed, or refunded at some future date. Accounts payable transactions are recorded as expenditures, resulting in a decrease to fund balance.
>
> **Other Financing Sources –** Operating transfers and proceeds of fixed asset dispositions.

2. Reporting Entity

The Commission is a State agency established under and governed by the laws of the State of Nebraska. As such, the Commission is exempt from State and Federal income taxes. The schedule includes all funds of the Commission included in the general ledger.

The Commission is part of the primary government for the State of Nebraska.

3. Totals

The Totals "Memorandum Only" column represents an aggregation of individual account balances. The column is presented for overview informational purposes and does not present consolidated financial information because interfund balances and transactions have not been eliminated.

4. General Cash

General cash accounts are under the control of the State Treasurer or other administrative bodies, as determined by law. All cash deposited with the State Treasurer is initially maintained in a pooled cash account. On a daily basis, the State Treasurer invests cash not needed for current operations with the State's Investment Council, which maintains an operating investment pool for such investments. Interest earned on those investments is allocated to funds based on their percentage of the investment pool.

NOTES TO THE SCHEDULE
(Continued)

5. Capital Assets

Capital assets include land, buildings, equipment, improvements to buildings, construction in progress and infrastructure assets (e.g., roads, bridges, sidewalks, and similar items). Under State Accounting policies, expenditures for such capital assets are not capitalized as an asset in the funds used to acquire or construct them. Rather, costs of obtaining the capital assets are reflected as expenditures in the general ledger and are reported as such on the Schedule.

However, State Accounting does adjust such expenditures and reports the capital assets as assets for the State of Nebraska in the Comprehensive Annual Financial Report (CAFR). In addition, the Commission takes an annual inventory, recording in the State Accounting System all equipment that has a cost of $300 or more at the date of acquisition.

For the CAFR, the State requires the Commission to value all capital assets at cost where historical records are available and at estimated historical cost where no historical records exist. Donated capital assets are valued at their estimated fair market value on the date received. Generally, equipment that has a cost of $5,000 or more at the date of acquisition and has an expected useful life of more than one year is capitalized. Depreciation expenses are reported in the CAFR in the funds used to acquire or construct them for the State of Nebraska. The cost of normal maintenance and repairs that does not add to the value of the asset or extend the asset's life is not capitalized.

Equipment is depreciated in the CAFR using the straight-line method with estimated useful lives of 3 to 10 years.

Capital asset activity of the Commission recorded in the State Accounting System for the fiscal year ended June 30, 2014, was as follows:

	Beginning Balance	Increases	Decreases	Ending Balance
Capital Assets				
Equipment	$ 177,916	$ 2,484	$ 44,970	$ 135,430
Less accumulated depreciation for:				
Equipment				124,334
Total capital assets, net of depreciation				$ 11,096

NOTES TO THE SCHEDULE
(Concluded)

6. Transfers

The Commission received $9,281,273 in transfers in from the Nebraska Lottery during fiscal year 2014 for the purpose of distributing aid payments through the Nebraska Opportunity Grant Program. Neb. Rev. Stat. § 9-812(3)(d) (Reissue 2012) states:

> *Through June 30, 2016, twenty-four and three-fourths percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund shall be transferred to the Nebraska Opportunity Grant Fund.*

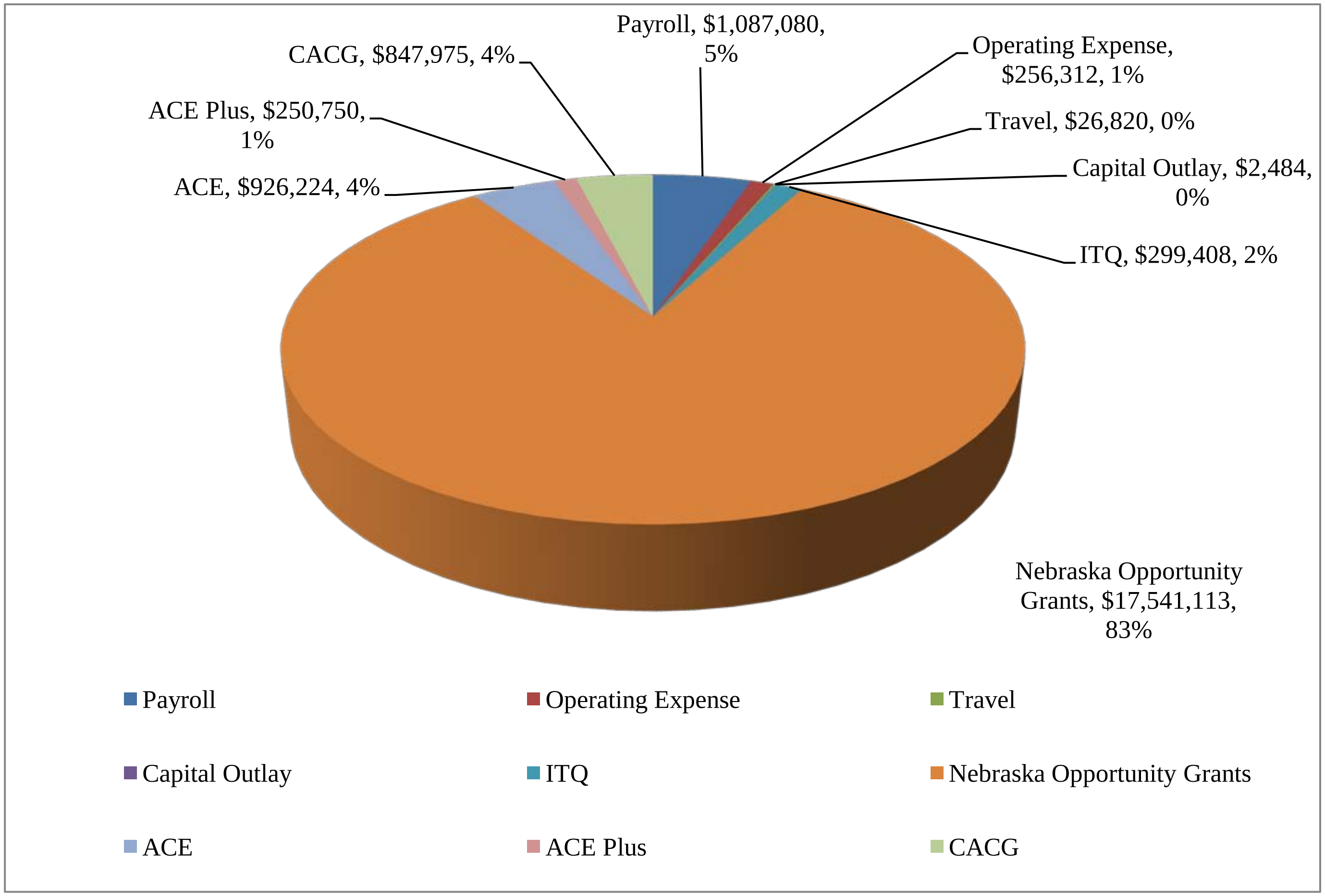
SUPPLEMENTARY INFORMATION

Our examination was conducted for the purpose of forming an opinion on the Schedule of Revenues, Expenditures, and Changes in Fund Balances. Supplementary information is presented for purposes of additional analysis. Such information has not been subjected to the procedures applied in the examination of the Schedule of Revenues, Expenditures, and Changes in Fund Balances, and, accordingly, we express no opinion on it.

NEBRASKA COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION

EXPENDITURES

For Fiscal Year Ending June 30, 2014

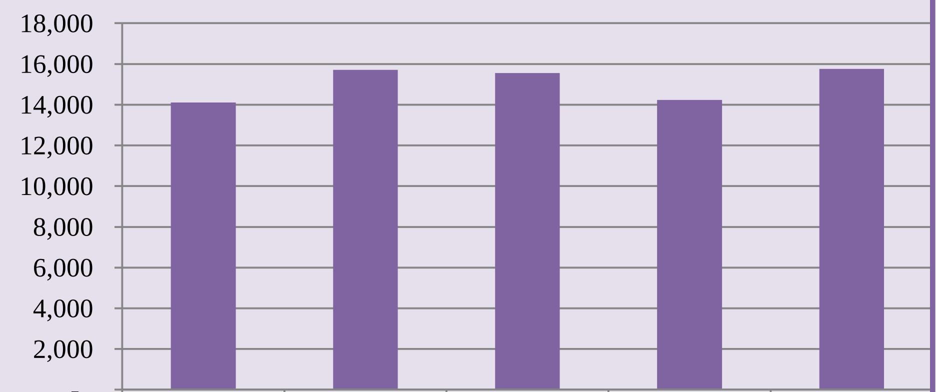


Total Expenditures $21,238,166

ITQ - Improving Teacher Quality, ACE - Access College Early, CACG - College Access Challenge Grant

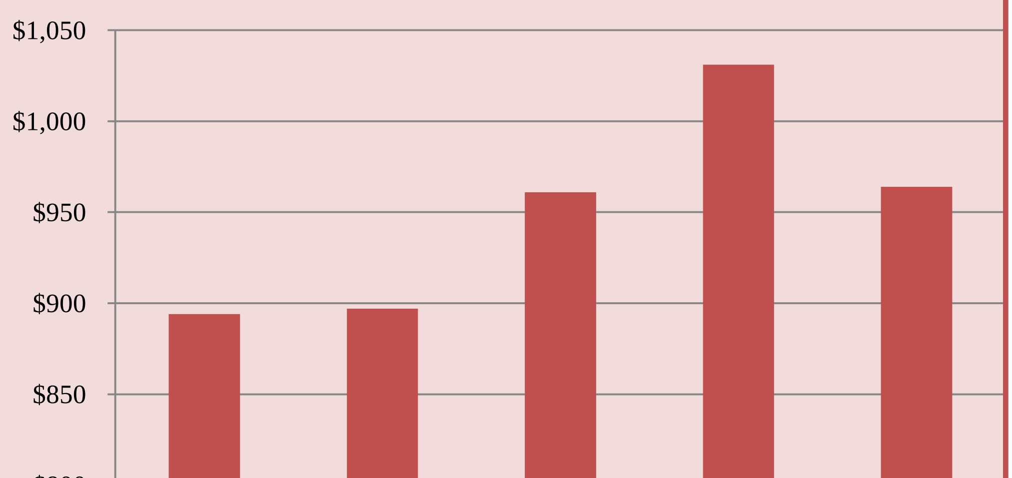
Amounts shown for ACE, ACE Plus, CACG, ITQ, and Nebraska Opportunity Grants include aid payments only.

Number of Students Awarded Nebraska Opportunity Grants
School Years 2008-09, 2009-10, 2010-11, 2011-12, and 2012-13



	2008-09	2009-10	2010-11	2011-12	2012-13
Number of Students Awarded	14,106	15,704	15,556	14,239	15,757

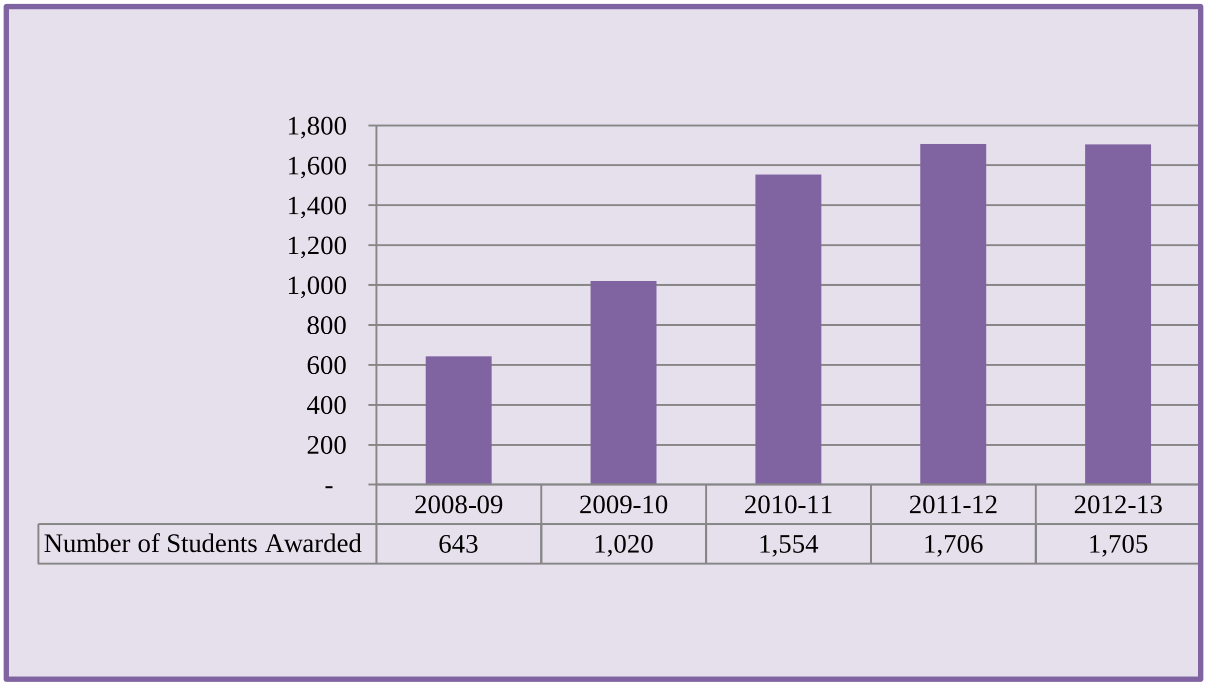
Average Nebraska Opportunity Grant Award per Student
School Years 2008-09, 2009-10, 2010-11, 2011-12, and 2012-13



	2008-09	2009-10	2010-11	2011-12	2012-13
Average Grant Award	$894	$897	$961	$1,031	$964

Number of Students Awarded Access College Early Grants

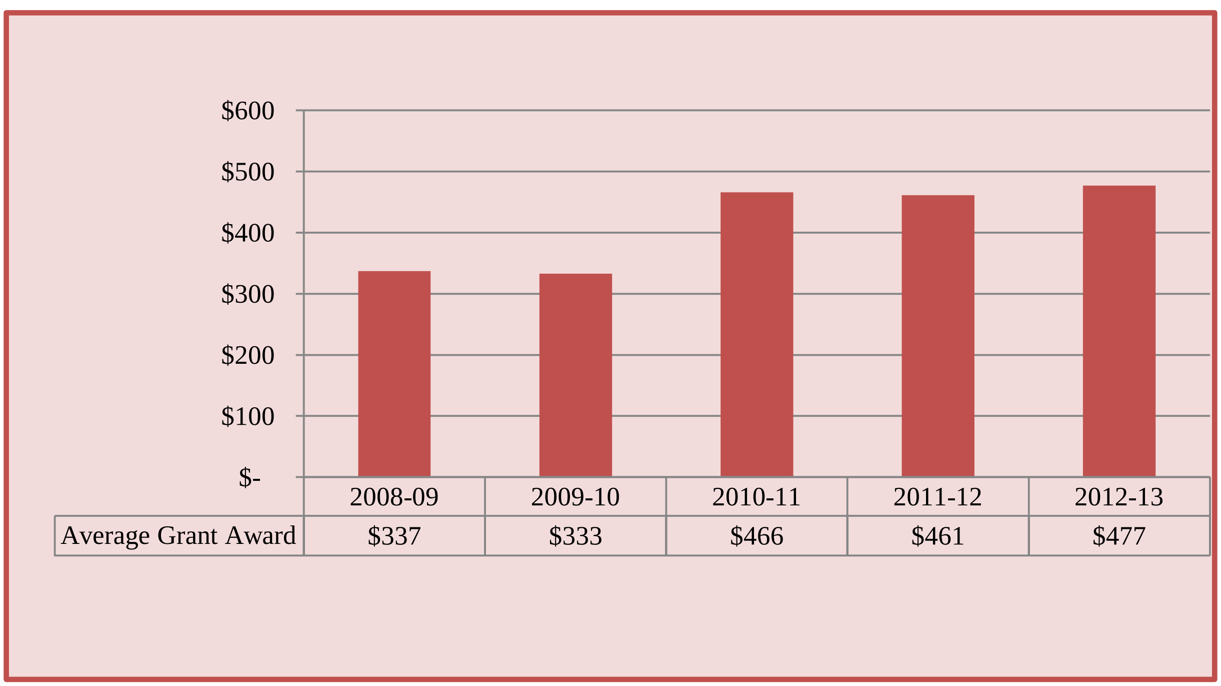
School Years 2008-09, 2009-10, 2010-11, 2011-12, and 2012-13



	2008-09	2009-10	2010-11	2011-12	2012-13
Number of Students Awarded	643	1,020	1,554	1,706	1,705

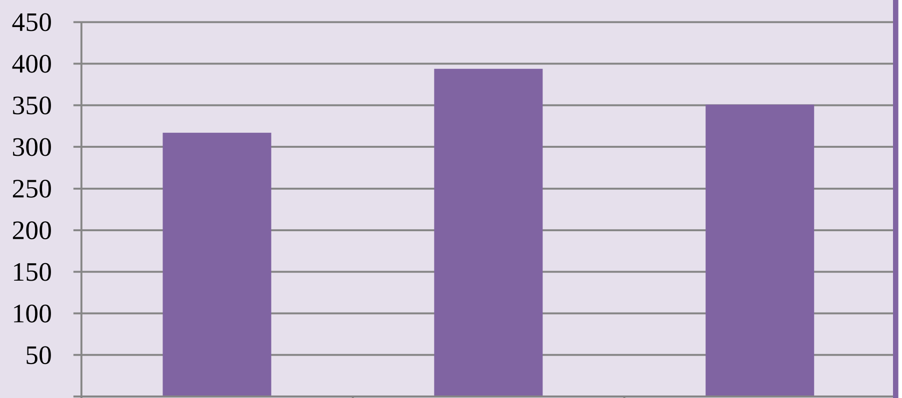
Average Access College Early Grant Award per Student

School Years 2008-09, 2009-10, 2010-11, 2011-12, and 2012-13



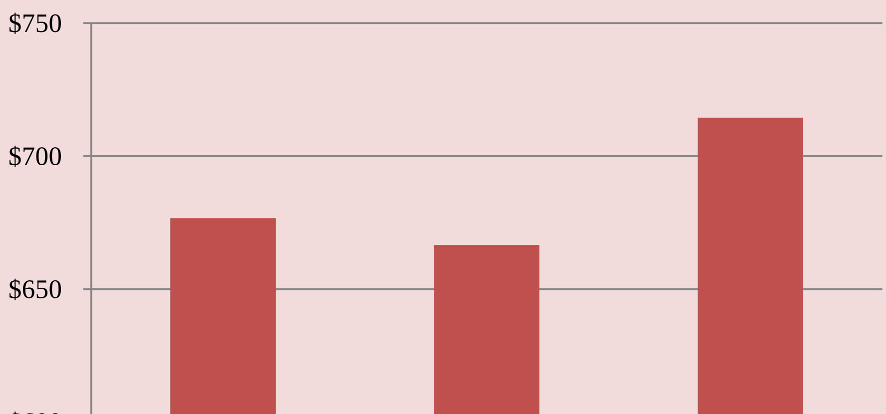
	2008-09	2009-10	2010-11	2011-12	2012-13
Average Grant Award	$337	$333	$466	$461	$477

Number of Students Awarded Access College Early – Plus Grants
School Years 2011-12, 2012-13, and 2013-14



	2012	2013	2014
Number of Students Awarded	317	394	351

Average Access College Early – Plus Grant Award per Student
School Years 2011-12, 2012-13, and 2013-14



	2012	2013	2014
Average Grant Award	$677	$667	$714