

STATE OF NEBRASKA
ATTESTATION REVIEW
OF THE
COORDINATING COMMISSION FOR
POSTSECONDARY EDUCATION,
THE DEPARTMENT OF REVENUE, AND
THE DEPARTMENT OF ADMINISTRATIVE SERVICES
DISTRIBUTION OF STATE AID TO
COMMUNITY COLLEGE AREAS
SEPTEMBER 1, 2007, THROUGH SEPTEMBER 30, 2009

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Issued on December 8, 2009

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Independent Accountant's Report

Citizens of the State of Nebraska:

We have reviewed the statutory compliance of the distribution of State Aid to community college areas as it relates to the Nebraska Coordinating Commission for Postsecondary Education (CCPE), the Department of Revenue (Revenue), and the Department of Administrative Services (AS), collectively called "Agencies," for the period September 1, 2007, through September 30, 2009. The Agencies' management is responsible for certain statutory compliance of the distribution of State Aid to community college areas. We did not obtain a written assertion regarding such matters from management.

Our review 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. A review is substantially less in scope than an examination, the objective of which is the expression of an opinion on the statutory compliance of the distribution of State Aid to community college areas. Accordingly, we do not express such an opinion.

Based on our review, nothing came to our attention that caused us to believe that the statutory compliance of the distribution of State Aid to community college areas is not presented, in all material respects, in conformity with the criteria set forth in the Criteria section.

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 agencies statutory compliance of the distribution of State Aid to community college areas and any fraud and illegal acts that are more than inconsequential that come to our attention during our review. We are also required to obtain the views of management on those matters. We did not perform our review for the purpose of expressing an opinion on the internal control over the Agencies' statutory compliance of the distribution of State Aid to community college areas or on compliance and other matters; accordingly, we express no such opinions.

Our review disclosed no findings that are required to be reported under *Government Auditing Standards*. However, we noted certain other matters, and those findings, along with the views of management, are described below in the Summary of Results.

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

Signed Original on File

Mike Foley
Auditor of Public Accounts

Don Dunlap, CPA
Assistant Deputy Auditor

December 8, 2009

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Background

Historical Statutory Authority for the Distribution of State Aid to Community College Areas

The origins of the community college system in Nebraska can be traced back to 1926, with the establishment of the State's first post-secondary, non-baccalaureate public educational institutions in McCook and Scottsbluff. In the years that followed, similar locally controlled and financed educational facilities emerged in other parts of the State. By 1971, with some legislative guidance, a total of six junior colleges, five area vocational schools or colleges, and two State vocational institutions had been created. In that year, the Legislature passed LB 759 (1971), effectively combining those original 13 schools into a single "statewide, independent system of locally-governed" institutions offering vocational, technical, two-year academic, and comprehensive community service programs.

Among other things, LB 759 divided the State into eight technical community college areas, creating a local governing board for each. However, general supervision and control over the entire system comprised of those combined eight areas was vested in a State Board of Technical Community Colleges. That body's authority included oversight of the financial and budgetary procedures of the area boards and the establishment of guidelines and plans for the development of technical community college education and training in the State.

In 1974, the Nebraska Supreme Court declared the system of cooperative state and local governance and finance produced by LB 759 to be unconstitutional. The following year, the Legislature responded with LB 344 (1975). In addition to reducing by two the number of technical community college areas, that legislation created the Coordinating Commission for Technical Community Colleges to "make recommendations to the boards for purposes of coordinating the technical community college areas." More importantly, the new law returned the administration of the community colleges to the local governing boards, emphasizing that "each technical community college area is intended to be an independent, local, unique, and vital segment of higher education . . . [.]"

Despite subsequent developments, including the elimination of the Coordinating Commission for Technical Community Colleges in 1977 and the creation of the current Coordinating Commission for Postsecondary Education (CCPE) in 1990, emphasis upon the autonomy and local control of community colleges remains largely unchanged. Nevertheless, over the years, the community colleges have voluntarily entered into a series of cooperative coordinating ventures, including the Nebraska Association of Community College Trustees, the Nebraska Technical Community College Association, and the present Nebraska Community College Association (NCCA). In 1991, the Legislature passed LB 625 (1991), superseding this voluntary trend by mandating that all community college area boards be part of an association through which the Coordinating Commission for Postsecondary Education is to provide statewide coordination in order to ensure the most cost-effective programs for residents of each community college area.

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Though still autonomous, the community colleges have come to rely heavily upon State funding. LB 344 (1975) provided:

“The Legislature, in an effort to promote quality postsecondary education and to avoid excessive taxation upon the taxable property of each area, may appropriate each year from such funds as may be available an amount for the aid and assistance of the technical community colleges.”

Funding for the community college system developed from a formula designed to be comprised loosely of 40 percent local property taxes, 40 percent State Aid, and 20 percent tuition and other revenues. However, with the fluctuation of state appropriations over the past three decades, various legislative proposals have been offered to augment the implementation of the original model funding formula. The capstone to these efforts occurred with the passage of LB 342 in 2007, resulting in the creation of the Community College Foundation and Equalization Aid Act (Act), which is codified at Neb. Rev. Stat §§ 85-2201 to 85-2229 (Reissue 2008). The primary purpose of that comprehensive measure was to provide stability to the funding formula so as to ensure a reliable needs calculation and to equalize the distribution of State Aid among the colleges. The following year, the Legislature passed LB 973 (2008), establishing the present funding mechanism by fine tuning the provisions of the Act. Among other things, that bill clarified the property tax valuation information to be used and modified specific base revenue need calculations. Additionally, the legislation relegated the CCPE to the more passive role of merely receiving – as opposed to its previous role of actively collecting – from the community colleges annual financial data pertinent to the Act.

General Background of the Act and Legislative Intent

Neb. Rev. Stat § 85-2222(1) (Reissue 2008) offers some general background for the Act, as well as the legislative intent behind it. That section of statute provides:

“The Legislature, in an effort to promote quality postsecondary education and to avoid excessive and disproportionate taxation upon the taxable property of each community college area, may appropriate each biennium from such funds as may be available an amount for aid and assistance to the community colleges. The Legislature recognizes that education, as an investment in human resources, is fundamental to the quality of life and the economic prosperity of Nebraskans and that aid to the community colleges furthers these goals. It is the intent of the Legislature that such appropriations reflect the commitment of the Legislature to join with local governing bodies in a strong and continuing partnership to further advance the quality, responsiveness, access, and equity of Nebraska's community colleges and to foster high standards of performance and service so that every citizen, community, and business will have the opportunity to receive quality educational programs and services regardless of the size, wealth, or geographic location of the community college area or tribally controlled community college as defined in section 85-1503 by which that citizen, community, or business is served. Such

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funds so appropriated by the Legislature shall be allocated, adjusted, and distributed to the community college boards of governors as provided in the Community College Foundation and Equalization Aid Act.”

State Agencies Involved in the Distribution of State Aid to Community College Areas and their Statutory Authority and Responsibilities

(1) Coordinating Commission for Postsecondary Education (CCPE) - Neb. Rev. Stat. § 85-2221 (Reissue 2008) generally requires the CCPE to receive from the community colleges, and then provide to the Department of Revenue, data needed to perform the actual calculation of State Aid. Specifically, Neb. Rev. Stat. § 85-2221 requires:

“Each community college area shall annually report such data as necessary to carry out the Community College Foundation and Equalization Aid Act to the Coordinating Commission for Postsecondary Education. Each community college area shall annually provide the commission with a reconciliation of the data necessary to carry out the Act with audited financial statement information.”

(2) Nebraska Department of Revenue (Revenue) - Various sections in the Act specify that Revenue is responsible for calculating State Aid amounts in accordance with the Act, based on the data provided by the CCPE, and certifying and reporting such amounts to the Department of Administrative Services.

(3) Department of Administrative Services (AS) - Neb. Rev. Stat. § 85-2222(2) (Reissue 2008) requires AS to distribute the total of such appropriated and allocated funds to the boards of governors in ten as nearly as possible equal monthly payments between the fifth and twentieth day of each month beginning in September of each year.

Based on the Auditor of Public Accounts’ review of the Act, which governs the calculation of State Aid to each of the community colleges, the three State agencies above do not have any regulatory or enforcement authority with regard to the data provide by the community colleges for calculating the allocation of State Aid.

Community College Areas

A statewide system of locally governed community colleges was created in 1971, when the Legislature combined all public two-year schools in Nebraska. As specified in Neb. Rev. Stat. § 85-1504 (Reissue 2008), the State is currently divided into six community college areas, as follows:

- (1) The Western Community College Area shall consist of the following counties: Sioux, Dawes, Sheridan, Box Butte, Scotts Bluff, Banner, Kimball, Morrill, Cheyenne, Garden, Deuel, and Grant and the voting districts of Merriam, Russell, King, Mother Lake, Cody, Barley, Gillaspie, Lackey, and Calf Creek in Cherry County as such voting districts existed on July 1, 1975;

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- (2) The Mid-Plains Community College Area shall consist of the following counties: Cherry except as provided in subdivision (1) of this section, Hooker, Thomas, Blaine, Loup, Arthur, McPherson, Logan, Custer, Keith, Lincoln, Perkins, Chase, Hayes, Frontier, Dundy, Hitchcock, and Red Willow;
- (3) The Northeast Community College Area shall consist of the following counties: Keya Paha, Brown, Rock, Boyd, Holt, Garfield, Wheeler, Knox, Cedar, Antelope, Pierce, Madison, Wayne, Stanton, Dixon, Dakota, Thurston, Burt, and Cuming and the precincts of North Oakland, South Oakland, Ashland, North Branch, Shell Creek, and Midland in Boone County as such precincts existed on July 1, 1975;
- (4) The Central Community College Area shall consist of the following counties: Valley, Greeley, Platte, Colfax, Sherman, Howard, Nance, Merrick, Polk, Butler, Dawson, Buffalo, Hall, Hamilton, Gosper, Phelps, Kearney, Adams, Clay, Furnas, Harlan, Franklin, Webster, and Nuckolls and all of Boone County except as provided in subdivision (3) of this section;
- (5) The Southeast Community College Area shall consist of the following counties: Saunders, Cass, York, Seward, Lancaster, Otoe, Fillmore, Saline, Thayer, Jefferson, Gage, Johnson, Nemaha, Pawnee, and Richardson; and
- (6) The Metropolitan Community College Area shall consist of the following counties: Dodge, Washington, Douglas, and Sarpy.

The six community college areas consist of 13 campuses and several off-campus sites. (See **Exhibit A** for a map of Nebraska's community college areas and campus locations.)

The six community college areas will be identified in this report as community colleges collectively or individually as the Western Nebraska Community College (WNCC), Mid-Plains Community College (MPCC), Northeast Community College (NCC), Southeast Community College (SCC), Metropolitan Community College (MCC), and Central Community College (CCC).

The Nebraska Community College Association (NCCA)

The NCCA is a nonprofit corporation that provides coordination services among the community college areas and between the system and other state agencies. Pursuant to Neb. Rev. Stat. § 85-1502(2) (2008), coordination services include preparation of a system strategic plan; coordination of the budget request for the biennium; facilitation of program needs assessment and articulation; recommendation and facilitation of the appointment of representatives to committees, boards, commissions, task forces, and any other State-level bodies requesting or requiring participation from the community college system; and facilitation of responses to data and information requests for the system.

Neb. Rev. Stat. § 85-1502(2) requires the governing boards of all six community college areas to be part of and represented by an association of such boards. The NCCA currently serves as that association. The NCCA's Board of Directors is comprised of two representatives from each area's board of governors.

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Criteria

1. 2007 Neb. Laws LB 342—Adopted the Act and changed the postsecondary education scholarship provisions
2. 2008 Neb. Laws LB 973—Changed calculation of State Aid to community college areas
3. Codification of the Act—Neb. Rev. Stat. §§ 85-2201 to 85-2229 (Reissue 2008).

Summary of Procedures

Pursuant to Neb. Rev. Stat. § 84-304 (Reissue 2008), the Auditor of Public Accounts (APA) conducted an attestation review of compliance with the statutory formula for distribution of State Aid to community college areas, as provided in the Act, for the period September 1, 2007, through September 30, 2009. This review was carried out in accordance with standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. The APA's attestation review consisted of the following procedures:

1. Independently developed state aid formulas from statutory language. Obtained data from CCPE, as provided by the community colleges to CCPE, to recalculate the amount of aid to be paid to each community college area for the fiscal years ended June 30, 2008, 2009, and 2010.
2. Confirmed that the amounts calculated in 1 above agree to the actual amount of state aid payments calculated by Revenue for each community college for fiscal years ended June 30, 2008, 2009, and 2010.
3. Determined that calculations in 1 and 2 above were in compliance with the Act based on the data the community colleges reported to CCPE and directed the Commission to forward to the Department of Revenue.
4. Confirmed that the amount of aid payments calculated by the Department of Revenue in 2 above agree to the amounts recorded as paid in the Nebraska Information System (NIS—the State's accounting system) by AS for payments made for the fiscal years ended June 30, 2008, 2009, and September 2009.
5. Obtained supporting documentation from the community college annual financial audits for the data used in the calculation of the aid payments from appropriate entities—community colleges, CCPE, Revenue—and reviewed supporting documentation for compliance with the Act.

State Aid to Community Colleges is appropriated on a State fiscal year basis, which runs July 1st to June 30th. The appropriated aid is distributed per statute in ten as equal as possible monthly payments, between the 5th and 20th of each month, from September to June. The period reviewed consisted of September 1, 2007, to September 30, 2009. This period encompassed the aid calculations and distributions for State fiscal years ended June 30, 2008, 2009, and 2010.

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An exit conference was held on November 10, 2009, to discuss the results of this attestation review. Those in attendance from CCPE, Revenue, and AS were:

Name	Title
CCPE	
Marshall Hill	Executive Director
Carna Pfeil	Fiscal Administrator
Revenue	
Doug Ewald	Tax Commissioner
Dave Dearmont	Revenue Economist Administrator
AS	
Gerry Oligmueller	Budget Administrator
William Scheideler	Sr. Budget Management Analyst

Summary of Results

The summary of our attestation review noted the following findings and recommendations:

1. Distribution of Aid

In 2007, as noted in the Background section of this report, the Legislature passed LB 342, adopting the Community College Foundation and Equalization Aid Act (Act), which is codified at Neb. Rev. Stat. §§ 85-2201 to 85-2229 (Reissue 2008). The following year, the Legislature passed LB 973, adjusting the formula enacted in 2007. The Act represents a significant departure from how State Aid to community colleges had been performed in prior years.

Neb. Rev. Stat. § 85-2222(1) (Reissue 2008) provides the general intent of the Legislature in appropriating State Aid to the community colleges. In part, this section states:

“It is the intent of the Legislature that such appropriations reflect the commitment of the Legislature to join with local governing bodies in a strong and continuing partnership to further advance the quality, responsiveness, access, and equity of Nebraska's community colleges and to foster high standards of performance and service so that every citizen, community, and business will have the opportunity to receive quality educational programs and services regardless of the size, wealth, or geographic location of the community college area or tribally controlled community college as defined in section 85-1503 by which that citizen, community, or business is served.”

To implement the requirements of the Act, CCPE developed procedures to obtain data from the community colleges. Moreover, Revenue developed a worksheet to perform the calculations for allocating State Aid appropriations from the Legislature, and AS developed procedures to make State Aid payments to the community colleges in accordance with the Act. The Act is very complex, and the aid worksheet developed by Revenue (basically an Excel spreadsheet created to put the wording of the Act into mathematical formulas) is equally complicated. In re-calculating

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the Revenue aid calculation worksheet, the APA found no exceptions to the computations contained therein. The APA's review noted the Act does not direct or authorize any of the three agencies to regulate or monitor the data required to be provided to CCPE by the community colleges to calculate the allocation of State Aid.

As briefly noted above, the aid formula in the Act is very complex; however, in its simplest terms, the formula can be stated as follows:

STATE AID NEED FOR EACH COMMUNITY COLLEGE = TOTAL NEED – OTHER RESOURCES AVAILABLE, where OTHER RESOURCES AVAILABLE consists primarily of tuition and fees and local property taxes.

What each of the community colleges reports as its TOTAL NEED and OTHER RESOURCES AVAILABLE (tuition and fees and local property taxes) will affect the amount of State Aid received by that institution, as well as what the other community colleges receive.

To implement the Act, the NCCA Audit Committee updated its NCCA-State Aid Enrollment Audit Guidelines in 2007 to provide guidance needed to ensure consistent State reporting of enrollment and financial information by all community colleges. These updated guidelines were intended to be used by the community colleges and their auditors to furnish accurate and reliable data to CCPE for the calculation of State Aid in accordance with the Act.

During our review of the Act, and through discussions with CCPE, Revenue, AS, community college representatives, and Legislative staff, concerns were raised regarding both the process and the resulting data that was being used in the calculation of the State Aid allocation. Those concerns are as follows:

- A. All parties involved in the State Aid allocation voiced concerns about the tuition and fee data the community colleges were providing to CCPE to calculate the allocation of State Aid. The amount of tuition and fee data provided to CCPE by each community college has a significant impact on the allocation of State Aid to the other community colleges.
- B. The Act provides no requirement or authority for CCPE, Revenue, AS, or any other State agency to regulate or monitor the data the community colleges provide to CCPE for use by the State to calculate the allocation of State Aid.
- C. The Act does not provide for, nor did CCPE, Revenue, AS, or any other State agency formally approve, the NCCA-State Aid Enrollment Audit Guidelines.
- D. Neb. Rev. Stat. § 85-1502(2) requires the governing boards of all six community college areas to be part of and represented by an association of such boards. The NCCA currently serves as that association. However, as of February 23, 2009, MCC was expelled from the NCCA.

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The APA will discuss each of these issues in detail below.

Tuition and Fees

All parties involved in the State Aid allocation voiced concerns about the tuition and fee data the community colleges were providing to CCPE to calculate the allocation of State Aid. The amount of tuition and fee data provided to CCPE by each community college has a significant impact on the allocation of State Aid to the other community colleges.

The Statutory Authority

Neb. Rev. Stat. § 85-2212(2) (Reissue 2008) defines prior year revenue, which includes tuition and fees “reported on the accrual basis of accounting in the fiscal year immediately preceding the fiscal year for which aid is being calculated.” The Act provides no further definition of tuition and fees, nor does it provide for any type of adjustments to tuition and fees. The APA also reviewed the legislative history of the Act and found no discussion or clarification of what tuition and fees means.

Condition

Our review noted the community colleges appear not to be reporting tuition and fees to CCPE consistently and in strict accordance with the express language of the Act or, in all cases, in accordance with their own NCCA-State Aid Enrollment Audit Guidelines. The most crucial data element the CCPE receives from each of the community colleges is tuition and fees. Tuition and fees, as well as property tax receipts, are used to calculate a community college’s available resources. The total of these resources significantly impacts the formula’s allocations to individual community colleges. Based on communications with community college representatives, as well as review of documentation provided to the APA by the community colleges, CCPE, Revenue, and other sources, it appears the community colleges’ reporting of tuition and fees may not be strictly compliant with the express language of the Act. Moreover, the reporting of such figures has varied somewhat over the three years since the Act was passed by the Legislature.

How the Community Colleges have been Reporting Tuition and Fees to CCPE

The term “tuition and fees” is used several times in the Act; however, other than being qualified in Neb. Rev. Stat. § 85-2212, as previously noted, those words are not statutorily defined. Absent further statutory definition, the community colleges, through the NCCA, developed the NCCA-State Aid Enrollment Audit Guidelines (Guidelines). The Guidelines have been used for years to provide consistent State reporting of enrollment and financial information by all of the community colleges and were updated in 2007 to meet the requirements of the Act. The Audit Committee of the NCCA, consisting of the Chief Instructional Officers (CIOs) and the College Business Officers (CBOs) from each of the community colleges, updates and approves the guidelines annually for audit and legislative changes. The guidelines are forwarded to the Chief Executive Officers (CEOs) for approval. After approval by the CEOs, the Guidelines are forwarded to the NCCA Board for approval. The Guidelines provide instruction regarding all of

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the data to be reported to the CCPE in the allocation calculation of State Aid, including the tuition and fee amounts. The establishment of the Guidelines by the NCCA had the effect of defining terms used in the statutory formula, including tuition and fees. In our review of the Act, we found no language that would give either NCCA or any other entity express authority to define terms in the Act.

The guidelines dated October 2, 2007, and August 10, 2009, (the August 2009 Section II. 3. guidelines were unchanged from the October 2007 Section II. 3. guidelines) define tuition and fees in a section titled “Computation and Allocation of State Aid under the Community College Foundation and Equalization Aid Act.” Section II. 3. states, in relevant part:

“Tuition and fees include tuition and fees, net of waivers and refunds, generated by reimbursable (credit and noncredit) FTE funded by the general fund budget. Technology fees, program fees and graduation fees are included if recorded and spent in the general fund. This definition is different than the GASB definition for tuition and fees. Amounts including but not limited to the following are not included in tuition and fees:.....

- e. Facilities fees and tuition allocated for facilities which are spent as part of capital construction expenditures.*
- f. In general any tuition and fees recorded outside of the general fund budget.”*

(See **Exhibit B** for the complete texts of both the October 2, 2007, and August 10, 2009, versions of the Section II. 3. guidelines).

To start, it is important to note that the Guidelines provide for the reporting of **general fund tuition and fees** only. Tuition and fees are not defined in the Act as general fund tuition and fees, nor does the Legislative history offer any indication that tuition and fees are to be limited to general fund tuition and fees, rather than all tuition and fees reported by the community colleges on the accrual basis.

Based upon information provided to the APA, the community colleges believe that, for purposes of the Act, the Legislature intended the term “tuition and fees” to encompass only general fund tuition and fees. Their reasoning for this appears to be three fold: 1) before the passage of the Act, State Aid was historically based on general fund tuition and fees; 2) data provided by the community colleges to the Legislature when the Act was being debated was general fund data only; and 3) given the historical perspective that State Aid was based on general fund tuition and fees, if the Legislature had intended tuition and fees to mean other than general fund tuition and fees, the Act would indicate as much.

Additionally, the Guidelines provide for exclusions to tuition and fees that will be reported to CCPE to calculate the State Aid allocation. Subsections e. and f. above set out the significant exclusions that may be used by each community college. However, the Act has no provisions for excluding amounts from the accrual basis tuition and fees.

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The Effects of the Tuition and Fee Guidelines on the Allocation of State Aid to Each of the Community College Areas

- **The Fiscal Year Ended June 30, 2008, State Aid Allocation (State Aid Appropriated for Allocation - \$84,066,476.)**

The tuition and fee data reported by all six of the community colleges to CCPE for the State Aid allocation calculation for the fiscal year ended June 30, 2008, followed the October 2, 2007, Guidelines, Section II. 3., consistently as outlined in that section. This means the State Aid allocation calculation was based on general fund tuition and fees and consistently applied by all of the community colleges. See **Exhibit D** for the State Aid amount for the fiscal year ended June 30, 2008, State Aid allocation for each community college area, and **Exhibit J** for a comparative schedule of tuition and fees reported for the fiscal years ended June 30, 2008, 2009, and 2010.

- **The Fiscal Year Ended June 30, 2009, State Aid Allocation (State Aid Appropriated for Allocation - \$87,266,473.)**

The tuition and fee data reported by all six of the community colleges to CCPE for the State Aid allocation calculation for the fiscal year ended June 30, 2009, also followed the October 2, 2007, Guidelines, Section II. 3. All of the community colleges reported tuition and fees consistently, with little use of the exclusions provided in that section, except for MCC. MCC reported capital exclusions of \$4,537,400 under subsection e: "Facilities fees and tuition allocated for facilities which are spent as part of capital construction expenditures." MCC's use of this exclusion reduced reported tuition and fees for MCC, effectively reducing the State Aid that institution received and increasing the amount of State Aid received by the other community colleges. Changes in the amount of tuition and fees reported by any one campus had a relatively small impact on the aid amount distributed based on the formula structure for fiscal year 2009. **Exhibit I** compares the actual (with subsection e. exclusion) State Aid amount allocated for the fiscal year ended June 30, 2009, and the amount that would have been allocated to each community college if MCC had not used the subsection e. exclusion. As can be seen in **Exhibit I**, the difference in the State Aid allocation to MCC and the other community colleges, depending on whether or not MCC used the subsection e. exclusion, is relatively small - an increase of \$221,081 for MCC and decreases of \$17,399 to \$86,050 for the other community colleges. See **Exhibit E** for the State Aid amount for the fiscal year ended June 30, 2009, State Aid allocation for each community college area, and **Exhibit J** for a comparative schedule of tuition and fees reported for fiscal years ended June 30, 2008, 2009, and 2010.

COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION,
THE DEPARTMENT OF REVENUE, AND
THE DEPARTMENT OF ADMINISTRATIVE SERVICES
DISTRIBUTION OF STATE AID TO COMMUNITY COLLEGE AREAS
ATTESTATION REVIEW

- **The Fiscal Year Ended June 30, 2010, State Aid Allocation (State Aid Appropriated for Allocation - \$88,575,473.)**

The tuition and fee data reported by all six of the community colleges to CCPE for the State Aid allocation calculation for the fiscal year ended June 30, 2010, is much more complicated. The structure of the formula changed for fiscal year 2010, and tuition and fees reported had a greater effect on the aid amount distributed. Under the 2010 formula, tuition and fees reported and aid amounts distributed have an inverse relationship. Thus, a decrease in tuition and fees reported results in an increase in the aid amount distributed, and vice versa. Originally, all six community colleges intended to follow the August 10, 2009, Section II. 3. guidelines. However, when MCC communicated a tuition and fees capital exclusions of \$13,378,071 under subsection e., the Associate Director for Finance and Administration for CCPE sent an email to the community colleges. This email included CCPE's interpretation of what was meant by tuition and fees in Neb. Rev. Stat. § 85-2212(2) (See **Exhibit N**, item number 3). The NCCA then revised the Section II. 3. guidelines, ratifying those revisions on August 28, 2009. (See **Exhibit C** for the August 28, 2009, Section II. 3. guidelines). Generally, the August 28, 2009, Section II. 3. guidelines were revised to remove the exclusion/adjustments to tuition and fees and add a requirement to report tuition and fees included in an agreed upon procedures report prepared by independent auditors, which each of the community colleges currently obtains annually. This report, entitled "Statement of Reimbursable Full-Time Equivalent Student Enrollment and Reimbursable Educational Units," currently includes this type of information and is reconciled to the community colleges financial statement audit annually.

MCC did not agree with the revisions and, thus, did not follow the August 28, 2009, Section II. 3. guidelines in reporting the amount of tuition and fees for the fiscal year ended June 30, 2010. Because MCC did not agree to follow the August 28, 2009, Section II. 3. guidelines, the five other community colleges responded by reporting two different tuition and fee amounts to CCPE. They each instructed CCPE, by separate written communications, to use one amount for the allocation of State Aid if MCC did not continue to use the subsection e. exclusion. This amount was identified as Method A. If MCC continued to report the \$5,660,615 tuition and fee amount, which included the \$13,378,071 exclusion under subsection e. of the August 10, 2009, Section II. 3. guidelines, CCPE was instructed to use smaller tuition and fee amounts, which were identified as Method B. MCC did not change the amount of tuition and fees originally reported; therefore, CCPE followed the written directives from the other five community colleges to use the smaller tuition and fee amounts under Method B.

COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION,
THE DEPARTMENT OF REVENUE, AND
THE DEPARTMENT OF ADMINISTRATIVE SERVICES
DISTRIBUTION OF STATE AID TO COMMUNITY COLLEGE AREAS
ATTESTATION REVIEW

Related Exhibits

- **Exhibit F** – State Aid Amounts for Each Community College Area Using Method B for the fiscal year ended June 30, 2010.
- **Exhibit G** - State Aid that was actually allocated to each of the community colleges using Method B tuition and fees and the amount of State Aid that would have been allocated if Method A tuition and fee amounts were used.

As can be seen on **Exhibit G**, SCC, NCC, MPCC, CCC, and WNCC reported tuition and fees to CCPE using Method B in direct response to the tuition and fees reported by MCC. It appears these five community colleges reduced their reportable tuition and fees using the August 10, 2009, Section II. 3. guidelines in order to cause the State Aid allocation to closely mirror the results had all the community colleges reported their tuition and fees in accordance with the August 28, 2009, Section II. 3. guidelines. This is illustrated in the community colleges' communications to CCPE (See **Exhibit K**, page 4). **Exhibit G** illustrates the significant dollar impact the two methods had on the allocation of State Aid. Depending on the method used, millions of dollars would be allocated differently.

CCPE reported Method B tuition and fee amounts to Revenue with reservation and explanation. (See **Exhibit L** for CCPE's communication to Revenue of data to be used in the allocation calculation of State Aid.)

Revenue completed its calculation of the allocation of State Aid using Method B tuition and fee amounts and reported to AS the results of that calculation. AS made the first payment of State Aid for the fiscal year ended June 30, 2010, to the community colleges in September 2009, as required by State statute.

The Act contains no requirement or authority for CCPE, Revenue, AS, or any other State agency to regulate or monitor the data the community colleges provide to CCPE for calculating the allocation of State Aid. (See Comment 2 below.)

- **Exhibit J** - Tuition and fee amounts reported by each community college for Method A and for Method B.
- **Exhibit K** - Communications from CCC to CCPE, instructing CCPE on what tuition and fee amount should be used in the State Aid allocation calculation and why CCC was reporting two different amounts. SCC, NCC, MPCC, and WNCC all sent similar communications to CCPE.

COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION,
THE DEPARTMENT OF REVENUE, AND
THE DEPARTMENT OF ADMINISTRATIVE SERVICES
DISTRIBUTION OF STATE AID TO COMMUNITY COLLEGE AREAS
ATTESTATION REVIEW

We recommend CCPE, Revenue, and AS, as the State agencies noted in the Act, work with the community colleges to develop recommendations for the Legislature to define more exactly the meaning of tuition and fees, as used in Neb. Rev. Stat. § 85-2212. We understand CCPE will take a leadership role in working with the community colleges to develop any recommendations for the Legislature. We also understand Revenue and AS will make themselves available to respond to inquiries from CCPE and the community colleges during the drafting of such recommendations to the Legislature.

See Agencies Responses on page 17.

Subsequent Events

Subsequent to the completion of our field work for this review, the following occurred:

- A. The Board of Governors of MCC passed a resolution authorizing the commencement of litigation against the other five community college areas related to the distribution of state aid monies to those colleges during fiscal year 2009-2010 and the formula upon which such distribution was based. See **Exhibit M** for the complete resolution.

MCC filed a lawsuit on November 20, 2009, in Lancaster County District Court.

- B. As approved by the Governor on November 20, 2009, the 101st Nebraska Legislature 2009 Special Session reduced the state general fund aid appropriation to the Community Colleges by \$1,609,217 for fiscal year 2010 and \$3,146,080 in fiscal year 2011.

2. Regulation and Monitoring of the Act by State Government

The Act contains no requirement or authority for CCPE, Revenue, AS, or any other State agency to regulate or monitor the data the community colleges provide to CCPE for use by the State to calculate the allocation of State Aid. Similarly, the Act does not provide for, nor did CCPE, Revenue, AS, or any other State agency formally approve, the NCCA-State Aid Enrollment Audit Guidelines.

As can be seen from Comment 1 above, when there is no authority for an agency of State government to regulate and monitor the data required to be used in the allocation of millions of State Aid dollars, it becomes very difficult to ensure consistent compliance with the Act.

Additionally, the development of the Guidelines by the NCCA had the effect of defining terms used in the statutory formula, including tuition and fees. In our review of the Act, we found no language that would give either NCCA or any other entity express authority to define terms in the Act.

COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION,
THE DEPARTMENT OF REVENUE, AND
THE DEPARTMENT OF ADMINISTRATIVE SERVICES
DISTRIBUTION OF STATE AID TO COMMUNITY COLLEGE AREAS
ATTESTATION REVIEW

When guidelines effecting the distribution of State Aid pursuant to the Act are promulgated by the recipients of that aid, absent any oversight by an independent state agency, there is a greater risk the State Aid may not be allocated in accordance with the provisions of the Act.

We recommend CCPE, Revenue, and AS, as the State agencies noted in the Act, work with the community colleges to develop recommendations for the Legislature to provide regulatory authority over the allocation of State Aid to an appropriate State agency. We understand CCPE will take a leadership role in working with the community colleges to develop any recommendations for the Legislature. We also understand Revenue and AS will make themselves available to respond to inquiries from CCPE and the community colleges during the drafting of such recommendations to the Legislature.

See Agencies Responses on page 17.

3. Membership in the NCCA

In our review of the records and processes of the distribution of State Aid to the community college areas, it was discovered that MCC had been expelled from the NCCA. Neb. Rev. Stat. § 85-1502(2) requires the governing boards of all six community college areas to be part of and represented by an association of such boards. The NCCA currently serves as that association. Specifically, Neb. Rev. Stat. § 85-1502 states, in relevant part:

(1) . . . It is . . . the intent of the Legislature that coordination of the community colleges by the Coordinating Commission for Postsecondary Education be conducted through an association of the boards. (2) All of the boards shall be a part of and shall be represented by such association.

In its resolution of February 23, 2009, the NCCA Board noted MCC refused to pay its membership dues. As a result, the Board voted to expel MCC from the NCCA and to terminate its membership with that organization. The MCC's annual dues were \$73,648 for calendar year 2009.

In its resolution, the Board noted:

"The Board finds that it was the intent of the Legislature in enacting a statute which requires all community college areas to be part of an association to also require each area as a condition of membership to provide financial support to the association as reasonably allocated by the Association's Board of Directors. The statute cannot be reasonably interpreted as permitting an area to receive the benefits of Association membership while that member's share of the costs of operating the Association are paid by the remaining members and indirectly by the taxpayers residing therein."

COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION,
THE DEPARTMENT OF REVENUE, AND
THE DEPARTMENT OF ADMINISTRATIVE SERVICES
DISTRIBUTION OF STATE AID TO COMMUNITY COLLEGE AREAS
ATTESTATION REVIEW

The expulsion and termination was effective five calendar days following the adoption of the resolution.

Neb. Rev. Stat. § 85-1502 provides no provision to expel and terminate a member.

We recommend CCPE work with the community colleges to develop recommendations for the Legislature to resolve this membership issue.

Agencies Responses to Comments:

CCPE Response to all three Comments: The CCPE staff supports the recommendations in this report.

Revenue's Response to Comment Numbers 1 and 2: The Department of Revenue will be available to respond to inquiries from CCPE and the Community Colleges during the drafting of any recommendations to the Legislature.

AS' Response: The State Budget Division agrees that the Community Colleges should work with the Coordinating Commission for Postsecondary Education (CCPE) to find resolution to the issues identified in the report.

The State Budget Division will be available to respond to inquiries from CCPE and the Community Colleges during the drafting of any recommendations to the Legislature.

Overall Conclusion

All parties involved in the allocation of State Aid to community colleges expressed concern about how the allocation process is currently working. The lack of more precise guidance in the Act as to what tuition and fees mean has caused considerable inconsistencies in practice of what tuition and fee amounts are being reported to CCPE by each of the community colleges. In addition, the establishment of the guidelines by the NCCA had the effect of defining terms used in the statutory formula, including tuition and fees. In our review of the Act, we found no language that would give either NCCA or any other entity the express authority to define terms in the Act.

The lack of authority by State government to regulate and monitor the allocation of hundreds of millions of dollars of State Aid to community colleges has been a hindrance to ensuring the allocation has been performed in accordance with the Act.

Neb. Rev. Stat. § 85-1502(2) requires the governing boards of all six community college areas to be part of and represented by an association of such boards. That statute contains no provision for expulsion from the association.

COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION,
THE DEPARTMENT OF REVENUE, AND
THE DEPARTMENT OF ADMINISTRATIVE SERVICES
DISTRIBUTION OF STATE AID TO COMMUNITY COLLEGE AREAS
ATTESTATION REVIEW

The APA staff members involved in this attestation review were:

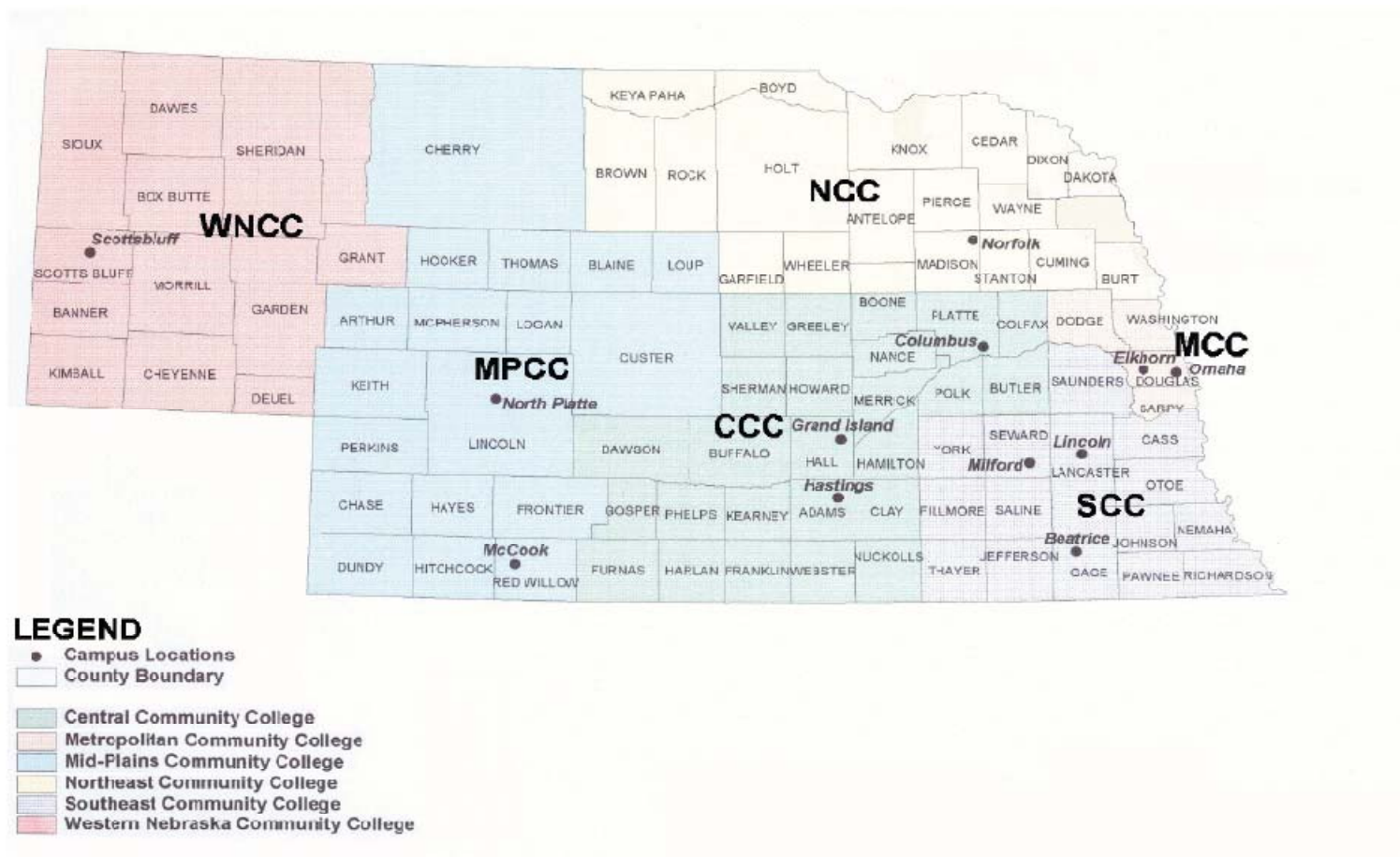
Don Dunlap, CPA, Audit Manager

Shane Rhian, CPA, CFE, Auditor-In-Charge

Kelli Roach, Auditor II

If you have any questions regarding the above information, please contact our office.

**DISTRIBUTION OF STATE AID TO COMMUNITY COLLEGE AREAS
NEBRASKA COMMUNITY COLLEGE
AREAS AND CAMPUS LOCATIONS**



* Source: Nebraska Community College Association

**DISTRIBUTION OF STATE AID TO COMMUNITY COLLEGE AREAS
COMPUTATION AND ALLOCATION OF STATE AID UNDER THE
COMMUNITY COLLEGE FOUNDATION AND EQUALIZATION AID ACT
Section II. 3. Guidelines Dated October 2, 2007, and August 10, 2009**

II. Revenue

3. Tuition and fees include tuition and fees, net of waivers and refunds, generated by reimbursable (credit and noncredit) FTE funded by the general fund budget. Technology fees, program fees and graduation fees are included if recorded and spent in the general fund. This definition is different than the GASB definition for tuition and fees. Amounts including but not limited to the following are not included in tuition and fees:
 - a. Tuition and fees for non-reimbursable FTE.
 - b. Fees for student activities, GED testing fee, student production accounts (theatre, building construction houses, audio recording, broadcasting, agriculture production, automotive, auto body, heating and air conditioning, printing, welding, diesel truck and farm, machine tool, food service, etc).
 - c. Fees associated with auxiliary enterprises such as student housing, cafeteria, bookstore, child care, indirect costs, concessions, transportation center, communication center, Lifelong learning center operations, Job Fair, athletic camps, other self-supporting activities, etc.
 - d. Technology fee and program fees if recorded as an auxiliary fund outside of the general fund budget.
 - e. Facilities fees and tuition allocated for facilities which are spent as part of capital construction expenditures.
 - f. In general any tuition and fees recorded outside of the general fund budget.
 - g. Any tuition and fees for reimbursable FTE not funded by the general fund budget.
4. Any state aid, property taxes, tuition and fees and other revenue in the general fund not included in the above guiding principles shall be recorded as miscellaneous income.

DISTRIBUTION OF STATE AID TO COMMUNITY COLLEGE AREAS
COMPUTATION AND ALLOCATION OF STATE AID UNDER THE
COMMUNITY COLLEGE FOUNDATION AND EQUALIZATION AID ACT
Section II. 3. Guidelines Dated August 28, 2009

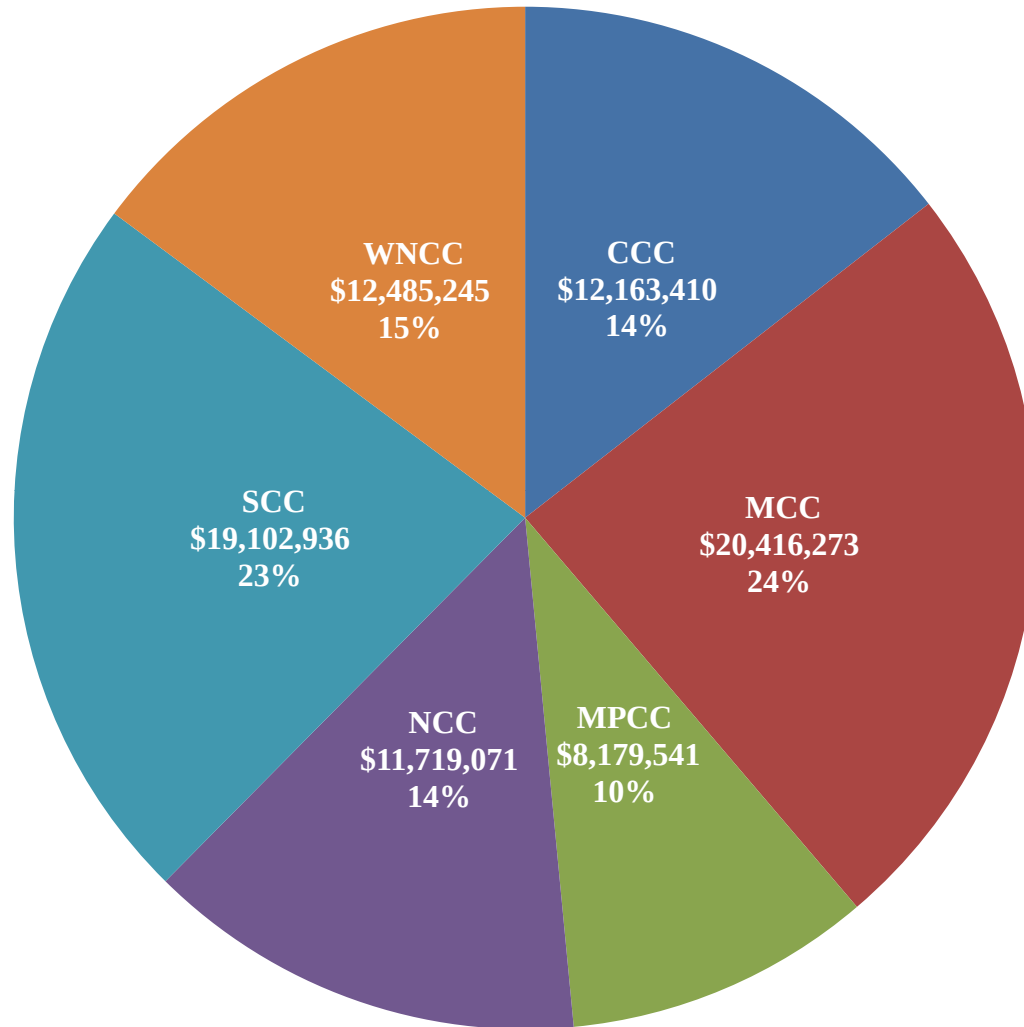
II. Prior year Revenue

3. Tuition and fee revenue shall be determined as follows:
 - a. Tuition revenue shall be equal to:
 - i. Audited credit hours times the College adopted credit hour tuition rates.
 - ii. Audited tuition for non-credit reimbursable courses.
 - b. Fee revenue shall be equal to:
 - i. Audited credit hours times the College adopted mandatory credit hour fee rates.
 - ii. Audited other mandatory fees that all students pay for example registration fee, facility fee, student activity fee, library fee, etc.

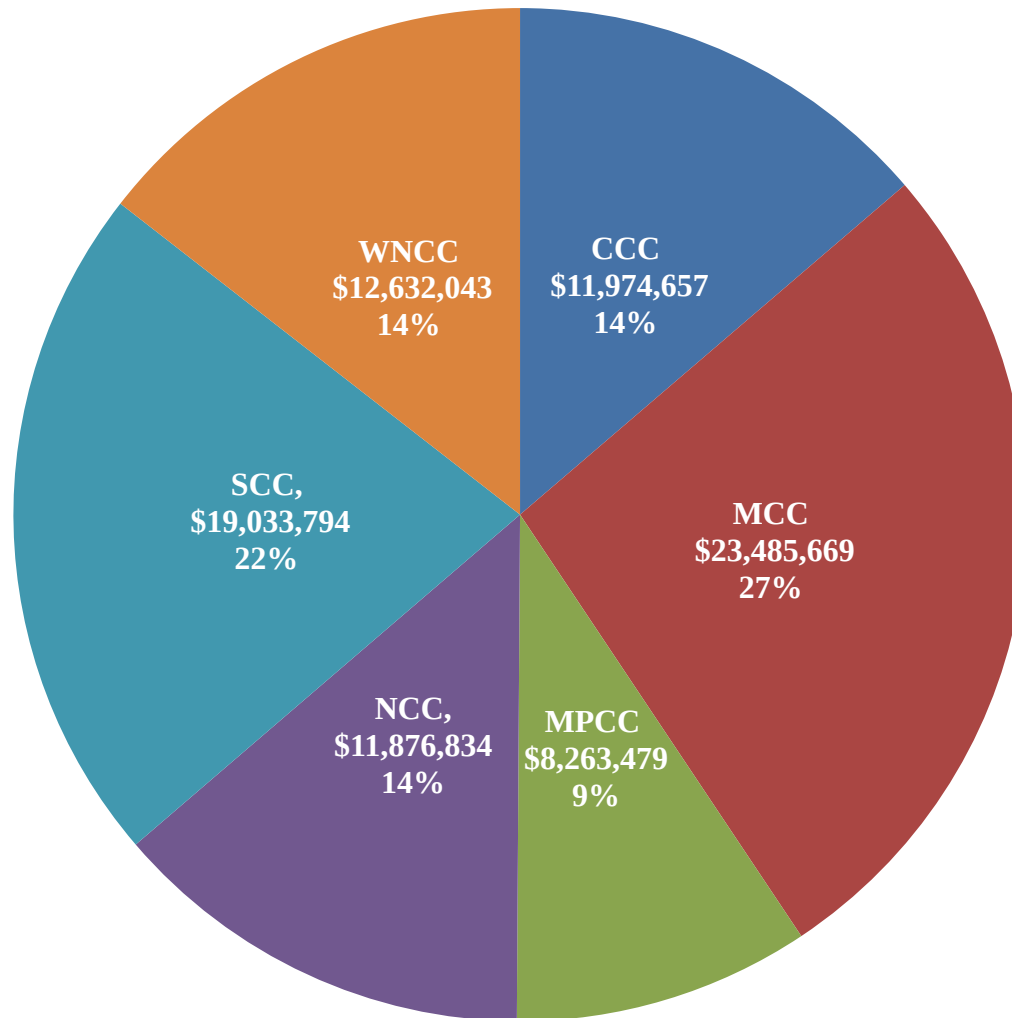
Tuition and fee for avocational and recreational community service programs or courses are not included in prior year revenue. These courses are normally offered for non-credit and normally are referred to as non-credit non-reimbursable. Tuition and fees for avocational and recreational programs or courses are not included for the following reasons:

1. State statute 85-1503(4) states "...Avocational and recreational community service programs or courses are not included in determining full-time equivalent students or student enrollment;"
2. State statute 85-1503(21) states "Reimbursable educational unit means a full-time equivalent student multiplied by..."
3. State statute 85-2223 repeatedly refers to full-time equivalent enrollment and reimbursable education units in determining base revenue need. Thus by state statute avocational and recreational community service programs or courses are excluded from base revenue need.

DISTRIBUTION OF STATE AID TO COMMUNITY COLLEGE AREAS
STATE AID AMOUNT FOR EACH
COMMUNITY COLLEGE AREA
For the Fiscal Year Ended June 30, 2008
Total State Aid Allocated - \$84,066,476



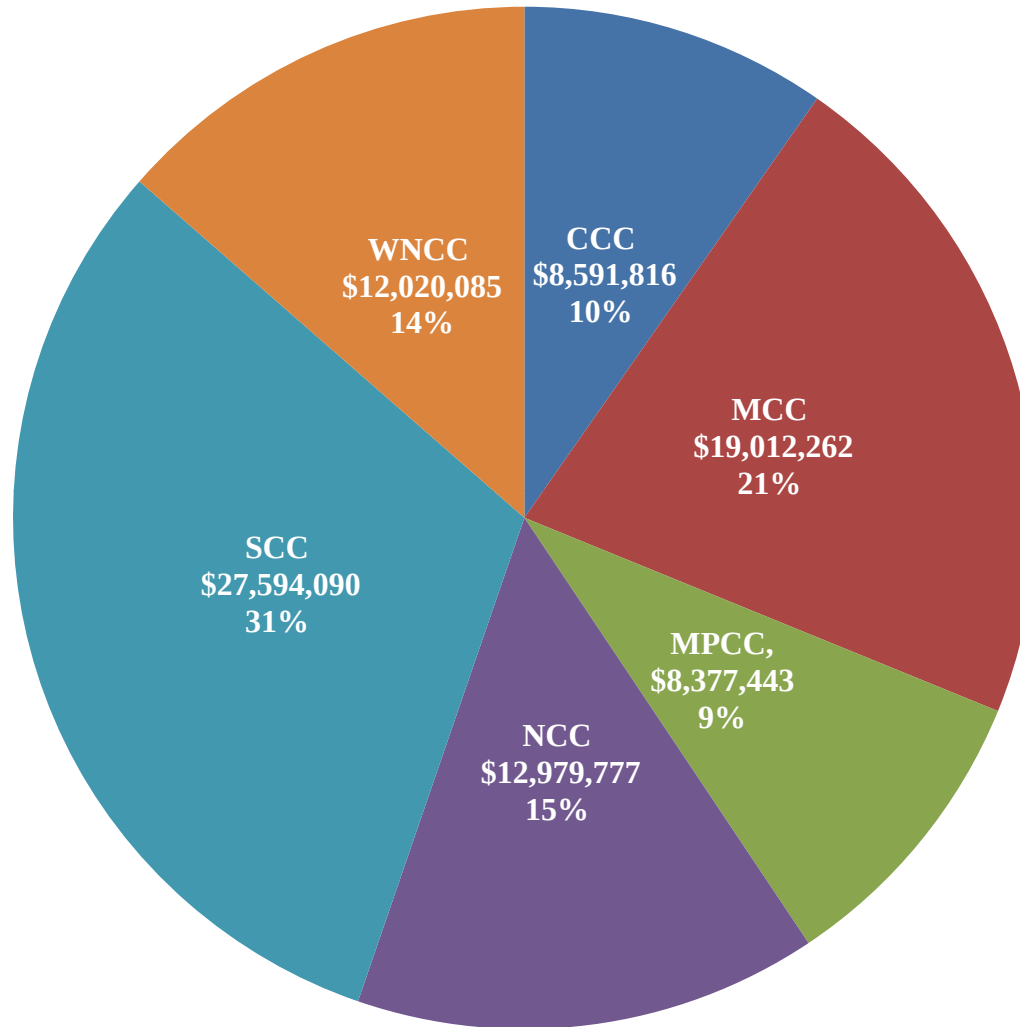
DISTRIBUTION OF STATE AID TO COMMUNITY COLLEGE AREAS
STATE AID AMOUNT FOR EACH
COMMUNITY COLLEGE AREA
For the Fiscal Year Ended June 30, 2009
Total State Aid Allocated - \$87,266,476



DISTRIBUTION OF STATE AID TO COMMUNITY COLLEGE AREAS
STATE AID AMOUNTS FOR EACH
COMMUNITY COLLEGE AREA

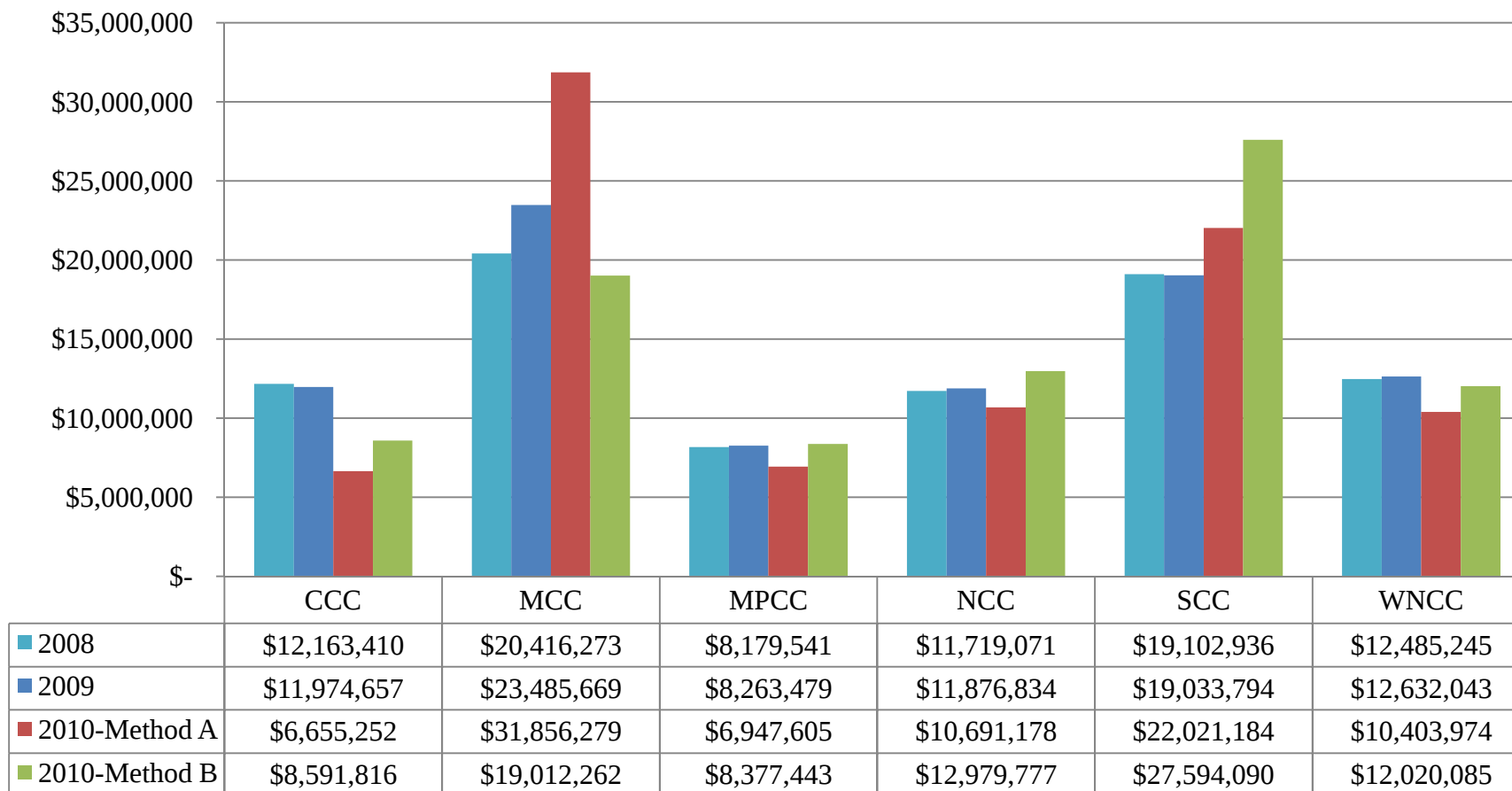
For the Fiscal Year Ending June 30, 2010 - Using Method B

Total State Aid Allocated - \$88,575,473



DISTRIBUTION OF STATE AID TO COMMUNITY COLLEGE AREAS
STATE AID AMOUNT FOR EACH COMMUNITY COLLEGE AREA

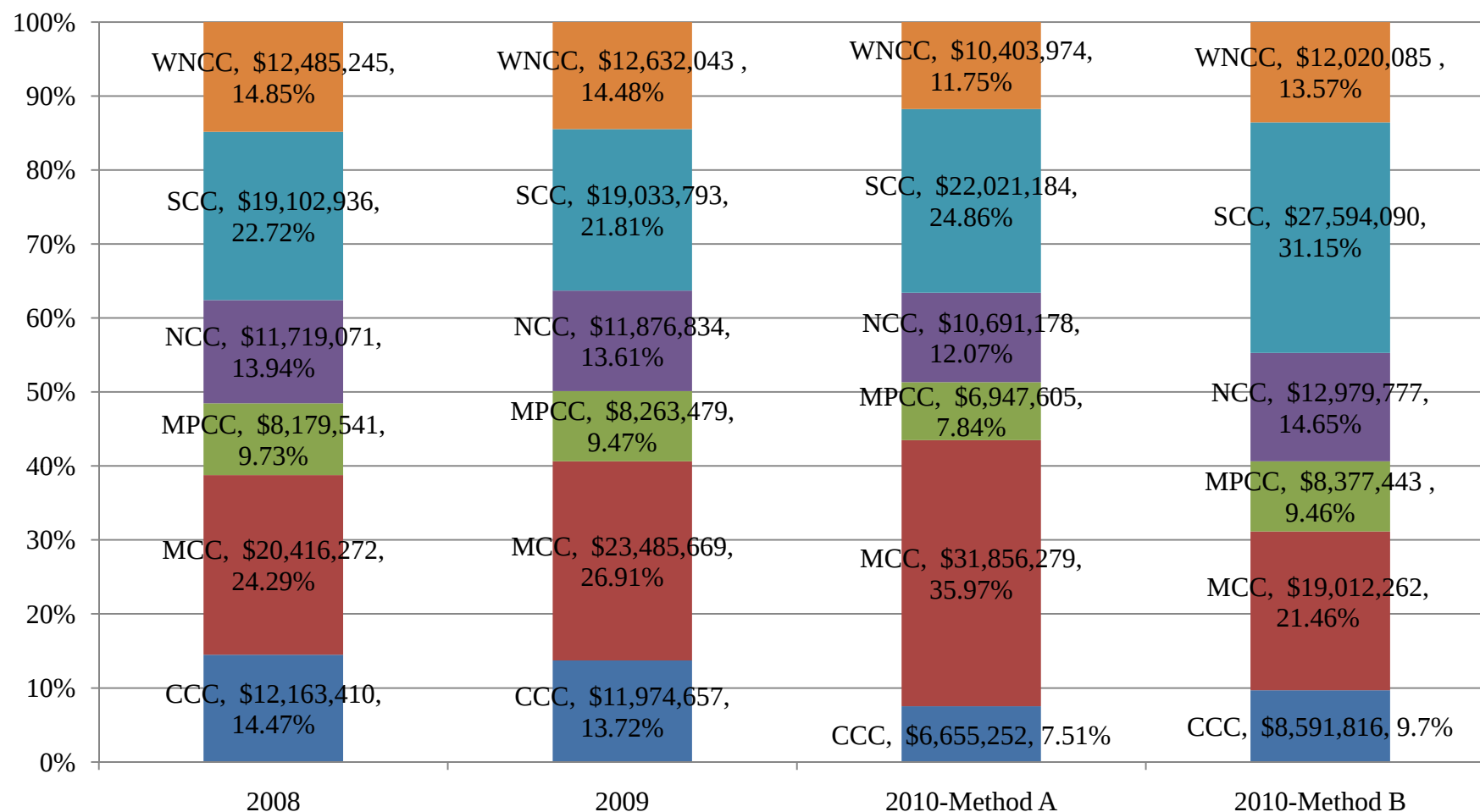
For the Fiscal Years Ended June 30, 2008, 2009, and 2010
Including Both Method A and B for 2010



For MCC, Method A uses the same tuition and fees number as the Method B scenario as this was the only amount reported by MCC, see **Exhibit J**.

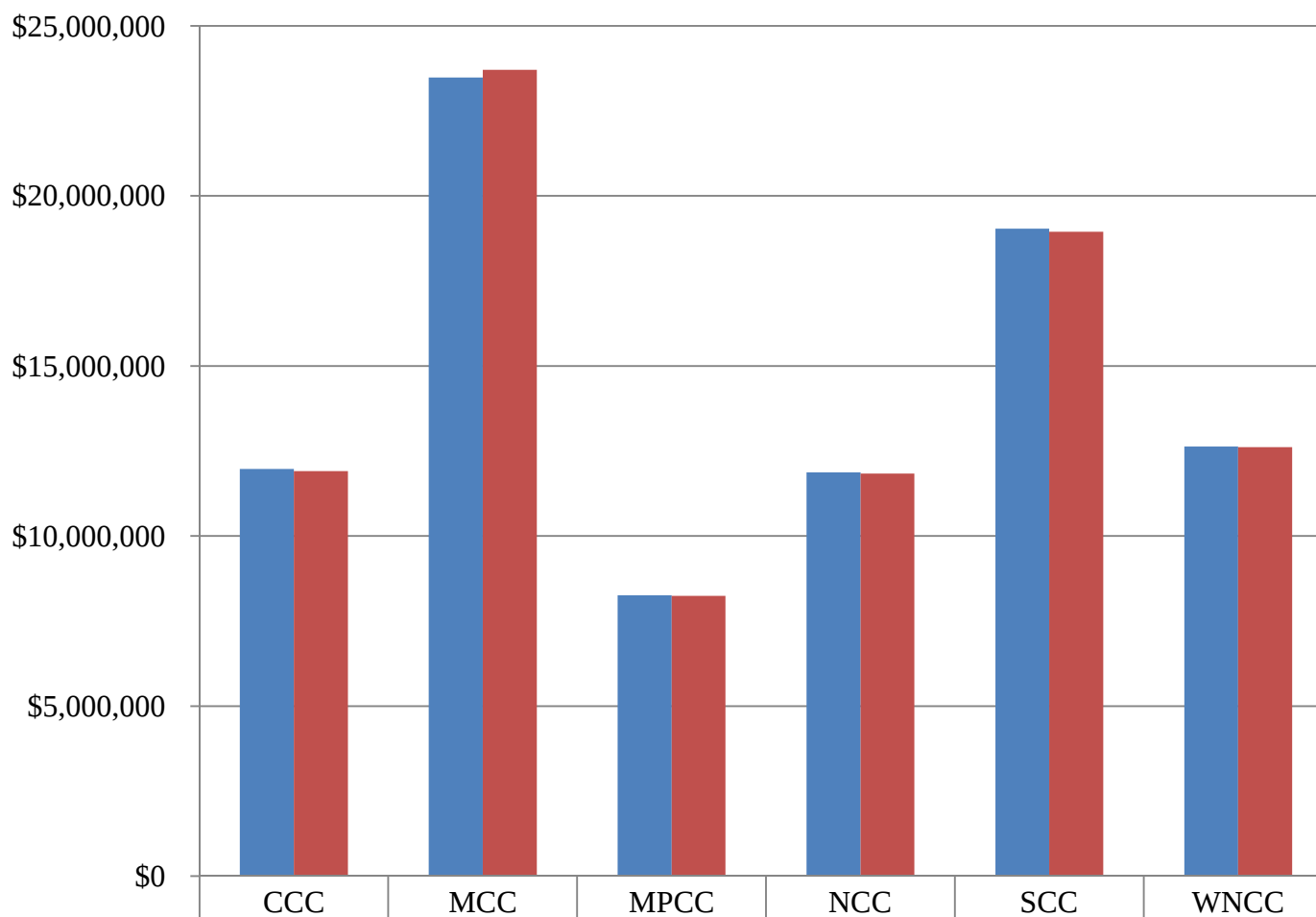
**DISTRIBUTION OF STATE AID TO COMMUNITY COLLEGE AREAS
STATE AID AMOUNT SHOWING PERCENTAGE OF AID FOR
EACH COMMUNITY COLLEGE AREA**

For the Fiscal Years Ended June 30, 2008, 2009 and 2010



For MCC, Method A uses the same tuition and fees number as the Method B scenario as this was the only amount reported by MCC, see **Exhibit J**.

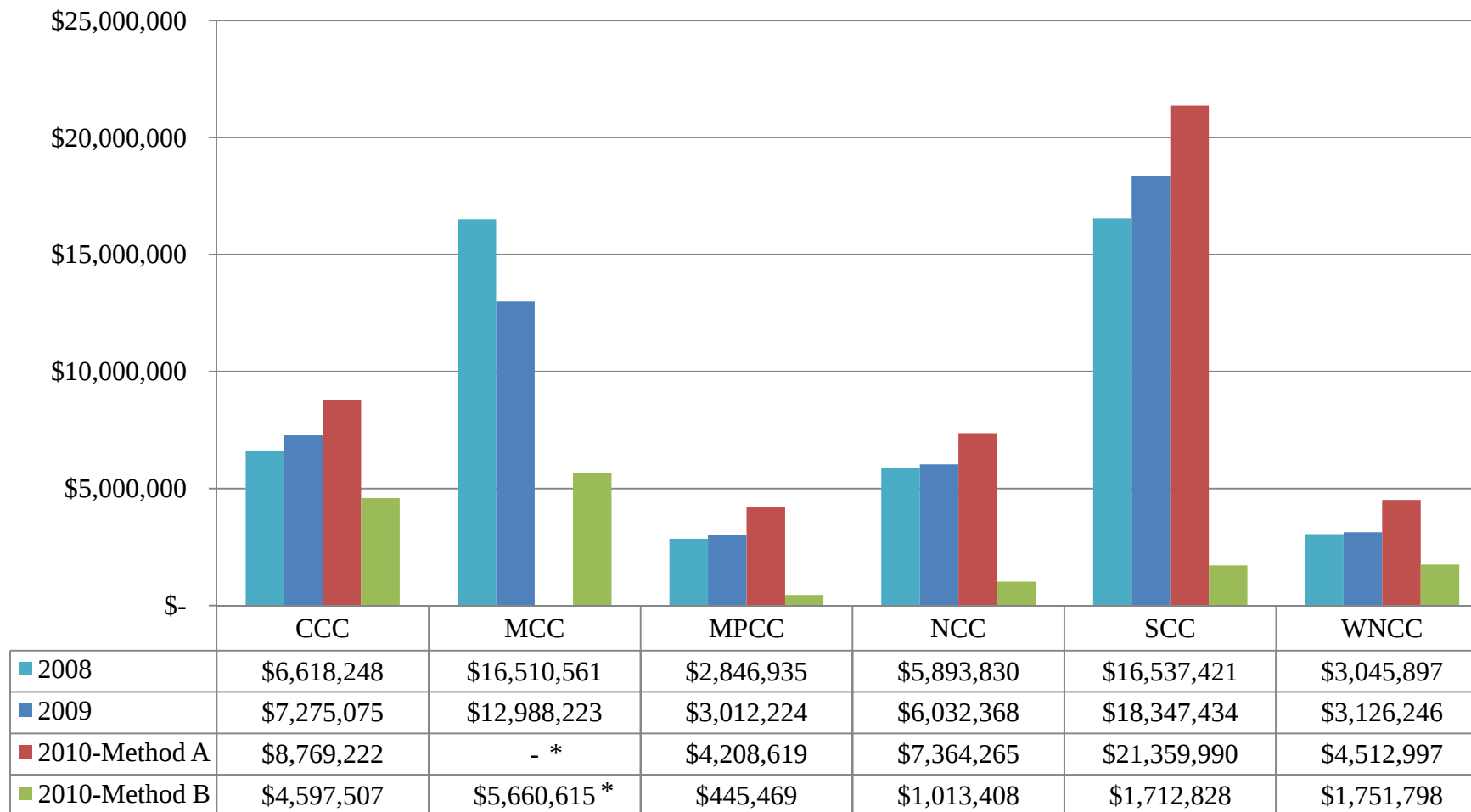
DISTRIBUTION OF STATE AID TO COMMUNITY COLLEGE AREAS
ACTUAL STATE AID AMOUNT FOR EACH COMMUNITY COLLEGE AREA
COMPARED TO AID AMOUNT WITH AND WITHOUT MCC'S
TUITION AND FEE EXCLUSION OF \$4,537,400
For the Fiscal Year Ended June 30, 2009



■ With MCC's Exclusion of \$4,537,400						
■ Without MCC's Exclusion of \$4,537,400						

**DISTRIBUTION OF STATE AID TO COMMUNITY COLLEGE AREAS
TUITION AND FEES REPORTED FOR EACH COMMUNITY COLLEGE AREA -
INCLUDING AMOUNTS REPORTED FOR BOTH METHOD A AND B FOR 2010**

For the Fiscal Years Ended June 30, 2008, 2009, and 2010



* For MCC, only one tuition and fee amount was reported. This amount was per the August 10, 2009 Audit Guide. MCC did not report an amount per the August 28, 2009 Audit Guide.



September 2, 2009

Toll-free, all locations:
1-877-CCC-0780
www.cccneb.edu

Dr. Marshall Hill
Executive Director
Coordinating Commission for Postsecondary Education
140 North Eighth Street, Suite 300
P.O. Box 95005
Lincoln, NE 68509-5005

Dear Dr. Hill:

Central Community College is hereby submitting two sets of numbers in meeting the requirements affiliated with the calculation of state aid in Statute 85-2212. We ask that CCPE use the set of numbers submitted in either Method A or Method B on a consistent basis for all community colleges in the State of Nebraska. We reserve the right to withdraw our numbers or to re-calculate them if CCPE chooses a method that does not treat all six community colleges on a comparable basis.

We offer CCPE the attached information regarding Method A and Method B since you have indicated that CCPE lacks authority to determine the definition of tuition and fees referenced in Statute 85-2212. It is our intention that this lack of definition will be remedied in the next legislative session.

Sincerely,

Dr. Greg Smith
President

Attachment: Tuition and Fee Data for State Aid Allocation
Metropolitan Community College Data form Method A
Central Community College Data form Method A
Central Community College Data form Method B

Administrative Office
3134 West Highway 34
Post Office Box 4903
Grand Island, NE 68802-4903
Phone: (308) 398-4222
Fax: (308) 398-7399

Columbus
4500 - 63rd Street
Post Office Box 1027
Columbus, NE 68602-1027
Phone: (402) 564-7132
Fax: (402) 562-1201

Grand Island
3134 West Highway 34
Post Office Box 4903
Grand Island, NE 68802-4903
Phone: (308) 398-4222
Fax: (308) 398-7398

Hastings
550 South Technical Blvd
Post Office Box 1024
Hastings, NE 68902-1024
Phone: (402) 463-9811
Fax: (402) 461-2454

Holdrege
1308 - 2nd Street
Post Office Box 856
Holdrege, NE 68949-0856
Phone: (308) 995-8133
Fax: (308) 995-5695

Kearney
3519 - 2nd Avenue
Kearney, NE 68847-2911
Phone: (308) 338-4000
Fax: (308) 338-4022

Lexington
608 North Lincoln
Post Office Box 827
Lexington, NE 68850-0827
(308) 324-5936
Fax: (308) 324-5885

Tuition and Fee Data for State Aid Allocation

Basic principles

Central Community College (CCC) believes the following principles should be followed in providing tuition and fee data for use in the allocation of state aid:

1. The method used to report tuition and fees should follow state statute.
2. Legislative intent should be followed.
3. All six Colleges should report tuition and fees using the same method on a consistent basis.
4. All tuition and fee numbers should be reported on the accrual basis.
5. The method of reporting tuition and fees should be clear, straightforward and verifiable.

Two methods of reporting tuition and fees

For over 30 years all six Colleges have reported data for state aid allocation using the same method on a consistent basis. For several years now the method for reporting data for state aid allocation has been provided in the State Aid Enrollment Audit Guidelines. This year one College has submitted data on a form not consistent with the State Aid Enrollment Audit Guidelines.

The following two methods of reporting tuition and fees are currently being used:

1. Method A - Tuition and fees are the amounts collected without any reduction, adjustment, and/or transfers.
2. Method B - Tuition and fees are the amount remaining in the general fund at the end of the fiscal year after any reductions, adjustments and/or transfers.

Prior year revenue

Prior year revenue is defined in State statute 85-2212 as follows:

85-2212 Prior year revenue, defined. Prior year revenue means (1) the lesser of (a) the total of general fund property taxes levied in the fiscal year immediately preceding the fiscal year for which aid is being calculated or (b) the local effort rate calculated pursuant to section 85-2224 multiplied by the property valuation for each community college area divided by one hundred plus (2) state aid, tuition, and fees reported on the accrual basis of accounting in the fiscal year immediately preceding the fiscal year for which aid is being calculated.

State statute is clear that all state aid received must be reported. The statute makes no allowance for any reduction, adjustment, and/or transfer to state aid revenue.

Statute is clear that property tax means the lesser of:

- (a) the total of general fund property taxes levied in the fiscal year immediately preceding the fiscal year for which aid is being calculated or
- (b) the local effort rate calculated pursuant to section 85-2224 multiplied by the property valuation for each community college area divided by one hundred less of actual or LER must be reported.

The statute makes no allowance for any reduction, adjustment, and/or transfer to property tax revenue.

State statute says "tuition and fees reported on the accrual basis of accounting." State statute does not mention allowing any reduction, adjustment and/or transfer of tuition and fee revenue.

Method A - Tuition and fees are the amounts collected without any reduction, adjustment, and/or transfers

Based on discussions with legislative staff involved in the design of the formula, it is clear that Method A follows state statute and legislative intent for the amount of tuition and fee income reported for prior year revenue. If Method B is used, it is abundantly clear that a College could report \$ 0 of tuition and fees. Reporting \$ 0 of tuition and fees clearly does not follow state statute or legislative intent.

Guidelines adopted on August 28, 2009 by the NCCA Board of Directors and provided to the CCPE by the NCCA are based on Method A which follows state statute and legislative intent. The guidelines passed by the NCCA Board of Directors provide for computation of tuition and fees based on audited credit hours on the accrual basis and based on College adopted tuition and fee rates.

Metropolitan's tuition and fee number for Method A

Metropolitan has not provided a tuition and fee number for Method A. The guidelines adopted by the NCCA Board of Directors make it easy and very accurate to compute Metropolitan's tuition and fee number for Method A.

Attached is State Aid Formula Data form calculating Metropolitan's tuition and fee amount. The form uses data from Metropolitan Community College Area Statements of Reimbursable Full-Time Equivalent Student Enrollment and Reimbursable Educational Units for June 30, 2009 and 2008 prepared by Dana F. Cole & Company, LLP and posted tuition and fee rates. Audited credit hours times Metropolitan's adopted tuition and fee rates provides 98.13% of the total tuition and fee amount for Metropolitan. The remaining amount is the tuition for non-credit reimbursable FTE which is provided in Metropolitan's FTE audit as \$ 455,443.

Method B - Tuition and fees are the amount remaining in the general fund at the end of the fiscal year after any reductions, adjustments and/or transfers.

CCC believes that Method B does not follow state statute or legislative intent. Using Method B allows each College the full latitude to make reductions, adjustments and/or transfers to result in a tuition and fee number at any amount they want down to \$0. This clearly does not follow state statute or legislative intent. This method readily allows for manipulation of the tuition and fee number.

Metropolitan has supplied a tuition and fees number using Method B. Because of the potential impact of as much as \$ 13 million on state aid allocations resulting from the use of different methods of providing tuition and fee amounts and because it is ethical and fair, we believe it is imperative that all six Colleges must report tuition and fees using the same method on a consistent basis.

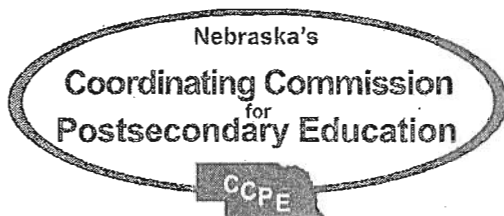
CCC believes that Method A, which follows state statute and legislative intent, is the correct method to use. If Method A is not used for all six Colleges and any College is allowed to use Method B, then all six Colleges should use Method B.

State aid under either Method A or Method B

Tuition and fee numbers for all 6 Colleges are being submitted under both Method A and Method B. Basic fairness and ethics require that the same method (either Method A or Method B or as directed by the CCPE) be used for state aid allocation. The data submitted for both Methods are revenue neutral; that is, the amount of state aid distributed to each College is essentially the same under either method.

Tuition and fee numbers and associated state aid amounts are as follows:

	Tuition and Fee Amounts		State Aid 6-30-10		
	Method A	Method B	Method A	Method B	Difference
Central	8,769,222	4,597,507	8,607,611	8,591,816	15,795
Metro	24,537,722	5,660,615	18,978,841	19,012,262	(33,421)
Mid-Plains	4,208,619	445,469	8,395,922	8,377,443	18,480
Northeast	7,364,265	1,013,408	12,997,712	12,979,777	17,935
Southeast	21,359,990	1,712,828	27,563,908	27,594,090	(30,182)
Western	4,512,997	1,751,798	12,031,478	12,020,085	11,393
Total	70,752,815	15,181,625	88,575,473	88,575,473	(0)



P.O. Box 95005, Lincoln, NE 68509-5005 • 140 N. 8th St., Suite 300, Lincoln, NE 68508
Telephone: 402/471-2847 • Fax: 402/471-2886 • www.ccpe.state.ne.us
Marshall A. Hill, Ph.D., Executive Director

*Promoting high quality, ready access, and efficient use of resources
in Nebraska higher education.*

September 3, 2009

Mr. Richard Bouma
Nebraska Department of Revenue
P.O. Box 94818
Lincoln, NE 68509-4818

Dear Richard,

According to Nebraska statutes, the Coordinating Commission has a limited role regarding the Community College Foundation and Equalization Aid Act.

85-2221 Community college area; report data.

Each community college area shall annually report such data as necessary to carry out the Community College Foundation and Equalization Aid Act to the Coordinating Commission for Postsecondary Education. Each community college area shall annually provide the commission with a reconciliation of the data necessary to carry out the act with audited financial statement information.

Source: Laws 2007, LB 342, § 21; Laws 2008, LB973, § 3.
Effective date July 18, 2008.

Consequently, we are forwarding with this letter a spreadsheet containing the data that each of the six community college areas has reported to us, even though we believe it does not conform to a plain and simple reading of statutes. The principal issue is the amount of "tuition and fees" the colleges are reporting, an important component of the formula that is used to determine allocations of state aid to the college areas. In particular, the colleges have each made numerous but unspecified deductions to reported tuition and fees.

"Tuition and fees" is not defined in the statute, nor is the Coordinating Commission or any other entity assigned the responsibility to provide such a definition. However, in 2007, the six college areas, working through the Nebraska Community College Association and with representatives of the Department of Revenue and the Education Committee of the Legislature present, were able to reach agreement on "audit guidelines" dealing with the Act. Those guidelines, adopted by NCCA, had the effect of providing an operational definition, but the guidelines included various deductions to tuition and fees that are not provided for in statute. The amount of reported tuition and fee income significantly affects the ultimate allocation of state aid to each college.

Commissioners

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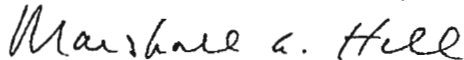
Community College Foundation and Equalization Aid Act
September 3, 2009
Page 2 of 2

For use in this year's formula calculations, Metropolitan Community College has reported \$16,470,027 in deductions to its tuition and fee income – deductions that result in a reported tuition and fee income of \$5,660,615. The other five community colleges sent us two sets of tuition and fee numbers, directing us to forward to the Department of Revenue one specified set if the tuition and fee amount reported by MCC makes use of deductions and another designated set if MCC does not make reductions to its tuition and fees. The information on the attached spreadsheet complies with the written directions of the colleges.

This is clearly not an appropriate way to allocate \$88,575,473 of state funds. It is our view that these definitional and process problems will have to be solved through changes to statutes; we will forward relevant recommendations to the Legislature.

Please let me or Carina Pfeil, our associate director, know if you have questions.

Cordially,



Marshall A. Hill

Enclosure – Community Colleges' Formula Numbers for 2009-10

C: Doug Ewald, Tax Commissioner
Senator Greg Adams, Chair, Education Committee of the Nebraska Legislature
Dennis Baack, Executive Director, Nebraska Community College Association
Nebraska Community College Presidents

**RESOLUTION AUTHORIZING AND DIRECTING
COMMENCEMENT OF LITIGATION**

BE IT RESOLVED, by the Board of Governors of The Metropolitan Community College Area, that College Legal Counsel, in consultation with the President of the College, are hereby authorized and directed to commence litigation for and on behalf of The Metropolitan Community College Area and its Board of Governors, the object and purpose of which litigation shall be to redress and remedy the improper distribution of state aid monies to the other five community college areas within the State of Nebraska during fiscal year 2009-10 under the Community College Foundation and Equalization Aid Act (“Act”), which levels of state aid monies have been induced by such other five community college areas by submitting and reporting tuition and fee revenue figures for 2008-09 that have been publicly admitted to have been “engineered” revenue figures that bear no relation to the accurate and actual tuition and fee revenues of those five community college areas during 2008-09, and which tuition and fee revenue figures do not represent or reflect the tuition and fee revenues of those other five community college areas under the long-standing, mutually understood, and agreed definitions of “tuition” and “fees” as pertaining to the community colleges within the State of Nebraska.

Introduced on behalf of the Administration by and for Board Chair Dave Newell

Board of Governors
October 27, 2009

From: Pfeil, Carna [mailto:Carna.Pfeil@nebraska.gov]
Sent: Thursday, August 13, 2009 10:44 AM
To: Glazier, Larry - EXT; Koebel, Dave; praterw@wwnc.net; lynne@northeast.edu; Purdy, Ryan; Suhr, Ted - Ext
Cc: Baack, Dennis - EXT; Bouma, Richard B Jr; Valentin, Kris
Subject: Data for Formula

Community College Business Officers:

I have received the audited Reimbursable Full-Time Equivalent Student Enrollment and Reimbursable Education Units from all the community colleges.

Additionally, we need the following data for 2008-09:

1. State Aid
2. Property Tax Revenue (not including capital improvement funds)
3. Gross Tuition and Mandatory Fees - There appears to be some confusion regarding tuition and fees. The statute is very clear on this issue - "Sec. 85-2212 (2) . . . , tuition, and fees reported on the accrual basis of accounting in the fiscal year immediately preceding the fiscal year for which aid is being calculated." You are to report Gross tuition and Mandatory fees. The statute does not allow for adjustments to the tuition. You are to report all tuition accrued for the fiscal year (in this case 2008-09). Mandatory fees are those fees charged to all students. (this is a nationally accepted definition of Mandatory fees and when entities refer to Tuition and Fees most often they are referring to Mandatory fees). Mandatory fees would be the same as you report for the supplements under "Student Fee Schedule".
4. Percent Growth
5. Property Tax Levy - levy in cents per \$100 of assessed valuation: separated by General Fund levy and Capital Improvement Fund levy.
6. Total Property Tax assessed valuations for your service area.
7. Other Income

If you have questions, please contact me.

Thanks,
Carna