

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 564 Session of  
2003

INTRODUCED BY BUNT, DeWEESE, HARPER, CURRY, BARD, BELFANTI,  
CAPPELLI, CIVERA, CLYMER, DAILEY, DALEY, DALLY, FREEMAN,  
GODSHALL, HARHART, HENNESSEY, HERMAN, HORSEY, JAMES, JOSEPHS,  
LaGROTTA, LAUGHLIN, LEH, MANN, MARKOSEK, NAILOR, ROSS,  
RUBLEY, SAYLOR, SEMMEL, E. Z. TAYLOR, THOMAS, TRAVAGLIO,  
TURZAI, VANCE, WEBER, WILT, YOUNGBLOOD, YUDICHAK, WASHINGTON  
AND ROEBUCK, MARCH 3, 2003

REFERRED TO COMMITTEE ON EDUCATION, MARCH 3, 2003

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An  
2 act relating to the public school system, including certain  
3 provisions applicable as well to private and parochial  
4 schools; amending, revising, consolidating and changing the  
5 laws relating thereto," further providing for community  
6 college financial programs and reimbursements; establishing  
7 the Community College Nonmandated Capital Fund; and  
8 abrogating a regulation.

9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. Section 1902-A of the act of March 10, 1949  
12 (P.L.30, No.14), known as the Public School Code of 1949, added  
13 July 1, 1985 (P.L.103, No.31), is amended to read:

14 Section 1902-A. Powers and Duties of State Board of  
15 Education.--(a) The State Board of Education shall have the  
16 power, and its duty shall be:

17 (1) To adopt such policies, standards, rules and regulations  
18 formulated by the Council of Higher Education, as may be

1 necessary to provide for the establishment, operation and  
2 maintenance of community colleges, including minimum  
3 requirements for physical facilities and equipment, curriculum,  
4 faculty, standards and professional requirements, qualifications  
5 for admission and advancement of students, student enrollment,  
6 student population of the area to be served by the community  
7 college, requirements for satisfactory completion of a two-year  
8 program and the degrees or diplomas or certificates to be  
9 awarded therefor, means of financing and financial resources for  
10 the establishment and support of the community college, and all  
11 matters necessary to effectuate the purposes of this act.

12 (2) To approve or disapprove plans for the establishment or  
13 operation of a community college.

14 (3) To approve or disapprove petitions of school districts  
15 or municipalities applying for participation in an established  
16 community college. No petition may be approved unless it is  
17 accompanied by the consent of the governing bodies of the  
18 majority of the members of the local sponsor of the established  
19 community college to the participation of the petitioning school  
20 district or municipality.

21 (b) In determining such policies, standards, rules and  
22 regulations, the State Board of Education may consider relevant  
23 all minimum requirements established by statute or by regulation  
24 with respect to the State colleges and universities of the  
25 Commonwealth and may consider relevant such minimum requirements  
26 established by statute or by regulation with respect to  
27 secondary and special education programs in the school district  
28 or districts of the area to be served by the community college.  
29 Regulations promulgated under this article shall take effect at  
30 the beginning of the school year following promulgation.

1 (c) In approving or disapproving such plans, the State Board  
2 of Education shall consider the needs of areas adjacent to the  
3 areas to be served by the community college and of the State  
4 with respect to higher education and long range plans therefor  
5 established by the State Board of Education. Other school  
6 districts and municipalities may petition the State Board of  
7 Education to become a part of a local sponsor as hereafter in  
8 this act provided.

9 (d) No plan for the establishment of a community college  
10 shall be approved unless the State Board of Education determines  
11 that the local sponsor has a population of a sufficient number  
12 to assure a sustained minimum enrollment, has sufficient wealth  
13 to financially support such college and is not adequately served  
14 by established institutions of higher learning. No plan for the  
15 establishment of a community college shall be approved unless it  
16 contains an estimate of operating cost for administration,  
17 instruction, operation and maintenance and such other accounts  
18 as the State Board of Education may, from time to time,  
19 determine. No plan for the establishment of a community college  
20 shall be approved unless it contains an estimate of any proposed  
21 capital improvements for the next following ten years.

22 (e) To confer with and obtain the approval of the Governor's  
23 Office as to the number of community colleges which can be  
24 approved for participation during the ensuing fiscal period.

25 (f) Wherever in this act the approval of the State Board of  
26 Education is required in any matter, the State Board of  
27 Education may require the Department of Education to make and  
28 report its findings and recommendations on such matter to the  
29 Council of Higher Education for the formulation of policies,  
30 standards, rules and regulations for consideration by the State

1 Board of Education.

2 Section 2. Section 1913-A of the act, amended or added July  
3 1, 1985 (P.L.103, No.31), October 20, 1988 (P.L.827, No.110),  
4 June 7, 1993 (P.L.49, No.16) and June 22, 2001 (P.L.530, No.35),  
5 is amended to read:

6 Section 1913-A. Financial Program; Reimbursement of  
7 Payments.--(a) The plan submitted by the local sponsor shall  
8 set forth a financial program for the operation of the community  
9 college. The plan shall provide that the local sponsor shall  
10 appropriate or provide to the community college an amount at  
11 least equal to the community college's annual operating costs  
12 less the student tuition as determined in section 1908-A(a) less  
13 the Commonwealth's payment as determined in subsection (b)(1) of  
14 this section. The plan shall also provide that one-half of the  
15 annual capital expenses shall be appropriated or provided by the  
16 local sponsor to the community college. The local sponsor's  
17 appropriation for annual operating costs and annual capital  
18 expenses may in part be represented by real or personal property  
19 or services made available to the community college. The plan  
20 shall indicate whether the appropriation shall come from general  
21 revenues, loan funds, special tax levies or from other sources,  
22 including student tuitions.

23 (b) (1) The Commonwealth shall pay to a community college  
24 on behalf of the sponsor on account of its operating costs  
25 during the fiscal year from funds appropriated for that purpose  
26 an amount equal to:

27 (i) for the 1993-1994 fiscal year through the 2000-2001  
28 fiscal year, the lesser of such college's variable State share  
29 ceiling as determined in clause (1.3) or such college's  
30 equivalent full-time student reimbursement as determined in

1 clause (1.4); and

2 (ii) for the 2001-2002 fiscal year and each fiscal year  
3 thereafter, the college's equivalent full-time student  
4 reimbursement as determined in clause (1.4).

5 (1.2) The Secretary of Education, in consultation with the  
6 community colleges, shall promulgate standards for credit  
7 courses and for noncredit courses that will be eligible for  
8 Commonwealth reimbursement. The standards shall specifically  
9 exclude from eligibility for reimbursement any course or program  
10 in avocational or recreational pursuits. The standards shall be  
11 promulgated by the beginning of the 1994-1995 fiscal year. Until  
12 such standards are promulgated, no community college will be  
13 reimbursed for any credit course which was offered by such  
14 college as a noncredit course during the college's 1992-1993  
15 fiscal year.

16 (1.3) The variable State share ceiling of a community  
17 college shall be determined as follows:

18 (i) Subtract the taxable income per person of the local  
19 sponsor from the highest taxable income per person of any county  
20 in the Commonwealth.

21 (ii) Divide the amount determined under subclause (i) by the  
22 difference between the highest taxable income per person of any  
23 county in the Commonwealth and the lowest taxable income per  
24 person of any county in the Commonwealth.

25 (iii) Multiply the quotient determined under subclause (ii)  
26 by one-sixth.

27 (iv) Add one-third to the product determined under paragraph  
28 (iii).

29 (v) Multiply the sum determined under subclause (iv) by the  
30 community college's operating costs in the year for which

1 reimbursement is being claimed.

2 (vi) The taxable income per person data used in the  
3 preceding calculation shall be data certified to the Secretary  
4 of Education by the Secretary of Revenue under section 2501(9.1)  
5 for school district local sponsors or data otherwise published  
6 by the Secretary of Revenue for a municipal local sponsor.

7 (1.4) The equivalent full-time student reimbursement of a  
8 community college shall be the sum of credit course, noncredit  
9 course and stipend reimbursements. These reimbursements shall be  
10 calculated using a reimbursement factor of one thousand and  
11 forty dollars (\$1,040) for the 1993-1994 fiscal year, of one  
12 thousand eighty dollars (\$1,080) for the 1994-1995 fiscal year  
13 and of one thousand one hundred eighty dollars (\$1,180) for the  
14 1995-1996 fiscal year and one thousand and two hundred and ten  
15 dollars (\$1,210) for the 1996-1997 fiscal year and one thousand  
16 two hundred sixty dollars (\$1,260) for the 1997-1998 fiscal year  
17 and the 1998-1999 fiscal year and one thousand three hundred  
18 dollars (\$1,300) for the 1999-2000 fiscal year and one thousand  
19 four hundred dollars (\$1,400) for the 2000-2001 fiscal year and  
20 one thousand five hundred dollars (\$1,500) for the 2001-2002  
21 fiscal year and for each year thereafter and shall be determined  
22 as follows:

23 (i) Credit course reimbursement shall be calculated by  
24 multiplying the reimbursement factor by the number of equivalent  
25 full-time students enrolled in credit courses as determined by  
26 an audit to be made in a manner prescribed by the State Board of  
27 Education. The following apply:

28 (A) Course enrollment is to be determined by the standards  
29 of the community college.

30 (B) Computer-based documentation or paper-based

1 documentation may be used to verify enrollment.

2 (C) Enrollment in a program of study is to be determined  
3 solely by the declaration of the student.

4 (ii) Noncredit course reimbursement shall be calculated as  
5 follows:

6 (A) [eighty] Eighty percent (80%) of the reimbursement  
7 factor multiplied by the number of equivalent full-time students  
8 enrolled in eligible noncredit courses for the 1993-1994 fiscal  
9 year, as determined by the audit referred to in paragraph  
10 (i)[;]\_.

11 (B) [seventy] Seventy percent (70%) of the reimbursement  
12 factor multiplied by the number of equivalent full-time students  
13 enrolled in eligible noncredit courses for the 1994-1995 fiscal  
14 year and for each year thereafter, as determined by the audit  
15 referred to in paragraph (i)[; or]\_.

16 (C) [one] One hundred percent (100%) of the reimbursement  
17 factor multiplied by the number of equivalent full-time students  
18 enrolled in eligible noncredit public safety courses that  
19 provide training for volunteer firefighters and emergency  
20 medical services for the 1995-1996 fiscal year and for each year  
21 thereafter, as determined by the audit referred to in paragraph  
22 (i).

23 (D) A noncredit course is eligible for reimbursement if any  
24 of the following apply:

25 (I) The course is in the area of public safety; adult basic  
26 education or adult literacy; occupational skills; academics; or  
27 a program for certification in accordance with standards  
28 established by statute, regulation or appropriate industry.

29 (II) Regardless of whether the instructor's compensation is  
30 paid directly by the community college or paid by an entity that

1 contracts with the community college, the community college is  
2 responsible for selecting; supervising; and, if appropriate,  
3 dismissing the instructor.

4 (E) Course enrollment is to be determined by the standards  
5 of the community college.

6 (iii) Stipend reimbursement on account of a community  
7 college's operating costs for all equivalent full-time students  
8 enrolled in the following categories of two-year or less than  
9 two-year occupational or technical programs, shall be the sum of  
10 the following:

11 (A) One thousand one hundred dollars (\$1,100) per full-time  
12 equivalent student enrolled in advanced technology programs. For  
13 the fiscal year 1995-1996, 1996-1997 and 1997-1998, the  
14 reimbursement rate shall be calculated at one thousand one  
15 hundred seventy-five dollars (\$1,175) per full-time equivalent  
16 student enrolled in advanced technology programs. For the fiscal  
17 year 1998-1999 and each year thereafter, the reimbursement rate  
18 shall be calculated at one thousand four hundred sixty dollars  
19 (\$1,460) per full-time equivalent student enrolled in advanced  
20 technology programs. Advanced technology programs are programs  
21 using new or advanced technologies which hold promise for  
22 creating new job opportunities, including such fields as  
23 robotics, biotechnology, specialized materials and engineering  
24 and engineering-related programs.

25 (B) One thousand dollars (\$1,000) per full-time equivalent  
26 student enrolled in programs designated as Statewide programs.  
27 For the fiscal year 1995-1996, 1996-1997 and 1997-1998, the  
28 reimbursement rate shall be calculated at one thousand seventy-  
29 five dollars (\$1,075) per full-time equivalent student enrolled  
30 in programs designated as Statewide programs. For the fiscal



1 year 1998-1999 and each year thereafter, the reimbursement rate  
2 shall be calculated at one thousand three hundred sixty dollars  
3 (\$1,360) per full-time equivalent student enrolled in programs  
4 designated as Statewide programs. A Statewide program is a  
5 program which meets one or more of the following criteria:

6 (I) Program enrollment from out-of-sponsor area is twenty  
7 per cent or more of the enrollment for the program.

8 (II) A consortial arrangement exists with another community  
9 college to cooperatively operate a program or share regions in  
10 order to avoid unnecessary program duplication.

11 (C) Five hundred dollars (\$500) per full-time equivalent  
12 student enrolled in other occupational or technical programs.

13 For the fiscal year 1995-1996, 1996-1997 and 1997-1998, the  
14 reimbursement rate shall be calculated at five hundred seventy-  
15 five dollars (\$575) per full-time equivalent student enrolled in  
16 other occupational or technical programs. For the fiscal year  
17 1998-1999 and each year thereafter, the reimbursement rate shall  
18 be calculated at eight hundred sixty dollars (\$860) per full-  
19 time equivalent student enrolled in other occupational or  
20 technical programs.

21 (2) For the 1993-1994 fiscal year, each community college  
22 shall be reimbursed under clause (1) in an amount which is at  
23 least equal to a one percent (1%) increase over its 1992-1993  
24 operating cost and stipend reimbursement. In no case shall a  
25 community college's 1993-1994 reimbursement under clause (1) per  
26 full-time equivalent student, insofar as said reimbursement does  
27 not include a proportionate share attributable to stipend  
28 reimbursement under clause (1.4)(iii), exceed its 1992-1993  
29 operating cost reimbursement per full-time equivalent student by  
30 more than ten percent (10%).

1       (2.1) For the 1994-1995 fiscal year, each community college  
2 shall be reimbursed under clause (1) in an amount which is at  
3 least equal to a one percent (1%) increase over its 1993-1994  
4 reimbursement under clause (1). In no case shall a community  
5 college's 1994-1995 reimbursement under clause (1) per full-time  
6 equivalent student, insofar as said reimbursement does not  
7 include the proportionate share attributable to stipend  
8 reimbursement under clause (1.4)(iii), exceed its 1993-1994  
9 reimbursement under clause (1) per full-time equivalent student,  
10 insofar as said reimbursement does not include the proportionate  
11 share attributable to stipend reimbursement under clause  
12 (1.4)(iii) by more than ten percent (10%).

13       (2.2) For the 1995-1996 fiscal year, each community college  
14 shall be reimbursed under clause (1) in an amount which is at  
15 least equal to its 1994-1995 reimbursement under clause (1).

16       (3) The [Secretary] Department of Education [annually] shall  
17 [establish] promulgate regulations establishing criteria to be  
18 used to determine eligibility of programs for each of the above  
19 stipend categories[,]. The department shall approve programs for  
20 funding [in the following fiscal year] according to these  
21 [criteria and] regulations. The Secretary of Education shall  
22 submit to chairmen of the committees of education in the House  
23 of Representatives and Senate a report setting forth [the  
24 established criteria,] any programs approved for funding under  
25 these [criteria] regulations and the recipient community  
26 colleges.

27       (4) Each community college shall maintain such accounting  
28 and student attendance records on generally accepted auditing  
29 principles and standards [as will lend themselves to  
30 satisfactory audit]. Beginning with the 2003-2004 fiscal year

1 and each year thereafter, the department must complete an audit  
2 of a community college for a school year within one year after  
3 the completion of that school year. If the department does not  
4 meet the time requirement of this clause, the community college  
5 affected shall be required to forfeit reimbursement only for an  
6 intentional violation or for a violation of previously cited and  
7 resolved findings. The Commonwealth shall pay to a community  
8 college on behalf of the sponsor on account of its capital  
9 expenses an amount equal to one-half of such college's annual  
10 capital expenses from funds appropriated for that purpose to the  
11 extent that said capital expenses have been approved as herein  
12 provided.

13 (5) For purposes of determining Commonwealth reimbursement  
14 of operating costs, Federally funded expenditures for those  
15 programs in which the Commonwealth participates in the cost  
16 shall be deducted from total operating expenditures to determine  
17 net reimbursable operating costs.

18 (c) Capital expenses shall mean only such expenses as are  
19 incurred with the approval of the Department of Education for  
20 amortization of the purchase of lands; purchase, construction or  
21 improvement of buildings for administrative and instructional  
22 purposes, including libraries; the lease of lands or buildings,  
23 or for rentals to an authority for the same purpose; and for the  
24 purchase, lease or rental of capital equipment and furniture  
25 used for instructional or administrative purposes. Capital  
26 expenses shall include library books and complementary audio-  
27 visual equipment purchased during the first five years after  
28 establishment. For the purpose of calculating the Commonwealth's  
29 share of operating, and capital costs incurred prior to the  
30 actual admission of students to a community college, all such

1 costs shall be interpreted as capital costs. No costs and  
2 expenses incurred in the establishment, construction, operation  
3 or maintenance of dormitories, or the equipment or furnishings  
4 for such purposes, shall be included in capital expenses or  
5 operating costs for purposes of Commonwealth reimbursement. The  
6 provisions of this subsection shall not prevent the Commonwealth  
7 from reimbursing a community college for capital expenses  
8 incurred prior to the effective date of this act. Such  
9 reimbursement must have approval of the Secretary of Education.

10 (d) The State Board of Education shall adopt policies,  
11 standards, rules and regulations for determining reimbursable  
12 capital expenses and operating costs, and the Department of  
13 Education shall approve such expenses and costs for the purpose  
14 of reimbursement by the Commonwealth.

15 (e) The State Board of Education shall apply for, receive  
16 and administer, subject to any applicable regulations or laws of  
17 the Federal Government or any agency thereof, any Federal  
18 grants, appropriations, allocations and programs to fulfill the  
19 purpose of this act.

20 (f) All administrative personnel, faculty, and other  
21 employees of the community colleges in the Commonwealth shall be  
22 eligible for inclusion in the Public School Employees'  
23 Retirement System of Pennsylvania, the Pennsylvania State  
24 Employees' Retirement System, or any independent retirement  
25 program approved by the Board of Trustees of a community  
26 college, and the Secretary of Education.

27 (g) The community college in the Commonwealth shall be  
28 eligible for participation in the act of July 5, 1947 (P.L.1217,  
29 No.498), known as the "State Public School Building Authority  
30 Act," and [the act of May 2, 1945 (P.L.382, No.164), known as

1 the "Municipality Authorities Act of 1945."] 53 Pa.C.S. Ch. 56  
2 (relating to municipal authorities).

3 (h) In all cases where the board of trustees of any  
4 community college fails to pay or provide for the payment of any  
5 rental or rentals due the State Public School Building Authority  
6 or any municipality authority for any period in accordance with  
7 the terms of any lease entered into between the board of  
8 trustees of any community college and the State Public School  
9 Building Authority or any municipality authority, or fails to  
10 pay or to provide for the payment of any other indebtedness when  
11 due, upon written notice thereof from the State Public School  
12 Building Authority or any municipality authority, or in such  
13 cases where an audit reveals any unpaid indebtedness due, the  
14 Secretary of Education shall notify the board of trustees of its  
15 obligation and shall withhold out of any State appropriation  
16 that may be due to such community college an amount equal to the  
17 amount of rental or rentals owing by such board of trustees to  
18 the State Public School Building Authority or any municipality  
19 authority, or an amount equal to the amount of any other  
20 indebtedness owing by such board of trustees, and shall pay over  
21 the amount or amounts so withheld to the State Public School  
22 Building Authority or any municipality authority or to  
23 whomever any other indebtedness is due and owing.

24 (i) The amount payable to each community college Board of  
25 Trustees on behalf of the sponsor shall be paid in the year in  
26 which the costs and expenses are incurred in quarterly  
27 installments and the Secretary of Education shall draw his  
28 requisition quarterly upon the State Treasurer in favor of each  
29 community college for the amount of reimbursement to which it is  
30 entitled. Reimbursement or payment by the Commonwealth for the

1 operational expenses and capital equipment and the furnishings  
2 shall be made on or before the end of the fiscal quarters ended  
3 on September 30, December 31, March 31 and June 30 of each  
4 Commonwealth fiscal year. Reimbursements or payments shall be  
5 made semi-annually for the Commonwealth's share of the annual  
6 rentals to an authority or the sponsor or sinking fund or debt-  
7 service payments and other leases upon submission of a community  
8 college requisition in the form required by the Commonwealth,  
9 the reimbursement or payment to be made from funds appropriated  
10 for that purpose. Money that is appropriated under this  
11 subsection but not expended by a community college Board of  
12 Trustees shall not be distributed to a local sponsor.

13 (j) In no event shall the payments or final reimbursement  
14 made by the department following audit exceed the appropriation  
15 available for community colleges.

16 (k) (1) Unless otherwise prescribed by the State Board of  
17 Education, the Commonwealth's fiscal audits of community  
18 colleges under this section shall be conducted in accordance  
19 with "Government Auditing Standards," latest revision,  
20 promulgated by the United States General Accounting Office.  
21 Written audit reports will be produced and will be sent to the  
22 community college by the Commissioner of Postsecondary/Higher  
23 Education. Any cost disallowed under findings contained in the  
24 audit report shall be considered an adjudication within the  
25 meaning of 2 Pa.C.S. (relating to administrative law and  
26 procedure) and regulations promulgated thereunder.

27 (2) The Secretary of Education is hereby specifically  
28 authorized and shall be required to resolve audit findings  
29 involving disallowed costs that are contested by community  
30 colleges except for audit findings that involve mathematical

1 errors, violation of regulations or alleged illegal activities.  
2 The proposed resolution of the Secretary of Education shall not  
3 be subject to the provisions of 2 Pa.C.S. The Secretary of  
4 Education's notice to resolve audit findings shall be sent to  
5 the community college in writing. The Secretary of Education may  
6 resolve the audit findings by reducing the disallowed costs  
7 related thereto in whole or in part.

8 (3) The Secretary of Education's notice to resolve an audit  
9 finding by reducing or eliminating the disallowed costs must be  
10 made contingent upon the community college developing and  
11 implementing a corrective action plan to address the audit  
12 finding. The community college must submit a corrective action  
13 plan to the Secretary of Education within 60 business days after  
14 receipt of the Secretary of Education's written notice to  
15 resolve the audit finding. The Secretary of Education shall  
16 approve, reject or alter the plan submitted by the community  
17 college within thirty (30) days of submission. After the  
18 community college receives written notice of approval or agrees  
19 in writing to the Secretary of Education's alterations of the  
20 corrective action plan, said plan shall be implemented and shall  
21 be binding on the community college. Implementation of the  
22 approved or agreed upon corrective action plan will be verified  
23 by an audit conducted by the department no later than the end of  
24 the fiscal year following the fiscal year during which the plan  
25 is implemented. If no agreed upon corrective action plan is in  
26 place within one year after the date of the Secretary of  
27 Education's written notice to resolve audit findings or if the  
28 agreed upon corrective action has not been implemented within  
29 one year after the date of the Secretary of Education's written  
30 notice to resolve the audit findings, then the Secretary of

1 Education is authorized to adjust payments to the community  
2 college to collect any amounts due based upon the findings  
3 contained in the audit report that was issued to the college by  
4 the commissioner.

5 (4) The department shall deduct any amounts due the  
6 Commonwealth as a result of audit findings that are resolved  
7 under this subsection from any future payment due to the  
8 community college from the Commonwealth. The Secretary of  
9 Education is authorized to approve a payment schedule in cases  
10 where immediate repayment of the full amount due the  
11 Commonwealth would jeopardize the ability of the community  
12 college to continue operations.

13 (5) Resolution authority provided to the Secretary of  
14 Education in this subsection shall be limited to disallowed cost  
15 findings relating to policy and/or administrative practices. The  
16 resolution authority shall not be used for audit findings in  
17 which the audited community college data and documentation is in  
18 error, where a violation of applicable law or regulation is  
19 found or where criminal violations are suspected by the  
20 Commonwealth auditors and brought to the Secretary of  
21 Education's attention in writing. Notwithstanding the  
22 limitations of this subsection, until June 30, 1995, the  
23 Secretary of Education is authorized to resolve audit findings  
24 involving disallowed costs for fiscal years prior to and  
25 including 1992-1993 when such disallowed costs result from  
26 violation of regulations.

27 (6) The department, through the Secretary of Education, is  
28 authorized to issue guidelines for the operation of the  
29 community college educational and financial programs. The  
30 department shall amend these guidelines on an annual basis to



1 reflect the department's position on issues that require  
2 resolution under this subsection.

3 (7) The provisions of subsection (d) are repealed insofar as  
4 they are inconsistent with the provisions of this subsection.

5 (1) For the fiscal year 1992-1993, if insufficient funds are  
6 appropriated to make Commonwealth payments pursuant to this  
7 section, such payments shall be made on a pro rata basis.

8 Section 3. The act is amended by adding a section to read:

9 Section 1916-A. Community College Nonmandated Capital  
10 Fund.--(a) The Community College Nonmandated Capital Fund is  
11 established as a separate fund in the State Treasury.

12 (b) The sources of the fund are as follows:

13 (1) Reimbursements repaid by community colleges to the  
14 Commonwealth pursuant to audits under section 1913-A and  
15 regulations under that section.

16 (2) Appropriations.

17 (3) Earnings on money in the fund.

18 (c) The fund shall be used for nonmandated capital projects  
19 in community colleges. Guidelines for disbursement shall be  
20 developed by the Department of Education in consultation with  
21 community colleges.

22 (d) The money in the fund is continuously appropriated to  
23 the fund and shall not lapse at the end of any fiscal year.

24 Section 4. The following provisions of 22 Pa. Code are  
25 abrogated:

26 (1) Section 35.61(f)(2).

27 (2) Section 335.22(3).

28 Section 5. This act shall take effect in 60 days.