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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 564 Session of  
2003

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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,  
ROEBUCK, SCAVELLO, LEWIS, SAMUELSON, WOJNAROSKI AND ADOLPH,  
MARCH 3, 2003

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SENATOR THOMPSON, APPROPRIATIONS, IN SENATE, RE-REPORTED AS  
AMENDED, JUNE 30, 2003

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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~~ PROVIDING FOR <—  
8 NONMANDATED CAPITAL; and 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

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

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

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

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

1 the beginning of the school year following promulgation.

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

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

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

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

1 standards, rules and regulations for consideration by the State  
2 Board of Education.

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

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

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

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

1 equivalent full-time student reimbursement as determined in  
2 clause (1.4); and

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

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

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

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

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

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

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

30 (v) Multiply the sum determined under subclause (iv) by the

1 community college's operating costs in the year for which  
2 reimbursement is being claimed.

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

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

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

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

1        (B) Computer-based documentation or paper-based  
2 documentation may be used to verify enrollment.

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

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

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

12        (B) ~~[seventy] Seventy~~ EXCEPT AS PROVIDED IN CHAPTER 15 OF        <—  
13 THE ACT OF DECEMBER 18, 2001 (P.L.949, NO.114), KNOWN AS THE  
14 "WORKFORCE DEVELOPMENT ACT," SEVENTY percent (70%) of the  
15 reimbursement factor multiplied by the number of equivalent  
16 full-time students enrolled in eligible noncredit courses for  
17 the 1994-1995 fiscal year and for each year thereafter, as  
18 determined by the audit referred to in paragraph (i)[; or].

19        (C) [one] One hundred percent (100%) of the reimbursement  
20 factor multiplied by the number of equivalent full-time students  
21 enrolled in eligible noncredit public safety courses that  
22 provide training for volunteer firefighters and emergency  
23 medical services for the 1995-1996 fiscal year and for each year  
24 thereafter, as determined by the audit referred to in paragraph  
25 (i). In calculating the number of equivalent full time students        <—  
26 enrolled in eligible noncredit courses, each fifteen hours of  
27 classroom work and laboratory work shall be equated to one  
28 semester credit for reimbursement purposes.

29        ~~(D) Ninety percent (90%) of the reimbursement factor~~  
30 multiplied by the number of full time students enrolled in

~~1 eligible noncredit work force development courses; adult  
2 literacy courses, including, but not limited to, adult basic  
3 education, the general educational development (GED) diploma and  
4 English as a second language; and continuing professional  
5 education courses for the 2003-2004 fiscal year and for each  
6 year thereafter, as determined by the audit referred to in  
7 paragraph (i). For purposes of reimbursement under this section,  
8 "work force development course" shall have the meaning given in  
9 section 1502 of the act of December 18, 2001 (P.L.949, No.114),  
10 known as the Workforce Development Act.~~

~~11 (E) (D) A noncredit course is eligible for reimbursement if~~ ←  
12 ~~any of the following apply:~~

~~13 (I) The course is in the area of public safety; adult basic  
14 education or adult literacy; work force development;  
15 occupational skills; academics; or a program for certification  
16 in accordance with standards established by statute, regulation  
17 or appropriate industry.~~

~~18 (II) Regardless of whether the instructor's compensation is  
19 paid directly by the community college or paid by an entity that  
20 contracts with the community college, the community college is  
21 responsible for selecting; supervising; and, if appropriate,  
22 dismissing the instructor.~~

~~23 (F) (E) Course enrollment is to be determined by the~~ ←  
24 ~~standards of the community college.~~

~~25 (iii) Stipend reimbursement on account of a community  
26 college's operating costs for all equivalent full-time students  
27 enrolled in the following categories of two-year or less than  
28 two-year occupational or technical programs, shall be the sum of  
29 the following:~~

~~30 (A) One thousand one hundred dollars (\$1,100) per full-time~~

1 equivalent student enrolled in advanced technology programs. For  
2 the fiscal year 1995-1996, 1996-1997 and 1997-1998, the  
3 reimbursement rate shall be calculated at one thousand one  
4 hundred seventy-five dollars (\$1,175) per full-time equivalent  
5 student enrolled in advanced technology programs. For the fiscal  
6 year 1998-1999 and each year thereafter, the reimbursement rate  
7 shall be calculated at one thousand four hundred sixty dollars  
8 (\$1,460) per full-time equivalent student enrolled in advanced  
9 technology programs. Advanced technology programs are programs  
10 using new or advanced technologies which hold promise for  
11 creating new job opportunities, including such fields as  
12 robotics, biotechnology, specialized materials and engineering  
13 and engineering-related programs.

14 (B) One thousand dollars (\$1,000) per full-time equivalent  
15 student enrolled in programs designated as Statewide programs.  
16 For the fiscal year 1995-1996, 1996-1997 and 1997-1998, the  
17 reimbursement rate shall be calculated at one thousand seventy-  
18 five dollars (\$1,075) per full-time equivalent student enrolled  
19 in programs designated as Statewide programs. For the fiscal  
20 year 1998-1999 and each year thereafter, the reimbursement rate  
21 shall be calculated at one thousand three hundred sixty dollars  
22 (\$1,360) per full-time equivalent student enrolled in programs  
23 designated as Statewide programs. A Statewide program is a  
24 program which meets one or more of the following criteria:

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

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

30 (C) Five hundred dollars (\$500) per full-time equivalent

1 student enrolled in other occupational or technical programs.  
2 For the fiscal year 1995-1996, 1996-1997 and 1997-1998, the  
3 reimbursement rate shall be calculated at five hundred seventy-  
4 five dollars (\$575) per full-time equivalent student enrolled in  
5 other occupational or technical programs. For the fiscal year  
6 1998-1999 and each year thereafter, the reimbursement rate shall  
7 be calculated at eight hundred sixty dollars (\$860) per full-  
8 time equivalent student enrolled in other occupational or  
9 technical programs.

10 (2) For the 1993-1994 fiscal year, each community college  
11 shall be reimbursed under clause (1) in an amount which is at  
12 least equal to a one percent (1%) increase over its 1992-1993  
13 operating cost and stipend reimbursement. In no case shall a  
14 community college's 1993-1994 reimbursement under clause (1) per  
15 full-time equivalent student, insofar as said reimbursement does  
16 not include a proportionate share attributable to stipend  
17 reimbursement under clause (1.4)(iii), exceed its 1992-1993  
18 operating cost reimbursement per full-time equivalent student by  
19 more than ten percent (10%).

20 (2.1) For the 1994-1995 fiscal year, each community college  
21 shall be reimbursed under clause (1) in an amount which is at  
22 least equal to a one percent (1%) increase over its 1993-1994  
23 reimbursement under clause (1). In no case shall a community  
24 college's 1994-1995 reimbursement under clause (1) per full-time  
25 equivalent student, insofar as said reimbursement does not  
26 include the proportionate share attributable to stipend  
27 reimbursement under clause (1.4)(iii), exceed its 1993-1994  
28 reimbursement under clause (1) per full-time equivalent student,  
29 insofar as said reimbursement does not include the proportionate  
30 share attributable to stipend reimbursement under clause

1 (1.4)(iii) by more than ten percent (10%).

2 (2.2) For the 1995-1996 fiscal year, each community college  
3 shall be reimbursed under clause (1) in an amount which is at  
4 least equal to its 1994-1995 reimbursement under clause (1).

5 (3) The [Secretary] Department of Education [annually] shall  
6 [establish] promulgate regulations establishing criteria to be  
7 used to determine eligibility of programs for each of the above  
8 stipend categories[,]. The department shall approve programs for  
9 funding [in the following fiscal year] according to these  
10 [criteria and] regulations. The Secretary of Education shall  
11 submit to chairmen of the committees of education in the House  
12 of Representatives and Senate a report setting forth [the  
13 established criteria,] any programs approved for funding under  
14 these [criteria] regulations and the recipient community  
15 colleges.

16 (4) Each community college shall maintain such accounting  
17 and student attendance records on generally accepted auditing  
18 principles and standards [as will lend themselves to  
19 satisfactory audit]. Beginning with the 2003-2004 fiscal year  
20 and each year thereafter, the department must complete an audit  
21 of a community college for a school year within one year after  
22 the completion of that school year. If the department does not  
23 meet the time requirement of this clause, the community college  
24 affected shall be required to forfeit reimbursement only for an  
25 intentional violation or for a violation of previously cited and  
26 resolved findings. The Commonwealth shall pay to a community  
27 college on behalf of the sponsor on account of its capital  
28 expenses an amount equal to one-half of such college's annual  
29 capital expenses from funds appropriated for that purpose to the  
30 extent that said capital expenses have been approved as herein

1 provided.

2 (5) For purposes of determining Commonwealth reimbursement  
3 of operating costs, Federally funded expenditures for those  
4 programs in which the Commonwealth participates in the cost  
5 shall be deducted from total operating expenditures to determine  
6 net reimbursable operating costs.

7 (c) Capital expenses shall mean only such expenses as are  
8 incurred with the approval of the Department of Education for  
9 amortization of the purchase of lands; purchase, construction or  
10 improvement of buildings for administrative and instructional  
11 purposes, including libraries; the lease of lands or buildings,  
12 or for rentals to an authority for the same purpose; and for the  
13 purchase, lease or rental of capital equipment and furniture  
14 used for instructional or administrative purposes. Capital  
15 expenses shall include library books and complementary audio-  
16 visual equipment purchased during the first five years after  
17 establishment. For the purpose of calculating the Commonwealth's  
18 share of operating, and capital costs incurred prior to the  
19 actual admission of students to a community college, all such  
20 costs shall be interpreted as capital costs. No costs and  
21 expenses incurred in the establishment, construction, operation  
22 or maintenance of dormitories, or the equipment or furnishings  
23 for such purposes, shall be included in capital expenses or  
24 operating costs for purposes of Commonwealth reimbursement. The  
25 provisions of this subsection shall not prevent the Commonwealth  
26 from reimbursing a community college for capital expenses  
27 incurred prior to the effective date of this act. Such  
28 reimbursement must have approval of the Secretary of Education.

29 (d) The State Board of Education shall adopt policies,  
30 standards, rules and regulations for determining reimbursable

1 capital expenses and operating costs, and the Department of  
2 Education shall approve such expenses and costs for the purpose  
3 of reimbursement by the Commonwealth.

4 (e) The State Board of Education shall apply for, receive  
5 and administer, subject to any applicable regulations or laws of  
6 the Federal Government or any agency thereof, any Federal  
7 grants, appropriations, allocations and programs to fulfill the  
8 purpose of this act.

9 (f) All administrative personnel, faculty, and other  
10 employes of the community colleges in the Commonwealth shall be  
11 eligible for inclusion in the Public School Employees'  
12 Retirement System of Pennsylvania, the Pennsylvania State  
13 Employees' Retirement System, or any independent retirement  
14 program approved by the Board of Trustees of a community  
15 college, and the Secretary of Education.

16 (g) The community college in the Commonwealth shall be  
17 eligible for participation in the act of July 5, 1947 (P.L.1217,  
18 No.498), known as the "State Public School Building Authority  
19 Act," and [the act of May 2, 1945 (P.L.382, No.164), known as  
20 the "Municipality Authorities Act of 1945."] 53 Pa.C.S. Ch. 56  
21 (relating to municipal authorities).

22 (h) In all cases where the board of trustees of any  
23 community college fails to pay or provide for the payment of any  
24 rental or rentals due the State Public School Building Authority  
25 or any municipality authority for any period in accordance with  
26 the terms of any lease entered into between the board of  
27 trustees of any community college and the State Public School  
28 Building Authority or any municipality authority, or fails to  
29 pay or to provide for the payment of any other indebtedness when  
30 due, upon written notice thereof from the State Public School

1 Building Authority or any municipality authority, or in such  
2 cases where an audit reveals any unpaid indebtedness due, the  
3 Secretary of Education shall notify the board of trustees of its  
4 obligation and shall withhold out of any State appropriation  
5 that may be due to such community college an amount equal to the  
6 amount of rental or rentals owing by such board of trustees to  
7 the State Public School Building Authority or any municipality  
8 authority, or an amount equal to the amount of any other  
9 indebtedness owing by such board of trustees, and shall pay over  
10 the amount or amounts so withheld to the State Public School  
11 Building Authority or any municipality authority or to  
12 whomsoever any other indebtedness is due and owing.

13 (i) The amount payable to each community college Board of  
14 Trustees on behalf of the sponsor shall be paid in the year in  
15 which the costs and expenses are incurred in quarterly  
16 installments and the Secretary of Education shall draw his  
17 requisition quarterly upon the State Treasurer in favor of each  
18 community college for the amount of reimbursement to which it is  
19 entitled. Reimbursement or payment by the Commonwealth for the  
20 operational expenses and capital equipment and the furnishings  
21 shall be made on or before the end of the fiscal quarters ended  
22 on September 30, December 31, March 31 and June 30 of each  
23 Commonwealth fiscal year. Reimbursements or payments shall be  
24 made semi-annually for the Commonwealth's share of the annual  
25 rentals to an authority or the sponsor or sinking fund or debt-  
26 service payments and other leases upon submission of a community  
27 college requisition in the form required by the Commonwealth,  
28 the reimbursement or payment to be made from funds appropriated  
29 for that purpose. Money that is appropriated under this  
30 subsection but not expended by a community college Board of

1 Trustees shall not be distributed to a local sponsor.

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

5 (k) (1) Unless otherwise prescribed by the State Board of  
6 Education, the Commonwealth's fiscal audits of community  
7 colleges under this section shall be conducted in accordance  
8 with "Government Auditing Standards," latest revision,  
9 promulgated by the United States General Accounting Office.  
10 Written audit reports will be produced and will be sent to the  
11 community college by the Commissioner of Postsecondary/Higher  
12 Education. Any cost disallowed under findings contained in the  
13 audit report shall be considered an adjudication within the  
14 meaning of 2 Pa.C.S. (relating to administrative law and  
15 procedure) and regulations promulgated thereunder.

16 (2) The Secretary of Education is hereby specifically  
17 authorized and shall be required to resolve audit findings  
18 involving disallowed costs that are contested by community  
19 colleges except for audit findings that involve mathematical  
20 errors, violation of regulations or alleged illegal activities.  
21 The proposed resolution of the Secretary of Education shall not  
22 be subject to the provisions of 2 Pa.C.S. The Secretary of  
23 Education's notice to resolve audit findings shall be sent to  
24 the community college in writing. The Secretary of Education may  
25 resolve the audit findings by reducing the disallowed costs  
26 related thereto in whole or in part.

27 (3) The Secretary of Education's notice to resolve an audit  
28 finding by reducing or eliminating the disallowed costs must be  
29 made contingent upon the community college developing and  
30 implementing a corrective action plan to address the audit

1 finding. The community college must submit a corrective action  
2 plan to the Secretary of Education within 60 business days after  
3 receipt of the Secretary of Education's written notice to  
4 resolve the audit finding. The Secretary of Education shall  
5 approve, reject or alter the plan submitted by the community  
6 college within thirty (30) days of submission. After the  
7 community college receives written notice of approval or agrees  
8 in writing to the Secretary of Education's alterations of the  
9 corrective action plan, said plan shall be implemented and shall  
10 be binding on the community college. Implementation of the  
11 approved or agreed upon corrective action plan will be verified  
12 by an audit conducted by the department no later than the end of  
13 the fiscal year following the fiscal year during which the plan  
14 is implemented. If no agreed upon corrective action plan is in  
15 place within one year after the date of the Secretary of  
16 Education's written notice to resolve audit findings or if the  
17 agreed upon corrective action has not been implemented within  
18 one year after the date of the Secretary of Education's written  
19 notice to resolve the audit findings, then the Secretary of  
20 Education is authorized to adjust payments to the community  
21 college to collect any amounts due based upon the findings  
22 contained in the audit report that was issued to the college by  
23 the commissioner.

24 (4) The department shall deduct any amounts due the  
25 Commonwealth as a result of audit findings that are resolved  
26 under this subsection from any future payment due to the  
27 community college from the Commonwealth. The Secretary of  
28 Education is authorized to approve a payment schedule in cases  
29 where immediate repayment of the full amount due the  
30 Commonwealth would jeopardize the ability of the community

1 college to continue operations.

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

16 (6) The department, through the Secretary of Education, is  
17 authorized to issue guidelines for the operation of the  
18 community college educational and financial programs. The  
19 department shall amend these guidelines on an annual basis to  
20 reflect the department's position on issues that require  
21 resolution under this subsection.

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

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

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

28 ~~Section 1916 A. Community College Nonmandated Capital~~ <—  
29 ~~Fund. (a) The Community College Nonmandated Capital Fund is~~  
30 ~~established as a separate fund in the State Treasury.~~

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

2 ~~(1) Reimbursements repaid by community colleges to the~~  
3 ~~Commonwealth pursuant to audits under section 1913 A and~~  
4 ~~regulations under that section.~~

5 ~~(2) Appropriations.~~

6 ~~(3) Earnings on money in the fund.~~

7 ~~(c) The fund shall be used for nonmandated capital projects~~  
8 ~~in community colleges. Guidelines for disbursement shall be~~  
9 ~~developed by the Department of Education in consultation with~~  
10 ~~community colleges.~~

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

13 SECTION 1916-A. NONMANDATED CAPITAL.--REIMBURSEMENTS REPAID <—  
14 BY COMMUNITY COLLEGES TO THE COMMONWEALTH PURSUANT TO AUDITS  
15 UNDER SECTION 1913-A AND REGULATIONS UNDER THAT SECTION SHALL BE  
16 USED ONLY FOR NONMANDATED CAPITAL PROJECTS IN COMMUNITY  
17 COLLEGES. GUIDELINES FOR DISBURSEMENT SHALL BE DEVELOPED BY THE  
18 DEPARTMENT OF EDUCATION IN CONSULTATION WITH COMMUNITY COLLEGES.

19 Section 4. The following provisions of 22 Pa. Code are  
20 abrogated:

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

22 (2) Section 335.22(3).

23 Section 5. This act shall take effect in ~~60 days~~ <—

24 IMMEDIATELY. <—