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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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AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JULY 8, 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. AND FOR~~ <—  
9 ~~EFFECTIVE DATE OF REGULATIONS RELATING TO COMMUNITY COLLEGES.~~  
10 NONMANDATED CAPITAL AND FOR EFFECTIVE DATE OF REGULATIONS <—  
11 RELATING TO COMMUNITY COLLEGES; and abrogating a regulation <—  
12 REGULATIONS. <—

13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

15 ~~Section 1. Section 1902 A of the act of March 10, 1949~~ <—  
16 ~~(P.L.30, No.14), known as the Public School Code of 1949, added~~  
17 ~~July 1, 1985 (P.L.103, No.31), is amended to read:~~

18 ~~Section 1902 A. Powers and Duties of State Board of~~  
19 ~~Education. (a) The State Board of Education shall have the~~

power, and its duty shall be:

~~(1) To adopt such policies, standards, rules and regulations formulated by the Council of Higher Education, as may be necessary to provide for the establishment, operation and maintenance of community colleges, including minimum requirements for physical facilities and equipment, curriculum, faculty, standards and professional requirements, qualifications for admission and advancement of students, student enrollment, student population of the area to be served by the community college, requirements for satisfactory completion of a two year program and the degrees or diplomas or certificates to be awarded therefor, means of financing and financial resources for the establishment and support of the community college, and all matters necessary to effectuate the purposes of this act.~~

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

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

~~(b) In determining such policies, standards, rules and regulations, the State Board of Education may consider relevant all minimum requirements established by statute or by regulation with respect to the State colleges and universities of the Commonwealth and may consider relevant such minimum requirements established by statute or by regulation with respect to secondary and special education programs in the school district~~

~~or districts of the area to be served by the community college.  
Regulations promulgated under this article shall take effect at  
the beginning of the school year following promulgation.~~

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

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

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

~~(f) Wherever in this act the approval of the State Board of  
Education is required in any matter, the State Board of  
Education may require the Department of Education to make and~~

1 ~~report its findings and recommendations on such matter to the~~  
2 ~~Council of Higher Education for the formulation of policies,~~  
3 ~~standards, rules and regulations for consideration by the State~~  
4 ~~Board of Education.~~

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

9 SECTION 1. SECTION 1913-A OF THE ACT OF MARCH 10, 1949 <—  
10 (P.L.30, NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949,  
11 AMENDED OR ADDED JULY 1, 1985 (P.L.103, NO.31), OCTOBER 20, 1988  
12 (P.L.827, NO.110), JUNE 7, 1993 (P.L.49, NO.16) AND JUNE 22,  
13 2001 (P.L.530, NO.35), IS AMENDED TO READ:

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

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

(i) for the 1993-1994 fiscal year through the 2000-2001 fiscal year, the lesser of such college's variable State share ceiling as determined in clause (1.3) or such college's equivalent full-time student reimbursement as determined in clause (1.4); and

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

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

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

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

(ii) Divide the amount determined under subclause (i) by the difference between the highest taxable income per person of any

1 county in the Commonwealth and the lowest taxable income per  
2 person of any county in the Commonwealth.

3 (iii) Multiply the quotient determined under subclause (ii)  
4 by one-sixth.

5 (iv) Add one-third to the product determined under paragraph  
6 (iii).

7 (v) Multiply the sum determined under subclause (iv) by the  
8 community college's operating costs in the year for which  
9 reimbursement is being claimed.

10 (vi) The taxable income per person data used in the  
11 preceding calculation shall be data certified to the Secretary  
12 of Education by the Secretary of Revenue under section 2501(9.1)  
13 for school district local sponsors or data otherwise published  
14 by the Secretary of Revenue for a municipal local sponsor.

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

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

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

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

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

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

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

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

(C) [one] One hundred percent (100%) of the reimbursement factor multiplied by the number of equivalent full-time students enrolled in eligible noncredit public safety courses that provide training for volunteer firefighters and emergency medical services for the 1995-1996 fiscal year and for each year

thereafter, as determined by the audit referred to in paragraph

(i). ~~In calculating the number of equivalent full time students enrolled in eligible noncredit courses, each fifteen hours of classroom work and laboratory work shall be equated to one semester credit for reimbursement purposes.~~

~~(D) Ninety percent (90%) of the reimbursement factor multiplied by the number of full time students enrolled in eligible noncredit work force development courses; adult literacy courses, including, but not limited to, adult basic education, the general educational development (GED) diploma and English as a second language; and continuing professional education courses for the 2003-2004 fiscal year and for each year thereafter, as determined by the audit referred to in paragraph (i). For purposes of reimbursement under this section, "work force development course" shall have the meaning given in section 1502 of the act of December 18, 2001 (P.L.949, No.114), known as the Workforce Development Act.~~

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

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

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

~~(F) (E)~~ Course enrollment is to be determined by the



1 standards of the community college.

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

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

21 (B) One thousand dollars (\$1,000) per full-time equivalent  
22 student enrolled in programs designated as Statewide programs.  
23 For the fiscal year 1995-1996, 1996-1997 and 1997-1998, the  
24 reimbursement rate shall be calculated at one thousand seventy-  
25 five dollars (\$1,075) per full-time equivalent student enrolled  
26 in programs designated as Statewide programs. For the fiscal  
27 year 1998-1999 and each year thereafter, the reimbursement rate  
28 shall be calculated at one thousand three hundred sixty dollars  
29 (\$1,360) per full-time equivalent student enrolled in programs  
30 designated as Statewide programs. A Statewide program is a

1 program which meets one or more of the following criteria:

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

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

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

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

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

27 (2.1) For the 1994-1995 fiscal year, each community college  
28 shall be reimbursed under clause (1) in an amount which is at  
29 least equal to a one percent (1%) increase over its 1993-1994  
30 reimbursement under clause (1). In no case shall a community

1 college's 1994-1995 reimbursement under clause (1) per full-time  
2 equivalent student, insofar as said reimbursement does not  
3 include the proportionate share attributable to stipend  
4 reimbursement under clause (1.4)(iii), exceed its 1993-1994  
5 reimbursement under clause (1) per full-time equivalent student,  
6 insofar as said reimbursement does not include the proportionate  
7 share attributable to stipend reimbursement under clause  
8 (1.4)(iii) by more than ten percent (10%).

9 (2.2) For the 1995-1996 fiscal year, each community college  
10 shall be reimbursed under clause (1) in an amount which is at  
11 least equal to its 1994-1995 reimbursement under clause (1).

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

23 (4) Each community college shall maintain such accounting  
24 and student attendance records on generally accepted auditing  
25 principles and standards [as will lend themselves to  
26 satisfactory audit]. Beginning with the 2003-2004 fiscal year  
27 and each year thereafter, the department must complete an audit  
28 of a community college for a school year within one year after  
29 the completion of that school year. If the department does not  
30 meet the time requirement of this clause, the community college

1 affected shall be required to forfeit reimbursement only for an  
2 intentional violation or for a violation of previously cited and  
3 resolved findings. The Commonwealth shall pay to a community  
4 college on behalf of the sponsor on account of its capital  
5 expenses an amount equal to one-half of such college's annual  
6 capital expenses from funds appropriated for that purpose to the  
7 extent that said capital expenses have been approved as herein  
8 provided.

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

14 (c) Capital expenses shall mean only such expenses as are  
15 incurred with the approval of the Department of Education for  
16 amortization of the purchase of lands; purchase, construction or  
17 improvement of buildings for administrative and instructional  
18 purposes, including libraries; the lease of lands or buildings,  
19 or for rentals to an authority for the same purpose; and for the  
20 purchase, lease or rental of capital equipment and furniture  
21 used for instructional or administrative purposes. Capital  
22 expenses shall include library books and complementary audio-  
23 visual equipment purchased during the first five years after  
24 establishment. For the purpose of calculating the Commonwealth's  
25 share of operating, and capital costs incurred prior to the  
26 actual admission of students to a community college, all such  
27 costs shall be interpreted as capital costs. No costs and  
28 expenses incurred in the establishment, construction, operation  
29 or maintenance of dormitories, or the equipment or furnishings  
30 for such purposes, shall be included in capital expenses or

1 operating costs for purposes of Commonwealth reimbursement. The  
2 provisions of this subsection shall not prevent the Commonwealth  
3 from reimbursing a community college for capital expenses  
4 incurred prior to the effective date of this act. Such  
5 reimbursement must have approval of the Secretary of Education.

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

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

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

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

29 (h) In all cases where the board of trustees of any  
30 community college fails to pay or provide for the payment of any

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

20 (i) The amount payable to each community college Board of  
21 Trustees on behalf of the sponsor shall be paid in the year in  
22 which the costs and expenses are incurred in quarterly  
23 installments and the Secretary of Education shall draw his  
24 requisition quarterly upon the State Treasurer in favor of each  
25 community college for the amount of reimbursement to which it is  
26 entitled. Reimbursement or payment by the Commonwealth for the  
27 operational expenses and capital equipment and the furnishings  
28 shall be made on or before the end of the fiscal quarters ended  
29 on September 30, December 31, March 31 and June 30 of each  
30 Commonwealth fiscal year. Reimbursements or payments shall be

1 made semi-annually for the Commonwealth's share of the annual  
2 rentals to an authority or the sponsor or sinking fund or debt-  
3 service payments and other leases upon submission of a community  
4 college requisition in the form required by the Commonwealth,  
5 the reimbursement or payment to be made from funds appropriated  
6 for that purpose. Money that is appropriated under this  
7 subsection but not expended by a community college Board of  
8 Trustees shall not be distributed to a local sponsor.

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

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

23 (2) The Secretary of Education is hereby specifically  
24 authorized and shall be required to resolve audit findings  
25 involving disallowed costs that are contested by community  
26 colleges except for audit findings that involve mathematical  
27 errors, violation of regulations or alleged illegal activities.  
28 The proposed resolution of the Secretary of Education shall not  
29 be subject to the provisions of 2 Pa.C.S. The Secretary of  
30 Education's notice to resolve audit findings shall be sent to

1 the community college in writing. The Secretary of Education may  
2 resolve the audit findings by reducing the disallowed costs  
3 related thereto in whole or in part.

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



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

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

23       (6) The department, through the Secretary of Education, is  
24 authorized to issue guidelines for the operation of the  
25 community college educational and financial programs. The  
26 department shall amend these guidelines on an annual basis to  
27 reflect the department's position on issues that require  
28 resolution under this subsection.

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

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

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

5        SECTION 2. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:

6        ~~Section 1916 A. Community College Nonmandated Capital~~  
7 ~~Fund. (a) The Community College Nonmandated Capital Fund is~~  
8 ~~established as a separate fund in the State Treasury.~~

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

10        ~~(1) Reimbursements repaid by community colleges to the~~  
11 ~~Commonwealth pursuant to audits under section 1913 A and~~  
12 ~~regulations under that section.~~

13        ~~(2) Appropriations.~~

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

15        ~~(c) The fund shall be used for nonmandated capital projects~~  
16 ~~in community colleges. Guidelines for disbursement shall be~~  
17 ~~developed by the Department of Education in consultation with~~  
18 ~~community colleges.~~

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

21        SECTION 1916-A. NONMANDATED CAPITAL.--REIMBURSEMENTS REPAID  
22 BY COMMUNITY COLLEGES TO THE COMMONWEALTH PURSUANT TO AUDITS  
23 UNDER SECTION 1913-A AND REGULATIONS UNDER THAT SECTION SHALL BE  
24 USED ONLY FOR NONMANDATED CAPITAL PROJECTS IN COMMUNITY  
25 COLLEGES. GUIDELINES FOR DISBURSEMENT SHALL BE DEVELOPED BY THE  
26 DEPARTMENT OF EDUCATION IN CONSULTATION WITH COMMUNITY COLLEGES.

27        SECTION 1917-A. EFFECTIVE DATE OF REGULATIONS.--REGULATIONS  
28 PROMULGATED UNDER THIS ARTICLE SHALL TAKE EFFECT AT THE  
29 BEGINNING OF THE SCHOOL YEAR FOLLOWING THEIR PROMULGATION.

30        Section 4 3. The following provisions of 22 Pa. Code are

1 abrogated:

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

3 (2) Section 335.22(3).

4 Section 5 4. This act shall take effect ~~in 60 days~~

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5 IMMEDIATELY.

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