

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1095 Session of 2018

INTRODUCED BY McGARRIGLE, KILLION, TOMLINSON, WHITE, VOGEL,  
SCAVELLO, MENSCH, BAKER, AUMENT, BREWSTER, BARTOLOTTA AND  
BOSCOLA, APRIL 6, 2018

REFERRED TO EDUCATION, APRIL 6, 2018

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," in preliminary provisions, further  
6 providing for Keystone Exams.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Section 121 of the act of March 10, 1949 (P.L.30,  
10 No.14), known as the Public School Code of 1949, amended June  
11 21, 2017 (P.L.200, No.6) and November 6, 2017 (P.L.1142, No.55),  
12 is amended to read:

13 Section 121. Keystone Exams.--(a) The Department of  
14 Education shall develop and implement Keystone Exams in algebra  
15 I, literature and biology. The State Board of Education shall  
16 promulgate regulations, subject to the act of June 25, 1982  
17 (P.L.633, No.181), known as the "Regulatory Review Act,"  
18 necessary to implement this section.

19 (a.1) Upon the expiration of the delay on the use of

1 Keystone Exams as a graduation requirement and in any school  
2 year in which a demonstration of proficiency on a Keystone Exam  
3 is required for high school graduation, a student who attains an  
4 established composite score on the algebra I, biology and  
5 literature Keystone Exams shall be deemed proficient if the  
6 student achieves a basic or above performance level on each of  
7 the three Keystone Exams. No later than September 30, 2019, the  
8 secretary shall establish the satisfactory composite score a  
9 student must attain in order to meet the requirements of this  
10 section and submit the proposed composite score to the State  
11 Board of Education for approval. The State Board of Education  
12 must approve a composite score no later than December 31, 2019.

13 (b) The following shall apply:

14 (1) Notwithstanding section 2604-B(b)(2)(v), 22 Pa. Code §  
15 4.24 (relating to high school graduation requirements), 4.51  
16 (relating to State assessment system) or 4.51c (relating to  
17 project-based assessment) or any statute or regulation to the  
18 contrary, the use of the Keystone Exams as a graduation  
19 requirement or as a benchmark for the need for participation in  
20 a project-based assessment shall be delayed until the 2019-2020  
21 school year.

22 (2) The Department of Education shall investigate and  
23 develop alternatives in addition to the use of the Keystone  
24 Exams as a requirement for graduation and shall, within six (6)  
25 months of the effective date of this paragraph, issue a report  
26 of the Department of Education's findings and recommendations,  
27 including proposed legislation, to the chairman and minority  
28 chairman of the Education Committee of the Senate and the  
29 chairman and minority chairman of the Education Committee of the  
30 House of Representatives. The report shall, at a minimum,

1 contain a detailed plan and timeline within which the Department  
2 of Education shall accomplish all of the following:

3 (i) Implement alternative methods for students to  
4 demonstrate proficiency for graduation in addition to the  
5 Keystone Exams, the project-based assessments and other  
6 alternative assessments provided for in 22 Pa. Code § 4.24.

7 (ii) Improve and expedite the evaluation of project-based  
8 assessments.

9 (iii) Ensure that no student is prohibited from  
10 participation in vocational-technical education or elective  
11 courses or programs as a result of supplemental instruction  
12 required in 22 Pa. Code §§ 4.24(k) and 4.51b(f) (relating to  
13 Keystone Exams).

14 (b.1) Notwithstanding section 2604-B(b)(2)(v), 22 Pa. Code  
15 §§ 4.24 (relating to high school graduation requirements), 4.51  
16 (relating to State assessment system), 4.51(b) (relating to  
17 Keystone Exams), 4.51(c) (relating to project-based assessment)  
18 or any statute or regulation to the contrary, in any school year  
19 in which a demonstration of proficiency on a Keystone Exam is  
20 required for high school graduation, the following shall apply:

21 (1) A student who does not demonstrate proficiency on a  
22 Keystone Exam or on a locally validated assessment under 22 Pa.  
23 Code § 4.24 may be offered supplemental instruction by the  
24 student's public school entity. The supplemental instruction  
25 must be consistent with the student's educational program and  
26 assist the student to attain proficiency in the State academic  
27 standards. In no case may a public school entity require a  
28 student to participate in supplemental instruction.

29 (2) A student who is not deemed proficient on the Keystone  
30 Exams in algebra I, literature and biology either under 22 Pa.

1 Code Ch. 4 (relating to academic standards and assessment) or  
2 under subsection (a.1) shall consult with a public school  
3 entity's designated administrator of the portfolios under  
4 subsection (c.1)(2)(v) to determine the student's options for  
5 graduating from high school. The student and designated  
6 administrator shall consider all pathways to graduation,  
7 including the option of participating in supplemental  
8 instruction and retaking a Keystone Exam. A student's proximity  
9 to proficiency on the Keystone Exams shall be considered as part  
10 of this consultation.

11 (3) A public school entity that offers supplemental  
12 instruction shall design its supplemental instruction programs  
13 to ensure students who accept the public school entity's offer  
14 of supplemental instruction are able to participate in both  
15 supplemental instruction and instruction related to their career  
16 portfolios under 22 Pa. Code Ch. 339 (relating to vocational  
17 education) or under any State plan developed by the Department  
18 of Education and approved by the United States Department of  
19 Education to comply with section 1111 of the Elementary and  
20 Secondary Education Act of 1965 (Public Law 89-10, 20 U.S.C. §  
21 6311), as amended by the Every Student Succeeds Act (Public Law  
22 114-95, 129 Stat. 1802), or a successor Federal statute.

23 (4) An offer of supplemental instruction to a student  
24 enrolled in an area vocational-technical school or in a career  
25 and technical education program offered by a school district,  
26 charter school, cyber charter school or regional charter school  
27 may not intrude into instructional time for career and technical  
28 education. Supplemental instruction may not occur during a  
29 student's dedicated time in a career and technical education  
30 program to provide the student time to gain competence in the

1 student's concentration area within a career and technical  
2 education program as well as demonstrate a high likelihood of  
3 success on an approved industry-based competency assessment.

4 (5) No public school entity may be required to offer, nor  
5 may any student be required to participate in or complete, a  
6 project-based assessment as provided for in 22 Pa. Code § 4.51c.

7 (c) Notwithstanding section 2604-B(b)(2)(v), 22 Pa. Code §  
8 4.24 or 4.51 or any statute or regulation to the contrary, in  
9 any school year in which a demonstration of proficiency on a  
10 Keystone Exam is required for high school graduation, a CTE  
11 Concentrator shall be deemed proficient provided that the CTE  
12 Concentrator shall meet all of the following requirements:

13 (1) completes locally established grade-based requirements  
14 for academic content areas associated with each Keystone Exam on  
15 which the CTE Concentrator did not achieve proficiency. For the  
16 purposes of this paragraph, completion of grade-based  
17 requirements in any science and technology and environment and  
18 ecology course shall satisfy the requirements for the academic  
19 content area associated with the Keystone Exam in biology; and

20 (2) completes one of the following:

21 (i) attains an industry-based competency certification  
22 related to the CTE Concentrator's program of study; or

23 (ii) demonstrates a high likelihood of success on an  
24 approved industry-based competency assessment or readiness for  
25 continued meaningful engagement in the CTE Concentrator's  
26 program of study as demonstrated by performance on benchmark  
27 assessments, course grades and other factors consistent with the  
28 CTE Concentrator's goals and career plan[.] and determined for  
29 the CTE Concentrator by a chief school administrator in  
30 consultation with an area vocational-technical school director

1 or principal of a comprehensive high school no later than the  
2 end of the first semester of twelfth grade.

3 (c.1) Notwithstanding section 2604-B(b)(2)(v), 22 Pa. Code §  
4 4.24 or 4.51 or any statute or regulation to the contrary, in  
5 any school year in which a demonstration of proficiency on a  
6 Keystone Exam is required for high school graduation, a student  
7 shall be deemed proficient if the student completes both of the  
8 following:

9 (1) Locally established grade-based requirements in the  
10 associated academic content areas of the Keystone Exams. For the  
11 purposes of this paragraph, completion of grade-based  
12 requirements in any science and technology and environment and  
13 ecology course shall satisfy the requirements for the academic  
14 content area associated with the Keystone Exam in biology.

15 (2) Any of the following:

16 (i) completion of an advanced placement program exam or  
17 international baccalaureate diploma program exam in the  
18 associated Keystone Exam content area at a score established by  
19 the secretary to be comparable to the proficient level on the  
20 appropriate Keystone Exam;

21 (ii) completion of the Armed Services Vocational Aptitude  
22 Battery Test at a performance level that would qualify the  
23 student for military enlistment;

24 (iii) receipt of a certification that the student will begin  
25 work in a registered apprenticeship program following high  
26 school graduation;

27 (iv) attainment of a career readiness certificate through  
28 satisfactory completion of the ACT WorkKeys assessment; or

29 (v) presentation of three or more rigorous and compelling  
30 pieces of evidence that reflect the student's readiness for

1 graduation. The evidence must be part of the student's portfolio  
2 under 22 Pa. Code Ch. 339 (relating to vocational education) or  
3 required by any State plan developed by the Department of  
4 Education and approved by the United States Department of  
5 Education to comply with section 1111 of the Elementary and  
6 Secondary Education Act of 1965 (Public Law 89-10, 20 U.S.C. §  
7 6311), as amended by the Every Student Succeeds Act (Public Law  
8 114-95, 129 Stat. 1802) or its successor Federal statute, and  
9 must relate to the student's career or postsecondary education  
10 plans reflected in the portfolio. The rigorous and compelling  
11 pieces of evidence may include, but shall not be limited to, the  
12 following:

13 (A) Achievement of a passing grade in a dual enrollment  
14 course or any postsecondary course at an accredited nonprofit  
15 institution of higher education.

16 (B) Completion of any advanced placement program exam or  
17 international baccalaureate diploma program exam at a score  
18 established by the secretary.

19 (C) Evidence of admission to an accredited nonprofit  
20 institution of higher education.

21 (D) A guaranteed full-time employment letter.

22 (E) Attainment of an industry-recognized credential, as  
23 approved by the Department of Education and identified in the  
24 industry credential resource book compiled by the department's  
25 bureau of Career and Technical Education.

26 (F) A certificate of successful completion of an internship,  
27 externship or cooperative education program.

28 (G) Completion of an SAT or ACT subject-specific test at a  
29 performance level established by the secretary.

30 (H) Satisfactory compliance with the National Collegiate

1 Athletic Association's core courses for college-bound student  
2 athletes with a minimum GPA of 2.0 or the equivalent on an  
3 alternative grading scale.

4 (c.2) A student, in consultation with a public school  
5 entity's designated administrator of the portfolios under  
6 subsection (c.1)(2)(v), shall develop the student's portfolio  
7 under subsection (c.1) throughout the student's educational  
8 career and in accordance with guidance provided by the  
9 Department of Education.

10 (c.3) A public school entity shall establish policies and  
11 procedures for the development of the portfolios under  
12 subsection (c.1)(2)(v) consistent with guidance issued by the  
13 Department of Education.

14 (d) As used in this section, the following words and phrases  
15 shall have the meanings given to them in this subsection unless  
16 the context clearly indicates otherwise:

17 "Accredited nonprofit institution of higher education." Any  
18 of the following:

19 (1) A community college operating under Article XIX-A.

20 (2) A university within the State System of Higher  
21 Education.

22 (3) The Pennsylvania State University.

23 (4) The University of Pittsburgh.

24 (5) Temple University.

25 (6) Lincoln University.

26 (7) Any other institution that is designated as State-  
27 related by the Commonwealth.

28 (8) Any accredited private or independent college or  
29 university.

30 "ACT WorkKeys assessment." An assessment of workplace skills

1 administered by ACT.

2 "Advanced Placement Program." As defined in section 2001-C.

3 "Approved industry-based competency assessment." A NOCTI  
4 exam, NIMS assessment or other industry-based competency  
5 assessment identified by the Secretary of Education and approved  
6 by the State Board of Education.

7 "Armed Services Vocational Aptitude Battery Test." The  
8 aptitude test developed and maintained by the United States  
9 Department of Defense.

10 "Cooperative education program." A program of instruction  
11 whereby students alternate or coordinate their high school  
12 studies with a job in a field related to their academic or  
13 career objectives.

14 "CTE Concentrator." A student who, by the end of a reporting  
15 year, will be reported as successfully completing at least fifty  
16 percent (50%) of the minimum technical instructional hours  
17 required under 22 Pa. Code Ch. 339 (relating to vocational  
18 education).

19 "Designated administrator." Any person assigned by a public  
20 school entity to oversee the development of student portfolios  
21 under 22 Pa. Code Ch. 339 (relating to vocational education) or  
22 required by any State plan developed by the Department of  
23 Education and approved by the United States Department of  
24 Education to comply with section 1111 of the Elementary and  
25 Secondary Education Act of 1965 (Public Law 89-10, 20 U.S.C. §  
26 6311), as amended by the Every Student Succeeds Act (Public Law  
27 114-95, 129 Stat. 1802) or its successor Federal statute, who is  
28 included within the definition of "educator" under section  
29 111.2(b).

30 "GPA." Grade point average.

1       "International Baccalaureate Diploma Program." As defined in  
2 section 2001-C.

3       "NIMS assessment." An assessment based on the National  
4 Institute for Metalworking Skills standards.

5       "NOCTI exam." A National Occupational Competency Testing  
6 Institute exam.

7       "Public school entity." A school district, area vocational-  
8 technical school, intermediate unit, charter school, regional  
9 charter or cyber charter school.

10       "Secretary." The Secretary of Education of the Commonwealth.

11       Section 2. This act shall take effect immediately.