

# STATE OF NEW YORK

8133

2023-2024 Regular Sessions

## IN ASSEMBLY

October 13, 2023

Introduced by M. of A. SMULLEN -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to establishing interregional enrollment of students in multiple school districts (Part A); and to amend the education law, in relation to the provision of cooperative and individualized educational services for students who are enrolled in multiple school districts (Part B)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "EmpowerED Act: Empowering students and enhancing educational oppor-  
3 tunities in New York".

4 § 2. Legislative findings and intent. According to the Census Bureau,  
5 New York consistently allocates the highest per-student expenditure in  
6 the nation. However, despite this significant investment, a substantial  
7 number of our students are performing at or slightly below the national  
8 average in state assessments. It is imperative that we prioritize  
9 providing our students with every available opportunity to raise these  
10 educational standards. To truly empower our education system, we must  
11 enable school districts and students to embrace innovative educational  
12 approaches that go beyond traditional norms. Students should have the  
13 freedom to choose educational opportunities that best suit their indi-  
14 vidual needs and aspirations. The "EmpowerED Act" aims to strengthen New  
15 York's education system by granting students the ability to access  
16 classes in any educational setting, be it a neighboring school district  
17 or through remote learning. Furthermore, it expands itinerant teaching  
18 services that BOCES programs offer to allow individual schools to more  
19 efficiently allocate resources according to the unique needs of their  
20 own district. This legislation will provide vital support to foster  
21 collaboration among districts, benefiting students and improving the

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 overall education system in New York, while empowering students,  
2 parents, and educators to shape their educational journey.

3 § 3. This act enacts into law major components of legislation neces-  
4 sary to implement the "EmpowerED Act". Each component is wholly  
5 contained within a Part identified as Parts A through B. The effective  
6 date for each particular provision contained within such Part is set  
7 forth in the last section of such Part. Any provision in any section  
8 contained within a Part, including the effective date of the Part, which  
9 makes a reference to a section "of this act", when used in connection  
10 with that particular component, shall be deemed to mean and refer to the  
11 corresponding section of the Part in which it is found. Section five of  
12 this act sets forth the general effective date of this act.

13

## PART A

14 Section 1. Section 3202 of the education law is amended by adding a  
15 new subdivision 9 to read as follows:

16 9. Interregional student enrollment. a. (i) Notwithstanding subdivi-  
17 sion two of this section or any other law to the contrary, nonresidents  
18 of a district may be admitted into the school or schools of a district  
19 or city, upon the consent of the trustees or the board of education as  
20 part of an interregional student enrollment program. The trustees or the  
21 board of education shall establish an open enrollment application proc-  
22 ess, during which nonresident students can access such application to  
23 apply for enrollment in offered classes whether the student is part-time  
24 or full-time. As used in this subparagraph, the term "part-time" shall  
25 mean a nonresident student enrolled in a set of classes, whether such  
26 classes are in-person or via distance learning, that are offered by a  
27 school district where such student does not reside, and who also takes  
28 classes in the school district where such student resides.

29 (ii) Participating districts shall provide transportation, as mandated  
30 by the individualized education program of a student with a disability,  
31 to the location necessary to receive required services specified in such  
32 program.

33 b. The school district of a nonresident student shall be subject to a  
34 maximum tuition as determined by the commissioner. The maximum tuition  
35 shall vary based on the number of classes taken by the student and  
36 whether such student is part-time or full-time. The maximum tuition  
37 rates shall be set regionally to account for cost variations and ensure  
38 fairness across participating school districts.

39 c. Nonresident students seeking enrollment shall submit applications  
40 during the open enrollment window, as determined by the participating  
41 school districts. The application process shall be facilitated by the  
42 school districts, ensuring accessibility and fairness. Eligibility for  
43 enrollment shall be based on factors, including but not limited to  
44 available space, academic performance, and the needs of the student.  
45 Priority shall be given to students who would benefit from specialized  
46 programs or services not available in their resident district.

47 d. Participating school districts shall collaborate to ensure a seam-  
48 less transfer of student records, including academic transcripts, health  
49 records, and other relevant documentation necessary for such student's  
50 educational continuity. School districts shall provide nonresident  
51 students with access to appropriate educational programs, resources, and  
52 support services, on par with those provided to resident students.

53 § 2. This act shall take effect immediately.

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## PART B

2 Section 1. Subparagraph 3 of paragraph bb of subdivision 4 of section  
3 1950 of the education law, as amended by section 2 of part A of chapter  
4 60 of the laws of 2000, is amended to read as follows:

5 (3) Such programs and services may include, but shall not be limited  
6 to (a) expansion of itinerant teaching services in any courses of study  
7 required under subdivision three of section thirty-two hundred four of  
8 this chapter or advanced academic subject courses, provided that no  
9 limitation shall exist that restricts or confines the length of time  
10 that an itinerant teacher is authorized to provide such teaching  
11 services pursuant to this paragraph; (b) academic course offerings at  
12 regular board of cooperative educational services centers or at leased  
13 sites during the school year or summer school periods, as requested by  
14 component districts; (c) block scheduling to enable students to attend  
15 classes at a board of cooperative educational services center for an  
16 entire school day; (d) satellite offerings of specific concentrations or  
17 specializations sponsored by boards of cooperative educational services  
18 at local schools, with cross-contracting for services; (e) expanded use  
19 of interactive television and other technologies to offer academic  
20 courses on site or at component school districts; and (f) programs of  
21 academic intervention services approved by the commissioner designed to  
22 fulfill the academic intervention services requirement imposed by the  
23 regulations of the commissioner, provided that in approving such  
24 programs and services for the two thousand--two thousand one school year  
25 or thereafter, the commissioner shall assure that the program or service  
26 results in a cost savings to all participating districts, disregarding  
27 any aid pursuant to subdivision five of this section.

28 § 2. This act shall take effect immediately.

29 § 4. Severability clause. If any clause, sentence, paragraph, subdi-  
30 vision, section or part of this act shall be adjudged by any court of  
31 competent jurisdiction to be invalid, such judgment shall not affect,  
32 impair, or invalidate the remainder thereof, but shall be confined in  
33 its operation to the clause, sentence, paragraph, subdivision, section  
34 or part thereof directly involved in the controversy in which such judg-  
35 ment shall have been rendered. It is hereby declared to be the intent of  
36 the legislature that this act would have been enacted even if such  
37 invalid provisions had not been included herein.

38 § 5. This act shall take effect immediately; provided, however, that  
39 the applicable effective date of Parts A through B of this act shall be  
40 as specifically set forth in the last section of such Parts.