

STATE OF NEW YORK

11180

IN ASSEMBLY

December 4, 2020

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

AN ACT to amend the education law, the tax law, the state finance law
and the public service law, in relation to ensuring all children have
access to the delivery of technology through high-quality broadband
internet connectivity in support of the constitutional education obli-
gations of the state; and providing for the repeal of such provisions
upon expiration thereof

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "E-Let's Expand Access to Remote Now (E-LEARN) Act".
3 § 2. Legislative intent. The legislature hereby finds and declares
4 that the COVID-19 pandemic has plagued the health, economy and education
5 systems throughout New York and impacted the livelihood of every resi-
6 dent of the state with an extensive, protracted and disproportionate
7 impact on students in every region.
8 The legislature further finds the unprecedented closure of school
9 buildings for the last quarter of the 2019-20 school year coupled with
10 increasing COVID-19 public health and safety concerns throughout the
11 summer and into the beginning of the 2020-21 school year have continued
12 to present logistical challenges for the delivery of education and
13 support services especially for students who are living in poverty.
14 The legislature further finds Article XI of the New York state Consti-
15 tution which stipulates 'The Legislature shall provide for the mainte-
16 nance and support of a system of free common schools, wherein all the
17 children of the state may be educated' must be continuously upheld even
18 throughout the ensuing pandemic period.
19 The legislature further finds schools across the state had to quickly
20 implement technological programs and devices to deliver remote learning
21 options to students during the closed down period and many schools are
22 required to, or are requested to, continue distance learning modality as
23 an instructional delivery model.
24 The legislature further finds lack of high-quality internet access has
25 had and continues to have a disequalizing impact on children who are
26 poor, homeless and without the resources to support their educational
27 needs.

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

LBD17541-07-0

1 The Legislature further finds it is a state imperative to ensure all
2 children have access to the delivery of technology through high-quality
3 broadband internet connectivity in order to meet the State's constitu-
4 tional requirement and maintain a system of free common schools.

5 The legislature further finds that high-speed internet access, common-
6 ly referred to as broadband internet, can be achieved through utiliza-
7 tion of a variety of technologies, including wired infrastructure via
8 fiber optic cable, and through wireless technologies such as fixed wire-
9 less internet and satellite internet, and that taking advantage of all
10 available and evolving technologies can enable communities currently
11 without wired infrastructure to nonetheless improve access to high qual-
12 ity internet until such time as wired infrastructure is made universally
13 available.

14 The legislature further finds that almost every sector of New York's
15 economy, democracy, and society depends on widespread, high-quality
16 internet access that supports vital functions regulated under the police
17 power of the state.

18 The legislature further finds that while the internet is an interstate
19 resource, the essential support it provides for innumerable municipal
20 and state operations, vital business and community service, delivery of
21 educational programs and services and daily interactions between the
22 people of New York and their governments are of state concern.

23 The legislature further finds that while the operations of telecommu-
24 nication service providers must be subject to state oversight, they also
25 must be protected from undue restraint and regulation so as to assure
26 optimum technology and maximum availability in this state as rapidly as
27 economically and technically feasible.

28 The legislature further finds that telecommunication service provid-
29 ers, notwithstanding their unique attributes, are part of an increasing-
30 ly integrated telecommunications industry, the soundness of which is
31 essential, not only to education, but also to the state's economic
32 growth and general welfare, and portions of whose business are wholly
33 intrastate.

34 The legislature further finds that there is a need for one or more
35 state agencies to determine state internet access policy as it relates
36 to the education of the state's students during the COVID-19 pandemic,
37 ensure that telecommunication service providers provide adequate,
38 economical and efficient service to students and schools, and oversee,
39 consonant with federal regulations and statutes, the availability of
40 high-quality internet access during the COVID-19 pandemic in support of
41 the constitutional education obligations of the state.

42 The legislature further finds that it is necessary to establish a
43 competitively-neutral funding mechanism to provide the resources neces-
44 sary to assure and maintain satisfaction of the constitutional education
45 obligations of the state.

46 Therefore, be it resolved, that, the legislature hereby approves the
47 use of the police power inherent in the state of New York to protect and
48 promote the safety, life, public health, public convenience, general
49 prosperity, and well-being of society, and the welfare of the state's
50 population and economy, as necessary to satisfy the provisions of Arti-
51 cle XI of the New York state Constitution to provide a free public
52 education pursuant to the E-Let's Expand Access to Remote Now (E-LEARN)
53 act, as defined in this act.

54 § 3. The education law is amended by adding a new article 9-A to read
55 as follows:

ARTICLE 9-A
E-LEARN PROGRAM

Section 430. Definitions.

431. Application for allocation from the E-LEARN fund.

432. Allocation of E-LEARN funds.

433. Grant of permission for use of information.

434. Provision of high-quality internet access to eligible students.

435. Provision of high-quality internet access to eligible schools.

436. Payment of costs and expenses.

437. Collaboration.

438. Cooperation of third parties.

439. Requirements.

§ 430. Definitions. For the purposes of this article:

1. "Broadband internet access service" means a service provided by wire or radio in New York state that provides the capability to transmit data to, and receive data from, all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service. Broadband internet access service also encompasses any service provided in New York that provides a functional equivalent of that service or that is used to evade the provisions set forth in this article.

2. "Chancellor" means the chancellor of the New York city department of education.

3. "Department" means the education department of the state of New York.

4. "Eligible school" means a public school including a school operated by a board of cooperative educational services, non-public school, charter school, special act school, approved private school serving students with disabilities subject to article eighty-one or eighty-nine of this chapter, state supported school subject to article eighty-five of this chapter, or state operated school subject to article eighty-seven or eighty-eight of this chapter, in each case serving students between five and twenty-one years of age.

5. "Eligible student" means a student who is a resident of the state between five and twenty-one years of age who is enrolled in an eligible school or who is provided home instruction in compliance with part one of article sixty-five of this chapter and applicable regulations.

6. "High-quality internet access" means, with respect to broadband internet access service provided to an eligible student, uninterrupted broadband internet access service which is not limited to one or more particular devices and which provides actual and stable download speeds of at least 25 megabits per second (Mbps) and upload speeds of at least 3 Mbps at all times throughout the applicable school year, and, with respect to broadband internet access service provided to an eligible school, actual and stable download speeds of at least 1 Mbps per enrolled student and upload speeds of at least 1 Mbps per enrolled student at all times throughout the applicable school year.

7. "Telecommunication service provider" means a business that provides broadband internet access service in the state.

§ 431. Application for allocation from the E-LEARN fund. 1. Each public school district with respect to eligible schools under the jurisdiction of such public school district, board of cooperative educational services with respect to eligible schools under the jurisdiction of such

1 board of cooperative educational services, non-public school, charter
2 school, approved private school serving students with disabilities
3 subject to article eighty-one or eighty-nine of this chapter, state
4 supported school subject to article eighty-five of this chapter, or
5 state operated school subject to article eighty-seven or eighty-eight of
6 this chapter is hereby directed to submit documentation to the depart-
7 ment of the requirements necessary to satisfy the provisions of sections
8 four hundred thirty-four and four hundred thirty-five of this article.
9 Each such public school district, board of cooperative educational
10 services or school, as applicable, shall make application within forty-
11 five days of the effective date of this article to the department
12 setting forth such requirements, and annually thereafter before August
13 first.

14 2. The chancellor is hereby directed to submit documentation to the
15 department of the requirements necessary to satisfy the provisions of
16 sections four hundred thirty-four and four hundred thirty-five of this
17 article with respect to eligible schools under the jurisdiction of the
18 New York city department of education and eligible students enrolled in
19 such eligible schools. The chancellor shall make application to the
20 department within ninety days of the effective date of this article
21 setting forth such requirements of such eligible schools, and annually
22 thereafter before August first.

23 3. The person in parental relation to each eligible student who is
24 providing home instruction in compliance with part one of article
25 sixty-five of this chapter and applicable regulations is hereby directed
26 to submit documentation to the department of the requirements necessary
27 to satisfy the provisions of sections four hundred thirty-four and four
28 hundred thirty-five of this article with respect to such eligible
29 students. Such person in parental relation shall make application to the
30 department within forty-five days of the effective date of this article
31 setting forth such requirements of such eligible school, and annually
32 thereafter before August first.

33 § 432. Allocation of E-LEARN funds. The commissioner shall determine
34 criteria for allocation of moneys from the E-LEARN fund to public school
35 districts, boards of cooperative educational services, the New York city
36 department of education, non-public schools, charter schools, special
37 act schools, approved private schools serving students with disabilities
38 subject to article eighty-one or eighty-nine of this chapter, state
39 supported school subject to article eighty-five of this chapter, state
40 operated school subject to article eighty-seven or eighty-eight of this
41 chapter, and persons in parental relation to eligible students who are
42 providing home instruction in compliance with part one of article
43 sixty-five of this chapter and applicable regulations for achieving
44 equitable access to remote learning resources for eligible students and
45 eligible schools pursuant to sections four hundred thirty-four and four
46 hundred thirty-five of this article. Such criteria shall include but not
47 be limited to the number of eligible students at each eligible school,
48 the degree to which multiple eligible students are members of the same
49 household and reside at the same residence, the response rate of grants
50 of permission pursuant to section four hundred thirty-three of this
51 article, the degree of need of each eligible school and their respective
52 classrooms, and, subject to section four hundred thirty-seven of this
53 article, the different regional factors affecting the provision of high-
54 quality internet access.

55 § 433. Grant of permission for use of information. Notwithstanding
56 section two-d of this chapter, public school districts, boards of coop-

1 erative education, the chancellor, charter schools, non-public schools,
2 approved private schools serving students with disabilities subject to
3 article eighty-one or eighty-nine of this chapter, state supported
4 schools subject to article eighty-five of this chapter, or state oper-
5 ated schools subject to article eighty-seven or eighty-eight of this
6 chapter, shall provide to eligible students or their families, as appro-
7 appropriate, a form requesting information as to whether the eligible student
8 had high-quality internet access as of the effective date of this
9 section and continues to have high-quality internet access, and if such
10 student had high-quality internet access as of such date and continues
11 to have high-quality internet access, the name of the current provider
12 of such high-quality internet service, and in either case requesting
13 permission for the use of names and contact information of such students
14 or families, as appropriate, for purposes of entering into agreements to
15 provide such eligible students with high-quality internet access in
16 accordance with this article or for purposes of the reduction in costs
17 pursuant to subdivision three of section two hundred twenty-four-c of
18 the public service law. Such form of request shall be in a form, and
19 distributed and collected, in such manner as the applicable public
20 school district, board of cooperative educational services, the chancel-
21 lor, or eligible school, as applicable, may deem appropriate; provided,
22 however, that use of information provided shall be limited to use of
23 only such personally identifiable information as shall be necessary to
24 satisfy the requirements of this article and subdivision three of
25 section two hundred twenty-four-c of the public service law. Such form
26 of request shall be provided to eligible students, or their families, as
27 appropriate, no later than fifteen days after the effective date of this
28 article, and shall be translated in the predominant languages other than
29 English of eligible students and their families served by such eligible
30 schools.

31 § 434. Provision of high-quality internet access to eligible students.

32 1. (a) Upon approval of the allocations of the E-LEARN fund pursuant to
33 section four hundred thirty-two of this article each public school
34 district with respect to eligible schools under the jurisdiction of such
35 public school district, board of cooperative educational services with
36 respect to eligible schools under the jurisdiction of such board of
37 cooperative educational services, non-public school, charter school,
38 approved private school serving students with disabilities subject to
39 article eighty-one or eighty-nine of this chapter, state supported
40 school subject to article eighty-five of this chapter, and state oper-
41 ated school subject to article eighty-seven or eighty-eight of this
42 chapter shall be authorized to enter into agreements to provide each
43 eligible student enrolled at an eligible school who did not have high-
44 quality internet access as of the effective date of this article and
45 continues to lack high-quality internet access, and for whom a grant of
46 permission has been returned pursuant to this section, with high-quality
47 internet access on a continual basis at the residence of such eligible
48 student, whether such residence is temporary or permanent, in such
49 manner as shall be deemed appropriate by such public school district,
50 board of cooperative educational services, or eligible school, as appro-
51 priate; and

52 (b) The chancellor shall be authorized to enter into agreements to
53 provide each eligible student enrolled at an eligible school under the
54 jurisdiction of the New York city department of education who did not
55 have high-quality internet access as of the effectiveness of this arti-
56 cle and continues to lack high-quality internet access, and for whom a

1 grant of permission has been returned pursuant to this section, with
2 high-quality internet access on a continual basis at the residence of
3 such eligible student, whether such residence is temporary or permanent,
4 in such manner as shall be deemed appropriate by the chancellor.

5 2. In satisfying the requirements of subdivision one of this section,
6 public school districts, boards of cooperative educational services, the
7 chancellor and the eligible schools set forth in subdivision one of this
8 section are authorized and directed to coordinate the provision of high-
9 quality internet access in collaboration with community-based organiza-
10 tions, the office for people with developmental disabilities, the office
11 of children and family services, the state university of New York, the
12 department of corrections and community supervision, the office of
13 temporary and disability assistance, the department of health, and such
14 other persons or entities as may be appropriate, including parties with
15 an interest in the residence of an eligible student, such as homeless
16 shelters, landlords, and manufactured home parks.

17 § 435. Provision of high-quality internet access to eligible schools.
18 Upon approval of the allocation of the E-LEARN fund pursuant to section
19 four hundred thirty-two of this article:

20 1. Each public school district shall contract for high-quality inter-
21 net access on a continual basis at each school district building and for
22 all eligible schools under such public school district's jurisdiction
23 sufficient to support all instructional and administrative operations of
24 such public school district and such eligible schools to the extent that
25 such buildings and eligible schools did not have high-quality internet
26 access as of the effective date of this article and continue to lack
27 high-quality internet access;

28 2. Each board of cooperative educational services shall contract for
29 high-quality internet access on a continual basis at each such board of
30 cooperative educational services building and for all eligible schools
31 under such board of cooperative educational services' jurisdiction
32 sufficient to support all instructional and administrative operations of
33 such board of cooperative educational services and such eligible schools
34 to the extent that such buildings and eligible schools did not have
35 high-quality internet access as of the effective date of this article
36 and continue to lack high-quality internet access;

37 3. The chancellor shall contract for high-quality internet access on a
38 continual basis at each New York city department of education building
39 and for all eligible schools under the jurisdiction of the New York city
40 department of education sufficient to support all instructional and
41 administrative operations of the New York city department of education
42 and such eligible schools to the extent that such buildings and eligible
43 schools did not have high-quality internet access as of the effective
44 date of this article and continue to lack high-quality internet access;
45 and

46 4. Each non-public school, charter school, approved private school
47 servicing students with disabilities subject to article eighty-one or
48 eighty-nine of this chapter, state supported school subject to article
49 eighty-five of this chapter, or state operated school subject to article
50 eighty-seven or eighty-eight of this chapter which is an eligible school
51 shall contract for high-quality internet access on a continual basis at
52 such eligible school sufficient to support all instructional and admin-
53 istrative operations of such eligible school to the extent that such
54 buildings and eligible schools did not have high-quality internet access
55 as of the effective date of this article and continue to lack high-qual-
56 ity internet access.

1 § 436. Payment of costs and expenses. 1. Public school districts,
2 boards of cooperative educational services, the New York city department
3 of education, non-public schools, charter schools, approved private
4 schools serving students with disabilities subject to article eighty-one
5 or eighty-nine of this chapter, state supported schools subject to arti-
6 cle eighty-five of this chapter, state operated schools subject to arti-
7 cle eighty-seven or eighty-eight of this chapter, and persons in
8 parental relation to eligible students who are providing home instruc-
9 tion in compliance with part one of article sixty-five of this chapter
10 and applicable regulations shall submit to the department:

11 (a) for reimbursement, such receipts and other appropriate evidence of
12 costs and expenses incurred in satisfying the requirements of sections
13 four hundred thirty-four and four hundred thirty-five of this article;
14 and

15 (b) for direct payment out of amounts in the E-LEARN fund established
16 in section ninety-five-j of the state finance law, evidence of unpaid
17 costs and related payment instructions, for goods or services obtained
18 in satisfying the requirements of sections four hundred thirty-four and
19 four hundred thirty-five of this article.

20 2. The department shall submit such documentation necessary for the
21 comptroller to make such reimbursements and payments out of the E-LEARN
22 fund.

23 § 437. Collaboration. The department, public school districts, boards
24 of cooperative educational services, the chancellor, and eligible
25 schools, as appropriate, in fulfilling the obligations set forth in
26 sections four hundred thirty-four and four hundred thirty-five of this
27 article, shall make reasonable efforts to collaborate with community-
28 based organizations with expertise in internet access to facilitate the
29 provision of high-quality internet access to eligible students and
30 eligible schools, including eligible students residing in non-tradition-
31 al places of residence.

32 § 438. Cooperation of third parties. Every telecommunication service
33 provider, landlord, building manager, or any other individual having
34 responsibility for the care and control of a premises which is a resi-
35 dence or domicile of any eligible student, whether such residence or
36 domicile is temporary or permanent, shall cooperate with the efforts of
37 public school districts, boards of cooperative education, the chancel-
38 lor, eligible schools, and eligible students and their families to
39 satisfy the requirements of section four hundred thirty-four of this
40 article by, where appropriate, being available at reasonable times to
41 communicate regarding provision of high-quality internet access, provid-
42 ing reasonable access to buildings or other structures, facilitating
43 installation of technologies necessary to provide high-quality internet
44 access and taking such other cooperative measures as may reasonably be
45 requested.

46 § 439. Requirements. The requirements of this article shall not be
47 qualified by the difficulty or cost of providing high-quality internet
48 access to any particular eligible student or eligible school, nor shall
49 any eligible student or eligible school be prioritized over any other
50 eligible student or eligible school by reason of any such difficulty or
51 cost.

52 § 4. The tax law is amended by adding a new section 186-h to read as
53 follows:

54 § 186-h. Duties of the department under the E-LEARN program. 1. Defi-
55 nitions. For the purposes of this section:

1 (a) "Telecommunication service provider" means a business that
2 provides broadband internet access service in the state.

3 (b) "E-LEARN fund" shall mean the fund established in section ninety-
4 five-j of the state finance law.

5 (c) "Assessment rate" means the percentage rate which when multiplied
6 by each telecommunication service provider's total gross intrastate
7 telecommunication revenue for the prior calendar year, or if such reven-
8 ue is unavailable, the most recent calendar year for which such revenue
9 is available, which determines that provider's annual contribution to
10 the E-LEARN fund, determined by the department in consultation with the
11 state education department to be sufficient in amount to provide for
12 acquisition of high-quality internet access pursuant to article nine-A
13 of the education law, taking into account for any school year subsequent
14 to the two thousand twenty--two thousand twenty-one school year any
15 excess amounts remaining in the E-LEARN fund from the prior year pursu-
16 ant to subdivision five of section ninety-five-j of the state finance
17 law.

18 2. Contribution. All telecommunication service providers operating in
19 the state shall contribute to the preservation and advancement of the
20 E-LEARN fund in the manner set forth in this section. Any such contrib-
21 ution shall not be passed through in whole or in part as a fee, charge,
22 increased service cost, or by any other means by a telecommunication
23 service provider to any person or customer that contracts with such
24 telecommunication service provider for service.

25 3. Annual charge. (a) The department shall assess an annual charge on
26 each telecommunication service provider in an amount equal to the
27 assessment rate multiplied by the telecommunication service provider's
28 total gross intrastate telecommunication revenue for the prior calendar
29 year, or if such revenue is unavailable, the most recent calendar year
30 for which such revenue is available. The department shall collect and
31 deposit such amounts into a segregated account which shall subsequently
32 be transferred to E-LEARN fund established in section ninety-five-j of
33 the state finance law. All such amounts shall be kept separate and shall
34 not be commingled with any other moneys collected by the department.

35 (b) Such annual charge shall be assessed on and collected from all
36 telecommunication service providers operating in the state as of April
37 first, July first, October first, and January first of each year,
38 provided that the initial annual charge for fiscal year two thousand
39 twenty shall be assessed and collected as of December thirty-first, two
40 thousand twenty.

41 (c) Amounts collected from telecommunication service providers shall
42 be transferred by the department of taxation and finance to the state
43 comptroller to be deposited in the E-LEARN fund within thirty days after
44 each collection deadline.

45 (d) Failure of a telecommunication service provider to make timely
46 payment under this section will result in the levy of a late payment
47 charge of one and one-half percent per month pro rata per diem on the
48 delinquent contribution.

49 (e) If a telecommunication service provider's contribution to the
50 E-LEARN fund in a given fiscal year is less than one hundred fifty
51 dollars such telecommunication service provider will not be required to
52 pay a contribution for such year.

53 4. Requirements. The requirements of this section, including with
54 respect to determinations of the assessment rate, shall not be qualified
55 by the difficulty or cost of providing high-quality internet access to
56 any particular eligible student or eligible school, as such terms are

1 defined in section four hundred thirty of the education law, nor shall
2 any eligible student or eligible school be prioritized over any other
3 eligible student or eligible school by reason of any such difficulty or
4 cost.

5 § 5. The state finance law is amended by adding a new section 95-j to
6 read as follows:

7 § 95-j. E-LEARN fund. 1. There is hereby established in the joint
8 custody of the comptroller and the commissioner of taxation and finance
9 the E-LEARN fund to ensure the provision of high-quality internet access
10 to eligible schools and eligible students in the state through the
11 program set forth in article nine-A of the education law.

12 2. The E-LEARN fund shall consist of all moneys required to be depos-
13 ited in the E-LEARN fund pursuant to the provisions of section one
14 hundred eighty-six-h of the tax law.

15 3. The moneys in the E-LEARN fund shall be kept separate and shall not
16 be commingled with any other moneys in the custody of the state comp-
17 troller.

18 4. The moneys in the E-LEARN fund shall be disbursed, upon proper
19 application made to the state commissioner of education by public school
20 districts, boards of cooperative educational services, the New York city
21 department of education, non-public schools, charter schools, special
22 act schools, approved private schools serving students with disabilities
23 subject to article eighty-one or eighty-nine of the education law, state
24 supported schools subject to article eighty-five of the education law,
25 state operated schools subject to article eighty-seven or eighty-eight
26 of the education law, and persons in parental relation to eligible
27 students who are providing home instruction in compliance with part one
28 of article sixty-five of the education law and section 100.10 of the
29 NYCRR, as applicable, for the purposes of providing cost-free high-qual-
30 ity internet access to eligible students and eligible schools in accord-
31 ance with article nine-A of the education law and for costs of the
32 department of education, the department of taxation and finance and the
33 comptroller's office to administer the E-LEARN fund and implement the
34 E-LEARN program.

35 5. To the extent amounts received from telecommunication service
36 providers in any given fiscal year exceed an amount equal to the aggre-
37 gate disbursements from the E-LEARN fund required to be made pursuant to
38 article nine-A of the education law plus the cost of administering the
39 E-LEARN fund and implementing the E-LEARN program, the excess amounts
40 shall remain in the E-LEARN fund for use in the subsequent fiscal year.

41 6. The requirements of this section shall not be qualified by the
42 difficulty or cost of providing high-quality internet access to any
43 particular eligible student or eligible school, nor shall any eligible
44 student or eligible school be prioritized over any other eligible
45 student or eligible school by reason of any such difficulty or cost.

46 § 6. The article heading of article 11 of the public service law, as
47 added by chapter 83 of the laws of 1995, is amended to read as follows:

48 PROVISIONS RELATING TO CABLE TELEVISION COMPANIES

49 AND TELECOMMUNICATION SERVICE PROVIDERS

50 § 7. The public service law is amended by adding a new section 224-c
51 to read as follows:

52 § 224-c. Reimbursement by telecommunication service providers of
53 eligible students and eligible schools with current high-quality inter-
54 net access. 1. For the purposes of this section: (a) "Broadband inter-
55 net access service" means a service provided by wire or radio in New
56 York state that provides the capability to transmit data to, and receive

1 data from, all or substantially all internet endpoints, including any
2 capabilities that are incidental to and enable the operation of the
3 communications service, but excluding dial-up internet access service.
4 Broadband internet access service also encompasses any service provided
5 in New York state that provides a functional equivalent of that service
6 or that is used to evade the provisions set forth in this section.

7 (b) "Eligible school" means a public school, non-public school, char-
8 ter school, special act school, approved private school serving students
9 with disabilities subject to article eighty-one or eighty-nine of the
10 education law, state supported school subject to article eighty-five of
11 the education law, or state operated school subject to article eighty-
12 seven or eighty-eight of the education law, in each case serving
13 students between five and twenty-one years of age.

14 (c) "Eligible student" means a student who is a resident of the state
15 between five and twenty-one years of age who is enrolled in an eligible
16 school or who is provided home instruction in compliance with part one
17 of article sixty-five of the education law and applicable regulations.

18 (d) "High-quality internet access" means, with respect to broadband
19 internet access service provided to an eligible student, uninterrupted
20 broadband internet access service which is not limited to one or more
21 particular devices and which provides actual and stable download speeds
22 of at least 25 megabits per second (Mbps) and upload speeds of at least
23 3 Mbps at all times, and, with respect to broadband internet access
24 service provided to an eligible school, actual and stable download
25 speeds of at least 1 Mbps per enrolled student and upload speeds of at
26 least 1 Mbps per enrolled student at all times.

27 (e) "State education department" means the education department of the
28 state of New York.

29 (f) "Telecommunication service provider" means a business that
30 provides broadband internet access service in this state.

31 2. In fulfilling the requirements of the E-LEARN fund application
32 process pursuant to article nine-A of the education law, the state
33 education department shall:

34 (a) provide information obtained pursuant to section four hundred
35 thirty-three of the education law regarding those eligible students
36 already receiving high-quality internet access as of the effective date
37 of this section to the department of public service for purposes of
38 subdivision four of this section; and

39 (b) coordinate with public school districts, boards of cooperative
40 educational services, the New York city department of education, nonpub-
41 lic schools, charter schools, special act schools, approved private
42 schools serving students with disabilities subject to article eighty-one
43 or eighty-nine of the education law, state supported schools subject to
44 article eighty-five of the education law, and state operated schools
45 subject to article eighty-seven or eighty-eight of the education law as
46 applicable to identify those eligible schools and school buildings
47 already receiving high-quality internet access as of the effective date
48 of this section, and provide such information to the department of
49 public service for purposes of subdivision five of this section.

50 3. The department shall provide information regarding eligible
51 students and eligible schools obtained from the state education depart-
52 ment pursuant to subdivision two of this section to the appropriate
53 telecommunication service providers providing high-quality internet
54 access to the applicable eligible students and eligible schools for
55 purposes fulfilling the requirements of subdivisions four and five of
56 this section.

1 4. With respect to each eligible student who was receiving high-quality
2 internet access as of the effective date of this section and for whom
3 a grant of permission has been returned pursuant to subdivision one of
4 section four hundred thirty-three of the education law, the telecommuni-
5 cation service provider under contract to provide such high-quality
6 internet access shall, in good faith, continue to provide such same
7 service under such same contract, subject to those terms of such same
8 contract which do not abrogate the provisions of this section. The costs
9 for such high-quality internet access shall be reduced by the applicable
10 telecommunication service provider (but not below zero) by an amount
11 equal to the average expense per eligible student of providing eligible
12 students with high-quality internet access pursuant to section four
13 hundred thirty-four of the education law.

14 5. With respect to each eligible school which was receiving high-quality
15 internet access as of the effective date of this section, the tele-
16 communication service provider under contract to provide such high-quality
17 internet access shall continue to provide such same service under
18 such same contract, subject to those terms of such same contract which
19 do not abrogate the provisions of this section. The costs for such high-
20 quality internet access shall be reduced by the applicable telecommuni-
21 cation service provider (but not below zero) by an amount equal to the
22 average expense per eligible school of providing eligible schools with
23 high-quality internet access pursuant to section four hundred thirty-
24 five of the education law.

25 6. No telecommunication service provider may pass through in whole or
26 in part as a fee, charge, increased service cost, or by any other means
27 to any person or customer that contracts with such telecommunication
28 service provider any cost incurred by such telecommunication service
29 provider in fulfilling the requirements of subdivision four or five of
30 this section.

31 7. No telecommunication service provider may discriminate or otherwise
32 confer advantage or disadvantage in respect of its obligations under
33 this section on the basis of whether an eligible student or eligible
34 school has failed to timely make any payments under a contract with such
35 telecommunication service provider.

36 8. The requirements of this section shall not be qualified by the
37 difficulty or cost of reducing the costs of any particular eligible
38 student or eligible school or the difficulty or cost of providing high-
39 quality internet access to any particular eligible student or eligible
40 school, nor shall any eligible student or eligible school be prioritized
41 over any other eligible student or eligible school by reason of any such
42 difficulty or cost.

43 § 8. Severability. If any clause, sentence, paragraph, section or part
44 of this act shall be adjudged by any court of competent jurisdiction to
45 be invalid, after exhaustion of all further judicial review, the judg-
46 ment shall not affect, impair or invalidate the remainder thereof, but
47 shall be confined in its operation to the clause, sentence, paragraph,
48 section or part of this act directly involved in the controversy in
49 which the judgment shall have been rendered.

50 § 9. This act shall take effect immediately, and shall expire and be
51 deemed repealed on the last day of the school year in which the state of
52 emergency declared pursuant to executive order 202 of 2020 terminates.