

STATE OF NEW YORK

5180

2021-2022 Regular Sessions

IN ASSEMBLY

February 11, 2021

Introduced by M. of A. BENEDETTO, AUBRY, HAWLEY, JACKSON -- 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 obligations 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 Assembly, 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

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

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1 required to, or are requested to, continue distance learning modality as
2 an instructional delivery model.

3 The legislature further finds lack of high-quality internet access has
4 had and continues to have a disequalizing impact on children who are
5 poor, homeless and without the resources to support their educational
6 needs.

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

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

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

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

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

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

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

48 The legislature further finds that it is necessary to establish a
49 competitively-neutral funding mechanism to provide the resources neces-
50 sary to assure and maintain satisfaction of the constitutional education
51 obligations of the state.

52 Therefore, be it resolved, that, the legislature hereby approves the
53 use of the police power inherent in the state of New York to protect and
54 promote the safety, life, public health, public convenience, general
55 prosperity, and well-being of society, and the welfare of the state's
56 population and economy, as necessary to satisfy the provisions of Arti-

1 cle XI of the New York state Constitution to provide a free public
2 education pursuant to the E-Let's Expand Access to Remote Now (E-LEARN)
3 act, as defined in this act.

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

6 ARTICLE 9-A
7 E-LEARN PROGRAM

8 Section 430. Definitions.

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

10 432. Allocation of E-LEARN funds.

11 433. Grant of permission for use of information.

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

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

16 436. Payment of costs and expenses.

17 437. Collaboration.

18 438. Cooperation of third parties.

19 439. Requirements.

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

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

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

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

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

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

46 6. "High-quality internet access" means, with respect to broadband
47 internet access service provided to an eligible student, uninterrupted
48 broadband internet access service which is not limited to one or more
49 particular devices and which provides actual and stable download speeds
50 of at least 25 megabits per second (Mbps) and upload speeds of at least
51 3 Mbps at all times throughout the applicable school year, and, with
52 respect to broadband internet access service provided to an eligible
53 school, actual and stable download speeds of at least 1 Mbps per
54 enrolled student and upload speeds of at least 1 Mbps per enrolled
55 student at all times throughout the applicable school year.

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

3 § 431. Application for allocation from the E-LEARN fund. 1. Each
4 public school district with respect to eligible schools under the juris-
5 isdiction of such public school district, board of cooperative educational
6 services with respect to eligible schools under the jurisdiction of such
7 board of cooperative educational services, non-public school, charter
8 school, approved private school serving students with disabilities
9 subject to article eighty-one or eighty-nine of this chapter, state
10 supported school subject to article eighty-five of this chapter, or
11 state operated school subject to article eighty-seven or eighty-eight of
12 this chapter is hereby directed to submit documentation to the depart-
13 ment of the requirements necessary to satisfy the provisions of sections
14 four hundred thirty-four and four hundred thirty-five of this article.
15 Each such public school district, board of cooperative educational
16 services or school, as applicable, shall make application within forty-
17 five days of the effective date of this article to the department
18 setting forth such requirements, and annually thereafter before August
19 first.

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

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

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

1 article, the degree of need of each eligible school and their respective
2 classrooms, and, subject to section four hundred thirty-seven of this
3 article, the different regional factors affecting the provision of high-
4 quality internet access.

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

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

1 board of cooperative educational services, or eligible school, as appro-
2 priate; and

3 (b) The chancellor shall be authorized to enter into agreements to
4 provide each eligible student enrolled at an eligible school under the
5 jurisdiction of the New York city department of education who did not
6 have high-quality internet access as of the effectiveness of this arti-
7 cle and continues to lack high-quality internet access, and for whom a
8 grant of permission has been returned pursuant to this section, with
9 high-quality internet access on a continual basis at the residence of
10 such eligible student, whether such residence is temporary or permanent,
11 in such manner as shall be deemed appropriate by the chancellor.

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

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

27 1. Each public school district shall contract for high-quality inter-
28 net access on a continual basis at each school district building and for
29 all eligible schools under such public school district's jurisdiction
30 sufficient to support all instructional and administrative operations of
31 such public school district and such eligible schools to the extent that
32 such buildings and eligible schools did not have high-quality internet
33 access as of the effective date of this article and continue to lack
34 high-quality internet access;

35 2. Each board of cooperative educational services shall contract for
36 high-quality internet access on a continual basis at each such board of
37 cooperative educational services building and for all eligible schools
38 under such board of cooperative educational services' jurisdiction
39 sufficient to support all instructional and administrative operations of
40 such board of cooperative educational services and such eligible schools
41 to the extent that such buildings and eligible schools did not have
42 high-quality internet access as of the effective date of this article
43 and continue to lack high-quality internet access;

44 3. The chancellor shall contract for high-quality internet access on a
45 continual basis at each New York city department of education building
46 and for all eligible schools under the jurisdiction of the New York city
47 department of education sufficient to support all instructional and
48 administrative operations of the New York city department of education
49 and such eligible schools to the extent that such buildings and eligible
50 schools did not have high-quality internet access as of the effective
51 date of this article and continue to lack high-quality internet access;
52 and

53 4. Each non-public school, charter school, approved private school
54 servicing students with disabilities subject to article eighty-one or
55 eighty-nine of this chapter, state supported school subject to article
56 eighty-five of this chapter, or state operated school subject to article

1 eighty-seven or eighty-eight of this chapter which is an eligible school
2 shall contract for high-quality internet access on a continual basis at
3 such eligible school sufficient to support all instructional and admin-
4 istrative operations of such eligible school to the extent that such
5 buildings and eligible schools did not have high-quality internet access
6 as of the effective date of this article and continue to lack high-qual-
7 ity internet access.

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

18 (a) for reimbursement, such receipts and other appropriate evidence of
19 costs and expenses incurred in satisfying the requirements of sections
20 four hundred thirty-four and four hundred thirty-five of this article;
21 and

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

27 2. The department shall submit such documentation necessary for the
28 comptroller to make such reimbursements and payments out of the E-LEARN
29 fund.

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

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

53 § 439. Requirements. The requirements of this article shall not be
54 qualified by the difficulty or cost of providing high-quality internet
55 access to any particular eligible student or eligible school, nor shall
56 any eligible student or eligible school be prioritized over any other

1 eligible student or eligible school by reason of any such difficulty or
2 cost.

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

5 § 186-h. Duties of the department under the E-LEARN program. 1. Defi-
6 nitions. For the purposes of this section:

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

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

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

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

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

41 (b) Such annual charge shall be assessed on and collected from all
42 telecommunication service providers operating in the state as of April
43 first, July first, October first, and January first of each year,
44 provided that the initial annual charge for fiscal year two thousand
45 twenty shall be assessed and collected as of December thirty-first, two
46 thousand twenty.

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

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

55 (e) If a telecommunication service provider's contribution to the
56 E-LEARN fund in a given fiscal year is less than one hundred fifty

1 dollars such telecommunication service provider will not be required to
2 pay a contribution for such year.

3 4. Requirements. The requirements of this section, including with
4 respect to determinations of the assessment rate, shall not be qualified
5 by the difficulty or cost of providing high-quality internet access to
6 any particular eligible student or eligible school, as such terms are
7 defined in section four hundred thirty of the education law, nor shall
8 any eligible student or eligible school be prioritized over any other
9 eligible student or eligible school by reason of any such difficulty or
10 cost.

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

13 § 95-j. E-LEARN fund. 1. There is hereby established in the joint
14 custody of the comptroller and the commissioner of taxation and finance
15 the E-LEARN fund to ensure the provision of high-quality internet access
16 to eligible schools and eligible students in the state through the
17 program set forth in article nine-A of the education law.

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

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

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

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

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

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

54 PROVISIONS RELATING TO CABLE TELEVISION COMPANIES
55 AND TELECOMMUNICATION SERVICE PROVIDERS

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

3 § 224-c. Reimbursement by telecommunication service providers of
4 eligible students and eligible schools with current high-quality inter-
5 net access. 1. For the purposes of this section: (a) "Broadband inter-
6 net access service" means a service provided by wire or radio in New
7 York state that provides the capability to transmit data to, and receive
8 data from, all or substantially all internet endpoints, including any
9 capabilities that are incidental to and enable the operation of the
10 communications service, but excluding dial-up internet access service.
11 Broadband internet access service also encompasses any service provided
12 in New York state that provides a functional equivalent of that service
13 or that is used to evade the provisions set forth in this section.

14 (b) "Eligible school" means a public school, non-public school, char-
15 ter school, special act school, approved private school serving students
16 with disabilities subject to article eighty-one or eighty-nine of the
17 education law, state supported school subject to article eighty-five of
18 the education law, or state operated school subject to article eighty-
19 seven or eighty-eight of the education law, in each case serving
20 students between five and twenty-one years of age.

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

25 (d) "High-quality internet access" means, with respect to broadband
26 internet access service provided to an eligible student, uninterrupted
27 broadband internet access service which is not limited to one or more
28 particular devices and which provides actual and stable download speeds
29 of at least 25 megabits per second (Mbps) and upload speeds of at least
30 3 Mbps at all times, and, with respect to broadband internet access
31 service provided to an eligible school, actual and stable download
32 speeds of at least 1 Mbps per enrolled student and upload speeds of at
33 least 1 Mbps per enrolled student at all times.

34 (e) "State education department" means the education department of the
35 state of New York.

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

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

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

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

1 3. The department shall provide information regarding eligible
2 students and eligible schools obtained from the state education depart-
3 ment pursuant to subdivision two of this section to the appropriate
4 telecommunication service providers providing high-quality internet
5 access to the applicable eligible students and eligible schools for
6 purposes fulfilling the requirements of subdivisions four and five of
7 this section.

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

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

32 6. No telecommunication service provider may pass through in whole or
33 in part as a fee, charge, increased service cost, or by any other means
34 to any person or customer that contracts with such telecommunication
35 service provider any cost incurred by such telecommunication service
36 provider in fulfilling the requirements of subdivision four or five of
37 this section.

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

43 8. The requirements of this section shall not be qualified by the
44 difficulty or cost of reducing the costs of any particular eligible
45 student or eligible school or the difficulty or cost of providing high-
46 quality internet access to any particular eligible student or eligible
47 school, nor shall any eligible student or eligible school be prioritized
48 over any other eligible student or eligible school by reason of any such
49 difficulty or cost.

50 § 8. Severability. If any clause, sentence, paragraph, section or part
51 of this act shall be adjudged by any court of competent jurisdiction to
52 be invalid, after exhaustion of all further judicial review, the judg-
53 ment shall not affect, impair or invalidate the remainder thereof, but
54 shall be confined in its operation to the clause, sentence, paragraph,
55 section or part of this act directly involved in the controversy in
56 which the judgment shall have been rendered.

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