HOUSE BILL NO. 5032

June 16, 2021, Introduced by Reps. Hood, Rogers, Sneller, Sowerby, Brixie, Hope, Rabhi, Brabec, Cavanagh, Aiyash, Weiss, Hammoud, Scott and Young and referred to the Committee on Communications and Technology.

A bill to amend 2020 PA 224, entitled "Broadband expansion act of Michigan," by amending sections 2, 4, and 7 (MCL 484.3252, 484.3254, and 484.3257).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:
2 (a) "Applicant" means an internet service provider,
3 governmental entity, educational institution, or public-private partnership that submits an application for a grant after
collaborating with the community in the unserved area.

(b) "Broadband service" means a retail service, not including a satellite service, capable of delivering high-speed internet access at speeds of at least 25–100 megabits per second downstream and 3–10 megabits per second upstream.

(c) "Department" means the department of technology, management, and budget.

(d) "Deployed" means that a provider meets either of the following:

(i) Currently provides broadband service of at least 25–100 megabits per second download and 3–10 megabits per second upload in the specific geographic area of the proposed project of the applicant.

(ii) Is able to provide broadband service of at least 25–100 megabits per second download and 3–10 megabits per second upload in a specific geographic area of the proposed project of the applicant to a customer that requests that service not later than 30 days after the customer requests installation of that service and without an extraordinary commitment of resources or construction charges or fees exceeding an ordinary service activation fee. The 30-day time period is extended to 60 days if permits are needed before the broadband service is activated.

(e) "Internet service provider" means any of the following:

(i) An entity holding a license under the Michigan telecommunications act, 1991 PA 179, MCL 484.2101 to 484.2603.

(ii) An entity holding a franchise under the uniform video services local franchise act, 2006 PA 480, MCL 484.3301 to 484.3315.

(iii) An entity currently providing broadband service in this
(iv) A political subdivision of this state.

(f) "Person" includes an individual, community organization, cooperative association, corporation, federally recognized Indian tribe, limited liability company, nonprofit corporation, partnership, or political subdivision of this state.

(g) "Trade secrets" means trade secret as that term is defined in section 2 of the uniform trade secrets act, 1998 PA 448, MCL 445.1902.

(h) "Unserved area" means any of the following:

(i) A census block lacking access to broadband service from at least 3 internet service providers.

(ii) An area lacking access to broadband service from at least 3 internet service providers according to the most accurate and granular data on the broadband map created by the Federal Communications Commission.

(iii) An area delineated by the department by the process established in section 8.

Sec. 4. (1) The department shall only use money from the grant program to award grants to applicants for projects that exclusively extend broadband service into unserved areas in this state and for the department's costs to administer the program.

(2) The department may not, directly or indirectly, award grant money to a governmental entity or educational institution or an affiliate or a public-private partnership, to own, purchase, construct, operate, or maintain a communications network, or to provide service to any residential or commercial premises.

(3) The department shall not, as a condition of an award of
grant money, impose an open network architecture requirement, rate
regulation, or other term or condition of service that differs from
the applicant's terms or conditions of service in its other service
areas.

(4) An applicant shall not receive a grant for the same
project or geographic area for which the applicant has obtained
federal, state, or local government funding awarded specifically to
support the expansion of broadband networks. The department shall
not award more than $5,000,000.00 to any 1 project or to any 1
applicant. The department shall award initial grant money within
270 days after the money is made available under this program.

Sec. 7. (1) An applicant for a grant under this act shall
provide the following information on the application:

(a) The location of the project in the unserved area described
by either the specific street addresses to be served or a shapefile
as that term is defined in 47 USC 641.

(b) The kind and amount of broadband infrastructure to be
purchased for the project.

(c) Evidence regarding the unserved nature of the community in
which the project is to be located.

(d) The number of households that will have access to
broadband service as a result of the project, or whose internet
access service will be upgraded to broadband service as a result of
the project.

(e) The significant community institutions that will benefit
from the proposed project.

(f) Evidence of community support for the project with a
narrative on the impact that the investment will have on community
and economic development efforts in the area.
(g) The total cost of the project and a detailed budget and schedule for the project.

(h) All sources of funding or in-kind contributions for the project in addition to any grant award.

(i) The internet service provider's experience and financial wherewithal.

(2) The applicant's trade secrets, financial information, and proprietary information submitted under this act as part of an application are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) After scoring and considering all grant applications, the department shall make grant award recommendations. The department shall give priority in making grant award recommendations to applications that demonstrate 1 or more of the following:

(a) Collaboration to achieve community investment and economic development goals of an impacted area.

(b) The applicant has the managerial, financial, and technical ability to build, operate, and manage a broadband network.

(c) The likelihood that the unserved area will not be served without state grant funding.

(d) The project will serve a larger unserved area or a greater number of locations within an unserved area than other proposed applications.

(e) The ability of the applicant to commit to providing at least 50% of the cost to deploy the project set forth in the application.

(4) Within 30 days after the award recommendations have been made, the department shall publish on its website the grant applications, redacted according to section 14 of the freedom of information act.
information act, 1976 PA 442, MCL 15.244, the proposed geographic
broadband service area, and the proposed broadband service speeds
for each application that receives an award recommendation.

(5) Before granting an award to an applicant, the department
shall establish a period of at least 60 days after the date the
award recommendations are published on the department's website,
during which time the department shall accept comments or
objections concerning each application. The department shall
consider all comments or objections received, and investigate them
as needed, in deciding whether an applicant is eligible for a
grant. If an objection submitted by a provider contains information
that requires an investigation and the objection is found to be
inaccurate, the provider shall reimburse the department for the
cost of verifying the information.

(6) The department shall not award a grant to an applicant if
verifiable information is made available that shows any of the
following:

(a) The proposed project includes an area where at least 3 providers have deployed broadband service.

(b) The department receives a sworn statement from an officer
of an internet service provider that the proposed project includes
an area where construction of a network to provide broadband
service is underway, and the construction is scheduled to be
completed within 1 year after the date of the application.

(c) The department receives a sworn statement from an officer
of an internet service provider that the proposed project includes
either of the following:

(i) A specific geographical area where an internet service
provider has been selected to receive, provisionally or otherwise,
funding by the Federal Communications Commission or the United States Department of Agriculture specifically for the expansion of broadband services. This subparagraph does not apply to an area once either of the following has occurred:

(A) The internet service provider does not complete the requirements for obtaining the funding described in this subparagraph.

(B) The time period for the internet service provider to meet its obligation described in this subparagraph has expired and the area remains unserved.

(ii) An area where the construction of a network to provide broadband service is to be completed no later than 2 years after the date of an application.