

# HOUSE BILL NO. 5033

June 16, 2021, Introduced by Reps. Haadsma, Coleman, Sabo, Aiyash, Sowerby, Scott, Puri, Weiss, Anthony, Morse, Brabec, Young, Hood, Cavanagh and Whitsett and referred to the Committee on Communications and Technology.

A bill to make, supplement, and adjust appropriations for various state departments and agencies for the fiscal year ending September 30, 2021; to provide for the expenditure of the appropriations; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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PART 1

LINE-ITEM APPROPRIATIONS

Sec. 101. There is appropriated for various state departments and agencies to supplement appropriations for the fiscal year

1 ending September 30, 2021, from the following funds:

2 <b>APPROPRIATION SUMMARY</b>		
3	<b>GROSS APPROPRIATION</b>	<b>\$ 385,695,000</b>
4	Interdepartmental grant revenues:	
5	Total interdepartmental grants and	
6	intradepartmental transfers	0
7	<b>ADJUSTED GROSS APPROPRIATION</b>	<b>\$ 385,695,000</b>
8	Federal revenues:	
9	Total federal revenues	400,000,000
10	Special revenue funds:	
11	Total local revenues	0
12	Total private revenues	0
13	Total other state restricted revenues	0
14	<b>State general fund/general purpose</b>	<b>\$ (14,305,000)</b>

15 **Sec. 102. DEPARTMENT OF LABOR AND ECONOMIC**  
 16 **OPPORTUNITY**

17 <b>(1) APPROPRIATION SUMMARY</b>		
18	<b>GROSS APPROPRIATION</b>	<b>\$ 400,000,000</b>
19	Interdepartmental grant revenues:	
20	Total interdepartmental grants and	
21	intradepartmental transfers	0
22	<b>ADJUSTED GROSS APPROPRIATION</b>	<b>\$ 400,000,000</b>
23	Federal revenues:	
24	Total federal revenues	400,000,000
25	Special revenue funds:	
26	Total local revenues	0
27	Total private revenues	0
28	Total other state restricted revenues	0

1	<b>State general fund/general purpose</b>	\$	0
2	<b>(2) ONE-TIME APPROPRIATIONS</b>		
3	Statewide broadband	\$	400,000,000
4	<b>GROSS APPROPRIATION</b>	\$	<b>400,000,000</b>
5	Appropriated from:		
6	Federal revenues:		
7	Coronavirus state fiscal recovery fund		400,000,000
8	<b>State general fund/general purpose</b>	\$	<b>0</b>
9	<b>Sec. 103. DEPARTMENT OF TECHNOLOGY, MANAGEMENT,</b>		
10	<b>AND BUDGET</b>		
11	<b>(1) APPROPRIATION SUMMARY</b>		
12	<b>GROSS APPROPRIATION</b>	\$	<b>(14,305,000)</b>
13	Interdepartmental grant revenues:		
14	Total interdepartmental grants and		
15	intradepartmental transfers		0
16	<b>ADJUSTED GROSS APPROPRIATION</b>	\$	<b>(14,305,000)</b>
17	Federal revenues:		
18	Total federal revenues		0
19	Special revenue funds:		
20	Total local revenues		0
21	Total private revenues		0
22	Total other state restricted revenues		0
23	<b>State general fund/general purpose</b>	\$	<b>(14,305,000)</b>
24	<b>(2) ONE-TIME APPROPRIATIONS</b>		
25	Statewide broadband	\$	(14,305,000)
26	<b>GROSS APPROPRIATION</b>	\$	<b>(14,305,000)</b>
27	Appropriated from:		
28	<b>State general fund/general purpose</b>	\$	<b>(14,305,000)</b>

## PART 2

## PROVISIONS CONCERNING APPROPRIATIONS

**GENERAL SECTIONS**

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state sources under part 1 for the fiscal year ending September 30, 2021 is \$0.00 and total state spending from state sources to be paid to local units of government is \$0.00.

Sec. 202. The appropriations made and expenditures authorized under this part and part 1 and the departments, commissions, boards, offices, and programs for which appropriations are made under this part and part 1, are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

**DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY**

Sec. 301. (1) As used in this section:

(a) "Applicant" means an internet service provider, governmental entity, educational institution, federally recognized tribe, 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 100 megabits per second downstream and 10 megabits per second upstream. Broadband service does not include mobile phone service.

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

(i) Currently provides broadband service of at least 100

1 megabits per second download and 10 megabits per second upload in  
2 the specific geographic area of the proposed project of the  
3 applicant.

4 (ii) Is able to provide broadband service of at least 100  
5 megabits per second download and 10 megabits per second upload in a  
6 specific geographic area of the proposed project of the applicant  
7 to a customer that requests that service not later than 30 days  
8 after the customer requests installation of that service and  
9 without an extraordinary commitment of resources or construction  
10 charges or fees exceeding an ordinary service activation fee. The  
11 30-day time period is extended to 60 days if permits are needed  
12 before the broadband service is activated.

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

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

16 (ii) An entity holding a franchise under the uniform video  
17 services local franchise act, 2006 PA 480, MCL 484.3301 to  
18 484.3315.

19 (iii) An entity currently providing broadband service in this  
20 state.

21 (iv) A political subdivision of this state.

22 (e) "MDLEO" means the department of labor and economic  
23 opportunity.

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

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

1 445.1902.

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

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

5 (ii) An area lacking access to broadband service from at least  
6 3 internet service providers according to the most accurate and  
7 granular data on the broadband map created by the Federal  
8 Communications Commission.

9 (iii) An area delineated by the MDLEO by the process established  
10 in subsection (16).

11 (iv) An area without broadband service at a speed of at least  
12 100 Mbps downstream and 10 Mbps upstream.

13 (2) From the funds appropriated in part 1 for statewide  
14 broadband, the MDLEO shall maintain a statewide broadband grant  
15 program called the connecting Michigan communities broadband grant  
16 program within 60 days of enactment. Money for the program must be  
17 provided by appropriation of state or federal funding as provided  
18 by law and managed by the MDLEO.

19 (3) The MDLEO shall only use money from the grant program to  
20 award grants to applicants for projects that exclusively extend  
21 broadband service into unserved areas in this state and for the  
22 MDLEO's costs to administer the program.

23 (4) The MDLEO may award grant money to a governmental entity  
24 or educational institution or an affiliate or a public/private  
25 partnership, to own, purchase, construct, operate, or maintain a  
26 communications network, or to provide service to any residential or  
27 commercial premises.

28 (5) The MDLEO shall not, as a condition of an award of grant  
29 money, impose an open network architecture requirement, rate

1 regulation, or other term or condition of service that differs from  
2 the applicant's terms or conditions of service in its other service  
3 areas.

4 (6) The MDLEO shall not award more than \$15,000,000.00 to any  
5 1 project or to any 1 applicant. The MDLEO shall award initial  
6 grant money within 270 days after the money is made available under  
7 this program.

8 (7) An award of funds must be issued by a competitive grant  
9 process. The grant process must be technology neutral, and result  
10 in awards to applicants proposing projects based on objective and  
11 efficient procedures. The criteria for determining the award of  
12 funds must include the following:

13 (a) The applicant's experience and financial wherewithal.

14 (b) The readiness to build, operate, and maintain the project.

15 (c) The long-term viability of the project.

16 (d) The scalability of the network.

17 (e) The applicant's ability to leverage broadband for  
18 community and economic development.

19 (f) The applicant's ability to provide discounted broadband  
20 service throughout the unserved area to low-income households.

21 (8) Priority must be given to projects that demonstrate  
22 collaboration to achieve community investment and economic  
23 development goals of the area impacted, and that are able to  
24 demonstrate that they have the managerial, financial, and technical  
25 ability to build, operate, and manage a broadband network.

26 (9) Within 30 days after receiving an appropriation or federal  
27 funding to implement this section, the MDLEO shall establish and  
28 publish on the MDLEO's website the criteria for competitively  
29 scoring applications. Within 60 days after the MDLEO publishes the

1 criteria, applicants shall submit their applications for funding of  
2 their proposed project.

3 (10) An applicant for a grant under this section shall provide  
4 the following information on the application:

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

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

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

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

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

18 (f) Evidence of community support for the project with a  
19 narrative on the impact that the investment will have on community  
20 and economic development efforts in the area.

21 (g) The total cost of the project and a detailed budget and  
22 schedule for the project.

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

25 (i) The applicant's experience and financial wherewithal.

26 (j) The program outline of the digital literacy program that  
27 will be provided in the area to be served by the broadband  
28 services.

29 (11) The applicant's trade secrets, financial information, and



1 proprietary information submitted under this section as part of an  
2 application are exempt from disclosure under the freedom of  
3 information act, 1976 PA 442, MCL 15.231 to 15.246.

4 (12) After scoring and considering all grant applications, the  
5 MDLEO shall make grant award recommendations. The MDLEO shall give  
6 priority in making grant award recommendations to applications that  
7 demonstrate 1 or more of the following:

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

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

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

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

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

20 (f) The capability to deliver future-proof speeds up to and  
21 exceeding 1 gigabit per second downstream and upstream with no  
22 limitations on data utilization.

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

29 (14) Before granting an award to an applicant, the MDLEO shall

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

10 (15) The MDLEO shall not award a grant to an applicant if  
11 verifiable information is made available that shows any of the  
12 following:

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

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

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

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

29 (A) The internet service provider does not complete the

1 requirements for obtaining the funding described in this  
2 subparagraph.

3 (B) The time period for the internet service provider to  
4 receive the funding described in this subparagraph has expired.

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

8 (16) As part of an application under this section, an  
9 applicant may request that the MDLEO specifically delineate an area  
10 within a census block as being an unserved area. To tentatively  
11 establish an unserved area within a census block, an applicant must  
12 attest to both of the following:

13 (a) The delineated area within the census block is unserved  
14 and does not have access to broadband service.

15 (b) The delineated area is not within a census block that has  
16 been selected to receive, provisionally or otherwise, funding to  
17 support the expansion of broadband networks from the Federal  
18 Communications Commission or the United States Department of  
19 Agriculture.

20 (17) If a delineated area within a census block is tentatively  
21 determined by the MDLEO to be an unserved area, the recommended  
22 grant award for the application is still subject to a challenge by  
23 internet service providers under subsections (14) and (15).

24 (18) At the time a grant is awarded to an applicant, the MDLEO  
25 shall immediately provide notice on its website of each application  
26 receiving a grant, including the name of the entity, the amount of  
27 money being received, the broadband speed, and the unserved area  
28 for which the applicant is receiving the grant.

29 (19) The MDLEO shall require an applicant awarded a grant to

1 submit a semiannual report from the time the applicant receives the  
2 grant to 3 years after completion of the project. The semiannual  
3 reports must be made available on the MDLEO's website with any  
4 proprietary information redacted. The reports must be in a format  
5 specified by the MDLEO and give an accounting by the applicant of  
6 the use of the money received and the progress toward fulfilling  
7 the objectives for which the money was granted, including all of  
8 the following:

9 (a) The number and location of residences and businesses that  
10 will have access to the broadband service.

11 (b) The speed of broadband service.

12 (c) The average price of broadband service.

13 (d) The broadband service adoption rates.

14 (20) A person that files a false statement under this section  
15 is ineligible to receive a grant under this section the next time  
16 grants are issued after filing that false statement.

17 (21) If an applicant is found to be noncompliant with the  
18 grant commitments after 3 years, the applicant will forfeit grant  
19 funding in an amount proportional to the number of residences and  
20 businesses in the award area that remain unserved.

21

22 **REPEALER**

23 Sec. 401. Section 841 of article 5 of 2020 PA 166 is repealed.