

HOUSE BILL NO. 4288

February 28, 2019, Introduced by Rep. Hoitenga and referred to the Committee on Communications and Technology.

A bill to prescribe the powers and duties of certain state governmental officers and entities; to create a statewide broadband service grant program; and to establish a process for the application and awarding of grant funds.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan broadband expansion act".

3 Sec. 2. As used in this act:

4 (a) "Applicant" means an internet service provider that
5 submits an application for a grant after having collaborated with



1 other persons and the community within the unserved area.

2 (b) "Broadband service" means a retail terrestrial service
3 capable of delivering high-speed internet access at speeds of at
4 least 10 megabits per second downstream and 1 megabit per second
5 upstream.

6 (c) "Census block" means a geographic area defined as a census
7 block by the United States Department of Commerce, Bureau of the
8 Census in conducting the 2010 decennial census.

9 (d) "Department" means the department of technology,
10 management, and budget.

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

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

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

17 (iii) An entity currently providing broadband service in this
18 state.

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

23 (g) "Unserved area" means either a census block without at
24 least 1 provider providing broadband service within the census
25 block, or a delineated area within a census block without at least
26 1 provider providing broadband service as established as part of
27 the application approval process set forth in section 8.

28 Sec. 3. The department shall establish and implement a
29 statewide broadband grant program. Money for the program shall be



1 provided by appropriation as provided by law and managed by the
2 department.

3 Sec. 4. (1) Appropriated funds for the grant program shall
4 only be used by the department to award applicants for projects
5 that exclusively extend broadband service into unserved areas in
6 this state and for the department's costs to administer the
7 program.

8 (2) Grant funds shall not be directly or indirectly awarded to
9 a governmental entity or educational institution or an affiliate,
10 to own, purchase, construct, operate, or maintain a communications
11 network, or to provide service to any residential or commercial
12 premises.

13 (3) An award of grant funds by the department may not, as a
14 condition of the award, impose an open network architecture
15 requirement, rate regulation, or other term or condition of service
16 that differs from the applicant's terms or conditions of service in
17 its other service areas.

18 (4) As a condition of an award, an applicant shall not obtain
19 financing from any other government grants, loans, or subsidies
20 that is offered to support deployment of broadband service in the
21 same unserved areas. The department shall not award more than
22 \$5,000,000.00 to any 1 project.

23 Sec. 5. (1) An award of funds must be issued by a competitive
24 grant process. The grant process shall be technology neutral, and
25 shall result in awards to applicants proposing projects based on
26 objective and efficient procedures. The criteria for determining
27 the award of funds shall include the following:

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

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



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

2 (d) The scalability of the network.

3 (e) The applicant's ability to demonstrate the community's
4 ability to leverage broadband for community and economic
5 development, such as rural development, tourism, new investment, or
6 business attraction or retention.

7 (2) Priority shall be given to projects that demonstrate
8 collaboration to achieve community investment and economic
9 development goals of the area impacted, and that are able to
10 demonstrate that they have the managerial, financial, and technical
11 ability to build, operate, and manage a broadband network.

12 Sec. 6. Within 60 days after the effective date of this act
13 and after notice and opportunity to comment, the department shall
14 establish and publish on its website its criteria for competitively
15 scoring applications.

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

18 (a) The location of the project by census block or a request
19 to delineate an area within a census block as being unserved
20 pursuant to section 8.

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

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

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

29 (e) The significant community institutions that will benefit



1 from the proposed project.

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

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

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

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

11 (2) After scoring and considering all grant applications, the
12 department shall make grant award recommendations. Within 30 days
13 after the award recommendations have been made, the department
14 shall publish on its website the grant applications, redacted
15 according to section 14 of the freedom of information act, 1976 PA
16 442, MCL 15.244, the proposed geographic broadband service area by
17 census block or the areas within a census block if approved
18 pursuant to section 8, and the proposed broadband service speeds
19 for each application that receives an award recommendation.

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



1 cost of verifying the information.

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

5 (a) The proposed project includes an area that is already
6 being served by at least 1 provider offering broadband service.

7 (b) The proposed project includes an area where construction
8 of a network to provide broadband service is underway, and the
9 construction is scheduled to be completed within 1 year after the
10 date of the application.

11 (c) The proposed project includes an area where the
12 construction of a network to provide broadband service is to be
13 completed no later than 3 years after the date of an application.

14 (d) The project includes an area that has been selected to
15 receive, provisionally or otherwise, Connect America funds from the
16 Federal Communications Commission. If an award recommendation is
17 rejected because of an objection pertaining to subdivision (c), the
18 internet service provider installing the broadband service in lieu
19 of the improper recipient shall provide notice to the department
20 when the construction of the broadband service is completed. If no
21 notice is received, or if the completion date is later than the 3
22 years allowed for in this section, the internet service provider
23 shall reimburse the department for the cost of verifying the status
24 of the provider's construction.

25 Sec. 8. As part of an application, the applicant may request
26 that the department specifically delineate an area within a census
27 block as being an unserved area. To tentatively establish an
28 unserved area within a census block, an applicant must attest to
29 all of the following:



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

3 (b) To the best of the applicant's knowledge, no other
4 internet service provider has plans to provide broadband service
5 within the delineated area within 3 years after the date of
6 application.

7 (c) The delineated area is not within a census block that has
8 been selected to receive, provisionally or otherwise, Connect
9 America funds from the Federal Communications Commission. If a
10 delineated area within a census block is tentatively determined by
11 the department to be an unserved area, the recommended grant award
12 for the application remains subject to a challenge by internet
13 service providers under section 7(4).

14 Sec. 9. At the time an award is given to an applicant, the
15 department shall immediately provide notice on its website of each
16 application receiving funds, including the name of the entity, the
17 amount of funds being received, the broadband speed, and the
18 unserved area indicated by census blocks or the delineated area
19 within a census block as established under section 8 for which the
20 applicant is receiving the funds.

21 Sec. 10. The department shall require an applicant awarded
22 funds to submit a semiannual report from the time the applicant
23 receives the funds to 5 years after completion of the project. The
24 semiannual reports shall be made available on the department's
25 website with any proprietary information redacted. The reports
26 shall be in a format specified by the department and shall give an
27 accounting by the applicant of the use of the funds received and
28 the progress toward fulfilling the objectives for which the funds
29 were granted, including all of the following:



1 (a) The number and location of residences and businesses that
2 will receive the broadband service.

3 (b) The speed of broadband service.

4 (c) The average price of broadband service.

5 (d) The broadband service adoption rates within each census
6 block or the delineated area within a census block as established
7 by section 8.

