

ASSEMBLY BILL NO. 388—ASSEMBLYMEN C.H. MILLER AND
DURAN

MARCH 23, 2021

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions governing access to broadband services. (BDR 58-790)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets **[omitted material]** is material to be omitted.

AN ACT relating to telecommunication service; requiring the Public Utilities Commission of Nevada to establish a program to assist certain persons with low income in obtaining access to broadband services; establishing certain requirements for the program; providing for reimbursements to certain providers of telephone services for the reduction in rates for telephone services under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Public Utilities Commission of Nevada to regulate public utilities that provide telecommunication service to the public. (Chapter 704 of NRS)

Section 2 of this bill provides a definition of “broadband service.” **Sections 4 and 6** of this bill make conforming changes. **Section 4** indicates the proper placement of **section 2** within the Nevada Revised Statutes and **section 6** deletes an existing definition which is being replaced by **section 2**.

Section 3 of this bill requires the Commission to establish a program to assist persons with low income in obtaining access to broadband services. **Section 3** also establishes certain requirements for the program, including: (1) that certain providers of telephone service must provide a reduction in rates for telephone services to certain low-income customers to ensure access to broadband services for such customers; and (2) that such providers must be reimbursed from the fund to maintain the availability of telephone service for the amount of the reduction in the rates for telephone service provided to such customers.

Existing law provides a definition of “telecommunication.” (NRS 704.025) **Section 5** of this bill modifies that definition to clarify that telecommunication includes broadband service.



Existing law establishes provisions governing certain reductions in rates for telephone rates by certain providers of telephone service. (NRS 707.490) **Section 7** of this bill extends those governing provisions to apply to reductions in rates required by the program to assist persons with low income in obtaining access to broadband services.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *“Broadband service” means any two-way service that transmits information at a rate that is generally not less than 25 megabits per second when downloading information and 3 megabits per second when uploading information.*

Sec. 3. 1. *To the extent consistent with federal law, the Commission shall establish, by regulation, a program to assist persons with low income in obtaining access to broadband services. The program must:*

(a) Require an eligible provider to provide a reduction in rates for telephone services to an eligible low-income customer to ensure that the customer has access to broadband services. The amount of the reduction:

(1) Must be determined by the Commission;

(2) Must be in addition to the amount of any reduction in rates received by an eligible low-income customer pursuant to NRS 707.490; and

(3) Must not, when added to the amount of any reduction in rates received by an eligible low-income customer pursuant to NRS 707.490, reduce the total rate charged to obtain telephone services to zero or less.

(b) Enable an eligible provider to apply to receive payments from the fund to maintain the availability of telephone service to be reimbursed for the amount of the reduction in the rates for telephone service provided to an eligible customer pursuant to this section.

(c) Require the independent administrator with whom the Commission has contracted pursuant to paragraph (a) of subsection 6 of NRS 704.040 to certify or recertify the eligibility of persons of low income for the program established pursuant to this section if the administrator determines that the person is eligible for lifeline service, as defined in NRS 707.450.

(d) Require the independent administrator of the fund to maintain the availability of telephone service, with whom the Commission has contracted pursuant to subsection 5 of NRS



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1 704.040, in addition to the duties set forth NRS 704.040, to
2 establish procedures to enable an eligible provider to be
3 reimbursed for a reduction in rates as set forth in this section and
4 NRS 704.6873.

5 2. As used in this section:

6 (a) "Eligible low-income customer" means a person who has
7 been certified by the independent administrator with whom the
8 Commission has contracted pursuant to paragraph (a) of
9 subsection 6 of NRS 704.040 as eligible to receive lifeline service.

10 (b) "Eligible provider" means a provider of
11 telecommunications service that has been designated by the
12 Commission as eligible to receive reimbursement from the fund to
13 maintain the availability of telephone service.

14 (c) "Lifeline" has the meaning ascribed to it in NRS 707.450.

15 **Sec. 4.** NRS 704.005 is hereby amended to read as follows:

16 704.005 As used in this chapter, unless the context otherwise
17 requires, the words and terms defined in NRS 704.006 to 704.028,
18 inclusive, **and section 2 of this act** have the meanings ascribed to
19 them in those sections.

20 **Sec. 5.** NRS 704.025 is hereby amended to read as follows:

21 704.025 "Telecommunication" means the transmission,
22 between or among points specified by the user, of information of the
23 user's choosing, without change in the form or content of the
24 information sent and received, regardless of the facilities, equipment
25 or technology used. **The term includes broadband service.**

26 **Sec. 6.** NRS 704.684 is hereby amended to read as follows:

27 704.684 1. Except as otherwise provided in this section, the
28 Commission shall not regulate any broadband service, including
29 imposing any requirements relating to the terms, conditions, rates or
30 availability of broadband service.

31 2. The provisions of subsection 1 do not limit or modify the
32 authority of the Commission to:

33 (a) Consider any revenues, costs and expenses that a small-scale
34 provider of last resort derives from providing a broadband service, if
35 the Commission is determining the rates of the provider under a
36 general rate application that is filed pursuant to subsection 3 of
37 NRS 704.110;

38 (b) Act on a complaint filed pursuant to NRS 703.310, if the
39 complaint relates to a broadband service that is provided by a public
40 utility;

41 (c) Include any appropriate gross operating revenue that a public
42 utility derives from providing broadband service when the
43 Commission calculates the gross operating revenue of the public
44 utility for the purposes of levying and collecting the annual
45 assessment in accordance with the provisions of NRS 704.033; or



(d) Determine the rates, pricing, terms and conditions of intrastate switched or special access services provided by a telecommunication provider.

3. The provisions of subsection 1 do not:

(a) Apply to the Commission in connection with any actions or decisions required or permitted by the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56-161;

(b) Prevent the Commission from exercising its authority pursuant to 47 U.S.C. § 214(e) or § 254(f) relating to the implementation of the federal universal service program, including, without limitation, taking any action within the scope of that authority because of a regulation or order of the Federal Communications Commission; or

(c) Limit or modify:

(1) The duties of a telecommunication provider regarding the provision of network interconnection, unbundled network elements and resold services under the provisions of the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56-161; or

(2) The authority of the Commission to act pursuant to NRS 704.6881 and 704.6882.

~~14. As used in this section, "broadband service" means any two-way service that transmits information at a rate that is generally not less than 200 kilobits per second in at least one direction.]~~

Sec. 7. NRS 707.490 is hereby amended to read as follows:

707.490 1. The reduction in the telephone rates provided by lifeline or tribal link up services *or the program to assist persons with low income in obtaining access to broadband services established pursuant to section 3 of this act*, must be based on the methods for determining reductions which are adopted by the Commission by regulation. The Commission may provide different methods for determining reductions to allow for differences between eligible providers. The methods may include, without limitation:

(a) Basing the reduction on the tariff filed by the eligible provider with the Commission; or

(b) Establishing a formula pursuant to which the amount of the reduction may be determined.

2. The reduction in such telephone rates applies only to:

(a) Basic network service or the voice telephony service included in any bundled service offering that includes voice telephony service and any other services specified in 47 C.F.R. § 54.401(b), as that section existed on April 2, 2012.

(b) Residential service connection charges for such service.

(c) Broadband service for which eligible low-income customers pay reduced charges as a result of the program to assist



persons with low income in obtaining access to broadband services established pursuant to section 3 of this act.

3. If the amount of the reduction in rates provided by an eligible provider to an eligible customer for lifeline services is greater than the amount which the eligible provider receives as universal service support pursuant to 47 U.S.C. § 254, the eligible provider is entitled to reimbursement from the fund to maintain the availability of telephone service established by the Commission pursuant to NRS 704.040 for the difference between the amount of the reduction and the amount received as universal service support pursuant to 47 U.S.C. § 254.

4. An eligible provider that provides a reduction in rates to an eligible customer pursuant to the program for access to broadband services established pursuant to section 3 of this act is entitled to reimbursement from the fund to maintain the availability of telephone service, established by the Commission pursuant to NRS 704.040, for the amount of the reduction.

Sec. 8. This act becomes effective on January 1, 2022.

